

De prohibitione et censura librorum

On the Prohibition and Censure of Books

Complete careful English translation from Arthur Vermeersch, S.J., De prohibitione et censura librorum, fourth edition, Rome, 1906.

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On the Prohibition and Censorship of Books

A Canonico-Moral Dissertation

by **Arthur Vermeersch, S.J.**

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Fourth Edition, enlarged, more accurate, and arranged in a new order

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I, **Joseph de Vos**, Provincial Superior of the Society of Jesus in Belgium, by the power granted to me for this purpose by the Very Reverend Father **Francis Xavier Wernz**, Superior General of the same Society, grant permission that the work whose title is *On the Prohibition and Censorship of Books: A Canonico-Moral Dissertation*, fourth edition, written by **A. Vermeersch, S.J.**, and duly reviewed and approved by the appointed censors, be committed to the press.

In witness whereof I have given these letters, signed by my hand and furnished with my seal.

Rome, October 2, 1906.

Joseph de Vos, S.J.

Imprimatur

Fr. **Albertus Lepidi**, O.P., Master of the Sacred Apostolic Palace.

Imprimatur

Joseph Ceppetelli, Patriarch of Constantinople, Vicegerent.



Preface to This Fourth Edition

This fourth edition, which, being occupied by various affairs, we could not prepare except after a rather long delay, seems to assume almost the character of a new work.

For the arrangement of the earlier editions has been thoroughly changed, since the matters are now distributed according to this plan: that after the general part we explain the several General Decrees, each in its own order. Yet, lest the usefulness of the former arrangement entirely perish, in the third part of the work, in a few pages, we give a summary of the decrees, conformable to the "logical" plan which we had previously kept.

Thus far concerning the order. But many things have been added. For since, during these years, not a few doubts or questions have been proposed to us, we have tried to meet all these in this new edition, which will thus give a fuller explanation of the subject. At the end of the work, we have transcribed both Constitutions of the law now in force: that of **Leo XIII**, *Officiorum*, and that of **Benedict XIV**, *Sollicita*.

Our commentaries, which were the first to appear shortly after the Constitution *Officiorum* had been issued, obtained many approvers, and also some imitators, even down to the very words.

Nevertheless, concerning some cases, men whom we greatly esteem have held different opinions. We have not failed to weigh their arguments with sincere mind; and if any seemed valid, we have willingly admitted them, so that we might thus offer to our readers the fruit of another's wisdom.

With a like zeal for truth, it has been necessary even now to put forward certain new judgments. If perhaps all things should not at once please someone, we nevertheless assure him that we have written nothing which we did not first maturely consider, and which we did not see confirmed by the vote of learned friends.

This one thing we desire: that this work, however small a thing of ours it may be, may be acceptable to God, and in some measure profitable to the Church and to the faithful.



Summary of Contents

Editorial navigation note. In the PDF version, the Summary of Contents and note markers are clickable internal links. Bracketed phrases beginning [navigation: . . .] are supplied in this translation for easier navigation; the original printed summary often gave only article or part numbers. Unbracketed subsection titles under articles reproduce headings found in the body of the translated text.

Section	Original page
Prooemium (1)	I

Part One: General Notions

Section	Original page
Chapter I. Historical notions	
I. On the prohibition of books (2-6)	3
II. On the previous censorship of books (7-9)	5
Chapter II. The present usefulness of laws of this kind (10-12)	6
Chapter III. A brief description of the laws which are in force today (13-17)	8
Chapter IV. The abrogation of the earlier law (18-22)	13
Chapter V. The universal force of these laws (23, 24)	18
Chapter VI. The right interpretation of these laws	
I. What general principles are to be used (25-27)	20
II. Applications, or particular cases (28-46)	24
Chapter VII. What acts the prohibition of a book forbids by positive law	
I. On perfect prohibition (47-51)	37

Section	Original page
II. On less perfect prohibition (52)	40
Chapter VIII. Obligation of conscience. Gravity of fault (53-61)	41
Chapter IX. By what power books are prohibited (62-64)	51

Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Section	Original page
Chapter I. On the prohibited books of apostates, heretics, schismatics, and other writers	
Article 1 [navigation: pre-1600 condemnations preserved under the present decrees] (65)	59
Article 2 [navigation: books defending heresy or schism, or overturning the foundations of religion] (66)	60
Article 3 [navigation: non-Catholic books which expressly treat religion] (67)	63
Article 4 [navigation: non-Catholic books touching truths of faith only incidentally] (68)	65
Chapter II. On editions of the original text and of non-vernacular versions of Sacred Scripture	
Article 5 [navigation: non-Catholic editions of original biblical texts and ancient Catholic versions] (69)	65
Article 6 [navigation: other non-Catholic non-vernacular Bible versions] (70)	67
Chapter III. On vernacular versions of Sacred Scripture	
Article 7 [navigation: Catholic vernacular Bibles, approval, and annotations] (71)	67
Article 8 [navigation: non-Catholic vernacular Bibles and Bible Societies] (71 bis)	69
Chapter IV. On obscene books	
Article 9 [navigation: books treating obscene matters of set purpose] (72)	69
Article 10 [navigation: obscene classics and limited use for office or teaching] (73)	71
Chapter V. On certain books of special subject matter	
Article 11 [navigation: books against sacred persons, Scripture inspiration, and ecclesiastical states]	74
I. On Books Which Contain a Certain Kind of Detractions (74)	75
II. On Books Which Act Perversely Concerning the Inspiration of Sacred Scripture (75)	77
III. On Books Injurious to the Ecclesiastical Hierarchy or to the Clerical or Religious State (76)	78
Article 12 [navigation: books teaching or commending sortilege, divination, magic, evocation of spirits, and like superstitions] (77)	79
Article 13 [navigation: supernatural facts and new devotions]	
I. On Books or Writings Which Report New Supernatural Facts (78, 79)	81
II. On the Other Part [navigation: writings which introduce new devotions] (80)	83
Article 14 [navigation: duel, suicide, divorce, masonic sects, and condemned errors]	
I. On Books Which Patronize Duel, Suicide, Divorce (81)	85
II. On Books Which Favor Masonic Sects (82, 83)	86
III. On Books Which Defend Errors Proscribed by the Holy See (84)	90
Chapter VI. On sacred images and indulgences	
Article 15 [navigation: printed sacred images, discordant images, and new images needing license] (85)	91
Article 16 [navigation: apocryphal, proscribed, or revoked indulgences] (86)	93
Article 17 [navigation: books, summaries, sheets, and other publications of indulgences] (87)	95

Section	Original page
Chapter VII. On liturgical and prayer books	
Article 18 [navigation: authentic liturgical books and prohibited altered editions] (88, 89)	97
Article 19 [navigation: litanies requiring review and approval] (90)	104
Article 20 [navigation: prayer, devotion, and religious or moral instruction books] (91)	105
Chapter VIII. On newspapers, sheets, and periodical booklets	
Article 21 [navigation: periodicals attacking religion or morals, and episcopal vigilance]	
I. On Proscribed Newspapers, Sheets, and Periodical Booklets (92)	107
II. On Pastoral Vigilance to Be Exercised by Ordinaries (93)	112
Article 22 [navigation: Catholics writing in hostile newspapers and periodicals] (94)	113
Chapter IX. On the faculty of reading and retaining prohibited books	
Article 23 [navigation: necessity of a faculty to read and retain prohibited books] (95)	114
Article 24 [navigation: authorities able to grant faculties for prohibited books] (95 bis)	116
Article 25 [navigation: episcopal and delegated faculties]	
I. On Ordinary Power (96)	117
II. On Delegated Power (97)	119
Article 26 [navigation: limits of apostolic faculties and custody of prohibited books]	
I. On the Former Part [navigation: apostolic faculties and books prohibited by Ordinaries] (98)	122
II. On the Other Part [navigation: grave obligation of custody] (99)	124
Chapter X. On the denunciation of evil books	
Article 27 [navigation: who should denounce pernicious books, and to whom] (100)	125
Article 28 [navigation: manner of denunciation and secrecy of denouncers] (101)	126
Article 29 [navigation: episcopal proscription and referral to the Apostolic See]	
I. On the Former Part [navigation: power and duty of Ordinaries to proscribe and remove harmful writings] (102)	127
II. On the Other Part [navigation: works to be reserved to Apostolic judgment] (103)	129

Title II: On the Censorship of Books

Section	Original page
Introduction [navigation: end of censure, meaning of imprimatur, submission for review, and obligation] (104, 105)	130
Chapter I. On the prelates placed over the censorship of books	
Article 30 [navigation: authority over editions and versions of the sacred Bibles] (105 bis)	131
Article 31 [navigation: republication of books proscribed by the Apostolic See] (106)	132
Article 32 [navigation: publications concerning causes of beatification and canonization] (107)	132
Article 33 [navigation: collections of decrees of Roman Congregations] (108)	132
Article 34 [navigation: Propaganda Fide decrees for Apostolic Vicars and Missionaries] (109)	133
Article 35 [navigation: Ordinary of the place of publication as competent censor] (110-112)	135
Article 36 [navigation: regulars, episcopal license, and license of the proper Prelate] (113)	136
Article 37 [navigation: Roman authors publishing outside the City] (114)	137
Chapter II. On the office of censors in the previous examination of books	
Articles 38 and 39 [navigation: choosing learned and upright censors, and judging without prejudice] (115)	138
Article 40 [navigation: written and gratuitous license to publish when nothing stands in the way] (116)	139
Chapter III. On books to be subjected to previous censorship	

Section	Original page
Article 41 [navigation: general rule for books and writings subject to previous censure]	
I. On Books (117)	141
II. On Any Writings Whatever (118)	143
Article 42 [navigation: special law for secular clerics]	
I. On Books (119)	145
II. On Periodic Sheets (120)	145
Chapter IV. On printers and publishers of books	
Article 43 [navigation: author, editor, place, and year to be printed in censored books] (121)	147
Article 44 [navigation: new editions and translations requiring new approval] (122)	148
Article 45 [navigation: worldwide force of condemnations by the Apostolic See] (123)	149
Article 46 [navigation: booksellers, obscene books, and sale of prohibited books] (124)	149
Chapter V. On the penalties established for transgressors of the General Decrees	
Article 47 [navigation: specially reserved excommunication for certain prohibited books] (125)	151
Article 48 [navigation: excommunication reserved to no one for unapproved printing of Scripture books] (126)	156
Article 49 [navigation: episcopal admonition and canonical penalties for other transgressions] (127)	157

Part Three: Summary of the General Decrees; and a Brief Repetition Arranged in Logical Order

Section	Original page
I. Laws on the prohibition of books and works (128-131)	159
II. Laws on previous censorship (132, 133)	161
III. On the sanctions of these laws and the faculty of reading and retaining prohibited works (133 bis and ter)	163

Part Four: Forms and Catalogues

Section	Original page
Chapter I. Forms	
Article 1. Forms of the Sacred Congregation of the Index	
I. Indults for permitting the reading of prohibited books (134-137)	165
II. Faculties of reading and retaining (138-152)	167
Article 2. Forms of the Sacred Congregation of Propaganda Fide	
I. Indults for permitting the reading of prohibited books (153-160)	169
II. Faculties of reading and retaining prohibited books (161-166)	171
Chapter II. Catalogues	
I. List of writers whose works are marked by the general clause, together with the day of the decree (167)	173
II. List of works proscribed by special decree after the publication of the Index of Leo XIII (168)	176
Constitution of Leo XIII on the prohibition and censorship of books	179
Constitution of Benedict XIV by which the method to be observed in the examination and proscription of books is prescribed	189
Bibliography	201

NB. The works which in the Commentaries are designated by the initial letters *op. c.* are accurately described at the end of our study, in the Bibliography.



Prooemium

Marginal heading: Division into four Parts.

1. In order that, which is our purpose, we may place the present law concerning the prohibition and censorship of books in a clearer view, we divide this our study into four principal Parts.

The first will contain various notions which either, as it were, surround the law, concerning its end, usefulness, and history, or are of more general use and give common aids for its right interpretation.

In the second, we shall illustrate the several articles of the Constitution, in the order in which they are proposed, by brief notes.

In the third, there will be made a brief repetition of the General Decrees, arranged, as they say, in a "logical" order.

The fourth will give certain useful forms and lists.

Finally, at the end of the work, before the Indexes, we shall bring forward the Constitutions of **Leo XIII** and **Benedict XIV**, from which the present law concerning the prohibition and censorship of books is composed.

Part One

General Notions

Chapter I: Historical Notions

I. On the Prohibition of Books

Marginal heading: Books prohibited in the first age of the Church.

2. 1. Relying on the example of **St. Paul** himself, under whose eyes at Ephesus books of superstitions were burned by fire,[^1] the Holy Fathers strove with every effort to deter the faithful from keeping or reading the writings of heretics. And in the very first ecumenical Council, that of Nicaea, in the year 325, a decree was issued against the book *Thalia* of **Arius**, which Constantine the Great completed by severe enforcement. Several later decrees concerning the books of **Pelagius**, of the Manichaeans, and so forth, imitated that example.

Marginal heading: Gelasian decree.

Moreover, the first catalogue of prohibited books is found in the decree which, under the name of **Gelasius** (496), was received into the Gratian collection of law.[^2] It is sometimes celebrated as the first Roman Index.

Besides the works of heretics, the forged Acts of the Martyrs and apocryphal penitential books were then condemned.

Marginal heading: Prohibited books in the Middle Ages.

3. 2. In the Middle Ages also severity was used against the works of heretics and treatises on the magical arts.

Marginal heading: Precautions concerning the Sacred Bibles, thirteenth century.

4. 3. From the end of the thirteenth century (1299), on account of the abuses of heretics, precautions began to be taken lest the Sacred Bibles be read imprudently by the people, especially in the vernacular tongue.[^3]

Marginal heading: After the spread of the typographical art.

5. In the sixteenth century, after the typographical art had spread, there was need to take sharper measures against evil books. Therefore several particular Indexes of dioceses[^4] or kingdoms appeared.

Marginal heading: Index of Paul IV.

Paul IV first published a Roman Index in the year 1559, to the moderation of which that Holy Pontiff himself already applied his labor.[^5]

Marginal heading: Of Pius IV.

But in the year 1564 there appeared the Index of **Pius IV**, called the Tridentine Index, because that sacred synod had committed to the Supreme Pontiff the care of publishing an Index and of arranging that subject. The so-called Tridentine rules, or ten general decrees concerning the proscription of books, are placed before the catalogue itself. The catalogue, however, borrowed from **Paul IV** the division of books into three classes: 1. of heretical authors; 2. of Catholic works; 3. of anonymous works. Moreover, all the works of authors of the first class were prohibited. This Index, as far as substance is concerned, remained up to **Leo XIII**.

Marginal heading: Of Sixtus V and Clement VIII.

Nevertheless, **Sixtus V** prepared a new edition of the Index, which, with certain books removed, especially the *Controversies* of Cardinal **Bellarmino** and the *Relectiones* of **Francis de Vitoria**, **Clement VIII** completed in the year 1596. The first class scarcely appears there to have been increased by any name; but in place of insertion into the first class there succeeded the clause *Opera omnia*, by which a writer was marked who seemed worthy of universal

proscription.

Marginal heading: Of Alexander VII.

Then, in the edition of **Alexander VII** (1664), the division into three classes was formally suppressed, since the books were arranged in alphabetical order.

Marginal heading: Of Benedict XIV.

Benedict XIV deservedly gave an excellent edition (1758), after first prescribing the most wise Constitution *Sollicita ac provida*, July 9, 1753, concerning the method to be observed in the examination and proscription of books.

Marginal heading: Of Leo XIII.

And thus one comes to the Index which, under the auspices of **Leo XIII**, was promulgated to the whole world in the year 1900.

Marginal heading: Origin of the Sacred Congregation of the Index.

6. Concerning the Sacred Congregation of the Index itself, it will be useful to recall that it is contained seminally in the Motu Proprio of **St. Pius V**, November 19, 1570, by which he gave to the Master of the Sacred Palace a most full faculty of correcting books. Then, as the Congregation for Reforming the Index and Correcting Books, it was brought to light in the month of March 1571; which institution the Bull of **Gregory XIII**, September 13, 1572, solemnly promulgated, so that **Sixtus V**, by the Constitution *Immensa aeterni Patris*, January 22, 1588, by which he instituted or confirmed fifteen Congregations, had only to ratify the already existing Congregation.

II. On the Previous Censorship of Books

Marginal heading: Censorship from the first centuries of Christ down to the modern age.

7. 1. For a long time, before any law concerning previous censorship existed, there were holy and learned men who either handed suspect works over to the Supreme Pontiff to be judged, or sought his judgment and counsels concerning their own writings. Thus in the fifth century a certain **Gennadius** sent his work *On Ecclesiastical Writers* to Pope **Gelasius**, just as in the year 1198 **Godfrey of Viterbo** offered to **Urban III** his book whose title is *Pantheon*, to be approved and corrected.^[6]

A certain previous censorship was imposed by particular law, for example, by the University of Paris (June 5, 1366), for masters.

After books began to be printed with type, the University of Cologne went before others by example in requiring previous censorship; **Sixtus IV** praised its zeal and approved its service, March 18, 1479.^[7]

Marginal heading: In the modern age.

8. 2. But the first pontifical Constitution concerning the previous censorship of books has as its author **Innocent VIII**, November 17, 1487. Although it has universal force, it was sent to the Archbishop of Cologne. **Alexander VI**, by the Constitution *Inter multiplices*, June 1, 1501, issued for the four ecclesiastical provinces of Germany a general prohibition that books should not be printed unless the Archbishops or competent Officials had first been consulted.

Then, in the Lateran Council (1515), **Leo X**, by the Constitution *Inter sollicitudines*, May 4, 1515, enacted a general law by which, under grave penalties and even excommunication itself, he prohibited anyone from presuming to publish any writing whatever without the previous review of the Bishop, or, in the City, of the Vicar and the Master of the Sacred Palace.

Marginal heading: At the present age.

That decree was confirmed in the Tridentine Index; afterwards it was increased by the rules of **Clement VIII** concerning the printing of books, until the rigor of the former law was mitigated by an express law of **Pius IX** in the year 1848 for the Pontifical State, and elsewhere also by the custom of places. **Leo XIII** sanctioned and more fully

defined that benignity.

Marginal heading: Particular laws.

Meanwhile, particular provisions were also made concerning liturgical books, and concerning books written on a certain subject matter in places which are governed by the spiritual jurisdiction of the Sacred Congregation of Propaganda Fide. Cf. *Collectanea*, n. 1866 ff.

Marginal heading: Censorships and proscriptions among non-Catholics and political men.

9. At the end of this very brief exposition, these things must not be passed over: the pseudo-reformers of the modern age were most severe censors and proscribers of books; and political men, in order to attain their own ends, framed similar laws, which not even today have been entirely suppressed. One must by all means compare the things which are learnedly set forth concerning the censorship and prohibition of books in England, Holland, Scandinavia, Switzerland, Germany, and concerning royal and imperial censorship in France, in the work of Father **Hilgers, S.J., *Der Index***.

[^1]: Acts of the Apostles, 19:19.

[^2]: Canon *Sancta Romana*, 3, D. 15.

[^3]: Hilgers, *Der Index*, p. 5.

[^4]: It would be wholly alien from the mind of the Holy See to publish particular Indexes of this kind today. Thus, on August 17 of the year 1892, to the Archbishop of Valladolid, who had asked the Holy See certain things concerning the Spanish Index, the response was: One must stand solely by the Roman Index and its rules, and new editions of the Spanish Index are to be prohibited.

[^5]: Cf. Hilgers, *Der Index*, p. 7.

[^6]: Hilgers, *Der Index*, p. 403.

[^7]: *Ibid.*, p. 407.



Chapter II: The Present Usefulness of Laws of This Kind

Marginal heading: The Church's right of making these laws.

10. By its sanctions concerning the prohibition and censorship of books, the Church wishes to provide for the spiritual safety of the faithful, while it strives to punish or restrain evils, and indeed to forestall them. No one among Catholics will be able to deny that this is its inviolable right.

Marginal heading: The past usefulness of the laws.

And formerly indeed, so long as the rulers of the state agreed as one with the sacred power,[^1] the usefulness of proscriptions was great: evil books were morally removed from commerce.

So happy a fruit can no longer be hoped for today. On the contrary, it happens that by its very proscription a book acquires a certain reputation and fortune. This may be a reason why the Church prefers that many works perish in silence rather than, by its mark of censure, to procure celebrity for them.

Marginal heading: And present usefulness:

11. Yet beware lest on that account you hold the general or special decrees of the Index to be useless. And indeed:

Marginal heading: For the faithful,

1. They constantly inculcate the salutary principle concerning the danger which exists in the reading of many books. And this not ineffectively.

Even now there are not lacking, especially among Catholic young people, those whom the prohibition of the Church restrains from reading evil writings, so that by the benefit of laws of this kind they preserve purity and virtue unharmed.

Marginal heading: For writers,

2. Next, for many writers these laws are a bridle by which they are kept back from not a few excesses. For most Catholics dread the reprobation of the Index; therefore, lest they be affected by that mark, they write much more cautiously and temperately than they would if they were permitted to set forth all things with impunity.

Indeed, since because of a mark of this kind profits are often made smaller, or positive losses of fortune are sustained, it happens that even those who are little inclined toward the Church do not dare to offend faith or morals, and publish books that are more corrected. It is enough to recall in mind how a more chastened edition of several dictionaries appeared, such as those which borrow their name from **Littre** or from **Larousse**.

Marginal heading: For the Church.

3. By disapproving books, the Church not rarely manifests its mind concerning various doctrines and directs the good along the right way, even before solemn judgments concerning doctrine can prudently be made. This is especially profitable to the Christian commonwealth.

4. Moreover, by previous censorship, which is imposed on certain kinds of books, the faithful are rescued from many dangers of deception. The Church also has a means of providing for its own name, which, from ill-timed or ridiculous writings, can be exposed not only to the hatred but also to the mockery of enemies.

Marginal heading: The true reason why these laws are often less pleasing.

12. Observe, moreover, with how great a force of words, in our Parliaments, men inveigh against certain books which defend principles contrary to modern principles, as they say. Nor would they allow such things to be read aloud in public schools. Therefore let them not wonder that the Church pursues the documents of revealed faith with a similar love and zeal to that by which they wish to honor "revolutionary" principles. That affected tolerance of many, by which they claim liberty for dogmatic error and moral evil, seems, when all is finally said, to be drawn rather from a certain doubting and skepticism than from a benign moderation of mind.

[^1]: Constitution *Officiorum*, preface.



Chapter III: Brief Description of the Laws Which Are in Force Today

Marginal heading: The laws in force are enumerated.

13. I. Today we are governed solely by:

1. The Constitution *Officiorum*, issued by **Leo XIII**, January 25, 1897.[^1]

2. The Constitution *Sollicita ac provida* of **Benedict XIV**, July 9, 1753, which Leo XIII wished to remain wholly in force, as he openly declares in the beginning of his own Constitution.

3. The new Index which **Leo XIII**, by the same Constitution *Officiorum*, ordered to be made and promulgated by the appended Brief *Romani Pontifices*, September 27, 1900.

Moreover, the Index itself, or catalogue strictly so called, has its own Preface, written by the Very Reverend Father **Thomas Esser**, O.P., which supplies no slight aids to the interpreter.

Marginal heading: On the volume of the Index.

The monuments thus far recounted are contained in that handsome volume which, in the year 1900, first appeared under the title *Index librorum prohibitorum*.[^2] In this order:

The Brief of **Leo XIII**, *Romani Pontifices*, dated September 27, 1900;

The Preface written in the name of the Sacred Congregation of the Index by its secretary;

First Part. Apostolic Constitutions on the Examination and Prohibition of Books:

The Constitution *Officiorum ac Munerum* of **Leo XIII**;

The Constitution *Sollicita ac provida* of **Benedict XIV**;

Second Part. Index of Prohibited Books.

4. A few decrees which have interpreted the Constitution of **Leo XIII**, or have governed a new subject, such as the sanctions concerning sacred music of Our Most Holy Lord **Pius X**.

Concerning the first three sources of law, these few things must be handed down.

Marginal heading: Of the Constitution *Officiorum*.

14. II. The Constitution *Officiorum* consists of the Preamble, the General Decrees, and the clauses by which pontifical acts are customarily concluded.

Marginal heading: Preamble.

1. In the Preamble, the reason for the laws concerning harmful books is defended, the history is sketched, the necessary mitigation is demonstrated, the intention of the Pontiff is set forth, and the former law is abrogated.

Marginal heading: General Decrees.

2. The General Decrees are the chief part and systematic ordering of ecclesiastical law concerning books, on which, as on their foundation, special decrees rest.

Moreover, they are divided into two titles: the first is on the prohibition of books; the other on their censorship.

In the first title are contained general proscriptions by which, even if no special sentence comes forth, various classes of books are reprov'd under a general note; these Father **Hilgers** elegantly reduces to three kinds of works:[^3] irreligious, heretical, superstitious, and immoral works; works injurious to God and the Church; and works which, without the approval of competent authority, handle delicate subjects of Christian doctrine and instruction.

This title therefore brings this advantage: the Church need not proscribe all books by a special prohibition, and can especially pass over those on which a general proscription has clearly fallen.

The other title treats with sufficient distinctness of the Prelates who are placed over the censorship of books, of the mode in which the previous examination is to be carried out, and of the books which are subject to this examination. Then it gives related admonitions for printers and publishers of books.

Nevertheless, the last chapter of this title in reality pertains to all the laws concerning books, so that it may furnish them with a suitable sanction.

Marginal heading: Clauses.

3. By the customary clauses of Bulls, these laws are intimated, it is decreed to what copies faith is to be given, and, after the ordinary threats, there is appended the day, month, and year of the Incarnation.

Marginal heading: Brief summary of the Constitution *Sollicita*.

15. III. The Constitution *Sollicita ac provida* chiefly treats and sets forth three things in order, by which:

1. First, there is described and confirmed the form of action by which either the supreme Congregation of the Holy Office or the Sacred Congregation of the Index examines books and reprov's those which seem to be worthy of condemnation.

2. Precautions are recalled and recommended by which, as far as possible, Catholic writers are spared, especially those who have acquired a certain name for themselves, and a fitting place is prepared for their defense.

3. Consultors and relators are instructed by wise admonitions and counsels.

Those letters of **Benedict XIV** are worthy of every consideration; they exhibit the true mind of the Church in prohibiting books, and they contain those things which vindicate the same Church as free from many accusations.

16. IV. Brief of Leo XIII

Marginal heading: The end intended in the Brief of Leo XIII.

1. The proper intention of these letters is the promulgation of the Index itself: apostolic approval, I say, and confirmation. "This general Index of this kind," the Pontiff says, "which we wish to be held as inserted expressly in these letters, by Apostolic authority, by the tenor of the present letters, we approve and confirm, and we command it to be observed by all, everywhere, wholly and inviolably, under the penalties sanctioned in our Constitution *Officiorum ac Munerum*."

The Index therefore obtains the force of a universal law, which is commended to the local Ordinaries and to the Superiors of all Regulars, that they "take care, according to their powers, that it be published and observed."

Marginal heading: Matters contained.

2. Matters contained. **a)** After a brief survey has first been set forth of the historical progress of the laws by which the Church has taken action against evil writings, and after the additions have been related by which, at the command of various Pontiffs, the Tridentine Index was supplemented, the Supreme Pontiff declares the task entrusted by him to the Eminent Fathers of the Congregation of the Index; and this task looked to this end, that, after a most diligent review of the former Index, a new Index might be prepared, purged of errors, of more expedient use, and at the same time adapted to more benign laws. **b)** Therefore, as the Holy Father recalls, it was necessary to relieve the new catalogue "of not a few books, whose proscription, once necessary or opportune, has today become almost useless." **c)** The Supreme Pontiff congratulates both the Eminent Cardinals and the learned men whom they had called in as an aid to their work on the task happily completed.

17. V. Preface of the Index

Marginal heading: Importance of the Preface.

That Preface not merely explains in what manner the Index was composed, but hands down several things from which we shall draw no small light for rightly understanding the laws of the Index. Concerning each subject separately:

Marginal heading: Various notions.

Marginal heading: Certain errors are corrected.

1. Various notions concerning the Index. **a)** After the proper nature of the Index has been explained, the Preface compares that special catalogue with the General Decrees: in what respects they agree, and what difference there is between the two. It warns that those who think they can know from the Index alone the books of disapproved reading are gravely mistaken, since it contains only the smallest part of them; and it declares that those do not think truly who suppose that certainly those books can be sought there which in any discipline are, as it were, outstanding in wickedness: for a special reason, generally denunciation, must be added for a book to be proscribed by a particular decree.

Marginal heading: Which books have been removed from the Index.

b) It goes through various kinds of books which have now been struck from the Index. They are chiefly: books whose defects were compensated by no mediocre usefulness; books which were noted less on account of an intrinsic reason than on account of the manner of treating the matter, or because of the necessity of protecting charity, after passions and excessive contests had been suppressed in disputing about subjects which today can now be treated with an even mind; or also on account of inserted little offices or litanies which today can be published for private use by the authority of Ordinaries; books which today, either because of the folly of the subject, are rather to be despised than reprovved, or which, by their small bulk, have been, as it were, carried off by the wind; all works which, in the early

seventeenth century, were struck solely by edicts of the Master of the Sacred Palace; books concerning which the Sacred Congregation of the Index itself sometimes decreed that they could or should be omitted in the next decree; and old collections of decrees of the Sacred Congregation of the Council, proscribed by the decree of April 20, 1621.

Marginal heading: Statistical indications.

Moreover, from the work of Father **Hilgers**^[4] we borrow these numerical indications. Almost 800 works have been struck from the earlier Index. But 4000 decrees are preserved, by which either works or writers are condemned by name. Moreover, the writers whose works are collectively reprovved are numbered as 108.^[5] Of the 4000 proscribed books, 1500 are assigned to the seventeenth century, 1200 to the eighteenth century, and 1300 to the nineteenth century. For works condemned before the year 1600 are not distinctly recounted.

As regards the kinds of reprovved writers, in the sixteenth century and at the beginning of the seventeenth century Protestant heretics are chiefly noted, besides impious or base writers of the age which is called that of revived letters. From about the year 1649 there follow Jansenists, Gallicans, several moralists sinning by excessive benignity, defenders of the Chinese and Malabar rites, and Quietists. From the middle of the eighteenth century, the reprovved works cannot be forced into a few kinds.

Of the 1330 works condemned in the nineteenth century, 500 are Italian in origin, 480 from France (together with Belgium and Holland),^[6] 180 from Germany, about 120 from Spain and Portugal, and 40 from England. The very few which remain are to be assigned to Poland, Greece, Denmark, and so forth.

Marginal heading: External figure of the Index.

c) The praised Preface delineates, as it were, the external figure of the Index by handing down the method observed in composing the Index and in describing books.

Marginal heading: Aids for the interpreter.

Marginal heading: Benign mind of the Pontiff.

2. Aids of interpretation. a) The Preface again emphasizes this plan of the Supreme Pontiff, by which, tempering the former severity, he wished "to accommodate the whole system of the Index to the time, according to the maternal benignity of the Church."

Marginal heading: Exclusive force of these laws.

b) While the Constitutions of **Leo XIII** and **Benedict XIV** are placed before the Index (the latter of which, it says, pertains to the censors of books rather than to the universality of the faithful), the Apostolic Constitutions are proclaimed to be published "by which the examination and proscription of evil books is governed at present." Therefore, that book is declared to be of safe reading which is reprovved neither by the Index nor by these General Decrees.

We wish this to be observed by those who seem to labor so that from the ancient laws they may seek obligations and bonds by which the benefit of **Leo XIII** is almost raised away; for he determined that precepts in this matter should be made easier both to know and to observe.

Marginal heading: Clause *Opera omnia*.

c) The force of the clause marking the *Opera omnia* of some writer is accurately explained.

Marginal heading: All editions and versions are prohibited of themselves.

d) The author of the Preface confirms that which has already been received: when some book has been prohibited, all its editions and translations are prohibited, unless by express words the proscription is confined within narrower limits.

Marginal heading: Volumes or fascicles later than the decree are of themselves only suspect.

e) Explaining the force of a decree by which some volume of a work is condemned, when that work has afterwards had another volume, or by which a periodical booklet, afterwards continued, is condemned, he teaches us that those later volumes or fascicles are not indeed affected by a special decree, but are to be held as suspect unless the repentance of the author is established.

Marginal heading: When mention is made of a version.

f) He warns that in the new Index the version of a work is no longer indicated unless it is established that only the version is prohibited. But each book is indicated in its own language, such as it was when published. And, moreover, translations have then only been listed when, besides the work itself, the Sacred Congregation also wished to mark some translation of it by a special decree.

Marginal heading: To what date decrees are referred.

g) He adds that, in the new Index, as far as possible, the day and year on which the decrees were issued have now been placed, not, as used formerly to be done, the day and year on which they were printed and published. Hence, for example, the *Catechismus spiritualis* of Father **Surin** was formerly noted in Italian as proscribed by decree of the Holy Office of September 7, 1695; now it is noted in French as proscribed on July 20, 1695.

Marginal heading: Clause *Donec corrigatur*.

h) The clause *Donec corrigatur* is said to affect the manner of the prohibition, but not its effects.

[^1]: In Bulls, the year is taken from the Incarnation of the Lord, whose beginning is March 25. Therefore, since this Bull appeared in the month of January, the year indicated was 1896, which by civil reckoning was already to be called 1897.

[^2]: One large octavo volume, XXIII-317 pp. The title reads thus: *Index librorum prohibitorum, Ssmi D. N. Leonis XIII iussu et auctoritate recognitus et editus. Praemittuntur Constitutiones Apostolicae de examine et prohibitione librorum. Romae, Typis Vaticanis, MCM.* Afterwards a second edition appeared, MCMI; the most recent, however, in the year MCMIV.

[^3]: *Der Index*, pp. 38, 39.

[^4]: Pp. 93 and 113.

[^5]: Their works taken together seem to be near the number of a thousand.

[^6]: Why Italian and French works stand out so much in number, there are several causes: the Catholic religion of the writers, which demands greater vigilance; more frequent use of denunciation; the intensity of intellectual life in these regions during the nineteenth century; proximity and greater knowledge of the language.



Chapter IV: Abrogation of the Earlier Law

Marginal heading: Words of the Constitution.

18. I. At the end of the Preamble itself, the Supreme Pontiff sets down a most ample abrogation of the earlier law when he says: "We will that these alone have the force of law, the Rules published by order of the Holy Synod of Trent, the Observations, the Instruction, the Decrees, the Admonitions, and every other statute and command of Our predecessors concerning this matter being abrogated, with the sole exception of the Constitution *Sollicita ac provida* of **Benedict XIV**, which, just as it has been in force up to now, so we will to remain wholly in force for the future."

II. Therefore:

Marginal heading: The statutes which were prefixed to the Index are abrogated.

19. 1. By the first enumeration there are suppressed, under their proper indicated title, most of the general statutes which, in editions of the Index, were prefixed to the catalogue itself. They are, namely: the Rules of the Index, promulgated by order of the Sacred Tridentine Council; the Observations of **Clement VIII** on Rules IV and IX, and of **Alexander VII** on Rule X; the Instruction of **Clement VIII** for those who are to devote labor to books, both to be prohibited and to be expurgated, and also to be printed; the Decrees of **Benedict XIV** concerning prohibited books not expressly named in the Index; the Admonitions of the Sacred Congregation of the Index, March 4, 1878, January 7,

1836. The Constitution *Sollicita ac provida* of **Benedict XIV** is omitted, since it still remains in force; also the Mandate of **Leo XII** and the Most Recent Addition (concerning censures), which have material confirmation in the new Constitution.

Marginal heading: And any other dispositions concerning this matter.

Marginal heading: Extent of this abrogation.

Marginal heading: As to extension.

2. By the universal words which follow the enumeration, this abrogation is made most ample. But we declare its extensive amplitude thus: Excepting the Constitution *Sollicita*, which is expressly confirmed, and saving perhaps a future exception to be introduced by Decrees or Responses of the Congregations, every sanction of the superior pontifical law concerning the censorship or prohibition of books is suppressed. Nor does it matter whether it is a general or special law distinctively concerning this subject, or whether the disposition concerning censorship or prohibition is part of another law which principally treats another matter.

I say, saving perhaps a future exception. For it happens that the breadth of dispositions of this kind is afterwards sometimes opportunely tempered by "restrictive" Declarations of the Holy See. Thus, after the Constitution *Apostolicae Sedis* had been promulgated, which suppressed all censures *latae sententiae* of the superior law, it nevertheless wished the Declaration of **Pius IX** to remain in force, namely the excommunication laid down against missionaries who trade.^[1]

Concerning the censorship or prohibition of books. For the Supreme Pontiff says: concerning this matter. Therefore it is not of itself repugnant that a special law be preserved which indeed does not prohibit a book, but subjects a certain use of it to a special solemnity. Cf. the things which we shall discuss concerning liturgical books.

Moreover, we prove our conclusion:

a) From the words by which, at the end of the Preface, the Supreme Pontiff both negatively abrogates every other statute and command concerning this matter, and positively designates his present Decrees as the single source of law in this matter; he wills that they alone have the force of law, and that the sacred Council for marking books use them alone.

b) From the end. The Holy Father wishes to effect this, that "a certain and clear norm of acting in this kind be available to all." Nothing contributes more to this end than to have, collected in a single Constitution, as in a certain Code, all the laws concerning the same matter. On the contrary, if particular dispositions which wander through various Constitutions and were already partly obsolete still had to be approached,^[2] who would not see with how many doubts and questions that effect would be impeded?

c) From the examples given in the Constitution itself. If he had wished a less ample abrogation, why in articles 47 and 48 would the Supreme Pontiff have judged that the excommunications *latae sententiae* promulgated by **Pius IX** in the recent Constitution *Apostolicae Sedis* had to be expressly confirmed? For those excommunications do not so much prohibit something in our matter as they are penal sanctions of an existing prohibition. Why, in articles 31, 32, and 34, did he have to recall special dispositions concerning documents pertaining to causes of beatification,^[3] and Decrees issued by the Sacred Congregation of Propaganda Fide for Missionaries?

d) From the fact that, if you circumscribe the abrogation to those statutes which were prefixed to the Index,^[4] or even to others which are general by their object, the clause "every other statute and command concerning this matter" accomplishes scarcely anything. For by express words those things are suppressed which were contained in the volume of the Index. But what other general statutes in force can be designated?

e) From authority. Dilgskron,^[5] Cardinal Gennari,^[6] Hollweck,^[7] Planchard,^[8] and Wernz^[9] seem to think with us; hence, for example, Gennari and Hollweck compare the effect of our Constitution with the similar effect which the Constitution *Apostolicae Sedis* had for censures *latae sententiae*.

That correction of law is odious, as J. V.^[^10] objects, what obstacle does that present? Are we thereby forbidden to understand words according to their proper sense, and as the end of the law demands?

Marginal heading: Intrinsic force of the abrogation.

20. III. Moreover, this abrogation has a most full efficacy, or in its intensity is very strong. The Supreme Pontiff wills that, from this promulgation of his, even those dispositions which materially sound like the ancient ones draw their force solely from it. **Pius IX** did not do thus in the Constitution *Apostolicae Sedis*, but confirmed the ancient law in the parts which agreed with his Constitution, so that they received their force also from the authority of the old canons. Therefore, while in declaring the Constitution of Pius IX one immediately had to look back to the earlier jurisprudence, here, on the contrary, above all from our Constitution itself, as **Pennacchi** says,^[^11] that is, from the connected discourse, from the end of softening the law which the Legislator professes, questions are to be solved and the sense is to be determined.

Marginal heading: Whether the suppressed Decrees are plainly useless.

Only when this criterion is lacking, or remotely and secondarily, is appeal most usefully made to the understanding of the earlier age. For in this case the mind of the Supreme Pontiff becomes doubtful, and there is place for the principle of harmonizing the new law with the old. Cf. concerning these principles the letter *Redditae Nobis*, sections 9-13, which **Benedict XIV**, as a private Doctor, wrote on December 5, 1744.

Marginal heading: Whether customs have been suppressed.

21. IV. What of custom, I mean of a particular custom of places which has been contrary to this law?

1. No clause of the law abrogates particular customs of places, if they have been legitimate. For they are not taken away by a general law, "unless it is expressly provided in the law itself."^[^12] But in our Constitution no clause, not even generically, commemorates them, whereas the Constitution *Apostolicae Sedis* contains the most ample revocations of them. Nor does the end of our law demand this severity, so long as the matter concerns certain secondary mitigations which had prevailed even in those places where the laws of the Index undoubtedly were in force, and which can be composed with general obedience to our Constitution. We judge that these, if they have been legitimately prescribed, can still be retained. In explaining articles 7 and 41, examples of mitigations of this kind will occur. **Genicot**,^[^13] the *Archiv für katholisches Kirchenrecht*,^[^14] and several others are with us; nevertheless **Wernz** is against us,^[^15] since he considers only our written Constitution.

Marginal heading: What custom can be legitimate.

But the custom of plainly setting aside those prohibitions which contribute so greatly to protecting faith and morals seems to many not to be capable of being reasonable. So **Fessler**.^[^16] **Gopfert** denies that this reason is effective,^[^17] since this custom tended only to this: that those who would read reprehensible writings without detriment would not commit a sin against ecclesiastical laws, a case which otherwise would be very frequent. And in truth, can the faithful not, by the counsels of a prudent confessor, avoid the excessive danger of delusion, on account of which that custom would seem unreasonable?

Nevertheless, a general exemption from the laws of the Index, even one resting on custom, cannot stand with the manifest intention of the Legislator, by which he commands that "Catholic men throughout the whole world obey these decrees religiously." Yet he prudently knows how to urge the force of his law. Cf. below concerning England.

Marginal heading: What value the reformed catalogue of the Index preserves.

22. V. Once the new Index has been promulgated, the former one is abrogated. Yet it preserves usefulness for declaring doubtful points, if perhaps any things occur in the new Index that are obscurely stated, or even for correcting material errors if any have slipped in when ancient Decrees are being referred to. For the Legislator certainly does not wish to change the Decrees to which he refers his subjects.

[^1]: Promulgated by the encyclical letter of Propaganda Fide, March 29, 1873 (*Collectanea P. F.*, nn. 351, 352).

[^2]: Thus, those who hold that the sanctions of **Urban VIII** concerning the narration of miracles still remain in force must send the reader back to the works of **Benedict XIV**, so that he may fish out from them the texts of the two protestations which we have seen inserted in no book!

[^3]: Sacred Congregation of Rites, July 23, 1661.

[^4]: The distinguished **Pennacchi**, n. 34, seems to do this.

[^5]: *Analecta Ecclesiastica*, 1897, pp. 129, 130, 226.

[^6]: *Monitor Ecclesiasticus*, loc. cit., pp. 13, 14.

[^7]: Op. cit., p. 16.

[^8]: *Revue Theologique Francaise*, loc. cit., nn. 4-7.

[^9]: N. 110, note 45.

[^10]: *Nouvelle Revue Theologique*, vol. 30, p. 109.

[^11]: Op. cit., n. 34. Cardinal **Gennari** is somewhat otherwise in *Monitor Ecclesiasticus*, loc. cit., p. 14. Cf. also **Wernz**, n. 110, note 45.

[^12]: C. *Licet* 1, *De Constitutionibus*, in Sexto. Cf. **Reiffenstuel**, I, 4; or I, 2, nn. 498, 499; **Laymann**, *Ius canonicum*, in book 1, title 2, chapter 1 in Sexto, n. 12.

[^13]: Loc. cit., I, n. 455.

[^14]: Vol. 78, p. 187.

[^15]: N. 110, note 46.

[^16]: Cited by **Arndt**, op. cit., n. 90, p. 104.

[^17]: Op. cit., p. 322.



Chapter V: The Universal Force of These Laws

Marginal heading: Twofold aspect of the question.

23. The question concerning the universal force of these laws has a twofold aspect:

Do these laws bind all persons, or are there some who, for example, on account of their dignity or knowledge, are exempt from them?

Do these laws bind in every place?

Reserving the first aspect for the commentaries on the articles (cf. art. 23), here we deal only with the second.

Marginal heading: Of themselves they bind everywhere among nations.

Proceed then: understood in this way, the universal force of these sanctions (apart perhaps from certain mitigations introduced by a particular and reasonable custom)[^1] can no longer be doubted; and the controversy, if any remained, has been completely removed by this Constitution. For thus it states in the preface: "and let Catholic men throughout the whole world obey these [General Decrees] religiously"; and article 45: "Books condemned by the Apostolic See are to be held prohibited everywhere among nations." Thus the common opinion now holds, and it was confirmed by the Sacred Congregation of the Index when, on May 19-23, 1898, it responded affirmatively to the question "whether the said Constitution has obligatory force even for regions of the British language, which some think enjoy a tacit dispensation."

Nevertheless, **Pennacchi** writes[^2] "that men of those nations are not to be disturbed who still wish to defend a custom introduced among themselves concerning exemption from the laws of the Index." A subjective excuse of good faith can indeed found a prudent dissimulation;[^3] yet this does not take away the actual efficacy of binding all, which the present law possesses of itself. Therefore, in order that very many may be freed from necessary solicitude, and the Bishops themselves may be immune from the obligation by which they are bound to promulgate new pontifical laws throughout their dioceses and bring them into use, we do not see another safe way available, except that which the distinguished **Pennacchi**[^4] calls most advisable: namely, recourse to the Holy See.

Marginal heading: What now in England.

24. The Bishops of England entered upon this way, and obtained ample faculties from the Holy See. Relying on these, His Eminence Archbishop **Vaughan**, in the 36th Synod of Westminster (1897), declared that each priest had the power prudently to permit the reading of prohibited books, saving, as is clear, the natural law.[^5]

At the same time, however, in order that they might act more gently and prudently, in the periodical *The Tablet*, December 18, 1897, they took care that by an article which bore the character of a communication not merely private but "official," the faithful should be admonished that nothing had been substantially changed in the discipline of England.[^6] Then, by other encyclical letters, December 29, 1900, they commend the ecclesiastical laws concerning books and exhort the faithful to their diligent observance.[^7]

[^1]: Cf. **Aichner**, ed. 1890, p. 146.

[^2]: Op. cit., n. 33.

[^3]: Compare the Instruction of the Holy Office of February 1, 1871, concerning the admonition to be given to those who had incurred the censures of the Constitution *Apostolicae Sedis*. It is in the *Collectanea Prop. Fidei*, n. 1003, and is recited by **Planchard**, loc. cit., n. 10.

[^4]: Op. cit., n. 33.

[^5]: The indult is of this kind:

Sacred Congregation of Propaganda Fide Rome, May 31, 1897.

Most Eminent and Most Reverend, my most honored Lord,

Since the Apostolic Letters issued by the Supreme Pontiff **Leo XIII** on January 25 of the preceding month concerning the prohibition of evil books have given certain Prelates in England occasion to set forth grave difficulties which, on account of the peculiar circumstances of that region, stand in the way of Catholic men there being kept away from reading books of heretics; hence it has seemed opportune to this Sacred Congregation of Propaganda Fide to equip the sacred Prelates in England with due faculties, so that the rigor of the law may be tempered, according to the opportunity of the matter, by prudent counsel.

Therefore by the present letters, by the authority of the Apostolic See, a faculty is granted to Your Eminence, for as long as your episcopal office endures, of granting to the faithful of Christ of your Diocese who request it permission to read and retain, though under custody, prohibited books, even those treating against religion, except those which expressly deal with obscene matters. Your Eminence is to use this most ample faculty according to your prudence, when you shall judge it expedient in the Lord.

Meanwhile I most humbly kiss your hands.

Of Your Eminence, the most humble and devoted servant, **M. Cardinal Ledochowski**, Prefect.

A., Archbishop of Larissa, Secretary.

To Lord Cardinal **Herbert Vaughan**, Archbishop of Westminster.

Then, by rescript of June 7, 1897, the clause "though under custody," which, as the Bishops thought, could create difficulties, was suppressed; that is, its use was committed to the prudent judgment of the Bishops.

He used these words: "Respecting the Apostolic Constitution on the Prohibition and Censorship of Books, by virtue of faculties granted by the Holy See, the Clergy are hereby allowed to give permission to all who apply to them to use their discretion as to the books they may read and retain; the natural law of course remaining in full force, which forbids people to expose themselves to suffer in their faith or morals by reading works that are likely to injure them in this way."

[^6]: "In January last, the Holy See published a Constitution which in a considerable measure modified and simplified the provisions of the Index. Such a Constitution was naturally issued to the Church at large, and when it appeared in the Catholic press of this country, it necessarily, as we might expect, elicited from both clergy and laity the question whether this new constitution was or was not intended to supplant the status quo which had hitherto existed amongst us. The Cardinal Archbishop and Bishops of England addressed an inquiry to Rome upon the subject, and at once received from the Propaganda the 'most ample' faculties for dispensation, so that owing to 'the special circumstances of the country,' they should be fully empowered 'to modify the rigour of the law by their prudence and counsel according as the case might demand.' Rome's reply was thus as ready and as liberal as we could well desire. It contained an official recognition of our special circumstances to which we have referred, and it responded to it by investing the local ecclesiastical authorities with the fullest faculties to meet every need of our position. The possession of such faculties practically leaves the status quo substantially untouched, while the Constitution itself has the additional benefit of modifying the law for the

universal Church."

[^7]: A joint pastoral letter on the Church and liberal Catholicism by the Cardinal Archbishop and the Bishops of the Province of Westminster (December 29, 1900). The summary of that letter is in *Civiltà Cattolica*, series XVIII, vol. I, 1901, p. 156, the place which interests us.



Chapter VI: The Right Interpretation of These Laws

I. What General Principles Are to Be Used

25. The laws of the Index contain a few censures *latae sententiae*; they strictly command or forbid many things, with arbitrary penalties being threatened; they commend or advise some things; finally, they grant certain faculties.

Marginal heading: General rule.

Marginal heading: On censures.

1. That these censures *latae sententiae* are to be interpreted strictly, no one today doubts; formerly it was denied by Suarez.[^1]

Marginal heading: On precepts and prohibitions.

26. 2. That rigorous precepts and prohibitions are to be interpreted strictly is held by the common opinion,[^2] against very few.[^3]

Concerning the more benign opinion, which is ours, these three things must first be observed, lest it be understood wrongly.

Marginal heading: The more benign opinion is safeguarded.

a) We are dealing only with positive prohibition; when this has been removed, the obligations of natural prudence remain. By these we are forbidden to expose our faith or our morals to proximate danger, and to be a scandal to others. Moreover, if it is neither lawful nor expedient to increase the force of obligations beyond what is just, nevertheless our counsels ought to strive for this: that, as far as possible, they remove dangers of spiritual ruin. Therefore, when there is question of counsels to be given, we plainly agree with **St. Alphonsus** writing: "In this matter it is ordinarily expedient to follow the more rigid opinions."[^4]

b) We consider and interpret the Constitution as it was enacted, that is, in relation to the universal Church. But if the very good circumstances of some diocese can bear and seem to demand more severe sanctions, the remedy is ready at hand, and its use has more than once been commended by the Holy See: namely, the faculty granted to the Bishop of supplying, by particular laws, that which is wanting in the general Law for his diocese. But private persons are not thereby permitted to have recourse to an arbitrary interpretation of the common law.

c) The canon concerning the restriction of an odious law does not give the supreme rule of interpretation. Therefore it can happen that, in appearance, it must be derogated from, in order to observe higher canons, which command us, for example, to adapt an explanation to the clear mind of the Legislator,[^5] or to interpret words in such a way that they have some effect.

Marginal heading: And it is proved.

These things having been laid down, our solution rests especially on the circumstances in which this Constitution was enacted. Their sum is this: the desire of reading everything has increased immensely; regard for authority and docility of minds have greatly diminished; the Church has been deprived of every support of secular power;[^6] in our mixed societies there is daily commerce with men of every opinion and religion; there is a daily publication of books and writings which of themselves would be worthy of a censorial mark, and yet, at the same time, on account of other merits, furnish to many a useful, not to say necessary, reading; hence there are innumerable reasons, both pretended and true, for keeping and reading writings of this kind; and the necessity of a more benign law has been declared more

than once. In his preface, **Leo XIII**, according to his prudence, acknowledges that the Bishops both of France and of Germany, who insisted in this sense with weighty words, had asked what was equitable, by denouncing the scruples, anxieties, and most grave temptations of violating the law by which the consciences of Catholics were burdened more than was fair.^[^7] Add finally that not one region professed itself immune from the rules of the Index, and that it was among the wishes of the Supreme Pontiff that universal observance of these sanctions be restored. To one weighing these things, unless we are mistaken, the following will easily be clear:

a) The common good demands a strict interpretation of the prohibitions, lest, from the inclination of minds to cast off a yoke of this kind, there would be too great a temptation to violate the law, and thus for too many there would be an occasion of sinning; lest "imperfect persons, unable to bear precepts of this kind, break forth into worse evils."^[^8] But the common good, just as it is the supreme norm of making law, so also is it the supreme norm of interpreting law.

b) The wish and command of the Supreme Pontiff, who desires that "Catholic men throughout the whole world obey these sanctions religiously," demands a strict interpretation. Rigid explanations of this law will not greatly profit this end.

c) If we wish to take refuge in axioms: "Every odious law is to be interpreted strictly."^[^9] But that law is understood as odious which imposes a burden, an encumbrance.^[^10] Who can doubt that the present law is of this kind, since it prohibits and indeed under a grave penalty,^[^11] especially if you look to the circumstances? And it is already enough that, since the prohibitions run far beyond the limits of natural prohibition, it directly restricts natural liberty.^[^12]

d) The character of the present Constitution demands a strict interpretation of the prohibitions. By this law of his the Supreme Pontiff imitates "the maternal zeal of the Church: which indeed desires nothing so much as to impart herself benignly, and has always taken care, and takes care, to heal those born of her in such a way that she lovingly and zealously spares their infirmity." He acknowledged and professed the necessity of softening the laws of the Index. He wills that "to obey" these laws, "provided one is not of evil disposition, cannot be grave and arduous." Yet, being well aware of the difficult circumstances, when the Bishops of England requested it, he immediately granted the very great power of which we spoke in n. 24. A broad acceptance of the prohibitions corresponds little with these things. Apply, for example, this method in explaining article 11.^[^13] Will you not immediately seem to yourself to be carried away by excessive rigor?

e) Together with the prohibitions, this Constitution contains penalties; indeed, all the precepts are sanctioned by arbitrary penalties. All acknowledge that these are of strict interpretation.^[^14]

But if you understand the prohibitions broadly, it will happen that you take the same words in a different sense in the offense than in its sanction! Moreover, if, on account of the favor of faith, we must interpret the prohibitions broadly, shall we not be compelled from the same cause to take strictly the licenses or faculties of reading, and the articles which hold certain books as not prohibited?^[^15] No one will fail to see how strange these things are, and how much they are opposed to received practice.

Marginal heading: General rule concerning faculties.

27. 3. But faculties either of reading and retaining prohibited books, or of granting this permission, seem to us to have, of themselves, an ample interpretation.

We say this of indults for granting faculties, such as Bishops obtain, because faculties of this kind are referred to privileges which are outside the law and not against the law.

We hold the same concerning indults for reading books, because they have the character of a faculty, not of a dispensation. For the law does not simply forbid reading, but forbids you to read without license. By reading with license, you observe the law, far from being dispensed from it.

But since a general faculty concerning the reading of books expressly obscene is never granted, the necessity on account of which you think yourself exempt from that prohibition seems to be to be taken strictly - I do not say scrupulously.

[^1]: *De Fide*, disp. 20, sect. 2, n. 10. Cf. the responses of **Schmalzgrueber**, in book 5, title 7, n. 55; and **Castropalao**, treatise 4, disp. 20, point 10, section 1, n. 3.

[^2]: **Genicot**, I, 451; **Hollweck**, *Das kirchliche Bücherverbot*, p. 20, V; **Péries**, op. cit., p. 55; **Pennacchi**, op. cit., nn. 34, 38, 49 and passim; **Palmieri**, op. cit., n. 794; the writer of *Archiv*, vol. 78, p. 187; **Piat**, *Nouvelle Revue Théologique*, vol. 32 (1900), p. 479; **Wernz**, op. cit., n. 110, IV; **Ciolfi**, op. cit., n. 4, etc.

[^3]: **Planchard**, *Revue Théologique Française*, vol. 2, p. 159; **Van Coillie**, op. cit., nn. 9, 10; L. **Van Ruymbeke** (somewhat more temperately), in *Nouvelle Revue Théologique*, vol. 36 (1904), p. 98.

[^4]: Appendix, chapter 5, n. 8.

[^5]: We understand that mind which can be demonstrated from reason, the connected discourse, or the circumstances, so that it has been promulgated with the law. For a private declaration of the Legislator can no more be efficacious than a private will. Very well **Wernz**, I, n. 131, II, where the words are doubtful, says: "From the disposition of the law one must have recourse to the mind of the Legislator truly manifested in some other way."

[^6]: If, as formerly, the matter concerned preventing the introduction of dangerous books into some region, the common utility of warding off common harms could easily demand that the commands given, especially those which are given to public powers, be accepted broadly; but prohibitions which affect individuals in particular are to be accepted otherwise. Just as you will understand more broadly a general prohibition by which men infected with plague are kept away, and a particular prohibition lest you approach a man suffering from plague.

[^7]: Cf. the words in the *Collectio Lacensis*, vol. 7, p. 843; or in **Péries**, pp. 46, 47; or **Pennacchi**, op. cit., nn. 29, 30.

[^8]: St. Thomas, *Summa Theologiae*, I-II, q. 96, art. 2, ad 2. Cf. also the body of the article.

[^9]: **Reiffenstuel**, I, 2, 427; and cf. Rule 15 of Law in Sexto.

[^10]: B. P., tract. 3, n. 381.

[^11]: Cf. already **Albitius**, *De inconstantia in fide*, chapter 30, n. 224 ff.

[^12]: In this matter Reverend Father **Van Ruymbeke** seems to err in an otherwise learned dissertation, when he describes the laws of the Index as gentle and easy to observe of themselves. It is enough even briefly to question, I do not say impious men and haters of the Church, but Catholics and priests (provided they devote themselves to studies, for what does it matter with respect to others?), so that you may become more certain that those laws, both concerning prohibition and concerning previous censorship, are today held as most troublesome, and are far from being marked by that note which Suarez himself requires in order to indicate that prohibitions are favorable, that is: that they command something "moderate, and agreeable to the common manner of living of men" (*De Legibus*, book 5, chapter 2, n. 6).

[^13]: Cf. below, in the commentaries.

[^14]: **Lehmkuhl**, I, 1073, 4; **Van Gestel**, *De Iustitia in Lege civili*, p. 185.

[^15]: For example, article 4.



Chapter VI: The Right Interpretation of These Laws

II. Applications or Particular Cases

Marginal heading: Which books prior to the Constitution are proscribed by the General Decrees.

28. 1. On books published before the present law. The matter of a law of itself is not a past act.[^1] Therefore sanctions which prohibit books of a certain kind because some solemnity, for example of seeking approval, prescribed to be observed by the publisher, has been omitted, affect only books which are published after this Constitution has been promulgated.[^2] Certainly the new precaution will perhaps have been most prudently prescribed. But even dangerous subjects, of sacred instruction for example, could have been treated in a most useful way, and this in books which lack positive approval. Therefore danger is not a sufficient reason for extending the prohibition to past things, unless the Legislator has expressly declared this.[^3] What of the fact that the Legislator himself seems to join the prohibition of such books with the precept given to the publisher, as in article 20, or to employ words which look to future times, as in article 13: *if they are published*. Moreover, the precept could not have been violated before it was enacted; and if the Legislator had wished to proscribe books previously published, he could have said: if they are published or have been published.

Nevertheless, except the case in which books were already forbidden by a similar prohibition of the superior law now in force. I say, a prohibition now in force; for several sanctions had been greatly tempered by usage.

But a prohibition which does not follow upon a neglected solemnity, but rests upon an intrinsic reason, also affects books prior to this Constitution. For here there is no precept imposed upon the author, ignorance of which can be alleged. Nor, in proscribing a book, is the writer's mind or intention considered; but the book itself, as it lies there, is pronounced harmful and prohibited.^[4] Moreover, each one publishes a work at his own risk, and he cannot prevent the Church from consulting the safety of the faithful by its Decrees, whether general or special. Besides, special decrees are always and necessarily later than at least the first edition, so that of themselves they regard a past act of publishing.

For this reason, a book which defends propositions afterwards proscribed as heretical is to be assimilated to a book which defends heresies already proscribed.

Marginal heading: A prohibited book is prohibited as a whole. Separated parts.

29. 2. Objective extension of a special prohibition. a) A book which is prohibited is prohibited as a whole, and not only the part which gave occasion to the proscription. Nevertheless, when this part has been separated (if it is established what part it is), by cutting it out, sealing it up, or obliterating it, the prohibition probably ceases.^[5]

Marginal heading: On a work which consists of several volumes, or a periodical booklet of several fascicles.

b) When the first volume or earlier volumes of some work have been condemned, if others are afterwards printed, these are not strictly marked by that special decree, to which they are later, but they are to be held as suspect unless the author has proved that he has corrected himself. Cf. above, n. 17, e, where we learned both these things from the Preface of the Index itself.

The same is to be said of fascicles of a periodical booklet which are later than its proscription.

But if the work, when it is condemned, has already grown into several volumes, and it is established that the cause of the prohibition is found in one only, **Sanchez**^[6] denies that the others are prohibited, because they seem to be several books. **Suarez** does not admit that unless they are of diverse subject matter.^[7] Commonly they hold the doctrine of **Lugo**,^[8] who resolves the question from this point: whether or not the subject matter admits division. Thus, for example, in a universal history, a volume narrating ancient history is so distinguished from a volume destined for the description of the Middle Ages that they are, as it were, several works.

Yet in either case, if you remove the volume in which the error is contained, you separate the part which gave occasion to the proscription; and therefore, unless you wish to deny the opinion just recited here under a), the prohibition of the remaining volumes probably ceases.

Marginal heading: New editions and versions.

c) The proscription affects all editions and versions of the work which have been made before the decree, unless it is expressly provided otherwise in the Index. (Cf. the Preface of the Index.)

d) A new edition of the same book, even corrected, in whatever language it is made, is prohibited unless faculty has been granted by the Sacred Congregation of the Index (art. 31). This holds even if you refute the errors by notes, or if it was proscribed not absolutely, but with the added mention "until it is corrected."

Nevertheless, except books of authors whom they call classics, and which expressly treat or teach lascivious matters. For these, when well expurgated, are permitted to be handed over to children (art. 10).

Properly speaking, however, this is not an exception. For the books which article 31 forbids to be published again because they have been proscribed by the Holy See seem to be only those which are prohibited by a special decree of the Index, not by a general rule. So Cardinal **Gennari** and **Palmieri** on this article.

Marginal heading: What of compendia.

30. e) Nevertheless, you do not publish a work anew by the fact that you have written a compendium of the work which is sufficiently distinct from the earlier work.

This, therefore, is to be judged in itself. One must indeed see whether perhaps it is touched by some general decree.

Marginal heading: On the historical account of systems.

Hence it appears what must be thought concerning those books which historically report the system and opinions of some heretical or unbelieving writer.

If these are so proposed, with arguments added and no response made, that they seem to defend heresies or errors, they will fall under the law by which books that defend such things are prohibited; if they were composed by a heretic and expressly treat religion, they will easily be touched by article 3, and so forth. You will estimate the doctrine of those books in itself.

Marginal heading: What of literary miscellanies which excerpt places from prohibited books.

31. f) What of literary miscellanies, "chrestomathies," which report passages from condemned works? They can be considered either as some new book, composed from various works of others, or formally as reporting passages of other works.

Under the first heading, their own proper character is to be weighed, and the General Decrees are to be applied to them as to any other work. For they can expressly oppose faith, morals, etc. But under the other heading, if they seem morally to exhibit some same proscribed work, they will share its proscription. But if, as generally happens, the condemned books contain few pages in number, the miscellanies themselves are not already prohibited on that account. The solution is confirmed by practice itself.

Marginal heading: On a periodical booklet which reports a condemned work.

32. g) But what if a certain book or work, proscribed by name, is previously or afterwards reported in a periodical booklet, which in its general character is good, or treats matters which do not concern religion?

Certainly it is not lawful to disseminate again, by periodical publication, a work already reprovved, which would be entirely unworthy of a Catholic man. This is not in doubt.

But it has already happened that a work was condemned which had been taken up in good faith in a periodical booklet; and the question arises concerning those who read and retain the collection of the periodical booklet.

Must we hold as proscribed the volume in which that work is found? In the rigor of law, you would perhaps answer thus.

Yet no one fails to see that a special inconvenience underlies this, namely that on account of this insertion you can no longer possess some whole good and useful collection.[⁹]

Again, as appears from the Constitution *Officiorum* itself, periodical booklets are to be judged from their successive course rather than from individual articles. Nor would you call a periodical permitted which, being habitually evil, happens to contain one or a few good treatments.

Therefore, because of this reason, and because a work in a periodical booklet seems to lose the figure of a book, we judge that a benign response can be given: those who preserve that volume in their collection are not to be troubled. Yet they will have to abstain from reading the proscribed work, unless they are equipped with a positive faculty.

Marginal heading: And on newspapers in a similar case.

You would say the same of newspapers which by chance have published a similar work in parts (*en feuilletons*, in serial installments). Here, however, the reason drawn from loss is usually of less benefit.

[¹]: **Suarez**, *De Legibus*, book 3, chapter 4.

[²]: So also **Hollweck**, *Das kirchliche Bücherverbot*, pp. 16, 17; *Monitore Ecclesiastico*, X, 2, p. 116; **Ciolfi**, op. cit., n. 36.

[³]: Against **Wernz**, n. 110, V.

[⁴]: Therefore no mark is of itself imposed upon the writer, nor does justice require that he be able to set forth his reasons. Nevertheless, if the matter concerns a Catholic man who is distinguished by some reputation, and the work seems to be such that "with the things needing removal removed, it is recognized that it can come forth into public," **Benedict XIV** provided for his fair defense. For unless the writer himself is permitted to defend his own cause personally, a defender is appointed for him ex officio by the Sacred Congregation. Constitution *Sollicita ac provida*.

[^5]: **St. Alphonsus**, book 7, n. 283; **D'Annibale**, III, 141; B. P., op. cit., n. 14. The response of the Holy Office, July 26, 1848 (*Collectanea Prop. Fidei*, n. 1883), is by no means an obstacle, contrary to what **Piat** asserts, *Nouvelle Revue Théologique*, vol. 30, p. 58. For the matter there concerns translations of the New Testament which were already proscribed for this reason, that they had been made by non-Catholics. This defect is not removed by taking away the errors.

[^6]: *In Decalogum*, book II, chapter 10, n. 36.

[^7]: *De Fide*, disp. 20, sect. 2, n. 9.

[^8]: *De Fide*, disp. 21, n. 62.

[^9]: They know that a collection is made of much less value because even one volume is lacking.



Chapter VI: The Right Interpretation of These Laws

II. Applications or Particular Cases

3. On the Signification of Various Words and Clauses

A. Book, Booklet, Writing

Marginal heading: A) What is a Book?

Marginal heading: A certain bulk is required.

Marginal heading: Whether newspapers, sheets, little works?

33. What is a Book? According to common acceptance, by this word there is designated a volume of a certain bulk, which offers to readers a subject matter of a certain unity.

a) Of a certain bulk, I say. Therefore newspapers, even more ample ones, sheets (*imprimés*),[^1] and small opuscula are not understood, since they "are accustomed to be called by some other name, such as elegies, letters, or speeches, rather than books."[^2] Many, after **Schmalzgrueber**,[^3] require ten sheets for a book. We understand these as whole sheets, so that an octavo work would be 160 pages, a sextodecimo work 320. This estimate seems sufficiently fair.[^4] Without denying, therefore, the material truth which this rule can generally have, we judge, with **Lugo**,[^5] that the formal reason of the solution is rather to be drawn from common usage.

We have some opponents, who, under the earlier law, either argue with B. P.[^6] from the fact that in the Decrees concerning books, the Legislator spoke of poems, images, etc.; or with **Piat**[^7] infer the same from certain words of an allocation of **Pius IX**. But the words of Pius IX, according to **Villada**,[^8] seem to be referred "to eleven newspapers which the same Supreme Pontiff, by express name, had prohibited for the Roman diocese through his Vicar, June 30, 1871." And by the response of the Holy Office, April 27, 1880, denying that excommunication is incurred by one reading "newspapers defending heresy," our opinion is strongly confirmed.[^9] Now an argument is added from the present Constitution, which in a distinct chapter, namely the eighth, treats of newspapers, sheets, and periodical booklets; and in article 13 distinguishes writings from books; and in articles 17 and 20 distinguishes booklets and sheets.[^10]

b) Of a certain unity. Therefore smaller booklets bound together by chance are not books.[^11] But if from the beginning they are destined to compose one volume, which is thus published in parts, the whole volume thus composed is to be held as a book; indeed, the individual parts also, even taken separately, which reach the bulk of a book.

Marginal heading: Whether periodical booklets are to be held as books.

34. What of periodical booklets, "reviews"?

What generally prevents them from being called books is the lacking unity, since they are accustomed to embrace disparate, indeed diverse, subjects and treatises. Yet if from their habitual subject matter they have some unity of kind or tendency, under this respect, and not under another, they will be equated with books as soon as they reach the bulk of a book. Therefore periodical booklets devoted to cultivating the sciences or to philosophy are to be held as books of the sciences or of philosophy.

But a volume which, among other things, contains a study written by a heretic is not to be treated as the book of a heretic.

And in a similar way, periodical booklets which are customarily published by heretical authors and habitually defend heresy are to be equated with books of heretics defending heresy. Therefore, wisely, on January 13, 1892, the Holy Office responded that the censure laid down against those reading books of heretics defending heresy is incurred by those who knowingly read periodical publications bound into fascicles, having a heretical author and defending heresy.[¹²]

Marginal heading: Summary concerning the laws by which they are governed.

Because the matter is one of daily use, it is helpful here to set forth, as it were in summary, which positive laws must be obeyed in keeping or reading periodical booklets.[¹³]

First, indeed, we observe this: individual fascicles are generally of less bulk (cf. n. 33) than that they can be called books; yet today several periodical booklets appear whose individual fascicles, in number of pages, equal even a fairly large book. Proceed then:

1. The General Decrees concerning books seem to us to affect periodical booklets only then:

a) When you have in hand a volume or fascicle which by its bulk equals a book, and if, moreover:

b) By its general character or habitual course the periodical booklet itself, or the whole fascicle, has the quality or sins by the defect which is marked by the General Decrees.

Therefore, if the first condition is lacking, neither a book on religion, nor a book in which the Church is disparaged, nor a book teaching magic, is a separated article of a periodical booklet, or a whole fascicle not reaching the quantity of a book, although they treat of religion, disparage the Church, teach magic. Therefore articles 3, 4, 11, 12 of the Constitution *Officiorum* do not fall upon an article or fascicle of this kind.

But if the second condition is lacking, neither is a complete volume or a collection of several volumes a book of this kind, if in them, besides articles on religion, there are also other longer articles of profane subject matter, or besides articles in which the Church is disparaged or magic is taught, there are found others of a different kind, so that from the prior articles you cannot gather one character of the periodical booklet.

But, on the contrary, a book of heretics is a periodical booklet which heretics are accustomed to write; a book on religion is a periodical booklet which has been accustomed to treat religious subjects; and so forth, provided you look at a volume of just bulk.

2. But individual fascicles, even smaller ones, are governed as by their own law by the General Decrees which are sanctioned in articles 21 and 22 of the Constitution *Officiorum*.

3. But if a work, whether previously or subsequently proscribed by name, has been published in a periodical booklet in several successive articles, to read one of those articles truly separated from the others does not seem contrary to the positive law; but you will have offended against the law if you morally have all or almost all the articles before your hands. For in the first case you do not read the work, but a separated part of it (cf. n. 36); in the other, you read the work itself, which, even as it is in the periodical booklet, is prohibited by positive decree. Yet the collection itself, or series of volumes, will not therefore always have to be mutilated. Cf. n. 32.

Marginal heading: Whether calendars.

35. By its external figure itself, a calendar whose leaves are to be torn off on individual days (*Calendrier à effeuiller*), and which therefore is more like a newspaper, does not seem to us to have the character of a book. It is otherwise, however, if it has had the character of a stable volume.[^14]

Marginal heading: Sheets separated from a book.

36. Nor do several sheets separated from a book come under the name of book. Against **Piat**,[^15] who brings forward many authorities.

Marginal heading: Whether a collection of images.

37. Nor is a collection of images considered a book. Therefore, by this Constitution, obscene or impious images are not touched by positive prohibition.[^16]

Marginal heading: Whether manuscripts.

38. Whether it is further necessary that it be printed with type, or whether a manuscript work comes under the name of book, is not entirely certain. Most include manuscripts, because the word book is older than the typographical art, and the reason of the law, or the danger of infection, also obtains here. This is preferred by **St. Alphonsus**,[^17] **Arndt**,[^18] and B. P.[^19] Others, however, to whom laws of this kind seem to be interpreted strictly, not improbably observe that in our days, by common usage, books are distinguished from manuscripts, and that the reason of the law is less urgent concerning these, since they are disseminated with more difficulty. This is maintained by **D'Annibale**,[^20] **Avanzini**,[^21] and **Bucceroni**,[^22] **Göpfert**, however, says the same is probable.[^23] And after the Constitution was issued, Cardinal **Gennari**,[^24] **Planchard**,[^25] **Génicot**,[^26] and **Hollweck**[^27] are of the same opinion; Hollweck adds this excellent reason, that the use of a manuscript work is today so rare that concerning it this holds: "what is minimal the legislator does not consider." **Palmieri** now holds the same in **Gury**, II, 794.

But there is no reason why you should deny the character of a book to works which indeed are not printed with type, but by other methods (lithography, hectography) which can give place to similar diffusion.

Marginal heading: Whether lithographed or printed codes.

39. Furthermore, at least as regards the necessity of previous censorship, books are not regarded except insofar as they are published. Hence works set down lithographically, which professors are accustomed to prepare so that hearers may make a compendium of what is to be written, and which are not of public right, are not subject to this censorship.[^28] We know this to be approved by Roman usage itself. We think the same must be said of treatises which, for the same reason, are even printed with type. In German they say: *Als Manuskript gedruckt* - printed as a manuscript. And here again we are confirmed by usage, which is the best interpreter of laws.

Marginal heading: What is a Booklet?

40. A booklet designates a work of smaller bulk, which does not reach the just quantity of a book, but nevertheless is composed of some pages. So also **Pennacchi**, op. cit., n. 58. Booklets are spoken of in articles 17, 20, and 21 of the Constitution *Officiorum*.

Marginal heading: What is a Writing?

41. Writing is a most general word, apt for designating a composition of every bulk and form. Therefore even individual numbers of some newspaper are a certain writing. Cf. **Pennacchi**, op. cit., nn. 51 and 59.

Whether, by the general breadth of this word, even sheets which have not been printed with type are designated? Some deny this.[^29] Yet the affirmative opinion of others agrees more with the force of the word, and is confirmed by a decree of the Holy Office which, by prohibiting any writings whatever (provided they were propagated) concerning a recently invented new devotion, added that "it matters little whether they had been printed with type."[^30] Generally, however, writings will not be published unless printed with type.

[^1]: **Avanzini**, op. cit., Appendix 3.

[^2]: **Planchard**, *Revue Théologique Française*, loc. cit., n. 14.

[^3]: Book 5, title 7, n. 55.

[^4]: **D'Annibale**, op. cit., III, 141; **Pennacchi**, op. cit., n. 38; **Génicot**, op. cit., 454, against **Planchard**, loc. cit., 13, 14, though he remains doubtful.

[^5]: *De Fide*, disp. 21, n. 38.

[^6]: Treatise 7, section 4, nn. 12, 13.

[^7]: Op. cit., p. 619.

[^8]: Op. and loc. cit., n. 11.

[^9]: *Acta Sanctae Sedis*, vol. 20, p. 368.

[^10]: We argue from this deservedly, contrary to the opinion of C. V. C., loc. cit., since we have proved that prohibitions also are to be taken strictly. Add that it would be strange if you took the same word books in one way in the prohibition and in another way in the censure which is its sanction, and now, as **Planchard** observes, loc. cit., 14, part of the same law. Did the ancients do so?

[^11]: For the same reason we judge that newspapers are not to be placed among books, even if they are gathered into one volume. So also **Sleutjes**, *De prohibitione*, etc., p. 24, note 2. We do not know with what truth several, Cardinal **Gennari**, loc. cit., p. 155, and **Hollweck**, loc. cit., p. 26, bring forward to the contrary the response of the Holy Office alleged below in the text, from which those incur the excommunication of persons knowingly reading certain books of apostates, heretics, etc., who read periodical publications of the same "bound into fascicles." For in the obvious sense, since we are not accustomed by the name fascicle to designate the large volume which newspapers bound together make, the petitioner who used this expression in proposing the doubt does not seem to have been thinking of newspapers, but wished to describe those publications which, as **Lehmkuhl** explains (II, 923), "are published periodically in compact fascicles" (*qui paraissent en fascicules*); otherwise, "les revues," "le riviste." Nor does **Arndt**, p. 217, seem to have understood the matter otherwise.

[^12]: This, therefore, seems to us to be the proper force of that decree. By no means, contrary to what many think and what we ourselves previously thought, is it there defined that periodical booklets are to be held as books. Nor, even if the individual articles reach the bulk of a book, would we say that the fascicle is then virtually to be compared with several books, as **Villada** writes, op. cit., n. 12.

[^13]: The things which we say concerning periodical booklets can almost be transferred to newspapers.

[^14]: **Schmalzgrueber**, 5, 7, 33; **Bucceroni**, p. 339; in the second edition, p. 368.

[^15]: Op. cit., p. 620.

[^16]: **Pennacchi**, op. cit., n. 40; **Hollweck**, op. cit., p. 32.

[^17]: Book 7, n. 293.

[^18]: N. 101, pp. 118-121.

[^19]: Loc. cit., n. 13. Cf. in **Piat**, loc. cit., p. 618, note 1, many, both of the earlier and of the present age, holding the same.

[^20]: III, 141.

[^21]: Op. cit., I, appendix 3, pp. 134, 135.

[^22]: II, p. 339, n. 4.

[^23]: Op. cit., p. 323.

[^24]: Loc. cit., p. 132.

[^25]: *Revue Théologique Française*, loc. cit., n. 12.

[^26]: I, 454.

[^27]: Op. cit., p. 24.

[^28]: **Génicot**, op. cit., I, 454.

[^29]: **Génicot**, loc. cit.

[^30]: **Hollweck**, loc. cit. Decree of February 6, 1896. Cf. Decree of the Index, April 19, 1896, *Acta Sanctae Sedis*, vol. 28, p. 640.



Chapter VI: The Right Interpretation of These Laws

II. Applications or Particular Cases

3. On the Signification of Various Words and Clauses

Marginal heading: What are *Fabulae amatoriae*?

42. B. *Fabulae amatoriae*. In the new Index this means the same thing as *opera romanensia* in the former one. For since we are referred back to the same prohibitory decrees, and there is no indication of any mitigation, it is sufficiently clear that this formula was adopted for the sake of a more elegant language, but that no change was made in the matter. Therefore stage plays are not included, nor are "novels" excluded if they are not strictly love stories. It is to be translated: *romans*, not, as some have written, *romans d'amour*.

Marginal heading: C. What is *ex professo*, *data opera*?

43. C. *Ex professo*, *data opera*. The clauses *ex professo* and *data opera* scarcely differ in use; and by most they are held as sounding the same.^[1] Yet if you consider the force of the words, **Pennacchi** rightly understands more by the clause *ex professo* than by the other, *data opera*.^[2]

For *data opera* is the same as "by design,"^[3] deliberately, studiously. In French you would say: *de propos délibéré*, *de parti pris*;^[4] in Italian: *a bella posta*, etc.; and opposed to it is the expression: incidentally, by the way (*en passant*, *à l'occasion*).

Ex professo further denies the dissimulation of such a plan, so that you act as if professing it, for example, with developed explanation and proposed arguments.^[5]

Therefore these clauses also suppose in the writer a certain direct intention of the thing which the book is judged to do *ex professo*, *data opera*.

But in order that the book, and not only the writer in some place, be reputed to do something *data opera*, *ex professo*,^[6] it is necessary that either by its general tendency, or in a notable part, it devote itself to that thing. One chapter will be a notable part, sometimes less, if the chapters are lengthy.

Concerning this notion, cf. **Génicot**,^[7] **Hollweck**,^[8] **Pennacchi**,^[9] **Planchard**.^[10]

Marginal heading: D. In hatred of the author?

44. D. *In odium auctoris*. A prohibition made in hatred of the author used to include even future and innocent works.

But today the Holy See now abstains from this kind of prohibition, as is clear from the suppressed universal prohibition of the works of heresiarchs, and from the way in which the clause *Opera omnia* is explained in the Preface of the Index.

Marginal heading: E. *Opera omnia*.

45. E. *Opera omnia*. This general clause, although it seems graver than the prohibition of a single book, touches all the books of a writer less perfectly than the distributive proscription of individual books.

The force and reason of this clause must now be explained carefully from the Preface itself.

Marginal heading: Objective comprehension of the clause.

a) As regards the object: it no longer affects all the writings of someone, "but only those works which either deal with religion, or, even if they do not deal with it, nevertheless have been proscribed by some general or special decree" (Preface of the Index).

Therefore, in order that it may appear which books are contained under that censorial mark, their subject matter must be observed. Do they deal with religion? There is none which escapes condemnation. Do they treat a non-theological subject? Only those books are prohibited which are either marked by special decree, or are proscribed by a general decree, for example because they are expressly against morals, etc.

To illustrate this by example, we hold the work, for example, of **Zola** whose title is *Le rêve* to be excepted from the clause *Opera omnia*, by which that most evil writer is marked.

Marginal heading: What of works published afterwards.

b) As regards time, the prohibition, taken closely, falls only upon works which were available when that general proscription was issued. Nevertheless, as the praised Preface warns, and as we already said in our own dissertation, works published afterwards are to be held as suspect; indeed, they are to be presumed to fall under some General Decree, and therefore they cannot be read or retained unless it is established that they are touched by no decree of that kind.

Yet the known repentance of the author will destroy even this presumption.

Marginal heading: Case of a periodical booklet, or of later volumes.

c) For a similar reason, the Preface declares that a periodical booklet continued after the decree by which it was proscribed, and later volumes of some work, if any have been published anew after the first or earlier volumes were condemned, are infected by an equal suspicion and presumption.

d) Besides, it is helpful to ask two things, so that the information on the matter may be fuller.

Marginal heading: Whether only books are marked by this clause.

1. In the clause *Opera omnia*, can the word *Opera* be understood of books alone?

Response. We indeed think so, unless they are of such a subject matter that, even in smaller writings, it has aroused the solicitude of the present Constitution. Cf. articles 17, 20, 21. Therefore there are included accounts of new miracles, prophecies; booklets of prayers, of devotion; writings which specially concern religion; indeed, a newspaper or periodical booklet which can morally be said to have been written by the condemned author.

Marginal heading: Whether a similar rule has force concerning the prohibition *Fabulae amatoriae omnes*?

2. Concerning the force of the clause *Fabulae amatoriae omnes*, by which some writers are marked: does it admit the same restriction as the clause *Opera omnia*, so that if it is established that some such novel is touched neither by a singular decree nor by a general law, it is not to be considered prohibited?^[^11]

Response. This matter can be disputed. Indeed, if a formula of this kind is to be equated with a special decree, it will not be lawful to derogate from it in some case.

Yet because such a clause is rather to be counted among the general clauses, since it proscribes all works of a certain subject matter, we shall incline toward this interpretation: similar exceptions which are not repugnant to the more universal clause *Opera omnia* can be reconciled with this censorial mark. For *Fabulae omnes* sounds milder than *Opera omnia*. But if an innocent work escapes the severity of the latter, would it not be strange for the same work to be touched by the less absolute proscription? Usage, therefore, will bear this benign understanding, unless something deceives us, or unless it seems otherwise to the Holy See.

What is certain is that later works are not comprehended by the decree; nevertheless these, as we were just saying, will come under suspicion.

Marginal heading: F. *Donec corrigatur*?

46. F. Donec corrigatur. *Donec corrigatur* places a book among the forbidden books until the corrections themselves have been approved by the Holy See. As the Preface of the Index says, this clause regards the mode of the prohibition, but not its effect.

[^1]: For example, **Gennari**, *Monitore*, loc. cit., p. 80; **Wernz**, note 56.

[^2]: Op. cit., n. 59.

[^3]: **Forcellini**, s.v. *Deditus*.

[^4]: **Planchard**, loc. cit., n. 43.

[^5]: **Pennacchi**, *ibid.* "Not dissemblingly, openly and *data opera*, and as if by professing it." **Forcellini**, s.v. *Ex professo*.

[^6]: Some pass this over, such as **Gennari**, *Monitore*, loc. cit., p. 36; **Piat**, *Nouvelle Revue Théologique*, vol. 30, p. 56, when he approves **Boudinhon**, *Canoniste*, 1897, p. 214.

[^7]: Op. cit., I, pp. 416-418.

[^8]: Op. cit., pp. 34 and 40, and *Die kirchlichen Strafgesetze*, where in section 107, 7, c, he translates *ex professo: Ihrem Hauptinhalte nach*.

[^9]: *Acta Sanctae Sedis*, loc. cit., pp. 214 and 346.

[^10]: Loc. cit., n. 24.

[^11]: A mark of this kind is branded, for example, on the novels of **George Sand** and of both **Dumas**. Yet there is some novel among those which belong to George Sand or to the elder Dumas which does not seem to be comprehended by the general law of Leo XIII. Thus, unless we are mistaken, among the novels of George Sand, *La petite fadette* and *La mare au diable*; and of the elder Dumas, *Le comte de Monte Christo*, *Le capitaine Pamphile*, *Jehanne la Pucelle* - of the elder Dumas, I say; for the novels of the son are accustomed to show dogmatic designs (*romans à thèses*), on account of which they easily incur article 14 of the Constitution *Officiorum ac Munerum*, by which books "which establish divorce as lawful, or defend errors proscribed by the Holy See," are condemned. Beware, therefore, lest you immediately pronounce a novel innocent because it is not expressly obscene. On that subject one can consult the work of Reverend L. **Bethleem**, *Romans à lire et Romans à proscrire*, Cambrai, Masson, 1905.



Chapter VII: What Acts the Prohibition of a Book Forbids by Positive Law

A full prohibition must be distinguished from a less full or imperfect prohibition.

I. On Perfect Prohibition

Marginal heading: Defense of the book is prohibited.

47. I. 1. In the first place, we are prohibited from defending a book that has been simply reproved.

For this defense contains a certain rebellion against legitimate authority, whose act it strives either to impede or to render less effective.

Marginal heading: Publication, reading, keeping.

2. That book can neither be published, nor read, nor retained. For to this already formerly pertained the simple prohibition of a book. Then, in article 12 of the Constitution *Officiorum*, these three words, publish, read, retain, are used in place of the word prohibition, which alone is used elsewhere. Finally, as often as a book is placed in the Index, we are taught the same thing. For the customary clause thus states: "Therefore let no one, of whatever rank and condition, dare in any place and in any language, either in future to publish, or to read or retain when published, the aforesaid condemned and proscribed work."

Marginal heading: What of selling, of renting.

3. To these acts neither the selling nor the renting of a book, or lending it, are added by positive law, if you except the precept which article 46 of the Constitution *Officiorum* directs to sellers of books.[^1] Therefore, with this disposition excepted, which will be explained in its proper place, those acts are governed by the natural law, by which they are not rarely forbidden, either of themselves or consequently upon the positive prohibition of the book.[^2]

II. It remains that the individual acts be explained in a few words.[^3]

Marginal heading: What defense is.

48. 1. Defense of a book occurs both physically, by rescuing the book or material volume from destruction, from being handed over to superiors, etc.; and morally, by defending it in speech or writing, either absolutely or insofar as it gives occasion to the prohibition.[^4] But he does not defend an evil work who praises only the innocent part, or even the style, etc., "provided it does not imply praise or approval of the book." **Lugo**, *De Fide*, disp. 21, n. 94.[^5]

Marginal heading: Publication.

49. 2. He publishes a book who takes care that the book be published and disseminated. Such is the publisher strictly so called, and generally the writer or author. For by the common labor of both, a book is accustomed to come into the

light. Yet this is not necessary. For works are published against the will of the writer, or without his knowledge, or after he has died. But in order that he himself may be said to have assumed the role of publisher, it is necessary that, for this end of publishing the work, he have handed over the book written by himself.

Moreover, the publication of an evil book is intrinsically evil.

Marginal heading: Cooperators.

Several can furnish cooperation to those publishing a book, whether formal, which necessarily shares in the evil of the publication, or material, and that either proximate or remote. Only from most grave necessity can proximate cooperation be justified; the other is excused by a grave inconvenience.

First, the printer, distinct from the publisher, who has undertaken the work to be printed, cooperates proximately with the publisher.

And he is very often a formal cooperator. Yet his act of printing is not intrinsically evil.^[6] Therefore, in a certain case of avoiding an extreme evil, his material cooperation could be excused.

Next, among proximate cooperators are to be numbered those among whom evil works are available for sale to all, or for renting, or who sell them through the streets. Therefore only a nearly extreme necessity will excuse these until they can provide for themselves otherwise.

Theologians were accustomed, rather acutely, to distinguish even among workers those who cooperate proximately - those who set the type, ink it, place the paper on the type, turn the press^[7] - from those who cooperate only remotely - those who prepare the paper, arrange the books already printed, apply fire to the machine. Yet if you observe that the publication of a work is distinguished from its printing and sometimes is entirely separated from it, you will rather easily agree with those who today no longer impute anything but remote cooperation to workers.^[8]

Moreover, this cooperation has various degrees of proximity, and certainly in him who is the "sub-manager" of the inner workshop (*chef d'atelier*) it approaches very closely to proximate cooperation. Now the more proximate the cooperation you have exhibited, the more difficultly you will be excused.

Marginal heading: Who formally read.

50. 3. They read, not those who merely hear someone reading,^[9] or recite from memory, or, ignorant of the language, materially run their eyes over a passage, but those who perceive with their eyes, understanding the things which are written.

Marginal heading: Who retain.

51. They retain who keep a book in their possession, whether their own or another's; or also those who deposit it with another, while retaining ownership, unless he has the faculty of reading prohibited books and can keep the book until either it is expurgated or the one handing it over has himself obtained the faculty of reading. Nor are you here excused by ignorance of the language.

Marginal heading: What of a custodian of a library, of a bookbinder.

But he does not seem to retain who is merely the custodian of a library in which books of this kind are contained, unless he has preserved them in his own house or room.

Strictly speaking, a bookbinder also retains. Nevertheless, from a certain *epikeia*, it seems permitted that he retain prohibited books while he binds them for one having the faculty. Indeed, even for one not having it, if a reason of loss has intervened. Besides, he will generally be protected by ignorance. Cf. **Arndt**, p. 235, n. 173.^[10]

Marginal heading: What if you retain because of the extrinsic apparatus of the volume, etc.

What if you have wished not indeed to read certain works of prohibited reading, but merely to retain them, because a notable price is present in the covers with which they are bound (*reliure artistique*), or in the images with which they are decorated, or in the ancient or rare type with which they are made?

Of itself, indeed, a just cause is present here for seeking a faculty, which will not be denied. Yet if, as not rarely happens, from the mode in which they are kept and from the price of the art itself there is no moral danger that they be read, they seem, as it were, to have lost the nature of a book. For the formal use of a book is reading. Therefore the necessity of seeking a faculty, especially if some inconvenience is added, does not seem to be strictly urgent.

II. On Less Perfect Prohibition

Marginal heading: Prohibition of publishing.

52. The prohibition of publishing a book without previous approval does not of itself prohibit the reading or retention of a book published without the prescribed censorship. For neither do the words sound more broadly; nor, when he intends a more severe sanction, is the Legislator accustomed to suppress it in silence.^[^11] Cf., for example, articles 13, 18, 20. So also **Pennacchi**,^[^12] **Gennari**,^[^13] etc., against **Péries**.^[^14]

[^1]: You will say: Is not the lending of a book itself prohibited at the end of article 26? By no means, since in the said article there is merely recalled the precept which is contained in the clauses of the faculty by which permission is granted to read and retain prohibited books. Those who obtain this are generally ordered to keep books in such a way that they do not come into the hands of others.

[^2]: Cf. Cardinal **de Lugo**, *De Fide*, disp. 21, from n. 71.

[^3]: When they can be excused, cf. below, nn. 58, 59.

[^4]: By the word defend, "defense both of right and of fact is imported." **Barbosa**, *Dictiones usu frequentes*, dict. 81, n. 4.

[^5]: Cf. **Lehmkuhl**, II, 924; **Arndt**, op. cit., p. 240; **Hollweck**, p. 26; Cardinal **Gennari**, *Monitore*, loc. cit., p. 145.

[^6]: Cf. **Laymann**, *Theologia moralis*, book 2, treatise 3, chapter 13, n. 5; **Villada**, n. 21.

[^7]: Cf. **D'Annibale**, vol. 3, n. 142 and note 19. By most writers, among remote cooperators are placed those who correct the printed matter; yet those correctors at the same time read the work.

[^8]: **Konings**, I, 315; **Hollweck**, *Die kirchlichen Strafgesetze*, section 107, 5.

[^9]: And this probably even if they have induced him by counsel, request, or command to read it aloud to them. So **Lugo**, loc. cit., n. 75; **St. Alphonsus**, book 7, n. 292; **D'Annibale**, II, 36. We do not deny that against this interpretation, with **Hollweck**, p. 24, note 1, one can object a certain rigorous adherence to the letter by which the end of the law can be eluded. Nevertheless, the end of the law is not the law; someone finds a person to read aloud with more difficulty than he reads himself; nor is it repugnant that a positive law be deficient in a rarer case, even one which, according to itself, would be touched by a stronger right. This is not to be attributed to a defect of the law, but to the variety of contingent cases; nor does it supply sufficient reason why, in an odious law, you should abandon the strict propriety of the words.

[^10]: **Lessius**, however, whom **Arndt** names (*Auctarium V. Haereticorum libri*), speaks only from natural law.

[^11]: Nor is it sufficient, contrary to the opinion of **Hollweck** - who, p. 36, 37, note 3, and p. 50, 51, note 3, introduces this distinction - that the necessity of previous censorship for certain books is expressed in the chapter contained under the title *On the Prohibition of Books*. This, I say, is not sufficient. For the insertion is sufficiently explained by the connection of the matter, just as under the same title certain articles, for example article 4, positively permit certain kinds of books. But in the contrary opinion no reason can be given why in certain articles the sanction of the prohibition of a book is appended to the requested censorship, while in others there is complete silence about that sanction. Therefore let us hold this: a prohibition which the Legislator has not expressed is not to be introduced. As **Wernz** elegantly observes, n. 53, a rubric denotes the principal matter, but not the exclusive one.

[^12]: *Acta Sanctae Sedis*, loc. cit., n. 54, p. 311.

[^13]: *Monitore*, loc. cit., p. 66 and note 1.

[^14]: P. 114.



Chapter VIII: Obligation of Conscience. Gravity of Fault

Marginal heading: Principles concerning guilt.

53. That conscience is bound by the laws concerning the censorship and prohibition of books is not doubted. But the guilt of fault must be estimated both of itself, or with the law of nature considered, by which we are forbidden to cast ourselves or others into danger of sinning and to cooperate in the sins of others; and accidentally, that is, when positive law is added, whose violation introduces moral fault.

I do not know whether this estimate is customarily made with sufficient care and with the variety of circumstances sufficiently weighed. Therefore we shall diligently try, according to our powers, to weigh this matter.

Marginal heading: Chiefly from violation of the positive law.

54. Concerning the violation of positive law, these principles are to be laid down:

a) In their kind, or of themselves, the prohibitions and precepts of this law bind conscience gravely. This is a certain opinion, which, as far as we know, no one attacks. Statutes of this kind have always been understood in this way; moreover, their words manifest a strict command or prohibition, with the gravest penalty of excommunication *latae sententiae* also added in two cases.

b) At the same time, it is not doubted that smallness of matter excuses from grave sin.

c) The highest norm for estimating matter must be borrowed from the reason of the law, by which the Legislator has sought to consult the safety of the faithful more than was done by natural law alone.^[^1] Now acts which have effects of themselves sufficiently general or common, for example the publication of a work, and acts, for example reading, whose force is of itself circumscribed to individual persons, can be gravely opposed to this safety.

In the precepts or prohibitions of the former acts, the legislator will consider that general and less determinate efficacy, so that he may, under grave guilt, impose precepts or prohibitions which are apt for forestalling a harm which, as affecting many, appears notable, although for individuals of itself it can easily be moderate. Thus it does no small harm to the common good of the Church if apocryphal indulgences or ridiculous devotions are spread, although among individual persons the use of them may do little harm.

In precepts or prohibitions of acts which of themselves benefit or harm only one person, those things are judged to be gravely sanctioned which avert a danger that, human nature considered concretely, must generally be thought grave for individuals. For the foundation of the law is the presumption of danger. But the subjective exceptions of individuals are not attended to in a positive general law.

Relying on these principles, we think that the following things can be established, though we permit them to the judgment of wiser men.

Marginal heading: Guilt of defense.

55. 1. Defense of a prohibited book, whether physical or moral by commendation, is grave of itself where the matter concerns a book whose reading is prohibited under grave guilt. Indeed, that defense can contain such contempt or attack upon authority that it induces grave sin even if the prohibition was light.

Certainly it will be less grave not to deny the justice of the prohibiting decree, but to deny its opportuneness, or to suspect the ignorance, levity, or heat of passion of those condemning. Reprehensions of this kind vary in gravity according to those who hear them, those who are blamed, the very foundation of the accusation, and the manner of the disapproval. For by these things it happens that the esteem of the Holy See receives greater or lesser detriment, from which the criterion here is to be taken.

Marginal heading: Guilt of publication.

56. 2. The publication of a prohibited book, whatever may be the reason of the prohibition, is rightly thought by the distinguished **Boudinhon**^[^2] to be regularly grave. For it is notable to devote labor so that a book which the legitimate Superior wishes suppressed be spread into any place whatever. Yet if a book is prohibited for this reason, that it lacks the necessary approval of the Ordinary, it can happen, from the very small importance of the work, that the publisher of the book or writing is immune from grave guilt. Suppose that a certain innocent little sheet of indulgences, a small booklet of devotion, is published with previous censorship omitted. Thus we speak at least in those places where the rules concerning previous censorship are not so strictly urged. For one must beware lest he seem to despise legitimate power or bring grave scandal to others.

[^1]: **Benedict XIV**, cf. *Sollicita ac provida*.

[^2]: Op. cit., p. 314.

Chapter VIII: Obligation of Conscience. Gravity of Fault

Marginal heading: Guilt of reading.

Marginal heading: Severe opinions.

57. 3. As regards reading, they are accustomed to pronounce very severely and rather absolutely in this matter. For, according to **St. Alphonsus**,^[^1] he sins gravely who reads a few lines which he observes to be directly opposed to the faith (in a heretical book); on the other hand, a whole page, even of a large volume, in which no error is noticed, seems to him also to be called small matter. More recent authors almost agree with St. Alphonsus. So also His Eminence Cardinal **Gennari**,^[^2] **Lugo**, however,^[^3] although he inclines more to the same opinion, nevertheless practically judges probable the opinion of those who deny that a few lines constitute a notable part, even if they contain heresy. A little more benignly, **Noldin**^[^4] thinks that three or four pages are needed for grave matter where no error is contained; **Hollweck**^[^5] thinks six.

Marginal heading: To what extent they seem to need correction.

Without derogating in any way from the authority of illustrious theologians, we seem able to say that these things were said too absolutely and more severely than was fitting. Certainly many learned men whom we have questioned today think thus; and a certain common sense seems to demand that more deference be given to the variety of circumstances and that an excessively mathematical definition be abandoned.

Marginal heading: General principle.

The general principle itself of estimation can easily be set forth thus. Matter which of itself, or for most persons, on account of proximate danger, would be grave according to the natural law, is to be reputed grave simply, or for all, in violating the positive law, even if accidentally, in a particular case, the danger was greater or lesser.

Marginal heading: Account of present circumstances in moral estimation.

But the estimation of this moral danger must be made otherwise today than formerly.

For, by almost the same reason by which, according to the judgment of the Supreme Pontiff, the laws had to be made somewhat softer, so also it seems to us that one must respond more benignly concerning grave matter. For not all books which are proscribed are of the same wickedness or are equally dangerous of themselves to the reader.

Moreover, it cannot be denied that today direct or indirect attack upon faith or morals is made so frequently that morally there is no one who has not read or heard some things less piously written or said. Hence even individual harmful writings today have less power of harming or disturbing than formerly, when many men scarcely suspected that arguments against Christian institutions were being attempted.

What of the fact that formerly the question was not rarely framed in these words: "What matter is to be thought notable in reading books of heretics treating of religion?"^[^6] These books are the smallest part of those which today are prohibited by name and concerning which we are especially questioned.

Marginal heading: Applications.

It remains that we propose certain examples of moral estimation. But we cannot pursue all cases by speaking of them; for their variety is infinite.

Marginal heading: What is grave of itself.

a) It is grave of itself to read a book prohibited under grave guilt.

Marginal heading: On a part notable because of extension.

b) Yet this will not be grave unless a notable part of such a book is read. Moreover, a part can be notable because of its extension or because of the things contained.

A part notable by mere extension is held by some to be one page, by others six pages, by others a large sheet (= two folio pages, or sixteen octavo pages). There is someone who proposes the quantity of an entire newspaper (*tout un journal, eine Zeitung, un giornale*).

Unless we are mistaken, it will not be difficult for this to be conceded to us: that even in this estimation attention must be paid to the different kinds of books, since in some books there is much more danger than in others of falling upon a passage gravely harmful of itself, and the reason of harming occurs everywhere in some, but not in others, which can rather be detrimental only by long-lasting familiarity.

If you weigh these things, do we seem to be far from the truth in proposing these rules, which we already know have been approved by the vote of several?

alpha) There are works which bring special danger to faith or morals, because they are filled with insidious arguments or lascivious descriptions. In these, it is not enough if you wish to abstain from those places full of treachery; rather, to read even a few pages (five or six) of unknown character we regard as grave, because of the danger of falling upon gravely harmful passages and reading them. Here, therefore, we only slightly temper what was formerly said concerning grave matter.

beta) Other books become gravely dangerous rather only from long-lasting intercourse. Of this kind are many books which are prohibited by special decree on account of their tendencies, as they say, or the suspect causes which they patronize. Can mortal guilt then be induced if you read less than the twelfth or tenth part of the book? Yet if the work has been very ample, we judge that part to be always, or absolutely, notable which in itself would be sufficient to constitute a book.^[7] Cf. above, n. 33, where we required at least two sheets in folio.

gamma) If it has been established at the same time that from a large part of the book the intrinsic reason of grave danger is absent, and that the force of enticing the mind to read the rest is absent (suppose the reading is sufficiently wearisome), such a part, whatever it may be, seems to us able to be read without grave guilt.

delta) Yet the positive prohibition embraces all these things, and we are not those who give counsels for sinning venially in this matter. Yet more easily, on account of a just cause, you can be excused from a light precept.

Marginal heading: Because of things contained.

Finally, by reason of the subject matter, or because of the things contained, any passage is notable, even one much shorter, but in itself gravely dangerous; thus an obscene passage, or one containing sophistical or captious arguments against faith or morals.^[8]

Marginal heading: Not every prohibition of books is grave.

c) Any book that is prohibited is presumed to be prohibited under grave guilt. And grave prohibition truly affects works which are condemned because they are opposed to faith or morals, or attack or undermine ecclesiastical authority and the reverence due to it; or because, in recent controversies, they seem to exhibit unsafe doctrine concerning inspiration, philosophical principles, etc. But if it is established that the reason of the prohibition is diverse in kind, and shows the book to be not gravely dangerous, we judge that the guilt of one who reads a book prohibited by general or even special decree is only venial.^[9] As an example, let there be certain books, innocent in themselves, of devotion, or of the narration of miracles, which lack the necessary approval; or which, though retained in the catalogue of the Index, would today nevertheless escape condemnation. Certainly such was, while it was kept in the Index, the work of Father **Croiset** on the Most Sacred Heart of Jesus.

d) Thus far concerning books. But what if you read periodical sheets or booklets?

Marginal heading: One must respond here more benignly.

The case of a book and of a newspaper or periodical booklet is not entirely the same.^[10] A book is held as a whole at once, so that from one place read, you are easily drawn to read the rest. Nor in a book is it usually manifest which

parts are innocent. On the contrary, since periodical sheets are published separately, there is less danger of continuing the reading; and from distinct titles the parts which are of a plainly indifferent subject matter are easily discerned: suppose commercial notices. Finally, as is clear from the words of article 21, the prohibition of newspapers is emphasized in a peculiar way as a confirmation of a prohibition already made of itself from natural law.

Therefore we judge that the limits of light matter must here be widened;^[^11] and, that we may put forward our judgment, saving a better one, we give these practical indications:

Marginal heading: As regards reading, grave and light matter.

1) As regards reading: It is grave: **alpha)** habitually and morally to read such sheets in their entirety, even if you omit the place specially repugnant to Religion. For habitual reading makes danger grave of itself: lest you gradually be imbued with the evil tendency of the newspaper, or be so affected toward newspapers of this kind that you no longer wish to abandon them, and no longer pass over any part.

Nor does it matter much whether you read the same newspaper, or various newspapers of the same kind.

Sometimes it will be grave: **beta)** to read one article peculiarly repugnant to morals or religion. This will more easily happen with regard to morals than with regard to religion. For a very impious passage, unless at the same time from the clever manner of proposing the error it has been very persuasive, does not create such danger, since it rather inspires horror; whereas one obscene passage is of itself very harmful.

It is grave: **gamma)** to read in these circumstances which of themselves produce grave scandal to others. The degree of scandal depends here very much on the authority of the reader. It will more easily be grave if a cleric, a person of known piety, reads before others, or if a father reads before his sons, than if an unknown, extraneous lay person has done so.

On the other hand, it will be venial by reason of matter: **beta)** now and then to read in one of these sheets those things which attack religion only incidentally; or by omitting the places which of themselves contain proximate danger. In other words: without foreseen danger, to glance through one or another issue, scandal being excluded;

gamma) to read even more often (why not habitually?) those things which are established as plainly innocent,^[^12] for example commercial notices. Always understand: scandal being removed.

Moreover, we do not deny that by certain precautions being used, which of themselves diminish the danger, such as if you at the same time read a Catholic newspaper of good name and merit, guilt can be diminished.

Hence also, when a just cause urges, danger of ruin or scandal having been removed, and when a faculty cannot conveniently be sought, someone will read in a singular case a proscribed newspaper without sin. For a reasonable cause excuses from a venial prohibition of positive law.^[^13]

Marginal heading: NB. What from the law of nature.

NB. In this whole article we merely weigh the gravity which arises from violation of the positive law. The prohibition of the natural law, according to the measure of the danger, will be graver or lighter.

Marginal heading: Practical norm for the Confessor.

Practically, the Confessor must strive as much as possible that, various pretexts having been rejected, the faithful cease from reading evil sheets. "But where the penitent either does not read evil newspapers so assiduously, or, for any reason, is known by experience to be immune from proximate danger, it will often belong to a prudent confessor to keep silent about the positive prohibition or to urge it little, lest something worse happen." So **Génicot**, op. cit., I, 455.

[^1]: Book 7, n. 284.

[^2]: Op. cit., p. 26, note 1.

[^3]: Disp. 21, n. 83.

[^4]: *Summa theologiae moralis*, vol. 1, n. 689.

[^5]: *Das kirchliche Bücherverbot*, p. 23. In the more recent work *Die kirchlichen Strafgesetze*, he uses greater benignity, when concerning books of heretics defending heresy he has this: The reading of one chapter is certainly notable matter. Section 106, note 8.

[^6]: So also in **St. Alphonsus**, Dissertation *De prohibitione librorum*, chapter V.

[^7]: This norm was already defended in the seventeenth century, but too universally, by **Croussers**, O.F.M., according to the testimony of **Albitius**, *Inconstantia in fide*, chapter 30, n. 214.

[^8]: Captious reasonings are much more dangerous than blasphemies, which produce horror and indignation.

[^9]: Thus we change our earlier opinion (cf. 3rd ed., p. 107 note), so that we may approve what was said by the distinguished **Boudinhon**, op. cit., p. 315.

[^10]: This danger is indicated as at least a partial cause why it is grave to read parts innocent in themselves. **Hollweck**, op. cit., p. 23.

[^11]: **Génicot**, op. cit., 455, also thinks that one must judge here a little more benignly than when the matter concerns books, "lest their proscription fall into destruction rather than edification."

[^12]: For in a newspaper, as we were just warning, we can distinguish: a) articles where they expressly exhibit their mind hostile to religion or morals; b) parts where, indirectly but more or less easily, according to the character of the newspaper, poisons are instilled, as in political news, miscellaneous items (*faits divers*); c) parts which are usually innocent, which pertain to business dealings.

[^13]: **Génicot**, op. cit., I, 455.



Chapter VIII: Obligation of Conscience. Gravity of Fault

Marginal heading: Guilt of retention.

58. 4. The retention of a book is often blameworthy from positive law alone, which, by prohibiting retention, wishes to forestall dangerous readings. Therefore this precept is connected with the prohibition of reading; and retention which of itself contains a grave danger of reading books which of themselves cannot be read without grave guilt is prohibited under grave guilt.

Marginal heading: What delay is grave:

To speak now with the common opinion, by time a retention is judged notable which is prolonged beyond two or three days. Again **Hollweck**,^[^1] arguing from the fact that a term of eight days was often established by the Pontiffs for handing over a book, defines the grave quantity according to this space.

A longer delay, however, though not, says **Hollweck**,^[^2] beyond a month, will be excused from grave guilt if it was done with the intention of handing over the book, at the first opportunity, to someone who has the faculty; or if the one retaining it hopes that this faculty will soon be his; or, we shall add, if it must be imputed not to evil will, but to a certain negligence in executing a good purpose, joined with some difficulty of seeking or finding the book, perhaps lying hidden in a corner of the house or library.

Marginal heading: Excuses.

How one who binds books is excused, we saw above. Similar is the case of a servant, whom **Lugo**^[^3] and several others already excuse if he retains a book for a master having the faculty.

Marginal heading: On retained sheets.

As regards sheets, it will also be grave to retain longer those sheets, or that series of sheets,^[^4] which a grave prohibition forbids you to read.

Observe, however, that a book can scarcely be preserved of itself without danger that it be read, whereas old newspapers are more easily and quite often assigned to a plainly different use. Whether it would be grave to buy or retain a collection of sheets for a use which removes every danger of reading can certainly be doubted.

Marginal heading: Guilt of selling.

59. 5. a) One who has books for sale also retains them, and for this reason can already sin.

Leaving this aside, it will be grave to have prohibited books for sale in that manner by which they are at the same time recommended and more easily spread even among those who are not permitted to read such books. For in this way the malice of one publishing the book is shared. We say this of those books which are prohibited under grave guilt.

And the matter would be full of scandal if prohibited books were openly available for sale among Catholic booksellers.

b) But the question arises whether handing over prohibited books to be sold at auction is absolutely to be condemned, or whether it can sometimes be excused.

A distinction seems to have to be made among the works themselves. Some are very evil and morally have no lawful use. Others, on the contrary, on account of the author's name, knowledge, or style, are held in just esteem and can be used for the most useful ends of studies or letters. Moreover, that in a public sale each of the purchasers is permitted to his own conscience does not seem intrinsically evil.^[^5] But no positive prohibition appears.^[^6] Therefore it seems to us that this, on account of a proportionate cause - in estimating which account must be taken of probable abuse against faith or morals that will occur - can be excused from sin.

Marginal heading: Guilt of lending.

60. 6. On the lending of a book. a) Of itself, it is less grave to lend a book than by selling it to hand over full possession of it. Therefore a proportionate reason, such as a librarian of a public library has, can excuse the lending of those books which, although prohibited, have a useful use.^[^7] Moreover, a positive faculty is granted by the Holy See.

Marginal heading: On a librarian,

b) But concerning booksellers who also rent the books which they have for sale, or concerning libraries which are set up by private funds, one must respond more cautiously. This private industry easily contains some recommendation of prohibited works, which is entirely to be avoided. Catholics besides must beware of scandal. Therefore these will neither rent such books without license, nor openly display them, nor hand them over without distinction of persons.

Marginal heading: On innkeepers.

c) Here the question is asked concerning innkeepers, whether or not they can set evil newspapers before guests.

We think this question is to be solved thus,^[^8] leaving aside positive prohibition.

Marginal heading: How far innkeepers can set out evil newspapers.

alpha) On account of the additional reason of scandal, they cannot, even if they would be abandoned by many clients, set out those newspapers which are entirely opposed to faith and morals.

beta) But those which more rarely contain something less right, they will be able, for a reasonable cause, to hand over to be read, especially if, on account of the announced matters, for example commercial news, there is some necessity for several to read some sheet; at least then they can supply these things to clients of this kind in a separate place.

gamma) But the Confessor should practically see what he can obtain. The matter must be urged more severely in those places where, as in the countryside, these newspapers will be removed both more usefully and with greater scandal if displayed. Let him certainly lessen the evil which he cannot extinguish, by effecting that they be handed over only to those asking, or in a separate place, not indiscriminately, and that at least good newspapers be displayed at the same time.

Marginal heading: On purchase.

61. 7. The purchase of a prohibited work is referred to a certain kind of defense. For it contains of itself a certain recommendation of the book. Yet this, where the matter concerns a book which it is lawful for you to possess, is excused by the useful cause on account of which you wish to have and read the book.

One must respond more severely concerning newspapers or periodical booklets. Their openly made purchase easily has the flavor of a certain scandalous recommendation, since they are accustomed to be available for sale in great

number; besides, since they have a successive course, these periodical sheets are nourished and preserved by the money of buyers. Yet the scandal of the purchase can be avoided; and the cooperation itself, since it is light of itself, can be excused by a proportionate cause.

But we judge that the law is violated in a grave matter if, by an annual subscription (*abonnement*) or one for three months, you receive sheets of this kind which are prohibited to you by positive law.

But those who are permitted to read and buy these seem also able to obtain the same for themselves by subscription. Cf. **Génicot**.

NB. Concerning the other prescriptions of the laws, cf. the commentaries on the articles.

[^1]: *Das kirchliche Bücherverbot*, p. 25, note 3.

[^2]: For within a month a license can even be obtained from the Holy See. And generally recourse to the extraordinary faculties of the Bishop suffices.

[^3]: Loc. cit., n. 84.

[^4]: For example, a continuous series of fifteen sheets, or thirty non-continuous sheets.

[^5]: In a private sale, one must attend more to the person of the buyer and to the probable use of the book.

[^6]: For here we are not treating of sellers of books, concerning whom there is article 46. Cf. the explanation of this article.

[^7]: Cf. **Hollweck**, *Die kirchlichen Strafgesetze*, section 107, 4, who thinks it is lawful for public libraries, excepting obscene books, to contain all prohibited books and to leave the reader to his own conscience. We can concede this for those places where it can scarcely be otherwise. This will often happen in larger cities.

[^8]: Cf. **Lehmkuhl**, I, 664; **Arndt**, pp. 235, 236, n. 175.



Chapter IX: By What Power Books Are Prohibited

Marginal heading: By the Holy See, through what organs.

62. Some books are prohibited by the Holy See and for the universal Church (art. 45): this can be done both by the Supreme Pontiff himself, or through Apostolic Letters, and by the competent Roman Congregation, that is, either by the Holy Office or by the Congregation of the Index. For the Congregation of the Holy Office sometimes still exercises this office of proscribing books, which had been entrusted to it by **Paul III** in the year 1542 as to the supreme tribunal of faith and morals; nevertheless, books are generally condemned through the Sacred Congregation of the Index, which, instituted by **St. Pius V**, is called, as it were, the assistant of the Holy Office. Finally, it can happen that a book, from its special subject matter, pertains to the province of some other Congregation; thus books on liturgy, on the cult of the saints, pertain to the Congregation of Sacred Rites. In which case, this Congregation also will be able to prohibit a harmful book.[^1]

Marginal heading: By Ordinaries.

63. Others, however, are prohibited by the Ordinaries of places and for their own diocese. A certain similar faculty belongs to a regular Prelate as regards his own subjects, at least from his dominative power. For he cannot make an authentic judgment concerning a book. **Pennacchi**, op. cit., n. 67, end.

Marginal heading: Office of local Ordinaries.

Moreover, the zeal of Ordinaries is stirred up in this matter both by article 21 of the Constitution and especially by article 29. For here is repeated the command, already contained in the mandate of March 26, 1825, which **Leo XII** added to the Decree of the Sacred Congregation of the Index, and inculcated again by **Pius IX**, August 24, 1864, through the letters of the Sacred Congregation of the Index *Inter multiplices*,[^2] "that they strive to proscribe books and other harmful writings published or spread in their Diocese, and to remove them from the hands of the faithful" (art. 29).

Marginal heading: They can proceed also as Delegates of the Apostolic See.

Marginal heading: To what this clause looks.

At the same time, by the same article, there is renewed the faculty given through the aforesaid letters *Inter multiplices*, by force of which the Ordinaries of places can proceed in this matter even as delegates of the Apostolic See. This faculty looks to this: that no one "under the pretext of defect of jurisdiction or under some other sought-out color presume with rash boldness to despise the judgments and proscriptions of Ordinaries, or to hold them as not issued" (letters *Inter multiplices*).

Marginal heading: Whether exempt Regulars are held by the prohibitions of Bishops.

64. Hence you will ask whether or not exempt Regulars are held by Episcopal prohibitions.

Marginal heading: Opinions of those who affirm, and arguments.

Most affirm that they are held. And some indeed subject Regulars in this matter even to the ordinary jurisdiction of the Bishop, either because these Regulars do not demonstrate their exemption, or because this is a cause of faith, in which Regulars are subject to the Bishop.^[3] So **Pennacchi**,^[4] **Ciolti**.^[5]

But others argue rather from the power of proceeding even as delegated by the Holy See, which is confirmed to Bishops by article 29 of the Constitution *Officiorum*. So **Palmieri**,^[6] who acknowledges that he is moved by this reason alone, and **Wernz**.^[7]

But neither group seems to us to establish the matter.

Marginal heading: General force of exemption.

For Regulars properly so called - and also members of certain Congregations, for example of the Congregation of the Most Holy Redeemer - have a general privilege of exemption which, as commending the authority of the Supreme Pontiff, receives a broad interpretation;^[8] and the houses of Regulars, by a fiction of law, are as if torn away from the Diocese.^[9] But outside the diocese, of himself, a Bishop has no power. Therefore that principle has force which we remember was handed down in the school of law at Rome: as regards jurisdiction, the Bishop has no power over Regulars except what is expressly granted to him in the law.^[10]

But the contrary assertion of the distinguished **Pennacchi**, by which Regulars would have to bring forward an Indult concerning each exemption, plainly overturns the accepted notion of the exemption of Regulars, suppresses the generality of the privilege, and is repugnant to authors and to the Constitution *Romanos Pontifices* itself.^[11] For they propose the causes in which Regulars are subject to Bishops as exceptions and temperaments of the privilege that has been made. Nor do Doctors omit carefully to prove the individual derogations.

Moreover, among the exceptions, which nevertheless they have collected with most diligent care, the present case is nowhere indicated.^[12] Yet the doctors do not pass over this matter, since they expressly teach that Regulars are subject to Bishops in the publication of their own books, which, equally as those by seculars, are to be subjected to the previous censorship of the Bishop.

Nor is a stronger argument sought from the kind of prohibition which in some way concerns faith. For Regulars are subject to Bishops in causes of faith only insofar as judicial cognizance of causes which pertain to the Holy Office belongs privatively - that is, with regular Superiors excluded - to Bishops, who are born Inquisitors.^[13] But from this it does not follow that Bishops have a general power of commanding things which are thought to benefit faith.

But that regular Superiors have their own role in this matter of books is clear from the authority which is given them by articles 15 and 36; it is clear from the Brief of promulgation of the new Index, by which **Leo XIII**, September 27, 1900, equally commits to Bishops and to Superiors of Regulars the care of urging the laws of the Index, each for his own subjects.

Marginal heading: Force of the clause: "also as delegates of the Apostolic See."

Thus far concerning the former opinion opposed to us.

But those later authors who draw reasons from the delegated power of Bishops do not seem to bring us stronger arguments.

Certainly, Bishops need delegated power in order to be able to give precepts to Regulars as such.

The Holy Synod of Trent granted this power to them several times in the chapters *De Reformatione*. It also permitted Bishops to establish certain things concerning exempt persons and Regulars "even as delegates of the Apostolic See," as when it gave them the mandate of visiting monasteries in which regular observance does not flourish.^[^14]

But by what law do you infer from this: whenever this faculty of proceeding also as from Apostolic delegation is attributed to Bishops, any general act of theirs obliges exempt persons and Regulars? By what canon is this declared? Reverend Father **Wernz** himself^[^15] does not deny the ambiguity of that clause. He brings forward three interpretations of it. "It can scarcely be denied," he himself continues, "that there are not lacking ancient and new authors who ... less rightly restrict that word also to signifying cumulative jurisdiction alone (over one's own subjects)." These, therefore, at least tacitly, disagree from **Fagnani**, whose support Father Wernz uses. But what of that interpreter of law? In chapter *Ad audientiam* 3, *De ecclesiis aedificandis* (III, 48), nn. 46, 47, 54, he sees contained in the clause "also as delegates" a delegated power by which Bishops can also dismember parishes subject to Regulars.

But if we wish to transfer this into our argument, we shall say by parity: by force of that clause the Bishop will be able to proscribe with a censorial mark the books of all, even of exempt persons and Regulars. But **Fagnani** himself has no universal opinion by which he contends: a Decree which the Bishop issues even as Delegate of the Apostolic See always affects exempt persons and Regulars.

Indeed, does not **Fagnani** himself, whom we know to favor the causes of Regulars little, nevertheless in chapter 19, *De officio iudicis ordinarii* (I, 31), n. 5, deny that a Bishop delegated by the Pope can proceed against exempt persons, if no mention of exemption has been made in the letters; and testify that this is the doctrine of **Hostiensis** and **John Andrew**?^[^16] Moreover, in our age, neither **De Angelis**^[^17] nor **Santi**^[^18] attribute to this obscure clause, "also as delegate of the Apostolic See," efficacy of itself to widen the spaces of the ordinary power of the Bishop, but rather efficacy of warding off whatever impediments could obstruct the exercise of this authority.

Therefore we shall say thus: that clause gives Bishops a more expedited power and removes obstacles which could impede the end for which the delegation was made.

Was perhaps extension to Regulars demanded here by the intended end?

By no means. In the present case, there could of itself have been intended equally a greater and more certain efficacy of proscription for touching the books of all, rather than an extension of episcopal prohibition to exempt persons who are entrusted to the care of other Prelates. Now: **a)** if we consider the letters *Inter multiplices*, by which that faculty was first conferred, **Pius IX**, through these letters, stirred up Ordinaries to exercise their power of proscribing books, so that harmful writing might be met more swiftly in individual dioceses when evil was pressing.^[^19] And once the necessity of prompt coercion had been declared, he immediately connects the granted delegation.^[^20] But what could the exemption of Regulars do against this swift coercion, whose obstacles he wished to remove? Are not Regulars, outside rare cases of necessity, prohibited from dangerous readings by their own Superiors? But various pretexts of another kind could stand in the way, for example the lack of the condition required by **Clement VIII** (below here), approval received from one's own Bishop, etc., on account of which they might perhaps contend that jurisdiction was lacking in the Bishop for proscribing the book itself, and might hold his judgments "as not issued." And in truth, questions were being raised concerning the power of a Bishop to punish certain books. Cf. **Albitius**, *De Inconstantia in Fide*.^[^21] And difficulty could be made by the declaration of **Clement VIII**, by which he had declared concerning this faculty of Bishops: "the case will be very rare, nor is this power to be used without a most grave cause, and the Holy See must be made more certain concerning its use."^[^22] Cf. also the letters of Propaganda Fide, August 11, 1855.^[^23] Besides, when the exemption of Regulars is the cause or occasion of a delegation of this kind, the exemption is generally expressly derogated from. **b)** If we look to the present article 29, the delegation is joined with the indicated office, by which Bishops must see to it that harmful writings "be removed from the hands of

the faithful." Who are those faithful if not diocesan subjects?

For this reason, until the Holy See defines the contrary, we judge that the opinion can be retained which makes Regulars immune from Episcopal prohibitions. With us **Périeres**,^[^24] **Génicot**,^[^25] **Oietti**,^[^26] **Piat**,^[^27] **Van Coillie**,^[^28] and practically **Sloutjes**^[^29] defend this. At the same time, however, Regulars, according to their prudence and humility, will beware lest by openly reading those things which the Bishop has prohibited, or even by openly receiving them within their houses, they be a scandal to diocesan subjects, or seem by some ostentation of immunity to undermine the authority of the Bishop.^[^30]

[^1]: Not rarely do the Roman Congregations thus have cumulative jurisdiction.

[^2]: The document is set forth in *Collectanea Prop. Fidei*, n. 1889; **Avanzini**, op. cit., I, pp. 136, 137; **Arndt**, op. cit., n. 165, pp. 209-211; **Pennacchi**, op. cit., n. 67.

[^3]: We omit certain futile reasons, as when they say that exemption ought not give a privilege of running into danger in faith or morals. By a similar reason you could demonstrate that the prohibition of one Bishop binds neighboring dioceses and perhaps the whole world. But the question looks to this: to which Prelate belongs the care of providing for the safety of Regulars. And if, from article 26, the faculty of reading books prohibited by the Holy See does not contain the faculty of reading books condemned by Bishops, it is clear that this regards those who are held by the prohibition of Bishops.

[^4]: Op. cit., n. 67.

[^5]: N. 61, p. 60.

[^6]: Op. cit. on articles 26 and 29.

[^7]: Loc. cit., n. 111, note 82.

[^8]: From the general principle of **St. Alphonsus**, Appendix *De Privilegiis*, n. 8. Cf. **Suarez**, *De Legibus*, book 8, chapter 27, n. 7.

[^9]: Constitution *Romanos Pontifices* of **Leo XIII**, beginning.

[^10]: Cf. **Piat**, *Praelectiones iuris regularis*, vol. 2, pp. 195, 196, question 9, end.

[^11]: Loc. cit.

[^12]: Even in recent catalogues and after Apostolic delegation has been granted. Cf., for example, **Piat**, *Praelectiones iuris regularis*, vol. 2, pp. 202-205; **Oietti**, *Synopsis rerum moralium et iuris pontificii*, s.v. *Exemptio*.

[^13]: A cause of this kind was the suspicion of heresy which those reading books of heretics incurred, but not those reading obscene books. Cf. **Albitius**, *De Inconstantia in fide*, chapter 30, nn. 414 and 417, 418.

[^14]: Session XXI, chapter 8, *De Reformatione*.

[^15]: *Ius Decretalium*, vol. 2, n. 696.

[^16]: Even in a favorable matter, it was much doubted whether or not a Bishop could aid Regulars by faculties delegated to him of dispensing, etc. Besides, the jurisdiction of a Legate is delegated and of itself is not extended to Regulars.

[^17]: *Praelectiones iuris canonici* on book 1, title 29, n. 2.

[^18]: *Praelectiones iuris canonici* on the same place, n. 3.

[^19]: Cf. letters *Inter multiplices*.

[^20]: For thus it states: "If due obedience responds to these [exhortatory letters], most grave evils will be removed, especially in those dioceses in which the necessity of prompt coercion is urgent. But lest anyone under the pretext of defect of jurisdiction or under some other sought-out color ... His Holiness has granted ... that in this matter they proceed also as delegates of the Apostolic See." Nor does he say under the pretext of exemption, as would have been natural if he had been thinking of Regulars; but he uses those words which are easily referred to jurisdiction lacking absolutely, or as regards books.

[^21]: Chapter 30, nn. 164-186.

[^22]: Declaration of Rule X, related by **Albitius**, *Inconstantia in Fide*, n. 186, and by **Arndt**, op. cit., n. 163.

[^23]: *Collectanea C. Prop. Fidei*, n. 1886.

[^24]: Op. cit., p. 164.

[^25]: Op. cit., I, n. 451.

[^26]: *Analecta Ecclesiastica*, 1898, p. 383.

[^27]: *Nouvelle Revue Théologique*, vol. 31, pp. 572-582.

[^28]: Op. cit., p. 27.

[^29]: *De prohibitione*, p. 18.

[^30]: But we deny that this scandal can scarcely be avoided, as Reverend Father **Wernz** thinks; for even without scandal there are held in the houses of Regulars books proscribed by the Holy See. Nor must they constantly manifest the faculty they have.



Part Two

Commentaries on the General Decrees

Title I

On the Prohibition of Books

Chapter I: On the Prohibited Books of Apostates, Heretics, Schismatics, and Other Writers

Marginal heading: Subject of the chapter.

This chapter is most general, since it observes both the kinds of writers and the subject matters of works.

Article 1

All books which, before the year 1600, either the Supreme Pontiffs or Ecumenical Councils condemned, and which are not listed in the new Index, are to be held condemned in the same way as they were formerly condemned, excepting those which are permitted by these General Decrees.

Marginal heading: Force of the article.

65. 1. This article looks to this: that, after the distinct enumeration has now been suppressed, it may in a general way confirm the apostolic decrees or Roman Indexes by which works were condemned before the year 1600, yet excepting works which are permitted by the present General Decrees.

You can scarcely draw so broad a signification from the words of article 1. For those Indexes consist in great part of books proscribed by the Sacred Congregation, which cannot strictly be said to have been condemned by the Supreme Pontiff. But the Preface of the new Index (p. XIII) has manifested to us this mind of the Holy See, by which, therefore, one must stand.

Marginal heading: Why the enumeration is omitted.

But the reason why a distinct catalogue of those works is not repeated is that either it clearly appears that some General Decree falls upon them, or the works themselves are exceedingly rare and almost destroyed by oblivion (**Hilgers**, op. cit., pp. 105, 106). Therefore it was permissible, without harm, to relieve the new Index of these titles and names.

Marginal heading: What is "in the same way"?

2. In the same way does not signify under the same penalties, since those penalties have been made much milder by the new law, but with the same force and extension of prohibition. It sounds almost the same as: no less than before.

Marginal heading: Force of the exception.

Marginal heading: Certain works of non-Catholics.

3. Excepting those which are permitted by these General Decrees. Hence it happens: **a)** that although before the year 1600 all works of authors, non-Catholic authors, who were placed in the first of the three classes then distinguished, were prohibited,^[1] nevertheless now only those are condemned which expressly treat religion^[2] or fall under the prohibition of some other General Decree.

Marginal heading: Catholic writers.

b) That Catholic authors whose names were undeservedly placed among heretics are no longer to be thought condemned.

These mitigations are brought by articles 3 and 4 of the Constitution *Officiorum*.

Marginal heading: Works condemned by name.

c) That even works condemned by name before 1600 are judged permitted, unless they are prohibited by a General Decree of the present Constitution. Father **Hilgers**^[3] defends this as likely and safe.

Marginal heading: General conclusion.

Therefore it can be said that, concerning books condemned before 1600, judgment is to be made according to the General Decrees of the present Constitution, but that those which were named in the Indexes are presumed prohibited.

At the same time we know that the former reprobations of editions and versions of the Sacred Bibles, and of obscene works, are mitigated according to the norm of articles 5, 6, 8, and 10.

Article 2

Books of apostates, heretics, schismatics, and any writers whatever, defending heresy or schism, or in any way overturning the very foundations of religion, are altogether prohibited.

66. By the superior law, with the quality of the writer more observed, all books of heresiarchs were proscribed, but of heretics at least those which expressly treated religion.^[4] Now, in this article, the writer or his mind is not regarded, provided the clause obtains. Now:

Marginal heading: What is an apostate.

1. An apostate, who, as is clear, is here understood as an apostate from the Christian faith,^[5] is anyone who not only the Catholic but the Christian faith externally (even secretly) and at the same time internally casts away completely, whether he passes over to the "errors of Mohammed, etc.," or merely becomes a perfect "free thinker." **Avanzini**, loc. cit., p. 8. Think, for example, of **E. Renan, Laurent**.

Marginal heading: What is heresy.

2. Understand heresy as an error opposed to a truth sufficiently proposed by the Church, whether through the ordinary magisterium or through a formal definition; namely, that error which, if externally proposed with pertinacity, makes one guilty of heresy in the canonical forum, and is punished by excommunication *latae sententiae* specially reserved to the Roman Pontiff through the Constitution *Apostolicae Sedis*, n. 1.

Marginal heading: Schism.

3. Schism, taken perfectly, entails withdrawal from the communion of the universal Church, which practically will happen by rejecting the spiritual authority of the legitimate Supreme Pontiff. For if you refuse subjection to a legitimate Bishop, the schism will not be perfect unless you separate yourself from him because he himself preserves communion with the Roman Pontiff. Cf. **Schmalzgrueber**, book 5, title 8, n. 12.

Marginal heading: To defend.

4. To defend says more than to assert, or merely to praise without demonstration; rather, it is to uphold by reasons being added.

Marginal heading: Foundations of religion.

5. By the very foundations of Religion we understand only the truths which either found natural religion itself, or are necessary for an adult unbeliever so that he may be led to embrace the faith; but not at the same time the principal dogmas of the faith itself. These are less properly called the foundations of Religion, and are already touched by the

earlier words of the article.[^6] These truths are: the existence of God, the spirituality of the soul, the force of proof of miracles, the motives of credibility in general, and anything of this kind.[^7]

Marginal heading: To overturn in any way.

6. To overturn in any way, or in whatever way it is done. Therefore by a serious attack, or one made through ridicule; directly or indirectly, for example by defending universal skepticism, from which God can no longer be demonstrated; from formal intention or objectively, from the subject matter of the work. There are so many books of this kind from the philosophy of materialists, positivists, rationalists.

Marginal heading: Earlier heretics.

7. Already formerly it was likely that by the severe proscription of heretics, books of earlier heretics, such as **Tertullian**, **Pelagius**, and those of this kind, were not comprehended, so that the reading of such books was permitted especially to theologians and students of ecclesiastical sciences.[^8]

The benign intention of our Constitution allows us to preserve this exception of the law. So the common opinion. Indeed, nothing seems to prevent us from saying the same of other heretics who are not now so ancient, indeed, but whose errors have plainly become obsolete and are merely historically reported without danger of contagion. We would say this of heretics prior to the Protestant Reformation.[^9] For the argument is similar. Of itself the danger has ceased; therefore the reason of the law has been removed, not in some particular case but commonly; indeed, at least in part, it has ceased contrariwise, since the reading of them brings very many advantages for investigating the ancient morals of Christians or philosophical systems.

Marginal heading: Collection of Labbe, Migne.

Therefore, without scruple, one can have the collections of Councils which take their name from **Labbe**; the collection of patrology of **Migne**,[^10] where these works are inserted so that the monuments of ecclesiastical tradition may be possessed more fully.

Marginal heading: What of debates of Parliaments?

For a somewhat different reason, that is, because they are not books properly so called, and at the same time with parts which attack the faith they contain others by which it is defended, it is lawful also not to refer to proscribed works the reports of speeches and disputes which are customarily held in Parliaments, as they are set forth in a public periodical (*Journal Officiel*, *Annales parlementaires*), or in private collections, such as *Questions actuelles*. A certain force of usage is added.

[^1]: The first class condemned writers, all of whose works were thereby proscribed; the second class, works of a named writer; the third, "anonymous" works.

[^2]: Nor are these very works condemned if it is established that nothing is contained in them against the Catholic faith.

[^3]: *Der Index*, p. 196.

[^4]: From Rule 2 of the Index.

[^5]: For they distinguish apostasy from faith, from order (for example the sacred order of the diaconate), from religion (from a regular order).

[^6]: With us **Hollweck**, op. cit., p. 31; **Péries**, op. cit., p. 64, note 2; **Planchard**, *Revue Théologique Française*, loc. cit., n. 21.3; against **Gennari**, op. cit., p. 30, note 1; and **Piat**, *Nouvelle Revue Théologique*, vol. 30, p. 53, n. XIII.

[^7]: But not the divinity of Christ, against **Pennacchi**, who otherwise agrees with us. Op. cit., n. 40.

[^8]: Cf. Cardinal **de Lugo**, *De Fide*, disp. 21, n. 29.

[^9]: Going farther, **Boudinhon**, op. cit., p. 316, thinks the same should be said of books and writings which defend Jansenism.

[^10]: Cf. **Pennacchi**, op. cit., n. 39.

Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Chapter I: On the Prohibited Books of Apostates, Heretics, Schismatics, and Other Writers

Article 3

Likewise prohibited are books of non-Catholics which expressly treat religion, unless it is established that nothing is contained in them against the Catholic faith.

Marginal heading: What non-Catholics are.

67. 1. Non-Catholics, taken closely - as if deprived only of the Catholic faith - seem to us to be those who, outside the Catholic Church, contend that they profess true Christianity. They are therefore only baptized persons who, through heresy or schism, are reputed plainly alien from Catholic communion. For the word non-Catholic is opposed not so much to the Christian genus as to the Catholic species. And when the word must receive a broader use, the Pontiff himself indicates this by a word, as he did, for example, in articles 5 and 8, where he treats of non-Catholics of any kind whatever. Besides, they are worthy of special mention both because the Christian truths retained by them create a greater danger that the faithful be deceived and seduced by the honorable appearance of their works, and because they give a greater hope that sometimes certain arguments, even religious ones, for example concerning God, concerning the divinity of Christ, may be treated in a way that can also benefit Catholics. Therefore the Legislator wisely establishes a presumption against their books which expressly treat religion, while at the same time conceding that this same presumption can be destroyed by contrary proof.

Pennacchi,^[^1] **Génicot**,^[^2] **Péries**,^[^3] and **Ciolfi**^[^4] are with us. Others, however, also include Mohammedans, Jews, unbelievers.^[^5]

Therefore, in our opinion, books on religion written by an unbeliever or by a rationalist who was formerly Catholic are not governed by this article, nor are they prohibited unless they defend heresy or schism, or overturn the foundations of religion.

Marginal heading: Expressly.

2. Which expressly, so that religion is, by design, the subject matter, not indeed necessarily of the whole book, but at least of a notable part, for example of one chapter.

Marginal heading: On religion.

3. On Religion, that is, on sacred matter, on natural or positive religion, on Sacred Scripture, dogmatic and moral theology, liturgy, canon law, ecclesiastical history; on moral philosophy itself, insofar as it embraces duties toward God or religious society, or by its principles seems to attack the dogmas themselves. **Suarez**,^[^6] **Lugo**,^[^7] **St. Alphonsus**,^[^8] **Arndt**,^[^9] **Piat**.^[^10]

Marginal heading: They treat.

They treat. To treat, according to Lugo, loc. cit., is not to say one's meaning incidentally, but to defend something, to prove it, to solve the contrary.

Marginal heading: How far they are reproved.

5. Unless it is established. When they expressly treat religion, they are prohibited from the presumption of an evil character, until it is morally established, for example by the testimony of a trustworthy man, that nothing is contained

in them against the Catholic faith. Nothing can be taken morally. Therefore understand: nothing which is of any moment.

Marginal heading: What if the mind is not hostile.

But what if nothing is said formally, or from a hostile intention, against the faith, yet some things are put forward which are materially opposed to it? Objective opposition seems entirely sufficient. **Wernz**, n. 111, note 56.

Marginal heading: NB. What if Catholic notes have been added to the book of a heretic, or the contrary.

NB. Certain Catholic notes added below do not prevent the book from being that of a non-Catholic; nor do certain notes added by a heretic to the book of a Catholic man cause it now no longer to be judged a book of a Catholic writer.^[^11] But if the scholia are so great that the book is judged rather to consist of these, it will receive its denomination from the author of the scholia.

Article 4

Books of the same authors which do not expressly treat religion, but only incidentally touch truths of faith, are not to be held prohibited by ecclesiastical law until they have been proscribed by special decree.

Marginal heading: Proper force of the article.

68. Therefore, even if certain religious truths are denied, provided they do not defend heresy or schism nor overturn the foundations of religion (art. 2), these books, if only incidentally or as if accidentally they touch truths of faith, are not prohibited by general decree. And although it can happen that by the natural law they are forbidden at least to certain persons, ecclesiastical law passes them over until a special decree has appeared.

This milder discipline had already prevailed by usage in several places.

[^1]: N. 41.

[^2]: Op. cit., I, 52, 3.

[^3]: Op. cit., p. 70.

[^4]: Op. cit., n. 15.

[^5]: So Cardinal **Gennari** on this article, except that he does not here include schismatics; **Hollweck**, *Das kirchliche Bücherverbot*, p. 31; **Planchard**, *Revue Théologique Française*, loc. cit., n. 23; and **Wernz**, loc. cit., n. 111, note 55. The use of this probable doctrine will be this: that you extend the faculty positively made by this article to books of unbelievers which treat a religious subject in such a way that they contain nothing notable against the Catholic faith; but the other opinion gives the faculty of reading books of unbelievers who treat of their own religion and commend it, so long as they do not defend heresies or overturn the foundations of religion.

[^6]: *De Fide*, disp. 20, n. 16.

[^7]: *De Fide*, disp. 21, n. 51.

[^8]: Book 7, n. 283.

[^9]: Op. cit., pp. 121-123.

[^10]: *Nouvelle Revue Théologique*, vol. 30, pp. 55-56.

[^11]: Cf. **Laymann**, *Theologia moralis*, book 2, treatise 1, chapter 15, n. 2; **Piat**, ad **Van der Velden**, p. 621. **Arndt** speaks more severely, op. cit., pp. 123-125, n. 103.



Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Chapter II: On Editions of the Original Text and of Non-Vernacular Versions of Sacred Scripture

Marginal heading: Subject of the chapter.

What the special subject of this chapter is, is most clearly perceived from the inscription itself.

Article 5

Editions of the original text and of the ancient Catholic versions of Sacred Scripture, even of the Eastern Church, published by non-Catholics of any kind, although they appear to have been faithfully and integrally edited, are permitted only to those who devote themselves to theological or biblical studies, provided, however, that the dogmas of the Catholic faith are not attacked in the prolegomena or notes.

Marginal heading: Non-Catholic editions are prohibited.

69. 1. By this article, non-Catholic editions of the Sacred Bibles or of ancient Catholic versions, even of the Eastern Church, are prohibited to all who do not devote themselves to theological or biblical studies; and this even if the editions are faithful or appear so.

Non-Catholic, a word which here is to be taken broadly, so that it also designates Jews and unbelievers. For the article concerns non-Catholics of any kind whatever.

Marginal heading: Yet they are permitted to students of Theology or Sacred Scripture.

2. The same editions are permitted to those who devote themselves to biblical or theological studies. Nor is it required that the editions be faithful or appear so, provided the condition appended at the end is preserved.

Marginal heading: Who these are.

3. Laymen or clerics can devote themselves to theological or biblical studies, in a public college or privately, as doctors or beginners.[¹]

They devote themselves to them who are occupied in these studies sufficiently frequently that they have them among their habitual "occupations," either constantly or from some occasion which demands a certain space of time. But if this is sufficiently constant, they enjoy a perpetual faculty; if only from some occasion, for example of preparing an examination, after they have made the examination, the faculty ceases together with the occasion.

But one who by a merely transitory act, for example for writing a sermon, has wished to elucidate some point of Scripture, cannot use the benefit of this article.

Yet priests who fairly often give sacred sermons, or who preserve the laudable practice of assigning some part of their time to sacred studies, easily enjoy it.[²]

Biblical studies are not studies of the Hebrew or Greek language alone. Therefore, to students who are not at the same time studying biblical or theological sciences, non-Catholic editions cannot be proposed without an apostolic faculty.[³]

Marginal heading: Condition to which the faculty is subject.

4. Provided, however, that in the prolegomena or annotations the dogmas of the Catholic faith are not attacked.

Attack says more than mere contradiction, but supposes this contradiction strengthened with reasons.

Dogmas of the Catholic faith, and not only the manner of acting of the Church, for example in prohibiting versions of Sacred Scripture. Indeed, the plural word dogmas seems to excuse the use of a non-Catholic edition in which even some dogma is attacked, but once only or very rarely. We are confirmed by the benignity of the preceding article.

Article 6

In the same manner and under the same conditions, other versions of the Sacred Bibles, whether in Latin or in another non-vernacular language, published by non-Catholics, are permitted.

Marginal heading: Force of the article.

70. 1. This article transfers to all versions in a non-vernacular language, even non-ancient ones, yet under the same law, the benign faculty of the preceding article.

[^1]: On May 19-23, 1898, the Congregation of the Index declared that the article has force concerning all beginners of theology.

[^2]: Indeed **Palmieri** on this place judges that the right of using these editions, from a certain equity, perseveres even when studies have been completed in those who devoted labor to these studies in public schools. Yet this is perhaps excessive if they have completely abandoned those studies.

[^3]: Sacred Congregation of the Index, June 21, 1898. Therefore the negative response does not affect students of theology. Cf. **Wernz**, n. 111, note 57.



Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Chapter III: On Vernacular Versions of Sacred Scripture

Marginal heading: Subject of the chapter.

Connected with the immediately preceding chapter, and again very clearly defined by the title, the matter is here proposed.

Article 7

Since by experience it is manifest that if the Sacred Bibles in the vernacular language are permitted everywhere without distinction, more detriment than usefulness arises from this on account of the rashness of men: all versions in the vernacular language, even those made by Catholic men, are altogether prohibited unless they have been approved by the Apostolic See, or published under the vigilance of Bishops with annotations drawn from the holy Fathers of the Church and from learned and Catholic writers.

Marginal heading: General force of the article concerning versions in the vernacular language.

71. 1. Authentically, as regards the substance,[¹] by this article there is promulgated the discipline which had already long since been introduced by various declarations of the Holy See;[²] and there is no longer required the license of the parish priest or confessor which, from the fourth rule of the former Index, had to be sought for reading a Catholic version even illustrated with legitimate notes. Cf. **Arndt**, pp. 132-134, n. 112.

Marginal heading: Clause: "Even by Catholic men."

2. When in this article it is said: even those made by Catholic men, it is clearly indicated that the cause of the prohibition is not to be placed in the religion of the author, but in the quality of the work, which in vernacular language, without notes, transfers the Sacred Bibles to popular use. But the Supreme Pontiff is by no means thinking here of condemning versions of non-Catholics unless they observe conditions which they will never satisfy. Besides, that conditioned toleration is taken away in the following article.

Marginal heading: Usage of the Holy See.

3. The Holy See has not yet approved any version lacking notes.

Marginal heading: Clause: "Under the vigilance of Bishops."

4. The clause under the vigilance of Bishops imposes on authors or publishers the law of seeking episcopal approval, unless they prefer the edition to be proscribed; and it imposes on Bishops a special care concerning these editions of the Sacred Bibles made in the vernacular language.

Marginal heading: What if published without episcopal approval?

But Bibles adorned with Catholic notes, but lacking episcopal approval, which were published before this Constitution, do not seem to be proscribed, on account of the general rule given above, n. 28.

Marginal heading: How the condition of annotations is satisfied.

5. It is sufficient that the annotations be drawn from the holy Fathers and from learned and Catholic writers mediately and equivalently. Mediately, if you place notes consonant with the tradition of the Church, whence Catholic writers are accustomed to draw their explanations; equivalently, if in place of notes you publish a "paraphrastic" version such as **Carrière** made. For thus at the same time you translate and propose the Catholic interpretation. Cf. **Arndt**, p. 129, n. 110.

Marginal heading: Benign exception from usage.

6. Where usage stands thus, certain parts seem today able to be translated and published even without these scholia: for example, the book of Tobit, the epistles, the Gospels of the year, which are inserted in many Euchologia.

Marginal heading: What of sacred histories.

7. The special sanctions of this article by no means fall upon histories of either Testament by which, for the use of young people, as it were a summary of the Sacred Bibles is handed down. **Péries**, cited work, p. 83.

Marginal heading: Persons exempt from this prohibition.

8. Versions, although destitute of notes, can nevertheless be read by those who devote themselves to theological or biblical studies. This can easily be drawn from article VIII, section 2, which grants even non-Catholic versions to the same persons.

Article 8

All versions of the Sacred Bibles, in whatever vernacular language, made by non-Catholics of any kind, are interdicted; and especially those which are spread by Bible Societies, condemned more than once by the Roman Pontiffs, since in them the most salutary laws of the Church concerning the publication of divine books are utterly set aside.

Nevertheless, these versions are permitted to those who devote themselves to theological or biblical studies, with those things preserved which have been established above (n. 5).

Marginal heading: General proscription.

71 bis. 1. This article prohibits versions in the vernacular language made by non-Catholics of any kind (therefore even by unbelievers); and it punishes with a special mark the versions which are published by Bible Societies.

Marginal heading: Mitigation.

2. Yet, with the laws stated above preserved, the prohibition is removed in favor of those who apply themselves to theological or biblical studies.

[^1]: For the words *under the vigilance of Bishops* are now added.

[^2]: Sacred Congregation of the Index, June 13, 1757; January 7, 1836.

Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Chapter IV: On Obscene Books

Marginal heading: Argument of the chapter.

By both articles of this chapter, the Pontiff first strictly prohibits obscene works, and then relaxes his severity on account of the usefulness of letters.

Article 9

Books which treat, narrate, or teach lascivious or obscene matters of set purpose, since account must be taken not only of faith, but also of morals, which are commonly easily corrupted by the reading of books of this sort, are altogether prohibited.

Marginal heading: Scientific books are not treated.

72. 1. Here there is no question of books which, for the sake of cultivating moral or medical science, hand down even those things which, concerning base matter, are useful to be known for this end. Those books are not to be rejected, although they are not to be run through by all.

Marginal heading: Nor books speculatively against morals.

Nor is there question of books which theoretically attack good morals, defending divorce, free loves, atheism;[^1] but, as **Bouix** says,[^2] books which practically oppose morals, or constitute "pornographic" letters: insofar as they "treat, narrate, or teach lascivious or obscene matters of set purpose."

Marginal heading: What obscene things are.

2. By obscene things understand things base to sight, namely those things which, when seen, of themselves excite a base (venereal) appetite.

Marginal heading: To treat.

They **treat**: those who handle obscene things in that manner by which lust is excited, thoughts which they call "practical" are suggested, and lingering delights concerning a base matter are suggested.

Marginal heading: To narrate.

They **narrate**: those who describe the same things or recount them historically with particular circumstances which represent a base image to the mind.

Marginal heading: To teach.

Or they **teach**: those who explain where, how base acts are performed, women are enticed, etc.

Marginal heading: Of set purpose?

3. But it is necessary that books do this **of set purpose**: that is, by designed effort, "specially and with conceived intention," and in a notable part: whether an entire chapter is destined to these things, or whether here and there and not rarely (in French you would say: *un peu partout*) these things occur in the book. Hence, for example, the work *En route* of **Huysmans** is not condemned here, which, like many romantic works, narrates obscene things, but not of set purpose; but another work, *Là-Bas*, by the same author, is condemned.[^3]

Marginal heading: N.B. Whether base images are prohibited here.

4. Obscene images, as we have said, are not touched here, except insofar as they are part of a book treating or teaching obscene things of set purpose. **Hollweck**, cited work, p. 32, citing **Boudinhon**.

Marginal heading: Rigor of the prohibition.

5. So absolute is the prohibition that a positive faculty is never granted; but, on the contrary, in faculties for reading prohibited works, if you except only those which are communicated to Cardinals, works which treat obscene things of set purpose are always excepted. Yet that severity of prohibition is tempered by article 10. Cf. also, to complete the doctrine concerning obscene books, those things which are contained above (n. 29, d, at the end), and below, article 25 and article 46.

Article 10

Books of authors, whether ancient or more recent, whom they call classics, if they are infected with this very stain of baseness, are permitted, on account of elegance and propriety of speech, only to those whom the reason of office or of teaching excuses; nevertheless, they must by no means be handed over or read before boys or youths, unless purged with careful diligence.

Marginal heading: Comparison with prior law.

73. 1. Formerly, to the seventh rule of the Index this exception was appended: "But ancient [books] written by pagans are permitted on account of elegance and propriety of speech; nevertheless, they must by no means be read before boys."

Therefore the faculty of the prior law was broader with respect to persons; narrower with respect to the object. For it excluded no one;^[4] and it prohibited only readings which were made before boys; while now it is confined to persons excused "by office or teaching," and both the handing over and the reading made before boys or youths is prohibited, unless the books have been purged with careful diligence. Yet at the same time the former exception regarded only the ancients, whereas today it looks to all "classic" writers.

Marginal heading: What this faculty effects.

Moreover, the force of the faculty made is this: that it places the persons whom it affects back under natural law. Therefore it does not take away the efficacy of the divine sanction by which we are forbidden to expose ourselves to proximate danger; and he would err vehemently who, relying on this permission, considered it lawful for himself habitually to devote himself to reading books obscene of set purpose.

Marginal heading: What classics are.

2. Classic authors are those who in individual languages are used as examples. Formerly, as we were saying, the exception was circumscribed to the more ancient classics.

Marginal heading: Which books of theirs are permitted.

3. The permission regards their obscene books, but not those which, on another account, for example on account of pernicious doctrines, are either referred to the Index or touched by a general Decree. This is the case, with the question omitted whether the author can be held to be a classic, of certainly many books of **Ém. Zola**, all of whose works are referred to the Index.^[5]

Marginal heading: What if placed by name in the Index?

But, unless we are mistaken, the positive faculty comprises all obscene books, even if, on account of this vice, they are placed by name in the Index, provided they are by a classic author. With us is **Génicot**, *Theol. mor.*, n. 456, while others, **Boudinhon**, **C. Gennari**, **Ciolti** (on this place), except from the faculty books which are prohibited by name. Yet the law does not distinguish.

Marginal heading: To whom the permission is given.

4. The permission is given to those whom the reason of office or teaching excuses. Therefore it is not required that these make the reading of those books strictly necessary, but it is sufficient that they furnish an excuse. Namely, the elegance of the speech of classic writers brings it about that, although they contain base things, nevertheless their works can contribute to the greater cultivation of men of letters or of teachers of letters, and the knowledge of them can pertain to the necessary or at least suitable erudition of many. For these causes the faculty of the present article is conceded.

Hence a) we draw: office, which in general signifies an assumed condition of state (*profession, état*), will here look especially to the cultivation of letters, so that those are excused by office who, of set purpose, either write or judge works of letters (*Littérateurs de profession, hommes de lettres, critiques*).^[^6] But it is not sufficient that by accident you write something pertaining to letters. Yet someone can at the same time exercise another art and devote himself enough to letters that he is excused.

Furthermore, on account of other offices, indeed, several persons can sometimes have a just cause why they read obscene things (cautiously and insofar as natural law itself permits this), whether classic or even non-classic. We do not think these persons can directly use the benefit of the present article. But since explicit permission concerning obscene books has not been customarily given, and to obtain it is sufficiently odious, a reasonable *epikeia* is founded in this article, by force of which that reading is not positively forbidden to those persons, insofar as they must read such things in order to be able to fulfill their office suitably. By office of this sort those can be excused who, for example, by a special title must denounce bad books,^[^7] and, in large cities, certain confessors. Yet the office must be understood as honest. Correctors of typography^[^8] we will excuse only if and when it is lawful for them to exercise their art in a workshop where base things are printed.

b) We draw: by teachers not only those are excused who, by order of the Government, are compelled to use obscene classics,^[^9] but all for whom the reason made is useful, namely teachers who teach letters, but not those who teach merely the rudiments of a language, as in an elementary school (*école primaire*); nor those who hand on another discipline, even a nobler one: such as law or theology.

Marginal heading: Exception with regard to boys or youths.

5. Nevertheless, they must by no means be handed over or read before boys or youths. Therefore the Constitution prudently takes care lest those whose office it is to instruct boys or youths in letters and to furnish them with suitable books should place obscene things in their hands, or much less read them before them.

Boys or youths are certainly those who are taught the more humane letters in gymnasia.

Marginal heading: What of those who frequent Universities?

What of those who frequent Universities? If you consider the native meaning of the words, and also the meaning received in law, boyhood lasts until the eighteenth year, youth at least until the twenty-fifth.^[^10] If you turn your mind to the reason of the law, do not those younger persons perhaps offer more danger from obscene writers than boys themselves?^[^11]

Wherefore, in our opinion, readings which are held in Universities also are comprehended by this prohibition.^[^12]

If some, however, although youth has not yet been surpassed, already exercise the teaching of letters, certainly, as teachers, they will be able to enjoy the benefit of article 10. Yet we would by no means recommend use of the faculty. And if you wish those to be excused by office who, in Universities, devote themselves to a special cultivation of letters on account of a future state, we do not altogether oppose it. Yet we prefer to consider them rather as on the way to an office than as already furnished with an office. Nor do we see the necessity why they ought not to use corrected editions. But is our Constitution to be presumed to have wished to give our youths a new pretext for excusing their excessive and not sufficiently deplored license in this matter?

Marginal heading: Or certain gymnasia?

But it can happen that even in certain gymnasia, the necessity of hearing teachers who spurn these admonitions, or of preparing themselves for examinations (*examens*) to be made, compels youths to use uncorrected editions. Then,

within the limits of a necessity of this sort, they will be excused from the positive law.

Marginal heading: Purged obscene books can be handed over.

6. Yet, if purged with careful diligence (if nevertheless the abundance of obscenities permits this cleansing), they can be handed over and read before them. Thus there is formally conceded what had already prevailed by usage.

Marginal heading: What if you read versions?

7. You will ask whether the faculty is circumscribed to the proper language of the classic author, or whether they can also be read when turned from their own language into another. If the version is of such a kind that it furnishes the faculty even in a foreign idiom of perceiving the usefulness from the classic author, the reason made obtains here also. For those who are engaged in literary studies often approach writers translated into a foreign language, whose elegance of speech, if less their propriety, they can perceive even in a foreign garment. Wherefore we think that our article can be transferred to versions of this sort.

[^1]: From this clause, I say; for cf. articles 2 and 14 of the Constitution.

[^2]: *De curia romana*, p. 387.

[^3]: On these cf. **Hollweck**, *Das kirchl. Bücherverbot*, p. 51; **Pennacchi**, cited work, n. 47; **Planchard**, *Rev. Théol. Fr.*, 1897, pp. 33, 34.

[^4]: But because the license was circumscribed to books of pagans, by that fact "the profane crowd" was excepted.

[^5]: Decree of January 26, 1895.

[^6]: **Palmieri**, on this place, also indicates keepers of libraries, presidents of lyceums, etc., as excused by office.

[^7]: **Pennacchi**, cited work, n. 48, indicates these.

[^8]: **Hollweck** cites these, p. 34.

[^9]: Against **Pennacchi**, cited place.

[^10]: Cf. **Barbosa**, *Repertorium iuris*, v. *Aetas*.

[^11]: Cf. **Génicot**, cited work, I, 452, 4°.

[^12]: Thus also **Wernz**, n. 111, 10.



Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Chapter V: On Certain Books of Special Subject Matter

Marginal heading: Subject of the chapter.

From the very manner in which the chapter is inscribed, it becomes manifest that in it various kinds of matters are touched which cannot be brought into unity. But contrary to what was done in chapter I, the character or religion of the writer is here wholly put aside.

Article 11

Books are condemned in which God, or the Blessed Virgin Mary, or the Saints, or the Catholic Church and her Worship, or the Sacraments, or the Apostolic See is disparaged. To the same judgment of reprobation are subject those works in which the concept of the inspiration of Sacred Scripture is perverted, or its extension is too much narrowed. Books are also prohibited which, by designed effort, assail the Ecclesiastical Hierarchy, or the clerical or religious state, with insults.

By the three sentences which it contains, this article is divided into three parts. It is useful to explain these separately.

I. On Books Which Contain a Certain Kind of Detractions

Marginal heading: Prior law.

74. 1. The first part renews the disposition of the prior law, by which, in the General Decrees, § 2, n. 13, all writings of this sort were punished. Cf. **Arndt**, p. 148, n. 119.

Marginal heading: Whether it is required that it be done of set purpose.

2. Because words are to be taken properly, and the Legislator is accustomed to express the clause **of set purpose** wherever he requires it; indeed because in this same article, in the third part, he inserts the expression **by designed effort**, we cannot agree with the distinguished **Pennacchi**, who thinks that clause is to be understood here. With us are **Génicot**,^[1] Card. **Gennari**,^[2] **Moureau**.^[3]

Yet practically we do not differ much. For, arguing from the inscription of this fifth chapter, "On Certain Books of Special Subject Matter," we think it necessary that the book be injurious to God, etc., sufficiently notably, although not yet of set purpose, so that it can be said to be of this special subject matter.^[4] Otherwise, moreover, contrary to the mind of this Constitution, this condemnation would extend itself to too many books. Finally, as **Génicot**, cited place, observes, scarcely will those books be apt gravely to wound or diminish the just esteem of God, etc., unless they are books in which the detraction is developed to some extent. But that grave wounding seems altogether necessary. Therefore it is necessary either that the detraction "be made in a notable manner,"^[5] or that from those detractions the work itself be morally reputed impious. **Desjardins** elegantly translates: "impious works, which attack God," etc.^[6]

Wherefore a work in which detraction against the Blessed Virgin Mary is continued through two or three pages, even if in other parts honorable, we judge to be prohibited by this article.

Marginal heading: What it is to disparage? Formal detraction is required.

3. Furthermore, **to disparage** is to take away, diminish, the fame or esteem of someone by words. In French you would say: *vilipender*, *dénigrer*, *discréditer*. Thus detraction differs from heresy, by which a dogma is not derided but

denied. But detraction is to be taken as formal, flowing from a depraved intention, not merely material or beyond intention.

Marginal heading: Examples.

4. God, the Blessed Virgin Mary, the saints, the Catholic Church, and her worship or sacraments. Pennacchi, cited place, and C. Gennari^[^7] report many examples of detractions of this sort, and well selected ones. Yet we do not, with Pennacchi, take the worship of the Church concerning the honor due to the Church, which would make that clause plainly useless, but concerning the divine worship which is exercised through liturgical actions. Thus the obvious sense has it, thus also the structure of the words which joins worship with sacraments: "and her worship or sacraments"; and with us say Desjardins, cited place, *Son Culte*; Gennari, cited place, *Il sacro Culto*; Hollweck, *Ihr Cult*; Planchard.^[^8]

Marginal heading: What worship is.

5. Apostolic See. This is not the person of some Pontiff as such. Yet if, from the intention of attacking the Holy See, reproachful narrations against various Supreme Pontiffs are heaped together, the present clause will obtain.

Marginal heading: Apostolic See.

II. On Books Which Act Perversely Concerning the Inspiration of Sacred Scripture

75. By the second part of article 11, to recall it, works are reprobated "in which the concept of the inspiration of Sacred Scripture is perverted, or its extension is too much narrowed."

Marginal heading: The double vice, how it is committed.

1. Therefore books are condemned in which either the formal reason of inspiration is adulterated, or its material breadth is lessened.

But again it is necessary that such a place be given to these vices that inspiration can be placed among the subjects of the book and that the perverse notion of inspiration or the excessive narrowing be persuaded to the reader.

But works are not condemned which, by the contrary vice, amplify the parts of inspiration more than is just.

Marginal heading: Norm of judging.

2. But which books are to be thought to pervert inspiration or to lessen it too much, so that for that reason they are proscribed, this is to be judged from the certain and sufficiently open doctrine of the Church, not from that which, perhaps undeservedly, is still controverted among Catholics. The norm will especially be the Encyclical *Providentissimus Deus* of **Leo XIII**, November 18, 1893, in those of its points which are sufficiently agreed upon by all; and the decrees of the Holy See, insofar as directly or indirectly they have the force of law.

Marginal heading: Cases of each kind.

Moreover, he is judged to pervert the concept of inspiration:

a) who holds it merely as a subsequent approval;^[^9]

b) who professes that an inspired place is necessarily immune only from errors in faith or morals, so that it could contain, for example, a historical error, which redounds upon the sacred writers.

He lessens its breadth too much who has dared "to narrow inspiration to only some parts of Scripture," while God so "roused and moved" men (whom he was inspiring), so "assisted them while writing, that they conceived all those things and only those things which he himself ordered ... wished to write them ... expressed them."

Marginal heading: Decrees given after the Encyclical.

3. Come now: to the Encyclical *Providentissimus*, two responses of the Pontifical Commission concerning the biblical matter were added, which the Supreme Pontiff approved and ordered to be made public. Both pertain to our

matter.

The first, February 13, 1905, denied that it is lawful for a Catholic exegete, in order to solve difficulties, to have recourse to tacit or implicit citations, except in a case in which, with the sense and judgment of the Church preserved, it is proved by solid arguments: 1° that the hagiographer truly cites the sayings or documents of another; and 2° that he neither approves nor makes the same his own, so that he is judged by right not to speak in his own name.

The other, June 23, 1905, repudiated narratives only apparently historical, "except, nevertheless, in a case, not easily nor rashly to be admitted, in which, the sense of the Church not resisting and her judgment being preserved, it is proved by solid arguments that the hagiographer wished not to hand down true and properly so-called history, but, under the appearance and form of history, to propose a parable, allegory, or some sense removed from the proper literal or historical signification of the words."

III. On Books Injurious to the Ecclesiastical Hierarchy or to the Clerical or Religious State

76. The third part of article 11 stated this: Books are also prohibited which, by designed effort, assail the Ecclesiastical Hierarchy, or the clerical or religious state, with insults.

Marginal heading: By designed effort.

1. By designed effort, not therefore if they cast out some such thing incidentally. For because, unlike detraction and the perversion of the concept of inspiration, insults can be cast out even in one word, the wise Legislator expressed the clause **by designed effort**, by which he touches only books which would assail with insults either in a notable part and with conceived purpose, or in such a way that from the manner and frequency it would appear that this is fixed and established for the writer: to seize in the book every occasion of doing these things. In French you would say: *c'est un parti pris*. Cf. **Pennacchi**.^[^10] Very well **Hollweck**:^[^11] "this tendency must dominate the whole, or at least a considerable part." **Planchard**:^[^12] "which disparage by deliberate bias."

Marginal heading: What Ecclesiastical Hierarchy is.

2. Ecclesiastical Hierarchy: sacred power distributed into various grades, whether of Order or of Jurisdiction. The case would be, for example, if you assail with insults the Priestly order, the Episcopal order, the Supreme Pontificate.

Marginal heading: The clerical or religious state is to be assailed as such.

3. Clerical or religious state: as such; not, for example, if you assail merely such and such a religious Order with these things.

[^1]: Cited work, I, 452.

[^2]: On this place, p. 43.

[^3]: *Rev. des Sciences Eccl.*, t. 6, pp. 100, 101.

[^4]: **C. Gennari**, cited place, sins here by excessive severity: "in whatever measure it is done (provided it is in grave matter)"; and **Moureaux**, cited place: "it suffices that it be [injurious] in fact in some place."

[^5]: **Wernz**, n. 111.

[^6]: *Études*, t. 71, p. 208.

[^7]: "He disparages God who blasphemes God or denies His goodness, justice, omnipotence, or any other attribute. He disparages the Blessed Virgin Mary who denies her virginity, divine maternity, sanctity, mercy, or in another way calumniates her excellence. He disparages the Saints who holds them as vicious or useless men, who are unworthy of honors, or who contemns their virtues and supernatural gifts. He disparages the Catholic Church who attacks some note or endowment of hers, or her divine origin, or equates her with other human institutes. He disparages sacred worship who exposes Catholic rites, as divine honors, to mockery, or detracts from their necessity and reasonable fittingness; he disparages the Sacraments who denies that they are necessary or useful, makes them ridiculous, or holds suspect the intentions of the Church administering them (that seems to us rather to be referred to detraction of the Church). He disparages the Apostolic See who contemns its supreme authority, divine institution, sublime and infallible magisterium." Thus nearly **C. Gennari**, on this place.

[^8]: **Desjardins**, cited work, p. 34; **Planchard**, *Rev. Th. Fr.*, n. 41.

[^9]: Vatican Council, session 3, chapter 2.

[^10]: Cited work, n. 49.

[^11]: *Das kirchl. Bücherverbot*, p. 34, note 3.

[^12]: *Rev. Th. Fr.*, cited place, n. 43.



Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Chapter V: On Certain Books of Special Subject Matter

Article 12

Let it be unlawful to publish, read, or retain books in which sortilege, divination, magic, evocation of spirits, and other superstitions of this kind are taught or commended.

Marginal heading: What sortilege is.

77. 1. Sortilege is divination by lots, or that which is exercised by inspecting how some action succeeds, done by you for the end of obtaining an indication: as if, with this intention, you throw dice, observe what occurs by opening a book at that place which chance has offered, set forth unequal straws, etc. Cf. **St. Thomas**, 2a 2ae, q. 95, art. 3.

Marginal heading: Divination.

2. Divination designates that kind of superstitions by which someone, by the help of the demon, expressly or tacitly (if you seriously use an inept means), invokes, wishes to know contingent and freely future things, or other things hidden and inaccessible to himself. Hither therefore come *praestigia*, pythons, oneiromancy, geomancy, haruspices, auguries, etc.

Marginal heading: Magic.

3. Magic rather embraces those superstitions by which marvelous effects are sought (on account of the satisfaction of vain curiosity): various changes of bodies, etc.

Marginal heading: Evocation of spirits?

4. Evocation of spirits, namely of souls separated from the body. For if you should expressly wish a demon to appear, there is divination which they call *praestigium*. Moreover, concerning that evocation **B. P.** write:[^1] "It is established by faith that God does not wish the souls of the dead to be evoked by men ... This is the certain doctrine of the Church."

To this pertains the recent response of the Holy Office,[^2] by which there is reprobated the practice of someone who, while protesting that he rejected every commerce with the demon, nevertheless was attempting to evoke the very souls of the dead.

Marginal heading: Superstitions of this kind.

5. And other superstitions of this kind. Therefore they will be those which tend to this: that hidden things be disclosed, marvelous things be accomplished, commerce be entered into with spirits or separated souls. Sufficiently and more than sufficiently our modern spiritism is touched by this article.

Marginal heading: When they are taught.

6. They are taught, or are handed down as if an art: not indeed the art of simulating them (for they mostly consist in frauds), but the art of exercising them, although the writer is conscious of the vanity of the means.

Marginal heading: Are commended?

7. They are commended, not if the facts of "spiritism," etc., are merely reported.

Marginal heading: Notable matter is required.

8. On account of the reason made in explaining article 11, it is necessary that those superstitious arts be either taught or commended sufficiently diffusely.

Marginal heading: What of hypnotism and magnetic phenomena, as they say?

9. But what of the various arts of modern hypnotism or magnetism?

Deliberately we have abstained from these names, by which many too easily suppose superstitious arts, although that moral canon had to be recalled: in doubt, the matter must be presumed to pertain to the natural order, that is, to the secondary causes of this world.

First of all, concerning medical hypnotism, which is practiced even by Catholic physicians, no question can be raised.

Its use does not transcend the natural order, and, with due cautions, is most honorable. Cf. *Theol. mor.*

As to other phenomena, several already (for example, the simple motion of tables) have a natural and sufficiently open explanation in spontaneous impulses, "suggestions" of the imagination, and so forth. Concerning some, if all fraud is absent, the explanation appears less easy and perhaps still escapes us. Therefore cautiously, and only if a proportionate cause has manifestly failed, will you pronounce that there is superstition objectively.[^3]

And so, as pertains to our matter:

a) Scientific books about hypnotism and magnetic phenomena are by no means affected by the present article.

b) Books which strive to offer fodder of this kind to popular curiosity, although they are often harmful, nevertheless cannot in themselves, or commonly, be ascribed to superstitious books.

Marginal heading: What of books of pagans.

10. On account of a similar reason, on account of which heretics of the more ancient age, whose heresies have become almost harmless, can already be frequented at least by the learned, books of the more ancient pagans which treat of divinations foreign to present-day use seem also immune from positive reprobation.

[^1]: Tr. 6, s. 1, n. 99.

[^2]: March 30-April 1, 1898.

[^3]: For subjective persuasion can differ by defect or excess from the objective reason of the matter. Here, however, the persuasion or intention of the writer is not observed.

Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Chapter V: On Certain Books of Special Subject Matter

Article 13

Books or writings which narrate new apparitions, revelations, visions, prophecies, miracles, or which introduce new devotions, even under the pretext that they are private, if they are published without the legitimate license of the Superiors of the Church, are proscribed.

The prior part of this article treats of narrations of miracles; the other of commendations of devotions. We shall treat each part separately.

I. On Books or Writings Which Report New Supernatural Facts

Marginal heading: Economy of the law.

78. 1. Books or writings of this subject matter can in themselves have great merit; but lest the credulity of simple persons be deceived, or an occasion be given of deriding and condemning the Church, the Holy See prohibits supernatural facts^[1] from being incautiously published. Wherefore it simply condemns those relations, if, destitute of due approval, they are scattered among the people. Now let us declare the chief words of the article.

Marginal heading: Which works are touched.

2. Books or writings: therefore works of every size or form are included by this law, even, as it seems,^[2] if manuscripts, provided they are made public.

Marginal heading: Example of publication by manuscript.

Thus, for example, that manner concerning devotions is sometimes employed, if individuals who have received a copy are ordered to write it out five times and to hand it over to five persons, who are held by the same law of writing and handing over, and so on to infinity.

Marginal heading: When they are judged to narrate. What of newspapers?

3. Which narrate: not incidentally, but so that a narration of this sort pertains to the subjects of the works. Cf. above, n. 74, 4.

For this reason we think that Catholic but profane newspapers can, as they have done up to now, report marvelous facts, healings, which for example may have happened in a Lourdes pilgrimage: especially if they pronounce nothing about the supernatural character of these things. Besides, this other reason also favors them: that a usage sufficiently obtains in our parts, by force of which, on account of the difficulty of "execution," as they say, articles which in themselves must be reviewed by ecclesiastical authority are dispensed from censure.^[3] Without a compelling reason, what we see commonly frequented is not to be reprobated.^[4]

Marginal heading: What are new apparitions, etc.?

4. New apparitions, revelations, etc.: therefore not those which are already everywhere praised in the Church. Thus, for example, the revelations of the Most Sacred Heart made to Blessed Margaret Mary, the Lourdes apparitions. Yet books of this sort will be subject to previous censure from article 41.

Therefore, from the end of the article, for new apparitions we seem to have to take not only those which have recently happened, but those which are new to readers, to hearers, insofar as they have not yet been received in the

Church by formal decree or by usage. **Wernz**^[^5] says, "not yet approved and published."

Marginal heading: What is to publish?

5. If they are published. To publish is not only to communicate something with certain selected persons, even if they are sufficiently numerous, but to make it public,^[^6] "to expose it for sale, or to scatter it among the people in whatever manner." **Pennacchi**.^[^7]

Marginal heading: Which superiors give legitimate license?

6. Without the legitimate license of the Superiors of the Church. Who are these? Regularly, Bishops. If they look to causes of beatifications, etc., the license must be obtained from the Congregation of Sacred Rites. We preserve that disposition of prior law intact.^[^8]

Marginal heading: The prior law having been proposed, it is asked whether it still has force or not.

79. You will ask, what of the other prior law, or of the protestations prescribed by **Urban VIII**?

The juridic provision of the prior law regarded only those marvelous facts which were imputed to servants of God not yet beatified. Books of this sort were forbidden to be published unless approved and furnished with a double protestation.

Moreover, the same Pontiff **Urban VIII**, on June 5, 1631, had decreed that one who, in describing the life of a servant of God, called him Saint or Blessed, should append to the book the protestation "that in these things there is no authority from the Roman Church, but the faith is only with the author."^[^9]

Even now it happens that certain writers, led by a pious mind, wish to observe the decrees of **Urban VIII**; but when they do not know what precisely must be declared, they sometimes merely testify "that they understand matters as **Urban VIII** wishes."

But, from the general rule proposed above, n. 19, it is clearly perceived that protestations of this sort are now required by no law. There were, in the beginning, some who did not recognize this matter as sufficiently plain,^[^10] but the opinion has now become common,^[^11] and it is supported by a certain argument.

II. On the Other Part

80. The other part of article 13 takes care lest new devotions be introduced imprudently. For it forbids books or writings ... which introduce new devotions, even under the pretext that they are private, if they are published without the legitimate license of the Superiors of the Church.

Marginal heading: What books or writings are.

1. Books or writings. Therefore it does not matter in what form or size they are published. Cf. above, the things just said, n. 78, 2.

Marginal heading: Which introduce.

2. Which ... introduce, insofar as they do not merely report them, but suggest them, recommend them, or appear composed for the spreading of the devotion (*Ecrits, feuillets de propagande*).

Marginal heading: Devotions.

Devotions are manners of exercising the virtue of religion, or of worshipping God or the saints.

Marginal heading: New?

They are judged new which have not yet prevailed by usage. With us is **Pennacchi**, cited work, n. 51.

Moreover, a devotion can be new either from its immediate object: for example, toward the heart of St. Joseph, some part of Christ's humanity hitherto not specially honored; or from its manner, as if you should invent the cincture of St. Aloysius; if, from a certain pretended vision, you began to propose St. Catherine as patroness of those who are

carried on those wheels which have the name "velocipedes." Cf. *Cosmos*, August 1897, pp. 164-166, etc.[^12] But it will not be a new devotion if you propose certain prayers customary in the Church to be recited for nine days in honor of some saint; or if from approved prayers you compose a "week" or a month, adorn them with commentaries and explain them.[^13] Yet if you wished first to consecrate a month or certain Sundays to the worshipping of some saint, we think this to be a new devotion.

Once and again already before this, the Holy See had recalled the minds of the faithful from following these novelties, and had warned writers "that they should weigh the danger which underlies the drawing of the faithful into error even concerning dogmas of faith, and the furnishing of an occasion to haters of religion for disparaging the purity of Catholic doctrine and true piety." **Holy Office**, general Monitum added to the decree of January 13, 1875, inculcated anew June 3, 1891, and April 3, 1895.[^14]

Marginal heading: It does not matter by what manner they are to be exercised.

3. Even under the pretext that they are private. Therefore it does not matter by what manner they are to be exercised.

Marginal heading: Who will give legitimate license?

4. If they are published without legitimate license. This will sometimes be given by the Bishop, sometimes by the Holy See alone: as if they look to sacred Rites.

But once approved by one Bishop, in themselves they can be diffused into other dioceses. We draw this from the general canon concerning previous censure. Cf. below. But if that new devotion seems inopportune to another Bishop, he will be able to exercise against it his faculty of proscribing works published or diffused in his diocese.

[^1]: Not rarely the very word miracle is used, by a certain broader usage, to designate a grace "which from some circumstance of time, place, or person bears before itself the appearance of a miracle." **Benedict XIV**, *De Beatif. et Canoniz.*, book 4, part 1, chapter 1, n. 13. Yet in the same place he teaches that this grace is distinguished from a miracle. For although, some saint having been invoked, you have recovered sooner, for example, than you hoped, nevertheless you do not affirm formally that it is a miracle, unless you have denied that that effect can be attributed to any natural power, such as that of the remedies which you used.

[^2]: **Hollweck**, *Das Kirchl. Bücherverb.*, p. 35; **Wernz**, n. 111, note 67 (not very perspicuously on account of the added conditions); but against **Génicot**, *Theol. mor.*, I, 454.

[^3]: **Göpfert**, p. 321 d.

[^4]: It is confirmed by **Génicot**, cited work, I, 453, 3; **Hollweck**, cited work, p. 44, note 3; **Pennacchi**, cited work, n. 51.

[^5]: Cited place, n. 111, note 67.

[^6]: Constitution, article 35.

[^7]: Cited work, n. 38.

[^8]: N. 47, cited place. And he cites the Constitution *Supernae Maiestatis* of **Leo X**, § 7.

[^9]: Cf. **Benedict XIV**, *De Beatif. et Canon.*, book 3, chapter 12, nn. 2-4.

[^10]: See in *Nouv. Rev. Théol.*, t. 30, p. 109; **Planchard**, *Revue Théol. Franc.*, cited place, n. 47; **Pennacchi**, *Acta S. Sedis*, cited place, n. 51, p. 223.

[^11]: **Génicot**, cited work, I, 454, 3; **Hollweck**, *Das Kirchl. Bücherverbot*, pp. 33, 44, 52, 55; **Ciolfi**, cited work, n. 35.

[^12]: Thus there were disapproved: the feast concerning the most sacred blood of Mary; the title *N. D. du Sacré Cœur* explained by dominion over the Son Himself; emblems of the Sacred Heart of Jesus in the Eucharist; the title Friend of the Sacred Heart given to St. Joseph; a certain manner of honoring the Face of the Redeemer as a distinct object; the title D. N. I. C. the Penitent; the prayer for the dominion of Christ and Mary Immaculate over all creatures (**Holy Office**, 1875, 1891, 1893, 1895); any writings whatever, even not printed by type, provided nevertheless they were propagated, concerning the private cult of the divine hands of the Redeemer, the devotion *della Mano poderosa*, of the New Cross of the Immaculate Conception, the devotion to the soul of Our Lord Jesus Christ. Cf. decree of the Congregation of the Index, April 19, 1906, referring the decree of the Holy Office, February 6, 1906; decree of March 31 and May 1, 1901.

[^13]: **Pennacchi**, cited work, n. 51.

[^14]: *N. R. Th.*, t. 7, p. 205; t. 24, p. 382; t. 27, p. 488 sq.

Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Chapter V: On Certain Books of Special Subject Matter

Article 14

Likewise prohibited are books which establish duel, suicide, or divorce as lawful; which treat of Masonic sects, or other societies of the same kind, and contend that they are useful and not pernicious to the Church and to civil society; and which defend errors proscribed by the Apostolic See.

The three parts of this article must be declared separately. Books are condemned here on account of certain undertaken defenses of bad causes.

I. On Books Which Patronize Duel, Suicide, Divorce

Marginal heading: What duel is? Which things are touched here.

81. 1. Duel, namely undertaken on private authority; since it is established that other combats can be justified. Moreover, a duel is a dangerous combat of two persons (or of a few, equal in number), which is undertaken from agreement, or from a certain pact previously made concerning place, time, and also, at least as usage bears, concerning weapons, and these lethal. It is called dangerous insofar as it brings danger of life, of mutilation, or at least of grave wound.

Marginal heading: What suicide is.

2. Suicide, or the direct killing of oneself, done by one's own authority.

Marginal heading: Divorce?

3. Divorce, namely in the modern acceptance, or perfect, by which is designated the sacrilegious attempt of breaking the bond of marriage, even consummated marriage, so that the faculty is given of entering a new marriage while the partner is living.

Marginal heading: What if they are said to be lawful by accident?

4. Lawful: whether in themselves, or even in any case whatsoever or by accident. For the mind of the Legislator is clear, by which he wished to protect Catholic doctrine.

Marginal heading: When they are established as lawful.

5. They establish, that is, they do not merely assert, but contend that it is so, or attempt to demonstrate it;^[1] and this with that breadth which satisfies the inscription of chapter 5. Cf. n. 74, 2.

II. On Books Which Favor Masonic Sects

Marginal heading: It is necessary that they treat of these.

82. 1. Which treat: therefore so that sects of this sort are truly the subject matter (although perhaps not the only subject matter) of the book. It is not sufficient that speech be made incidentally about them. Cf. above, n. 74, 2.

Marginal heading: That they preach them as useful.

2. And contend that they are useful ... Therefore it is necessary that at the same time they be preached as harmless, or affirmed not without force (as if by demonstrating): for to contend is to affirm vehemently, keenly.

Marginal heading: What a sect is. A society of the same kind as Masonic societies.

3. Of Masonic sects or other societies of the same kind. Sect designates a society of persons who profess the same doctrine. But which sects are to be called of the same kind as Masonic ones, it is worthwhile to weigh accurately. Such certainly are not merely religious sects, such as those of the Old Catholics. Cf. **Avanz.-Penn.**, t. I, p. 618.

Marginal heading: The generic notes are:

But the required notes must be drawn both from common acceptance and from the documents of the Holy See. In this matter the chief place is occupied by the Encyclical *Humanum genus*, given April 20, 1884. From these it is necessary:

Marginal heading: A secret sect.

a) That the sect be in some way secret or hidden. For that Masonic sects pertain to the genus of clandestine societies, and constitute the most noted species of this genus, is proved both by common acceptance and by the perpetual usage of documents of the Holy See;^[2] and it is still recently acknowledged in the provincial Ruthenian Synod, chapter 6, article 21.^[3] Nor does it stand in the way that in the Constitution *Apostolicae Sedis*^[4] societies of this kind seem to be called "societies which plot against the Church or legitimate powers, whether openly or clandestinely." For, from **Leo XIII** himself, in the Encyclical *Humanum genus*,^[5] today the sects of the Masons "openly and manifestly strive for the ruin of the holy Church," and nevertheless below there is added: "when the matter has been wholly considered, they retain the character and custom of clandestine societies." This is then most beautifully demonstrated. For who the members are, who the leaders are, can still be plainly hidden. And an open or clandestine plotting can perhaps be referred to the end which some sects profess, while others rather hide it. For in reality the Sacred Congregation had to respond, August 21, 1850,^[6] that it mattered little that they professed themselves to oppose nothing to religion or to the civil republic.

Yet the oath of secrecy, or a rite of initiation, is not required.^[7]

Marginal heading: A strict bond.

b) That the members be united by a strict bond. This note also perpetually recurs in the pontifical Documents.^[8] From **Clement XII**, "they are associated ... by a strict and inaccessible bond"; and **Leo XIII**, in the cited Encyclical, objects against them that they bind "men to themselves, as slaves, by a most tenacious bond, and with the cause not sufficiently declared."

Marginal heading: An end directly contrary to the Church or to the legitimate political order.

c) That from their end,^[9] which they intend openly or secretly, the sects themselves, not only some of the members or leaders, be proved to set before themselves, against the Church and the civil powers, the overthrow of the peace and felicity of the Church, disturbances, and seditions.^[10] For they are sects "which set before themselves something against the Church or government";^[11] "which plot against the Church or legitimate powers";^[12] which wish "to overturn utterly that whole discipline of religion and of the republic which Christian institutions have brought forth, and to construct a new one according to their own bent, with foundations and laws drawn from the midst of Naturalism."^[13]

Therefore there can be several sects prohibited under grave guilt which nevertheless are not of this kind. Cf. the response of the Holy Office, May 17, 1886, whence it is clear that societies which have been instituted for promoting cremations of corpses are not necessarily counted among the Masonic.

Marginal heading: Various examples.

Moreover, sects of this sort are: the society of the Fenians from the declaration of the Holy Office, January 12, 1870;^[14] "Carbonaria";^[15] Mazzinian, "Nihilist," "Anarchist" societies which strive after revolutions (*révolutionnaires*); but not a society of robbers, since it is not directed against civil powers.

[1]: Cf. **Gennari**, cited place, p. 40.

[^2]: Thus **Clement XII** describes them, Constitution *In eminenti*, 1738: "men of any religion and sect, content with a certain affected appearance of natural honesty, are associated with one another by a bond as strict as it is inaccessible, according to laws and statutes established for themselves, and at the same time act secretly ..." "The other [cause why they are condemned] is the strict and inaccessible bond of secrecy, by which those things which are done in conventicles of this sort are hidden." **Benedict XIV**, Constitution *Providas*, March 18, 1751; **Pius VII**, Constitution *Ecclesiam a Iesu Christo*, September 15, 1821, call them "hidden assemblies and clandestine sects." The same appellation "clandestine sects" occurs everywhere in the Constitution *Quo graviora*, issued by **Leo XII** against Masonic sects on March 13, 1825. The Holy Office, wishing on August 5, 1846 to define which sects were condemned in the pontifical Constitutions, at the beginning addresses them with the words "hidden societies." And in the Encyclical *Quanta cura*, December 8, 1864, they are also called "clandestine sects." Certainly, in 1884, the Holy Office (*Coll. Prop. Fid.*, n. 1865), in the appended Instruction, declared that an oath of secrecy is not required, but in the article itself it treats of denouncing hidden leaders: which already implies some manner of secrecy.

[^3]: Cf. *Archiv*, t. 78, pp. 72, 73.

[^4]: Second series, fourth excommunication.

[^5]: At the beginning.

[^6]: The response is cited by **Avanz.-Penn.**, t. I, Appendix 19, p. 615.

[^7]: Holy Office, 1846 and 1884, *Coll. Prop. Fid.*, cited place.

[^8]: Those Constitutions are reported in **Avanz.-Penn.**, t. I, pp. 596 sqq., or Appendix 19.

[^9]: "They must be judged from the end which they set before themselves, not from elsewhere." **D'Annibale**, in the Reatine commentary on the Constitution *Apostolicae Sedis*, n. 82.

[^10]: **Leo XII**, cited Constitution.

[^11]: Holy Office, August 5, 1846.

[^12]: Constitution *Apostolicae Sedis* and Instruction of the Holy Office, May 10, 1884.

[^13]: **Leo XIII**, Constitution *Humanum genus*.

[^14]: *Coll. P. F.*, n. 1860.

[^15]: From the Constitution of **Pius VII**; December 28, 1878.



Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Chapter V: On Certain Books of Special Subject Matter

Article 14

II. On Books Which Favor Masonic Sects

Marginal heading: What of socialists?

83. You will ask, what of socialists?

It must be observed that, among those who come under this name, some are absolute Socialists, who profess all those errors which **Leo XIII** sets forth in the Constitution *Quod Apostolici*, and are also prepared to promote their cause by force and arms; while others hold a certain mitigated or partial socialism, and assert that they will use only legal means for gradually introducing their principles practically.

Moreover, as regards the manner of joining together, they can remain individuals, as for a long time they were in England;^[1] or be united in the manner of a political faction; or finally be fused into a very strict sect, and a hidden one.

These things having been set down, those who are united into a sect, hidden in that manner which has been explained, of absolute socialism, certainly must be held as pertaining to a society of the Masonic kind: not so much from their opposition to the Catholic religion, as from their intention "of tearing up the foundations of any civil society whatever."^[2]

Others, on the contrary, especially from the fact that they constitute no hidden sect and are not joined by a strict bond, seem to wander outside that genus.

Wherefore there does not seem to be place for the absolute affirmation which *Nouv. Revue Théol.*,^[3] **C. Gennari**,^[4] and also **Pennacchi**^[5] have given; but one must see what the circumstances of socialism are in each region; and in doubt let us permit the judgment to the Ordinaries of places. Let us rather imitate the prudence of the Holy See, which, concerning many societies into which workers in the United States of America are compelled, and which seem very akin to Masonic societies, so that sometimes they impose civil funerals on their adherents, was unwilling to define that matter. Concerning several, the American Bishops are divided. Cf. the letters of **C. Monaco**, August 20, 1894,^[6] and the cited Ruthenian provincial synod.^[7]

Marginal heading: What in Belgium?

Concerning the association which socialists constitute in Belgium, we questioned several persons, both theologians and experts in economic science. To a man they responded to us that socialists in Belgium are regarded by them as a political faction (*un parti*) rather than that they seem to be a sect.

Moreover, especially in this question of a contingent and mutable fact, no firm argument for the contrary thesis can be drawn from some appellation employed twenty years ago in the Encyclical *Quod Apostolici*. And from the fact that there speech is made of Socialists, Anarchists, and Nihilists as of one sect,^[8] it is indeed consequent that there are Socialists who differ from Anarchists, etc., only in name; but not that all Socialists are and will perpetually be parts or members of a sect of this sort.

Our opinion, which from day to day seems to us to become more manifest, is now defended by **Boudinhon**^[9] and **Hollweck**,^[10] but not yet by **Wernz**,^[11] nor by **Ciulli**.^[12]

III. On Books Which Defend Errors Proscribed by the Holy See

84. Books are condemned which defend errors proscribed by the Apostolic See.

Marginal heading: What errors are.

1. Errors: propositions condemned at least as erroneous.

Marginal heading: Apostolic See.

2. By the Apostolic See: by the Supreme Pontiff either immediately, or by means of a Roman Congregation, namely the Holy Office.^[^13]

Among these must be numbered books which defend or champion errors condemned by the Syllabus. Sacred Congregation of the Index, May 19-23, 1898, to 2.

Marginal heading: To defend?

3. They defend: they do not merely assert, but are eager to vindicate; with sufficient abundance of words, so that the inscription of chapter 5 obtains.

Marginal heading: N.B. When excommunication is committed.

N.B. Those who teach or defend propositions condemned by the Apostolic See under penalty of excommunication *latae sententiae*, or that the practice of inquiring into the name of an accomplice is lawful, as it had been condemned by **Benedict XIV**, incur excommunication *latae sententiae* simply reserved to the Roman Pontiff (*Const. Apostolicae Sedis*, first excommunication of the second series).

[^1]: Cf. **P. Verhaegen**, *Les socialistes anglais*. Ghent, 1898, Imprimerie Het Volk.

[^2]: Constitution *Quod Apostolici*, at the beginning.

[^3]: T. 28, pp. 178, 179.

[^4]: *Monit.*, cited place, X, p. 40.

[^5]: A. S. S., cited place, n. 52, from p. 299.

[^6]: *N. R. Th.*, t. 27, p. 603. The cause concerned three societies: Odd Fellows, Sons of Temperance, Knights of Pythias. The Holy Office reprobated them, but abstained from application of the excommunication issued against sects of the Masonic kind.

[^7]: *Archiv*, cited place, pp. 72, 73.

[^8]: And thus it becomes manifest that regard is had rather to those socialists who in the year 1848 in reality were thinking of violently overturning everything in France.

[^9]: Cited work, p. 113.

[^10]: *Die Strafgesetze*, § 104, 2.

[^11]: Cited work, n. 111, note 14.

[^12]: Cited work, n. 37. He also includes societies concerning which the Holy Office was unwilling to decree that matter. Cf. above the note concerning the Odd Fellows, etc. Cf. **Hollweck**, *Die Strafgesetze*, § 105, 1.

[^13]: With us is **Pennacchi**, A. S. S., cited work, n. 52. Besides, on January 13, 1892 (*N. R. Th.*, t. 24, p. 170), to the second, the Holy Office responded that by acts proceeding from the Apostolic See are designated acts "which mediately" proceed from it, that is, through the Sacred Congregation. But that, as the distinguished **Planchard** asserts, *Rev. Th. Fr.*, cited place, n. 53, a proposition condemned by an ecumenical Council is not comprehended, this we by no means see. And decrees of a Council of this sort have customarily been promulgated through a pontifical Constitution.

Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Chapter VI: On Sacred Images and Indulgences

Marginal heading: Argument of the chapter.

Departing for a short time from the subject of books, in this place the previously existing law concerning sacred images is in part confirmed and innovated, and suitable cautions are established concerning indulgences.

Article 15

Images, in whatever manner printed, of Our Lord Jesus Christ, the Blessed Virgin Mary, the Angels and Saints, or other Servants of God, discordant with the sense and decrees of the Church, are altogether forbidden. But new ones, whether they have prayers annexed or are published without them, are not to be published without the license of ecclesiastical power.

Marginal heading: What two things are established by article 15.

85. I. Concerning Images of Our Lord Jesus Christ, the Blessed Virgin Mary, the Angels, Saints, and Servants of God, both these things are established by article 15:

Marginal heading: Those abhorrent from the sense of the Church are forbidden.

1. Images which are discordant with the sense and decrees of the Church are altogether forbidden. Yet you should take this insofar as images of this sort are in some manner exhibited or held as sacred. For the distinguished **Palmieri**, on this place, thinks that images of this sort can be retained "as a monument or abnormal thing of art."

Thus, for example,^[1] the former manner of representing the Blessed Virgin Mary of the Sacred Heart (Uxellodunensis, Issoudun) is disapproved; an image of a servant of God which would shine with an aureole, etc.

But which images are to be approved or disapproved is learnedly explained by **Benedict XIV**, Constitution *Sollicitudini*, October 1, 1745. Also the Decrees of the same Pontiff which used to be set before the catalogue of the Index, although now formally suppressed, contain in § 3 examples of images which are discordant with the sense of the Church. Cf. concerning these **C. Gennari**^[2] and **Pennacchi**.^[3]

Marginal heading: New ones are not to be published without license.

2. New ones, even without prayers, cannot be published without the license of ecclesiastical power.

Moreover, new images are those which are newly invented, drawn (*sur de nouveaux "dessins"*), not those whose type has already been fashioned and tacitly approved by usage itself. Thus with us are **Desjardins**,^[4] **Pennacchi**^[5] and **Ciolfi**;^[6] while **Hollweck**,^[7] more severely, to whom **Wernz**^[8] assents, also understands a new edition (*allen Neudruck*) of an ancient image.

Already before this the Bishops of Belgium had prescribed something similar, and the statutes of Liège, n. 272, 7, had gone before by example.

Marginal heading: Published without license are not prohibited.

But what if they are published without competent license? The publisher sins; but from a comparison of each part of article 15, which here does not repeat the absolute prohibition by which in the first part it punishes abnormal images, we draw that the faithful are not prohibited from their use. Besides, greater severity would give place to excessive scruples and practical difficulties. With us are **Pennacchi**,^[9] **Gennari**,^[10] against **Hollweck**.^[11]

Marginal heading: Exposition of the letter.

II. But that we may explain somewhat the letter of article 15:

Marginal heading: Images printed in whatever manner, which these are.

1. Images **printed in whatever manner** are regarded. That expression, very general, embraces many of those ways by which, through imposition and compression (*l'application et la pression*), likenesses are mechanically multiplied. It matters nothing to the matter whether the exemplar was first engraved in bronze, or whether imitations were made through "lithography," "phototype," or "photography."

Marginal heading: Whether medals.

Concerning medals it can be disputed. They indeed bear an image impressed in metal; they are also very easily spread. Yet on the other hand the very customary word "medal" is lacking, which **Benedict XIV** did not omit when, in the General Decrees, § 3, n. 3, he wished to prohibit these things. And they are rather struck than printed.^[12]

Marginal heading: Concerning statues, paintings.

But statues and paintings are not comprehended,^[13] since they by no means pertain to the genus of printed images. Nor do these have that rapid diffusion on account of which the Supreme Pontiff grieves in the Exordium that "the art [of books], in itself excellent ... has been perverted into an enormous instrument of ruin" by many abusing it.

Besides, this is certainly provided by the more general disposition of Trent, session 25,^[14] that, even in exempt churches, by whatever title they are exempt, no unusual image should be placed "unless it has been approved by the Bishop."

2. **Images of Our Lord Jesus Christ, the Blessed Virgin Mary, Angels and Saints or Servants of God.** On account of the manifest parity of reason, the law also regards images of the Most Holy Trinity and of the Holy Spirit, although these are passed over in silence, and any sacred images whatever.

Marginal heading: What "altogether forbidden" means.

Moreover, every use of those which are forbidden, even for private devotion, is disapproved. For the prohibition is absolute: they are altogether forbidden. Yet this, as we were just saying, you should take concerning use which in some manner is religious.

Marginal heading: Whether approval of a new image must be printed.

You will ask whether the approval of a new image must be printed on the image itself. As far as the nature of an image permits, that is strongly to be urged, as plainly consonant with the mind or wish of our Constitution. Yet because article 40 requires this in express words concerning books alone, we do not think there is a strict precept. **Boudinhon**, *Canoniste*, 1897, p. 433, responds more severely. With us is **Slautjes**, cited work, p. 44.

Article 16

It is forbidden to all, in whatever manner, to spread indulgences that are apocryphal and proscribed or revoked by the Holy Apostolic See. Those which have already been spread are to be taken from the hands of the faithful.

Marginal heading: Character of the article.

86. 1. By this first article concerning indulgences, severity is exercised against apocryphal indulgences, yet in such a way that simple faithful are burdened with no excessive weight. Wherefore:

Marginal heading: Force of the law.

2. The spreading of apocryphal and proscribed or revoked indulgences is strictly prohibited; to ecclesiastical Superiors is commended the care of taking them from the hands of the faithful; but upon the faithful themselves who have received such sheets or booklets nothing is directly enjoined. Therefore it will be sufficient if they obey commands which are promulgated concerning this matter by their Superiors. Thus the common opinion.

Marginal heading: What apocryphal, proscribed, revoked indulgences are.

3. Apocryphal indulgences are those which have not emanated from legitimate power; proscribed, those which have been pierced by a positive decree; revoked, those which were legitimate but afterwards abrogated.

Marginal heading: Norms for discerning apocryphal Indulgences.

4. On August 3-10, 1890, the Sacred Congregation promulgated these norms, by which true Indulgences could be distinguished from counterfeit ones:

Rule I. All indulgences which are contained in the most recent collection published by the Sacred Congregation of Indulgences^[15] are authentic.

Rule II. General indulgences which are not exhibited in the above-said collection, or which are said to have been granted after the Collection was published, are then only to be held as authentic when the autograph document of the granting of the same has been recognized by the Sacred Congregation of Indulgences, to which, under penalty of nullity, it must be exhibited before they are published.

Rule III. Indulgences granted to Orders and religious Congregations, Archconfraternities, Confraternities, Archsodalities, Sodalities, pious Unions, pious Societies, certain more celebrated Churches, pious Places, and Objects of devotion, which are contained in Summaries recognized and approved by the Sacred Congregation of Indulgences, and published in print by its authority or permission, are to be held authentic.

Rule IV. Indulgences, whether general or particular, are not to be held as authentic which are contained in books, in booklets, in summaries, in sheets, in little papers, or even in images, printed without the approval of competent authority; which approval is to be granted after diligent review, and distinctly expressed.

Rule V. Apocryphal, or now entirely revoked, are all indulgences of a thousand or many thousands of years, at whatever time they may be said to have been granted.

Rule VI. Plenary indulgences are to be held suspect which are asserted to have been granted to those reciting only a few words: excepting Indulgences at the moment of death.

Rule VII. As apocryphal are to be rejected indulgences which are carried about in booklets, sheets, or little papers, printed or manuscript, in which, from slight or even superstitious causes and uncertain revelations, or under illusory conditions, indulgences and graces exceeding usage and measure are promised.

Rule VIII. As counterfeit are to be rejected sheets and booklets in which there is promised to the faithful reciting one or another prayer the liberation of one or several souls from Purgatory; and Indulgences which are commonly added to the said promise are to be held as apocryphal.

Rule IX. Indulgences of more recent asserted concession, if they are extended to an unusual number of years or days, are to be held as apocryphal, or at least as gravely suspect.

Article 17

All books of Indulgences, summaries, booklets, sheets, etc., in which their grants are contained, are not to be published without the license of competent authority.

Marginal heading: Which authority is competent.

87. 1. From the declaration of the Sacred Congregation of the Index, August 7, 1897,^[16] competent authority must be understood according to the norms of the prior law, to which by this pronouncement the present article seems tacitly to have referred us back; but the norms can be exhibited briefly thus:^[17]

Marginal heading: Concerning apostolic Indulgences.

The catalogue of Indulgences which individual Supreme Pontiffs commonly annex to crosses and things which receive the Apostolic Blessing (*les Indulgences papales*) cannot be published or again edited without license of the

Holy See.[¹⁸]

Marginal heading: Concerning summaries.

New Summaries, or collected Indulgences from various grants, must be approved by the Sacred Congregation set over Indulgences and Sacred Relics.[¹⁹]

Yet for summaries of confraternities which are customarily erected by the Superiors of Orders, and of archconfraternities or primary congregations which exist outside the City, the approval of the Bishop of the place where the Orders or archconfraternities have their principal seat suffices.[²⁰]

Summaries already approved and particular Indulgences, provided these are established from an apostolic Brief or Rescript, can be published by the authority of the Bishop.[²¹]

Marginal heading: The law of Benedict XIV is recalled.

Benedict XIV gave more severe decrees concerning the spreading of indulgences, since he wished no summaries or books of indulgences to come to light unless approved by the Sacred Congregation of Indulgences. Wherefore where our article has: "without the license of competent authority," he had written: "without the license of the Sacred Congregation of Indulgences." But afterwards a more benign usage prevailed, confirmed by the decrees themselves of the Sacred Congregation of Indulgences. **Pennacchi** discusses the history of this discipline.

Marginal heading: What if censure has been omitted?

2. Yet if, the due review having been omitted, these books, summaries, etc., are published, they are not proscribed. **Pennacchi**[²²] proves this broadly, and it follows from the general canon which we handed down above. The distinguished **Palmieri**, on this place, is of the same opinion.

Marginal heading: What of images destined for remembering death, first Mass?

3. Images composed for the pious memory of a deceased person, or of a priest's first Mass (*souvenirs pieux, de 1^o Messe*), although they contain one or another prayer which they praise as endowed with an Indulgence, are not sheets of Indulgences. Wherefore, as usage sufficiently proves, they are immune from this rule.[²³]

[¹]: Cf. decree of the Holy Office, April 3, 1895, *N. R. Th.*, t. 27, p. 488.

[²]: *Monit.*, cited place, pp. 63, 65.

[³]: *A. S. S.*, cited work, n. 53.

[⁴]: *Études*, t. 71, p. 213.

[⁵]: *A. S. S.*, cited work, n. 53.

[⁶]: Cited work, n. 39.

[⁷]: *Das kirchl. Bücherverbot*, p. 51.

[⁸]: Cited work, n. 111, note 69.

[⁹]: Cited work, n. 55.

[¹⁰]: *Monit.*, cited place, p. 66 and note 1.

[¹¹]: Cited work, p. 51 and p. 36, note 3. He relies on the general reason which we rejected in n. 52, namely because these things are treated in the chapter which is inscribed concerning the prohibition of books. Yet he tempers his statements, since here he recognizes only a venial obligation (p. 36, note 3).

[¹²]: Wherefore **Pennacchi**, cited work, n. 53, and **Moureaux**, *Rev. des Sciences Eccl.*, cited place, t. 6, p. 110, deny that they are comprehended.

[¹³]: Since the present Constitution is not occupied with these, the Decrees of prior law have force. Cf. **Gennari**, *Monit.*, cited place; **Planchard**, *Rev. Th. Fr.*, cited place, n. 58 and note 3.

[¹⁴]: On invocation, etc., and sacred images.

[¹⁵]: The collection is entitled: *Raccolta di orazioni e pie opere per le quali sono state concesse dai Sommi Pontefici le Indulgenze*, Rome, Propaganda Fide, 1898.

[¹⁶]: **C. Gennari**, *Monit.*, cited place, p. 67, had thought that the old Decrees were abrogated, and that nothing was now required except the license of the Bishop.

[^17]: **Pennacchi**, cited work, n. 55, pp. 319, 327, hands down the documents at length.

[^18]: Thus **Leo XIII** (*Rescr. auth. S. C. Indulg.*, pp. 345-348); thus our Most Holy Lord **Pius Pp. X**, August 28, 1903, A. S. S., t. 36, pp. 125-128.

[^19]: Authentic Decrees of the Sacred Congregation of Indulgences, n. 383.

[^20]: Sacred Congregation of Indulgences, January 8, 1861 (*Decr. auth.*, n. 388).

[^21]: Authentic Decrees, n. 383.

[^22]: Cited work, n. 55. Against this, **Hollweck**, p. 36, note 3, and p. 37, on account of the reason rejected above in n. 52: because the article is contained in the chapter concerning the prohibition of books.

[^23]: **Hollweck**, p. 36, note 3. Thus also **Boudinhon**, cited work, p. 155.



Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Chapter VII: On Liturgical and Prayer Books

Marginal heading: Argument of the chapter.

In the three articles of this chapter, in a simple order, there is treated first of liturgical books, then of litanies, finally of works of practical devotion or religious instruction.

Article 18

In authentic editions of the Missal, Breviary, Ritual, Ceremonial of Bishops, Roman Pontifical, and other liturgical books approved by the Holy Apostolic See, let no one presume to change anything: if otherwise it has been done, these new editions are prohibited.

Marginal heading: What an authentic edition is.

88. 1. An authentic edition is that which the public authority, which here is the Holy See, so approves that it in some manner makes it its own. Thus the obvious sense, thus the common signification of authenticity, thus all interpreters of this Constitution whom we have seen. Therefore it designates that typical exemplar, prepared according to the norms of the Constitutions of the Supreme Pontiffs, and which other editions must imitate; in other words, "the original taken from the Sacred Congregation of Rites, or the authentic exemplar of the Cameral printing office, signed by the hand of the Secretary of the same Sacred Congregation and sealed with its seal."^[^1] Therefore a license of publishing given by the Ordinary, and testimony of conformity with the typical exemplar, does not suffice to confer authenticity on liturgical books.

But because it is repugnant that the same edition be at once authentic and corrupt, the words **in authentic editions** sound the same as: in the authentic text, or also: in books of which an authentic edition exists, and which are destined for liturgical use.

Marginal heading: Other liturgical books. Concerning Euchologia.

2. Other liturgical books are, for example, the Day Hours, the Offices of Holy Week, of the Blessed Virgin Mary, etc. Yet books of private devotion are not reputed liturgical in which, for the convenience of the faithful, certain parts of the Missal or Breviary are contained together with various other prayers. Wherefore, while the prior law was still in force, Euchologia which exhibited the Ordinary of the Mass, Sunday Vespers, the Office of the Dead, commonly used to report only the common approbation. These are governed by article 20.

Marginal heading: What change is treated.

3. The change of which there is question in the article is not made in the authentic exemplar itself, but, as is said at the end of the article, in new editions which disagree with the authentic one, and which certainly will not be authentic. Thus altogether **Palmieri** on this place.

And because the text is: "let no one presume to change anything," at the same time, on the one hand, even slight changes are attended to;^[^2] on the other hand involuntary "errata" are excused.^[^3]

Yet the authentic text is not judged changed because in a new edition, in their proper places, more things are extended and repeated than in the authentic one for the convenience of users.

Marginal heading: What of chant?

Come now: by the *motu proprio* of April 25, 1904, that conformity, in the manner which will be proposed below in the appendix, must also be urged with respect to chant, so that no one can now approve liturgical books which contain chant differing from the typical edition. Cf. below, the appendix.

Marginal heading: Sanction of prohibition.

4. If otherwise it has been done, these new editions are prohibited. Those words, set forth simply, must be taken in the sense which we explained above. Therefore we are prohibited not only from liturgical use, or from paying the canonical hours from an edition of this sort, but also from simple reading, retention, etc.

Marginal heading: What, if editions are conforming?

But if they have been new editions conforming to the typical exemplar, by the obvious sense itself we are taught that those books can be used, at least for private use.

Marginal heading: With regard to private use.

Yet they must be marked with the approval of the Ordinary, not to be conceded unless there is certainty concerning that conformity.

For although, on account of the special mention which is made of them in this article 18, you should be unwilling to place them in the genus of practical books of devotion, concerning which in article 20, nevertheless they cannot escape the force of article 41, which makes all writings in which religion is specially interested subject to previous censure, and of article 44, by which new editions of a work subject to previous censure must be approved. And indeed a liturgical book is so subject to censure that the typical exemplar cannot be published except by authority of the Sacred Congregation of Rites.^[4] Thus far concerning private use.

Marginal heading: With regard to liturgical use.

But it is less established whether the same can be said concerning the liturgical use^[5] of those books; or whether, on the contrary, in this part the sanctions of prior law have force.

For from prior law,^[6] the use of Missals, Breviaries, and parts taken from the Breviary was forbidden when they were published without a faculty to be obtained in writing, in the City from the Sacred Congregation of Rites, and outside the City (if an Inquisitor was lacking) from the Ordinary of the place. Moreover, the faculty had to make mention of a diligent comparison with the typical exemplar, and of the conformity found between each; and it had to be printed at the beginning or end of the book.

Moreover, for the more benign solution, which contends that even liturgical use is governed by this our Constitution, these things make:

a) Those books are not morally accustomed to have any other use than liturgical use. Therefore both the inscription of chapter VII, which, besides, distinguishes liturgical and prayer books, and the present article 18 chiefly intend this use. But this having been set down, unless you wish to accuse our Legislator of lack of skill, who, while he thinks to furnish to all rules clear and easy to know, would have handed down in this part only a maimed and imperfect law, which would have to be laboriously supplied from various Bulls and Decrees; unless, I say, you should opine so absurdly, you will have to say that the preceding Constitutions on the same matter, which is admitted to be touched of set purpose by the Constitution of **Leo XIII**, are antiquated.

b) To this, finally, practically looks the abolition of that law: that the special solemnities of approval which we have just recalled could now be passed over.^[7] But in this there is nothing inconvenient, nothing exorbitant, since today the Ordinary can easily compare a new edition with a genuine one. But it plainly accords with the character of the present law that the forms to be observed be rendered more simple.^[8]

c) A way seems to have been prepared for this more benign law by decrees^[9] which began to prohibit less strictly the use of liturgical books which lacked formal approval.

d) Finally, very learned men defend this opinion as certain: **C. Gennari**,^[10] **Planchard**,^[11] **Pennacchi**.^[12]

Yet are these reasons such as make plainly improbable the manner of thinking of others, who think that the Constitutions of **Urban VIII** still have force? We by no means think so, provided they wish to contract the force of their opinion to liturgical use.

For the Constitutions praised above were written to take care lest the formula of praying and offering sacrifice which the Church uses be corrupted. Therefore someone could think that they proscribed editions destitute of certain solemnities merely in order to liturgical use.[^13]

But then they would already seem to handle another subject than our Constitution, which concerns the prohibition and censure of books in general, and not the moderating of a particular use of certain books. Nor would they necessarily be weakened by the clause by which **Leo XIII** suppresses any other command of the Supreme Pontiffs concerning this matter (that is, concerning the object of the new Constitution). Indeed, as much as it is permitted to a private writer to conjecture these things, it seems sufficiently likely that the Sacred Congregation of Rites, if questioned concerning this doubt, would accommodate its response to this latter opinion.[^14]

Marginal heading: What if you recite from a prohibited edition.

What if you recite the Breviary by using a prohibited edition? Since a sanction which the law has not expressed is not to be introduced, you seem to recite validly, or to satisfy the obligation, provided you recite according to the prescribed form. Cf. *Monitore*, VIII, 2, p. 209. For the use of an approved Breviary does not pertain to the intrinsic reason of the obligatory manner, since you can pay the Hours from memory.

Nor does that use of a Breviary not approved, provided you recite the prescribed prayers and all contempt is absent, seem to introduce grave sin, by which even vocal prayer would perish.

[^1]: **Dilgskron**, *Anal. Eccl.*, 1897, p. 87, at the end.

[^2]: **Pennacchi**, cited work, n. 56.

[^3]: The Sacred Congregation of Rites admits that errors have crept even into some editions of the City, April 26, 1834 (*Collect. Prop. Fid.*, n. 1875).

[^4]: Therefore we can by no means agree with the doctrine of the distinguished **Pennacchi**, n. 56, according to which those new editions would no longer require any previous license. We think this is sufficiently clear from the reasons given. Nor is this a gratuitous assertion, as *Ephem. Liturg.*, 1898, p. 534, object. Cf. also **Wernz**, n. 111, note 72. But how the General of the Order of Carmelites of the ancient observance could publish his proper Ritual, cf. response of May 24, 1905, *Periodica Nostra*, n. 76, t. 2, pp. 14 and 16.

[^5]: By which formula we also include the recitation of the Breviary prescribed for ministers of the Church.

[^6]: For Breviaries and parts taken from it, this is established from the Constitution *Divinam Psalmodyam* of **Urban VIII**, January 25, 1631; for Missals, from the Constitution *Si quid est* of the same Pontiff, September 2, 1634.

[^7]: No small praise of the present Constitution is that wise discretion, by which, from the suppressed General Decrees (which were set before the catalogue of the Index before the Mandate of **Leo XIII**), it retained some things, but omitted others which today are less opportune, or of which express mention has already become superfluous. Thus, for example, in place of the eight articles of § IV, articles 13 and 18 of our Constitution were substituted, which seem plainly to suffice for the intent. For controversies concerning Chinese rites, of which six articles treated, are today quieted, so that they do not need a special sanction. But as regards new Blessings, formulas of Exorcisms, and Rosaries, concerning which articles 1, 4, 8 treated: they can be considered as public rites or private devotions. Under the first aspect, it is sufficiently established today that sacred rites are a greater cause devolved exclusively to the Holy See. Therefore a special caution concerning them is no more desired than it ought to be expressly provided lest some private person found right or law in the Church. Under the other respect, they would be new devotions, which are governed by article 13. Therefore we can with impunity abstain from sayings too foreign in law, by which, for example, those things which **Leo XIII** abrogates in express words are said to have force because of a decree, and that one preceding in time, of the Sacred Congregation. We grieve that this was proposed in the excellent *Ephemerides Liturgicae* (1898), p. 583: "The conclusions brought in ..., so they say, "we inserted; because they are read in § IV of the Decrees of the Index, and therefore they were abrogated, and nevertheless by force of the Constitutions or Decrees of the Sacred Congregation of Rites, they still have force." At the same time it appears that with no difficulty the strange consequences which are objected against the benign opinion of which in the text are avoided. Let it be lawful for us, with esteem for them preserved and from zeal for truth, to note these things in response to the most humane response which, pp. 521-534, the *Ephemerides Liturgicae* gave to the second of the two notes by which, in the second edition, pp. 71, 72, we had disapproved their manner of speaking.

[^8]: **Dilgskron**, *Anal. Eccl.*, 1897, p. 228.

[^9]: Cf. Sacred Congregation of Rites, General Decree, April 26, 1834 (*Decr. auth.*, n. 2716), inculcated again February 18, 1843 (*Decr. auth.*, n. 2855), and a third time February 27, 1847 (**Gardellini**, n. 5066), and the Council of Avignon, title I, chapter 6, which **Lehmke**, II, 232, reports.

[^10]: *Monit.*, cited place, X, pp. 67, 68.

[^11]: *Rev. Th. Fr.*, cited place, n. 65.

[^12]: A. S. S., cited place, n. 56, p. 338.

[^13]: Therefore let the *Ephemerides Liturgicae* note again that we turn these things over with a mind not preoccupied, and that we oppose their conclusion less than their arguments.

[^14]: Yet it could deservedly be objected that in the Constitution *Quamvis* of **Urban VIII** (June 16, 1634), Pontificals which are published without special faculty, etc., are prohibited in absolute words. But that in the most recent Collection of Rites there are inserted Decrees which refer to prior law by no means proves that those dispositions still have force. For there are several utilities of that insertion, even if some parts have been antiquated. Nor was there so much care in arranging that Collection that you could borrow a certain argument from the same.



Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Chapter VII: On Liturgical and Prayer Books

Article 18

Appendix on Gregorian Melodies

Marginal heading: Reason for writing about sacred chant.

89. Our Most Holy Lord **Pius Pp. X** established new law concerning sacred chant; and because it is closely connected with the immediately preceding subject, it must here, as regards its publication, be recalled in a few words.[^1]

Marginal heading: Summary of the acts; code of sacred music.

I. Therefore, after by the *motu proprio* of November 22, 1903, he wrote a Code concerning sacred chant and restored Gregorian melodies to the Roman Church, by another *motu proprio*, April 25, 1904,[^2] he established these principles:

1. Liturgical books cannot be approved which in chant differ from the authentic Vatican edition. Yet that variety can be introduced which the Roman commission on sacred chant has judged to be supported by probable authority (*motu proprio*, § d).

2. The Vatican edition is in the domain of the Holy See. Yet this, by imposing certain laws, will grant to suitable printers and publishers of every nation permission to print and publish it in whole or in part.

Marginal heading: Instructions of the Sacred Congregation of Rites, August 11, 1905.

II. According to these principles, the Sacred Congregation of Rites, by decree of August 11, 1905, published instructions which define all things more precisely in this manner:

Marginal heading: Pontifical faculty for printing must be obtained.

I. Publishers or printers of whatever place or region, who wish to print the Gregorian melodies contained in the Vatican edition, whether in equal form or larger or smaller, whether all or only some, shall take care first to obtain the faculty from the same Apostolic See.

Marginal heading: Laws to be observed.

II. By each of the publishers who has obtained a pontifical faculty of this sort, these things are to be most diligently attended to:

a) The form of the little notes and of the other signs of Gregorian chant must be preserved which the ancients established and the Vatican edition exhibits exactly.

b) Above all, nothing can be changed in the order in which the same little notes succeed one another for the various intervals of sounds.

c) Nor likewise in the manner in which the little notes themselves are joined for the diverse formulas of neumes, as they say.

d) The most absolute relation of the words of the sacred text to the little notes of the chant is also to be observed, so that each syllable lies wholly under its note or notes.

Marginal heading: Faith must be made concerning agreement with the typical edition.

III. Once the edition has been prepared and completed, it will be unlawful for anyone to publish it and to use it in sacred functions unless the Ordinary of the place has fortified it with a declaration, by which its agreement with the typical Vatican edition is established.

Marginal heading: By the Ordinary from the report of censors.

IV. But let the Ordinary not grant a declaration of this sort unless first censors skilled in Gregorian chant, after a most diligent comparison has been made, testify in writing, with conscience burdened, that the new edition altogether agrees with the Vatican one.

Marginal heading: In which parts varieties are admitted, in which not.

V. To those parts of the liturgical office which admit diverse chants according to the diversity of day or feast, as for example hymns and the Ordinary of the Mass, melodies can be adapted which are not found in the typical edition, and can be approved by the Sacred Congregation of Rites, with due conditions observed, especially those which are appended in § d) of the *motu proprio* of April 25, 1904.[^3] But in no way are varieties of tones or chants of this sort to be admitted in the remaining parts, for example in the Antiphons and Responsories either of the Office or of the Mass.

Marginal heading: What of proper offices or newly conceded ones?

VI. But if there is question of proper Offices of some church or regular Order following the Roman rite, or of Offices newly granted, their Gregorian melodies, restored or arranged by skilled men, are likewise to be submitted to the approval of the Sacred Congregation of Rites; once this has been obtained, the Ordinary of the place, having been made certain, as above, concerning agreement with the originals recognized by the Sacred Congregation, will grant the required declaration.

Marginal heading: Use of modern notes.

VII. It can be tolerated that Gregorian chant be published in modern musical notes, provided the danger be carefully removed lest the order of the notes and neumes be disturbed in any way whatever. Therefore for these editions, for the convenience of the faithful, the Ordinary will be able to grant his approval if it has been established to him, according to articles 4 and 6, concerning faithful conformity with the typical edition or approved melodies.

Marginal heading: Three exemplars to be sent to the Sacred Congregation.

VIII. Whenever a book containing sacred chant or any liturgical melody is submitted to the Sacred Congregation of Rites in order to obtain approval, three exemplars are to be sent to the same.

Marginal heading: Rights of the Holy See.

IX. A Gregorian melody destined and recommended for liturgical use by the Sacred Congregation of Rites according to the aforesaid norms pertains to the sacred treasure or patrimony of the Roman Church, just as the text itself does. And so, when a new text is proposed or conceded to the faithful by the same, the chant corresponding to the text is reputed to have been conceded at the same time, so that no publisher or author can raise a complaint concerning the fact that the Apostolic See extends the same melodies to other churches.

Marginal heading: Declaration, February 14, 1906.

To these Instructions there was added the declaration of February 14, 1906, of this tenor:

Marginal heading: Conformity with the typical edition is required in the form of the little notes and the manner in which they are joined.

1. The form of the little notes of the chant must be preserved intact in such a way that all of those which have the same reason or signification, and therefore bear one and the same figure in the typical Vatican edition, likewise in another edition which can be approved by the Ordinary must necessarily be altogether similar and equal among themselves as regards form. And therefore signs which perhaps have been superinduced, with the Ordinary permitting, must in no way affect the form of the little notes, or the manner in which they are joined.

Marginal heading: Confusion between typical notes and superinduced signs must henceforth be avoided.

2. Although some edition has been recognized by the Ordinary or by the Sacred Congregation of Rites itself as in other respects, that is excepting signs, conforming with the typical edition, nevertheless it is necessary that henceforth it observe exactly the norms established above; insofar as, between typical little notes and signs which are added, confusion can no longer arise. Anything whatever to the contrary notwithstanding.

Marginal heading: Decree of August 14, 1905.

III. Moreover, by decree of August 14, 1905, the Sacred Congregation of Rites promulgated the typical edition of Gregorian chant, and, after recalling the laws which forbid books of Gregorian chant to be published without apostolic faculty or differing from the typical edition, manifested the wish of the Supreme Pontiff that the remaining liturgical books of the Roman rite be removed as soon as possible.[^4]

Marginal heading: These laws govern liturgical use.

IV. These things which have been prescribed concerning chant refer in themselves to liturgical use, which the cited Instructions of August 11, 1905, n. IX, positively name; at the same time, however, the right of ownership which, in the same n. IX, the Holy See vindicates for itself in sacred chant approved by it must be observed.

[^1]: Cf. *Periodica Nostra*, t. 1, n. 10, p. 23 and following.

[^2]: In the same place, n. 68, p. 168 and following.

[^3]: There no other condition seems to be required except that the varieties be indicated as supported by the authority of good codices.

[^4]: Cf. *Periodica Nostra*, t. 2, n. 88, p. 38.



Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Chapter VII: On Liturgical and Prayer Books

Article 19

All litanies, except the most ancient and common ones, which are contained in Breviaries, Missals, Pontificals, and Rituals, and except the Litanies of the Blessed Virgin, which are customarily sung in the sacred House of Loreto, and the Litanies of the Most Holy Name of Jesus already approved by the Holy See, are not to be published without the review and approval of the Ordinary.

Marginal heading: Which litanies are common.

90. 1. The most ancient and common litanies are the Litanies of All Saints^[^1] and the Litanies of the Dying.

Marginal heading: Litanies of the Most Sacred Heart of Jesus.

2. To the Litanies approved by the Holy See must now be ascribed the Litanies of the Most Sacred Heart of Jesus, which by decree of April 2, 1899, were approved for the whole Church.

Marginal heading: Force of episcopal approval.

3. The other Litanies which only a Bishop has approved can have only private use, so that publicly, even without the intervention of a sacred minister, they are prohibited from being recited in Churches or public oratories.

Marginal heading: What if litanies are published without approval.

4. Yet if the necessary approval is lacking, the use of a sheet or writing exhibiting Litanies is not prohibited. The general reason already repeated more than once returns. Thus the common opinion. But booklets or books of litanies which lack approval incur the reprehension of the immediately following article 20.

Article 20

Books or booklets of prayers, devotion, or religious, moral, ascetical, mystical doctrine and instruction, and others of this sort, although they seem to conduce to fostering the piety of the Christian people, let no one publish apart from the license of legitimate authority; otherwise let them be held prohibited.

Marginal heading: What books, booklets are.

91. 1. Observe that books or booklets are touched, but not sheets or writings, whether separate or inserted in periodicals, for example, to announce certain pious ceremonies. Thus also **Pennacchi**, n. 58.

Marginal heading: Which are comprehended by the prohibition.

2. Moreover, there is question of those works, as is established from the examples brought forward and from the words "although they seem to conduce to fostering the piety of the Christian people, etc.," whose end is immediately practical (not the mere exposition of doctrine) and is referred to religious or moral instruction: therefore Euchologia; catechisms strictly such, or understood more broadly, that is, those booklets which now not rarely are destined in place of a catechism, or together with a catechism, for forming the morals of boys (*catéchismes de morale*); ascetical books; books which propose meditations; but not books which contain sermons already given, if they are directed to another immediate end than that of forming piety, for example, a literary end, or for the use of other preachers.

Marginal heading: Competent power.

3. Apart from the license of legitimate authority. This legitimate authority, as will be more established from the rules concerning previous Censure, is regularly the Ordinary of the place where the work is published.

Marginal heading: Concerning Euchologia which render Epistles and Gospels in the vernacular language. What if the Order of Mass is translated?

That Ordinary can also permit Euchologia which, as usage bears, contain versions both of the epistles and gospels of the year, and of the Order of Mass, the canon itself not excluded. The former is established from custom; the latter is drawn indirectly from a response of the Sacred Congregation of Rites, which declared that books of this sort "and their versions are reserved to the authority of Bishops."^[^2]

Marginal heading: Sanction of prohibition.

4. Otherwise let them be held prohibited. Here, on account of the dangers of deceptions and hallucinations, a peculiar sanction is added, by which books or booklets are prohibited unless they have been approved by authority of legitimate censure.

Marginal heading: Concerning books which lack an "Imprimatur."

What, therefore, if you meet with a book which before the Constitution of **Leo XIII** was once written to foster piety, but bears no "Imprimatur"?

As we said above, a sanction of this sort does not govern past acts, unless before the Constitution of **Leo XIII** a similar one existed.

But already before the said Constitution, books of piety were forbidden to be published without approval.

Yet that law was not urged with the same severity in every place, so that in several places it could have been softened by a certain benign usage. Thus, therefore, we shall say: If the book seems truly to have been published with a good intention, or is known as pious and useful, the defect of approval can by presumption be ascribed to a certain more benign custom,^[^3] so that it can be read with impunity. Commonly this will have to be judged so concerning good books of Belgium and France. On the contrary, in regions where errors and heresies were carried about under the appearance of piety, as in parts of Germany, a work of this sort which lacks positive approval is rather to be held as suspect and forbidden.

[^1]: These, with a few changes, recur in various sacred ceremonies, as in the Office of Holy Saturday, in Rogations, in sacred Ordination, etc.

[^2]: August 4, 1877. Cf. *Collectan. Prop. Fid.*, n. 1890. Nor can there be brought against this the brief *Ad aures nostras* of **Alexander VII**, January 12, 1661; for there he reprobates an entire Missal rendered in French, and in that form, as it seems, which would be adapted to liturgical use; nor the decree of the Sacred Congregation of Rites in the Lingon case, June 6, 1851, which is no longer found in the Collection of Rites.

[^3]: Even today it can happen that in a certain diocese a usage obtains which differs from the law. Then the same thing must be said.

Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Chapter VIII: On Newspapers, Sheets, and Periodical Booklets

Marginal heading: Argument of the chapter.

By a new positive law concerning periodical writings there is concluded this, as it were, prior section of title I of the General Decrees, in which the prohibitions of books are proposed in order.

Article 21

Newspapers, sheets, and periodical booklets which assail religion or good morals by designed effort are to be held proscribed not only by natural law, but also by ecclesiastical law.

Moreover, let Ordinaries take care, where there is need, opportunely to warn the faithful concerning the danger and harm of reading of this sort.

This article comprises two paragraphs, to be explained distinctly.

I. On Proscribed Newspapers, Sheets, and Periodical Booklets

Marginal heading: The words are explained.

92. 1. First of all let us ask what, in article 21, comes under the name of newspapers, sheets, and periodical booklets.

Marginal heading: Newspapers.

Newspapers are periodicals strictly such, which are published daily.

Marginal heading: Sheets.

By sheets, we understand periodical ones. This is urged by the position of the word, which is placed between newspapers and periodical booklets; it is also urged by the unity of this chapter, which seems as a whole to concern works which have a course in some manner continuous; finally, it is urged by the common opinion.^[^1]

Wherefore, even if someone thought the mind of the Legislator to be otherwise, this, as not promulgated, can safely be put aside, and we shall say that "flying" sheets, published once, are immune from this proscription.

Marginal heading: Periodical booklets.

Periodical booklets are those which in size and form imitate a booklet or even a book, yet differ from books by variety of subjects and writers, and are published after fixed intervals, for example each month, or four times in a year.

Marginal heading: Force of the clause: By designed effort ... not only by natural law.

2. Moreover, from article 21, first part: "Which assail religion or good morals by designed effort, are to be held proscribed not only by natural but also by ecclesiastical law."

Therefore it is required that they be such as of themselves make a proximate danger of sinning, and indeed from this, that by designed effort they assail religion or good morals. For the article sets down that the same things are prohibited by natural law. But the proscription of this law rests upon danger of ruin or scandal.

That they may assail by designed effort, an intention must appear which is directly contrary to religion or morals, and they must do this in themselves, or in a notable part.

Marginal heading: It is necessary that they do this as Newspapers, etc.

3. It is necessary, if we judge rightly, that they do this as newspapers or periodical publications; that is, that, considered in their periodical course, they notably intend these things by designed effort. Therefore it is not sufficient that in some single sheet an impious article be read, but it is necessary that such things be found in several "numbers," or frequently. For newspapers, periodical publications, are punished. But a singular sheet, or "number," is not in itself a newspaper, but some writing, and hence is governed by the law of this.[^2]

But once a newspaper is punished according to its habitual character, even those sheets which in themselves would be harmless participate in that proscription, as parts of the Newspaper. **Pennacchi**, cited work, n. 59.

Marginal heading: What here is to assail religion?

4. Some here understand religion as true or Catholic religion, yet taken universally, so that the attack of one dogma would not suffice. Thus **Hollweck**,[^3] **Gennari**,[^4] and, as the more probable, **Génicot**.[^5] For what, they say, is Religion for the Church except true, Catholic Religion; and would not the end of the law, which certainly looks to the preservation of the Catholic religion, be obtained too imperfectly unless this opposition sufficed for proscription? And perhaps it can be added that immediately in the following dispositions, when Ordinaries are incited to warn the faithful concerning the danger of reading of this sort, and Catholic men are turned away lest they publish anything in these, the intention of the law is carried to all periodicals which are hostile to the Catholic religion. We do not deny that this opinion is probable.

Yet others take the clause **against Religion** concerning a contrariety which is wholly opposed to religion as it is taken for religion both natural and revealed; therefore concerning contrariety to religion as such, or to every religion, even natural, and not merely to religion as revealed, Catholic. Then only those sheets are touched which habitually defend atheism, materialism, and other "modern" errors by which the religious sense of man is extinguished, or which try to overturn every divine worship. Yet a newspaper which attacks Catholic worship would not evade condemnation if, from the manner of attack, an intention contrary to every religion became manifest. For today, to many, the option does not seem to be between anything except either Catholic faith or none. Of this opinion, which we proposed in the first edition, and which **Planchard**,[^6] **Piat**,[^7] and, as it seems, **Périès**[^8] defend, these are the foundations.

a) The word **religion**, according to itself, has a broader usage than faith, and is, as it were, generic, under which true and even false worships are contained. This broader usage is not unknown in ecclesiastical law. Hence speech is made of the impediment of mixed religion, while mixed faith would never be said. In this very Constitution, article 2, with several interpreters, we understood the foundations of religion concerning truths which are the foundation common to every religion; and in article 3, the words "which of set purpose treat of religion" are to be taken more broadly than the words of the exception, "unless it is established that nothing in them is contained against the Catholic faith." By the same appellation of Catholic faith, in article 5, our holy religion is designated.

Come now: the words, not very defined, **to treat of religion**, signify handling a subject religious by its nature.

Hence you are treating of religion whenever you speak of the Catholic faith, of heresy, of pagan worship, etc. But when words signify a definite opposition, contrariety with some species or quasi-species of religion does not necessarily signify contrariety with the generic reason of religion. One who treats, for example, of Protestantism treats of religion; but one who attacks Protestantism will not be said to attack religion. For although whatever is brought forward against the genus is against every species, since the genus is contained in every species, it can by no means be said: whatever is against the species is against the genus.

Therefore the words **to attack religion** can indeed signify: to attack the true faith; but equally well: to attack religion taken generically, or every divine worship. And since prohibitions are to be interpreted strictly, already of itself one must rather incline into this opinion.

b) Historically, moreover, that formula seems first to have been introduced by the decree of February 20, 1778, by which the Supreme Pontiff wished this general proscription to be placed in the Index itself: "All books of unbelievers, whether anonymous or otherwise, in which action is taken against religion." In this condemnation there was speech concerning works of those who rejected every religion.

Moreover, in a matter plainly similar to ours, when from the ordinary quinquennial faculties of reading and retaining prohibited books there are excepted books of set purpose against religion, those are not reputed such which, although opposing revelation, nevertheless preserve safe and sound the foundations of natural religion. Thus at least **Zitelli**,^[9] **Konings**,^[10] **Arndt**,^[11] **De Brabandere**,^[12] **Planchard**,^[13] and it is confirmed from the changed formula, which formerly sounded: against the Catholic Religion.^[14]

c) Nor is it to be denied that plainly impious newspapers deserve a special mark. Thus **Bouix**,^[15] explaining which books would be bad books, already separated books opposing every revealed religion from books which attack only the Christian or Catholic one. Thus, in the question of civil tolerance of cults, theologians distinguish from others cults not opposed to natural religion.

Nor does it stand in the way that at the end of the article, in § 2, there is question also of other newspapers. For even those who defend the more severe side are compelled to make the matter of the prescribed warning broader than that of this prohibition. For newspapers can be bad and dangerous which nevertheless are not of set purpose opposed to the faith, and merely try to attack a certain "clericalism," as they say.

And indeed, in reality, the two opinions are not separated by so great a difference as you might say at first appearance.^[16] For the more benign one looks to this: that certain newspapers which would join hatred of the Catholic faith with zeal for some divine worship not be affected by positive condemnation. Today, in parts where there are Catholics, they will not be very many.

For even in the more severe opinion, only those newspapers are positively proscribed which by designed effort, in their successive course, attack the true religion. Hence several periodicals, although habitually hostile to the Church, if they preserve a certain appearance of honesty and do not openly oppose dogmas, escape that positive condemnation; and it can by no means be conceded that all "liberal" newspapers are condemned by our article.

Marginal heading: Which are good morals?

5. Good morals you should understand, from the common acceptance of the word, as that manner of life which accords with the laws of natural honesty, especially as regards chastity. Thus in French: *les bonnes mœurs*. Therefore "pornographic" newspapers are proscribed; and also, since the law does not distinguish, those which theoretically, by designed effort, strive to overturn good morals.

Marginal heading: Force of the added ecclesiastical prohibition. In part natural law is more severe.

6. But also by ecclesiastical law. What does that added positive prohibition effect? These two things:

Even those for whom by accident the danger of ruin or scandal ceases are nevertheless held by that positive interdict, while the prohibition of natural law must be judged wholly from that danger. With us is **Pennacchi**, n. 59.

If, under this respect, the positive disposition is more severe, on the other hand, there are several sheets, etc., which do not assail religion or morals by designed effort, but whose habitual reading is prohibited by natural law. These are not touched by the present clause.

The other force of the positive prohibition is this: that even parts in themselves harmless of publications of this sort are proscribed. Thus also **Pennacchi**, cited place.

But what is grave matter, cf. above, n. 57.

II. On Pastoral Vigilance to Be Exercised by Ordinaries

Marginal heading: The zeal of Ordinaries is stirred up.

93. The zeal of Ordinaries is stirred up, that they opportunely warn the faithful concerning the danger and harm of reading of this sort. **Arndt**, pp. 91-96, nn. 81, 82, wisely develops that danger.

And, as we said, a similar zeal must be demonstrated concerning all newspapers which bear a mind alien from the Church. For daily reading of periodicals gradually makes persuasions common, or at least does not leave the contrary

one untouched.

Marginal heading: Whether in Belgium there exists a common prohibition of bad newspapers from episcopal law?

N.B. Formerly the Bishops of Belgium, in a pastoral Instruction, August 5, 1843, § 6, had decreed thus: "Nous renouvelons autant qu'il est en nous les défenses faites par l'Église sous peine de péché mortel d'imprimer," etc., "tous livres, journaux," etc. Cf. the text, for example, Statutes of Mechlin, Appendix XXVII.

Yet from this it is not established that there has force in Belgium a common prohibition issued by the Bishops. For they seem to forbid periodicals insofar as, as they themselves were persuaded, they were subject to the universal interdict of the Church. If not, since books are designated by the same sentence, an episcopal prohibition would have to be acknowledged also for books; and consequently the necessity, for reading them in Belgium, of seeking a double license, namely episcopal and pontifical, unless this were fortified by a special clause.^[^17] Yet no one up to now has asserted this. But this seems to have been the end of the Declaration: that by that promulgation every doubt concerning the force of the laws of the Church in Belgium in this matter be removed. Cf. **De Brabandere**.^[^18] He himself adds: "Since it is said, 'nous renouvelons,' no new law ... is added"; and very well **Heymans**:^[^19] "Not only books are comprehended, but also any writings whatever ... if nevertheless the laws themselves of the Church, which are renewed, contained any writing whatever." Now, since before the Constitution of **Leo XIII**, especially after the remembered response of the Holy Office, April 27, 1880, praised above in n. 33, this at least was doubted: not improbably, in those dioceses which are under the regime of that pastoral Instruction alone,^[^20] it is denied that there is an episcopal prohibition concerning periodicals.

Article 22

Let no one from among Catholics, especially from among ecclesiastical men, publish anything in newspapers, or sheets, or periodical booklets of this sort, unless a just and reasonable cause persuades.

Marginal heading: Force of the article.

94. By this article there is promulgated a wise admonition, by which at last we are referred back to the general principles concerning cooperation. Now:

Marginal heading: Whether it is good in itself to increase these sheets with honorable articles.

1. As **Arndt**^[^21] skillfully observes, those are vehemently deceived who, while they regularly send to bad periodicals lucubrations of an honorable but indifferent subject, which are commended by scientific merit or elegance of speech, think that they are performing this useful work: that they may furnish to the readers of these periodicals some honorable food. For they bring it about of themselves that the name of those periodicals is increased, and that the minds of the upright abhor them less. Wherefore only a graver cause can excuse this cooperation, if the influence has not been notable.

Marginal heading: A just cause can exist.

2. Yet, when occasion has been given, to write something to be inserted in those newspapers, especially something which yields to the honor of Religion and the confusion of calumny, for example, if you use the right of responding to some attack, can be the best counsel. Wherefore **Leo XIII** wisely made no absolute prohibition.

Marginal heading: What of announcements to be published.

3. In itself it is also to be disapproved that, by announcing certain things through those newspapers, you give them an occasion of profit. Yet, according to circumstances, this can more easily be lawful. Cf. also **Lehmkuhl**, *Theol. mor.*, I, 665.

[^1]: Cf. still recently **Boudinhon**, cited work, p. 173; **C. Gennari**, cited work, on this place; **Hilgers**, *Der Index*, p. 30; **Ciolfi**, n. 51.

[^2]: With us are **Planchard**, *Rev. Th. Fr.*, cited place, n. 76; **C. Gennari**, *Monit.*, p. 80; **Pennacchi**, cited work, n. 59; **Périès**, cited work, p. 122; against **Moureau**, *Rev. Sciences Eccl.*, cited place, p. 115.

[^3]: Cited work, p. 37.

[^4]: Cited work, on this place.

[^5]: Cited work, I, 452, 9.

[^6]: *Rev. Th. Fr.*, cited place, n. 74.

[^7]: *Nouv. Rev. Théol.*, t. 31, pp. 140 and 344.

[^8]: Cited work, p. 125.

[^9]: *Apparatus iuris eccl.*, p. 540, note.

[^10]: *Comment. in facult. apostol.*, n. 177.

[^11]: Cited work, n. 182, p. 251.

[^12]: Cited work, n. 1361.

[^13]: *Rev. Th. Fr.*, 1897, p. 35.

[^14]: Cf. declaration of **Urban VIII**, October 30, 1631, in **Albitius**, *De inconst. in fide*, chapter 30, n. 262.

[^15]: *De Curia*, p. 386.

[^16]: Wherefore in the more benign opinion we do not think there is so much danger in it as the Eminent and most learned **C. Gennari**, on this place, thinks. And we are confirmed by the response of the Sacred Congregation of the Index. For from the benign report of the orator we received that a doubt about this matter had been proposed to the Sacred Congregation, among several others. But this Congregation responded in the year 1902: "It is not the custom of this Sacred Congregation to solve doubts proposed thus, nor do they seem such and of such great moment that they demand to be solved by the authority of the Congregation itself."

[^17]: Cf. article 25 of this Constitution. Yet concerning the efficacy of the act by which a bishop would wish to sanction more firmly a pontifical prohibition, there can be doubt. Cf. the declaration of article 25.

[^18]: In the first edition, II, pp. 452, 453.

[^19]: Cited work, n. 312.

[^20]: For in Liège there were added the Instructions of the Most Illustrious Bishop in the years 1857, 1858, 1865. Also to be praised is the more recent letter of March 21, 1899, by which the new laws were proposed and inculcated to the faithful.

[^21]: P. 237, n. 175, 9.



Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Chapter IX: On the Faculty of Reading and Retaining Prohibited Books

Marginal heading: Argument of the chapter.

After the prohibitions have been reviewed, there is suitably joined the tempering of a faculty which removes the obstacle of positive law, but by no means of natural law. For the law is not simply: Do not read; but, do not read without a faculty.

Article 23

Books proscribed either by special Decrees or by these General Decrees, only those will be able to read and retain who have obtained opportune faculties from the Apostolic See, or from those to whom it has delegated its functions.

Marginal heading: Universal necessity of having a faculty.

95. 1. Since the article permits only those to read or retain proscribed books who have obtained a legitimate faculty, it makes the same faculty universally necessary.

From this necessity no grade is excepted: since Cardinals themselves obtain the faculty for themselves; nor doctrine or science, as **P. Hilgers** proves broadly.^[^1] To declare immune as many as, for example, excel in all sciences or in some, would be a matter full of danger and confusion, and alien from ecclesiastical tradition, while the obedience of the more learned is especially salutary to themselves and to others.

Nor should you argue from the moral security which those doctors enjoy. Even if we have conceded this, this remains: that the law is not taken away because its reason has ceased negatively in only a particular case.

Nor should you bring forward inconvenience. For as long as there is an opportunity of seeking permission, an inconvenience by which you would be excused from the law cannot be alleged.

Marginal heading: Moral necessity excuses from the law in a particular case.

2. Yet actual exceptions from the law, if at any time, from an assumed office, a moral necessity presses you to read some condemned work, seem able to be admitted even without any faculty having been sought, provided, as is clear, proximate danger of sin is avoided.^[^2] In this necessity there can be: a judge, an advocate in a forensic controversy; a person to whom specially, from article 27, it belongs to make denunciation, for denouncing a certain book; an ecclesiastical superior, for examining and reprobating this book; a writer of a Catholic newspaper, for responding promptly; a youth who, for hearing lectures which he lawfully attends, or for making an examination in a philosophical matter or in letters, is compelled to use uncorrected texts; and, according to **Hollweck**,^[^3] probably also a professor of moral theology, insofar as it is necessary that he know in some manner obscene books, for which a faculty is not conceded. For in these cases the license of reading is contained in the faculty itself of exercising such an office; or the end of the law can be said to cease contrarily and there is place for epikeia. For it ceases contrarily, as **Lugo** explains diffusely,^[^4] when the common good itself demands that the bond of the law be removed in a particular case. Moreover it is for the republic that pious and Catholic men not be prohibited from exercising offices and duties. Cf. **Hollweck, Génicot**.^[^5]

Marginal heading: What of grave utility?

The end of the law also ceases contrarily if grave utility has demanded that you do something prohibited in itself, and there is no opportunity of approaching the superior for license. They give the case of a disputation with a heretic, if, in order to convert him, it is necessary for you to show contradiction in a heretical author, and you have hope of

fruit. **Laymann**, cited place, tract 1, chapter 15, n. 5.

But the reason of attacking heretics in general does not suffice, since the opportunity of asking license is at hand, and the common good requires that you not dispense yourself by your own private judgment. Cf. **Lugo**, cited place, n. 66; **Arndt**, pp. 259, 260, n. 185.

Article 24

For granting licenses of reading and retaining any prohibited books whatever, the Roman Pontiffs have set over the Sacred Congregation of the Index. Nevertheless, the Supreme Congregation of the Holy Office enjoys the same power, and also the Sacred Congregation de Propaganda Fide for regions subject to its rule. For the City only, this faculty also belongs to the Master of the Sacred Apostolic Palace.

Marginal heading: How widely the faculty of the Sacred Congregations of the Index and of the Holy Office extends.

95 bis. 1. a) The Sacred Congregations of the Index and of the Holy Office possess the power, circumscribed by no place, of granting permission for the reading of prohibited books.

Marginal heading: Sacred Congregation de Propaganda Fide.

b) That which the Sacred Congregation de Propaganda Fide has is circumscribed to regions subject to its rule. Yet observe that there are certain other regions, for example Belgium, whose bishops have customarily obtained habitual faculties from the Sacred Congregation de Propaganda Fide.

Marginal heading: Master of the Sacred Palace.

c) Finally, the power of the Master of the Sacred Palace^[^6] is conceded to him for the City.

Marginal heading: Use of the faculty outside the territory of the one granting.

2. Come now: those territorial restrictions regard the faculty itself of granting, but not the use of the faculty granted. For the faculty falls into a personal privilege, which it is lawful to use everywhere, and for the time for which it is legitimately granted.^[^7]

Wherefore, unless an express restriction has been made, both the Dutchman to whom the Sacred Congregation de Propaganda Fide and the inhabitant of the City to whom the Master of the Sacred Palace have permitted readings of prohibited books can read the books in any places whatever.^[^8]

Indeed **C. Gennari** and **Ciolfi**, on this article, teach that the faculty perseveres in itself even in him who has changed domicile.

[^1]: *Der Index*, pp. 47-59.

[^2]: Yet they will do better, if it can be done, to obtain license; indeed **Pennacchi**, n. 61, seems to require this.

[^3]: Cited work, pp. 32, 33, note 1.

[^4]: *De Fide*, distinction 21, nn. 63-66.

[^5]: **Hollweck**, cited work, pp. 32, 33, note 1; **Génicot**, cited work, I, 452, 4.

[^6]: This is the name of one of the more outstanding Prelates of the City, who is present with the Cardinal Prefect of the Index in council and exercises the office of censor in the City. He is always chosen in the Dominican family, and now has the name Reverend Father **F. Albert Lepidi**.

[^7]: Cf. **Suarez**, *De Legibus*, book 8, chapter 26, nn. 12 and 15; **Schmalzgrueber**, on book 5, title 33, n. 113.

[^8]: **Albitius**, *De inconstantia in fide*, chapter 30, defends the contrary opinion, but his arguments seem either never to have force, or at most under an antiquated regime. And he undeservedly appeals to **Suarez**, *De Legibus*, book 8, chapter 86, n. 8, where the eminent Doctor merely holds that a faculty for reading books in another region prohibited by particular law cannot be made by the senate of one region.

Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Chapter IX: On the Faculty of Reading and Retaining Prohibited Books

Article 25

Bishops and other Prelates possessing jurisdiction as if episcopal can grant license for individual books, and only in urgent cases. But if the same have obtained from the Apostolic See a general faculty, so that they can impart to the faithful license of reading and retaining proscribed books, let them grant it only with selection and from a just and reasonable cause.

Marginal heading: Force of the article.

1. This article treats of Bishops and of Prelates who possess jurisdiction as if episcopal. It concedes to them a certain ordinary power for permitting the reading of individual books; and it admonishes them concerning the right use of the broader faculties which have customarily been delegated to them. Hence there are two Parts of the article.

I. On Ordinary Power

Marginal heading: Which Prelates possess this faculty.

96. 2. Prelates to whom quasi-episcopal jurisdiction belongs are Nuncios,^[1] Apostolic Vicars, Capitular Vicars, and Superiors of exempt Regulars, both Generals and Provincials, and also, as is probable, Locals,^[2] provided they truly preside over a convent or monastery. Thus Guardians of the Friars Minor; Priors of the Friars Preachers; Provincials, Rectors, Vice-Rectors of the Society of Jesus, and Superiors of houses which are of their own right. But not Ministers, nor Priors who are subject to an Abbot.^[3]

The same power belongs to the Vicar General, not as to a Prelate, but insofar as he exercises episcopal jurisdiction as one judge with the Bishop.

Marginal heading: What power has been conceded to them.

3. To these Prelates an ordinary power is made of conceding license, for individual books, and only in urgent cases.

Marginal heading: For individual books.

For individual books, strictly, would signify for certain books designated individually, and not by some general reason of books, for example, which might be useful for making this lucubration. Yet because the faculty can be taken broadly, a sufficiently special designation seems to suffice so as to contract the faculty to a few books, provided the other condition of an urgent cause is observed.

Marginal heading: In urgent cases.

In urgent cases only. A case will urge if a just cause of reading suffers no delay necessary for Roman recourse.^[4]

But the cause ought not to be of so great necessity that it excuses from the law; but we seem able to be content with notable utility, on account of which a general license would deservedly be given by a competent Superior; indeed with less, since there is less danger in the reading of one individual book. Suppose, for example, that a rare occasion is offered of reading a book which is indeed prohibited but useful for studies.

Marginal heading: It can be delegated.

Since this power is ordinary, it can be delegated to Deans, Parish Priests, and Confessors themselves (for whom it will often be useful to have it).

Marginal heading: It extends to obscene books.

It is not circumscribed by object, so that, if nevertheless a just cause underlies it, it comprises a book obscene of set purpose.^[^5]

II. On Delegated Power

Marginal heading: Faculties delegated by the Holy See.

97. Greater faculties are sometimes delegated by the Apostolic See to the same Prelates, by which they are permitted to concede to their subjects a general faculty of reading and retaining prohibited books.

Concerning the right interpretation of those faculties, these things occur to be observed.

Marginal heading: Interpretation.

a) These faculties are to be interpreted broadly.

Marginal heading: Communication with successor and by delegation.

b) From the new discipline introduced through the Decree of November 24, 1897, these faculties, which are conceded for a certain space of years, if they are handed to Bishops, also pertain to Vicars General; if they are given to Ordinaries of places, or to Superior Generals of Regular Orders, they pass (in the state in which they were) to their successors, substituted in their place by stable or passing title; and, from the decree of December 14, 1898, they are in themselves delegable.^[^6]

Marginal heading: Use in favor of themselves.

c) Bishops can concede the faculty to themselves by force of the obtained Indult, since the act pertains to voluntary jurisdiction.^[^7]

Marginal heading: And of Regulars.

c) Bishops seem able to use those faculties which they have obtained in favor of Regulars, lest the favor of exemption yield to their detriment.^[^8]

Marginal heading: Limits of a temporal faculty.

d) Unless the formula restricts the power, the Bishop can make the permission perpetual. But if he cannot give perpetual permission, he does not seem to exceed his power if he gives the faculty until revocation. For this is numbered among temporal faculties.

Marginal heading: What if the indult is temporary.

But by no means must he circumscribe the faculties which he concedes by the same time by which he himself has the faculty of conceding. For it is well conceived that for a quinquennium a faculty is given to someone of giving even perpetual licenses; and there is no reason why you should restrict to the time of the indult the time of the faculty granted by force of the indult. Otherwise, a Bishop who obtained a quinquennial indult four years earlier could now make a faculty only for one year; and he whose indult would expire after a month could permit reading only for a month. Doctors adhere to our interpretation and the style of the Sacred Congregation of the Index accords with it.^[^9]

Yet this must be understood in itself. For in the Indult the time can be expressly defined beyond which permission cannot be conceded; and the present mind of the Sacred Congregation de Propaganda Fide^[^10] seems to understand indults conceded by it in that manner which in itself we reject.

e) The modes and limits which are prescribed in the indult must be well observed.^[^11]

And so, in the use of the Indult the apostolic authority by force of which the faculty is conceded must be recalled.

The faculty must be conceded altogether gratis.

The power is not accustomed to extend to all books to be conceded, but certain ones designated by name, or certain classes of books, are excepted.^[12] For example, delegation is never given for permitting books obscene of set purpose.

Often, especially for books against Religion, Bishops can concede the faculty only to those persons who are furnished with a certain quality.

While it is always required that Bishops concede this permission only with selection, or with prudent discretion of persons and circumstances, and from a just and reasonable cause (article 25), the cause itself is sometimes indicated taxatively: "for the effect of attacking them (heretics)." Cf. n. 98, 5.

The form of the Indult which the Sacred Congregation of the Index grants to Bishops is this:

Most ample and Reverend Lord,

Our Most Holy Lord **Pius Pope X**, kindly receiving the suppliant prayers by which Your Amplitude asked the faculty of permitting to the Christian faithful committed to your pastoral care the reading of books prohibited by the Apostolic See, committed to this Sacred Congregation of the Index that it should impart to You, concerning whose religion, doctrine, and piety he has very great confidence, the aforesaid faculty, namely of conceding to the faithful of Your diocese, from a just and reasonable cause, license of reading and retaining prohibited books, with certain laws and conditions nevertheless preserved, until ...

Wherefore you can concede:

1°. To upright and learned men only, license of reading and retaining any books whatever (and periodicals) prohibited by the Apostolic See, excepting those which defend heresy or schism, or overturn the very foundations of religion; whose reading you can permit only to those whom you know to be more outstanding in doctrine, piety, and zeal for the faith; but you shall permit to no one the reading of books treating obscene things of set purpose.

2°. To youths who in public schools, gymnasia, lyceums, academies apply themselves to studies, you can similarly concede license of reading and retaining, for as long as they are placed in that necessity, books proscribed by the same Apostolic See which by command of lay power they are compelled to have at hand.

But the aforesaid licenses are to be conceded gratis under any title whatever, and without any emolument to be received by Your episcopal curia, under penalty of nullity; and in each letter of concession express mention must be made of the Apostolic faculty.

In faith of which, etc.

Given at Rome, from the Secretariat of the Sacred Congregation of the Index, on the ... day of the month ... in the year ...

To the Most Ample and Reverend Lord

Lord ...

[1]: The principle from which they could regularly do those things "which the Ordinary could do in his diocese" seems sufficiently to have force for this use. **Pirhing** and **Schmalzgrueber** on book 1, title 30, n. 4.

[2]: Cf. **Vermeersch**, *De Religiosis*, etc., t. 1, n. 412.

[3]: The distinguished **Pennacchi**, A. S. S., n. 63, p. 385, whom **Ciolfi**, n. 59, still follows, undeservedly excludes from use of this faculty all regular Prelates whose authority, circumscribed to monks, is not exercised over some people. He gives as reason that, in the latter part of article 25, the Legislator sets down the case in which Prelates of this sort have obtained from the Holy See the faculty of imparting to the faithful license of reading and retaining prohibited books. Therefore the Prelates must be understood only as those who would have faithful. But by the name of faithful there come only "secular men and those living in the lay state." But what prevents some expression in the two sentences from being taken in a sense accommodated to each sentence? Therefore in the former sentence, Prelates possessing jurisdiction as if episcopal will be all who are accustomed to

come under this name; in the latter they will be those who "de facto" have faithful. Besides, why say more? Even if this article did not include regular Prelates in express words, it was not fitting to pass over the Constitution *Romani Pontificis circumspecta* of **St. Pius V**, which universally disposes: "The Regular Prelates themselves, by themselves, can do altogether the same toward Brothers and Nuns ... subject to them, which Bishops can do toward clerics and laymen subject to them, both as regards faculties of absolving and dispensing of this sort and as regards any other faculties whatsoever, by the same authority and tenor, even perpetually we concede and indulge, and also declare." That this Constitution still has force, **Piat**, *Prael. Iur. regul.*, t. 2, p. 87, note 2, shows. This concession plainly suffices in the present species. Cf. also the general principle in **Suarez**, *De Relig.*, tract 8, book 2, chapter 12. On the matter also very well **Wernz**, cited place, n. 111, note 78.

[^4]: To Roman recourse, I say. For just as concerning reserved cases, so concerning this matter the impediment seems able to be estimated with respect to him who has the ordinary faculty, that is, in the case, with respect to the Holy See. Therefore the said superiors will enjoy the faculty of an urgent case although opportunity is at hand of approaching a Bishop furnished with a delegated faculty.

[^5]: **Nordin**, *Summa theol. mor.*, n. 694, note.

[^6]: Some have been deceived by the prior law, for example **Hilgers**, p. 31, note 2, who deny that these faculties can be delegated.

[^7]: **Sleutjes**, *De prohibitione*, p. 32.

[^8]: **Vermeersch**, *De Religiosis*, I, n. 382.

[^9]: **Zitelli**, *Apparatus iuris eccl.*, p. 541, note; **Arndt**, cited work, p. 252; **Wernz**, cited work, n. 111, note 79; **Hilgers**, cited work, p. 31, note 2.

[^10]: The clause **in the diocese** is taken by the same Sacred Congregation in such a way that, when the faculty is made, the Bishop conceding it and the subject to whom he concedes it must both be present in the diocese.

[^11]: The Sacred Congregation of Propaganda Fide has a longer Instruction, which we have copied in the fourth part of this work.

[^12]: At least expressly. For in n. 2° of the formula just recited no books are excluded.



Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Chapter IX: On the Faculty of Reading and Retaining Prohibited Books

Article 26

All who have obtained an apostolic faculty of reading and retaining prohibited books cannot on that account read and retain any books whatever, or periodicals proscribed by Ordinaries of places, unless in the apostolic indult there has been made to them express power of reading and retaining books condemned by whomsoever. Moreover, let those who have obtained license of reading prohibited books remember that they are held by a grave precept to guard books of this sort in such a way that they do not come into the hands of others.

Marginal heading: Division of the article into two parts.

We shall imitate the disposition of the article itself, if in the former Part we illustrate by certain notes the faculties of reading and retaining books, but in the other we declare the manner to be observed by all who are permitted to read prohibited works.

I. On the Former Part

Marginal heading: An apostolic faculty does not permit books prohibited by Bishops.

98. 1. The Holy See does not lack the power of permitting someone books prohibited by Ordinaries, but the intention or will is lacking unless the indult gives express permission of reading and retaining books condemned by whomsoever. This clause is contained in no general formula. Therefore the Holy See is accustomed to act here in the same way as when it gives a faculty in reserved cases. Cases which the Bishop has reserved to himself have not customarily been contained by an apostolic faculty.

Marginal heading: By their ordinary power.

But this holds concerning episcopal proscription as it is a diocesan decree, not however as it is borne from delegated power. For the Holy See itself is judged to act through its delegate. Hence books proscribed by a delegate as such are judged condemned by apostolic authority. Wherefore the faculty of reading books disapproved by the Holy See must consequently comprehend these.

Marginal heading: Corollary.

Therefore exempt persons, for example regulars, if you contend that they are held by the prohibitions of bishops insofar as delegated faculty has been conceded to these,^[^1] will be able, once an apostolic indult has been obtained, actually to read works proscribed by Bishops.

Marginal heading: One who can read a book can in itself retain it.

2. The faculty of reading books seems in itself to comprise the faculty of preserving the same, yet circumscribed by the same limits. Wherefore, if the reading has been conceded only for a passing act, or if the one has permitted it who enjoys power only for an urgent case, a distinct faculty must be sought for habitual preservation, all the more because sufficient time is at hand to obtain it.

Marginal heading: One who can read books can also read periodicals.

2. The faculty of reading prohibited books comprises the faculty of reading periodicals. For attention is turned less severely to periodicals than to books.^[^2] It is confirmed indirectly from our article 26. For while it denies that one who

has the apostolic faculty of reading books can read books or periodicals proscribed by Ordinaries of places, it indirectly says that periodicals condemned by the Apostolic See can in themselves be read by him.

But, on the contrary, the faculty of reading periodicals cannot be understood concerning books.

Marginal heading: Clauses: excepting books against Religion.

3. The clause, **excepting books of set purpose against Religion**, seems able to be understood concerning books which with direct intention have been written against every religion.^[^3]

Of this sort are those which of set purpose try to demonstrate that every religion is harmful or false; or which of set purpose blaspheme God and every worship; but not those which reject positive religion in order to preach natural religion.

Marginal heading: Or which overturn the foundations of religion.

4. The exception of books which in any way overturn the foundations of religion excepts books which defend materialism, atheism, positivism.

Marginal heading: What of the clause: "for the effect of attacking."

5. The concession is sometimes clothed with this clause: "for the effect of attacking them (bad writers)." All admit that this clause is to be interpreted benignly and without scruple.^[^4] Indeed, according to a very probable opinion, those words indicate the reason why the exception has been made, not a condition to which the use of the conceded faculty is tied:^[^5] so that it is justified by any right end whatever. This is confirmed from the fact that at the same time the Superior judged that the danger of perversion was not imminent for the dispensed person. **St. Alphonsus**.^[^6] Thus **Zitelli**,^[^7] **Planchard**,^[^8] **Génicot**.^[^9] This will hold much more if there is added: and as an aid to one's own office and honorable studies.

Marginal heading: Use outside the diocese.

6. Unless the use is clearly more circumscribed, you can use everywhere the faculty of reading books condemned by the Holy See, whether the Holy See itself directly, or the Bishop from delegated power, has made this permission for you. For here holds the rule concerning dispensation, according to which dispensation from commission and dispensation from ordinary power are in themselves contained by the same limits. **Schmalzgrueber**, on book 5, title 33, n. 111. With us is **Sleutjes**, *De prohibitione*, etc., p. 31.

Moreover, the clause: in such a way that books are not taken out of this diocese, does not seem in itself to have the force of prohibiting use outside the diocese, since it rather looks to this, that books not be introduced into another diocese in a stable manner, although he who is endowed with the faculty can read also there books occurring there or brought with him there.^[^10]

II. On the Other Part

Marginal heading: Precept of custody.

99. Diligent custody is prescribed under grave guilt, yet its manner is not defined.

The guilt will be grave if negligence creates grave danger lest a proscribed book be read by those to whom it is prohibited under grave guilt.

Yet the manner is not defined. And so it is not prescribed that books be locked up with keys, although this caution is to be commended in libraries and sometimes will be the only one by which satisfaction is made to the law; but it suffices that it be morally established that the book will not be read by those to whom it is not lawful.

Come then, let Catholic and even ecclesiastical men, who for the best ends and with legitimate permission possess prohibited books in their Library, bear due solicitude concerning the destination of works of this sort after their death: lest through their negligence they then begin to harm others, when for their own good deeds they hope for eternal reward for themselves.

N.B. The formulas of faculties which are customarily conceded by the Sacred Congregation of the Index are contained below, in part four.

[^1]: Cf. above, part I, n. 64.

[^2]: Cf. **Arndt**, cited work, p. 223, n. 166; **Pennacchi**, cited work, n. 64; **Ciolfi**, cited work, n. 55.

[^3]: Cf. above, n. 92.

[^4]: Cf. **Heymans**, cited work, n. 345.

[^5]: A condition *sine qua non* is customarily indicated more clearly: otherwise not; not otherwise; otherwise the whole will be void. **Zitelli**, *Apparatus*, p. 541, note.

[^6]: Book 7, n. 291.

[^7]: *Apparatus*, p. 541, note.

[^8]: *Rev. Th. Fr.*, 1897, pp. 31, 32.

[^9]: Cited work, I, 457.

[^10]: For reading, in another diocese, books prohibited by the Bishop of that diocese, the faculty of another Bishop cannot benefit those who are bound by this episcopal law, such as those would be who acquired at least a quasi-domicile in another diocese. Against **Heymans**, cited work, n. 343, and **De Brabandere**, cited work, n. 136.



Part Two: Commentaries on the General Decrees

Title I: On the Prohibition of Books

Chapter X: On the Denunciation of Bad Books

Marginal heading: Argument of the chapter.

This chapter, which is inscribed concerning denunciation, while it invites all to the prudent indication of books to be proscribed, confirms for Bishops the power of proscribing books and exhorts them to exercise it.

Article 27

Although it belongs to all Catholics, especially to those who excel in doctrine, to denounce pernicious books to Bishops or to the Apostolic See, nevertheless by a special title this pertains to Nuncios, Apostolic Delegates, Ordinaries of places, and Rectors of Universities flourishing in praise of doctrine.

Marginal heading: By what law books are to be denounced.

100. 1. By this article a new precept does not seem to be established; but an office is recalled which, from charity, can urge the faithful and, from office, can urge those who bear the care of souls, according to the general rules of moral theology.

Marginal heading: What, by special title?

2. The words **by a special title** do not seem definitely to indicate an obligation from office, since Rectors of Universities do not bear pastoral care, but a peculiar reason either of an entrusted duty or of fitness and capacity.

Marginal heading: What, an Apostolic Delegate?

3. Apostolic Delegates, in certain regions where a Nuncio of the Pontiff before the civil power is lacking, bear the person of the Pontiff before the faithful and bishops.

Such is the Apostolic Delegate of the Indies, of the Federated States of North America.

Marginal heading: To whom books are to be referred.

4. Books can be referred to the Bishop or to the Holy See, that is, to the Holy Office, to the Sacred Congregation of the Index, or, from places subject to the Sacred Congregation de Propaganda Fide, to that Congregation, or to the Congregation which can be competent from the special object, such as the Sacred Congregation of Rites in the cause of liturgy or the cult of Saints. Observe that by the Holy Office alone can propositions be "qualified" as heretical, erroneous, etc.

Simple faithful will better refer the cause to the Bishop.

Article 28

It is expedient that in the denunciation of bad books not only the title of the book be indicated, but also, insofar as it can be done, the causes be set forth on account of which the book is judged worthy of censure. But to those to whom the denunciation is referred, it will be sacred to preserve secret the names of the denouncers.

Marginal heading: Summary of the article.

101. 1. By this article counsel is given that those who refer a book should indicate the causes on account of which the book seems to be disapproved, noting, for example, suspect places.

Marginal heading: Promise of secrecy.

2. Lest the faithful be slowed by fear of revelation, or, with their own name suppressed, greatly detract from the force of the indication, security is promised to them while the office of preserving the secret names of those referring is inculcated.

They know by how strict an obligation of sworn secrecy the members or consultants of the Sacred Congregations are bound.

Article 29

Ordinaries, also as Delegates of the Apostolic See, should strive to proscribe and take from the hands of the faithful books and other harmful writings published or diffused in their Diocese. Let them refer to Apostolic judgment those works or writings which demand a subtler examination, or in which, for pursuing a salutary effect, the sentence of supreme authority seems to be required.

Marginal heading: Division of the article.

By the former part of this article the zeal of Ordinaries is stirred up, with their power also broadened; in the other part prudent use of the conceded power is urged.

I. On the Former Part

Marginal heading: Who Ordinaries are.

102. 1. Ordinaries here are those who rule a diocese or quasi-diocese by ordinary jurisdiction, or jurisdiction equated to ordinary. Diocesan Bishops, therefore, Apostolic Vicars in places of missions, Abbots Nullius, Capitular Vicars. But not Vicars General, unless from a special mandate, without which they cannot make laws. Regular superiors will provide for their subjects by more private and personal care.

Marginal heading: Also as delegates. They are presumed to use delegated power.

2. Also as delegates. And unless they say otherwise, they are presumed to use delegated power, because it is honorable and useful to them.

The force of the clause itself was declared before.^[1] Here its effects will immediately appear.

Marginal heading: What works they can prohibit.

3. Books and other writings, of whatever author they are, even an exempt one, in whatever place they have been published, indeed even approved. Therefore even if they have come forth at Rome with the permission of the Master of the Sacred Palace or of the Sacred Congregation of the Index.^[2]

Yet it is sufficiently clear that a book approved by another Bishop, and much more by a Sacred Congregation, cannot prudently be prohibited without gravest reasons. Cf. **Albitius**,^[3] **Arndt**.^[4]

Marginal heading: What, if already prohibited by the Holy See?

You will ask whether a book proscribed by the Holy See can again be prohibited by the Bishop himself, or whether he ought to abstain from that cause.

There does not seem to be place for delegated power. Why would a delegate repeat what the Holy See did by itself? Concerning ordinary power a question could be moved similar to that which concerns reserved cases. For it is asked whether the Bishop can reserve to himself cases reserved by the Apostolic See. Several deny this,^[5] because the inferior must abstain from a cause which the Superior has made his own. And in the present case the force of the episcopal sentence would be this: that a pontifical faculty, such as is customarily conceded, would no longer be sufficient for permitting the reading of a book also prohibited by the Bishop.

Marginal heading: Recent example.

However that matter stands, the Cardinal Vicar of the City recently proscribed in this manner a certain work already placed in the Index on December 6, 1905. Yet he expressly declared that he was using his ordinary power and was directing the precept to persons subject to his jurisdiction.[^6]

It seems sufficiently established to us that Regulars are not affected by a decree issued by this reason.

Marginal heading: Harmful writings.

4. Harmful. That is, those which certainly oppose faith, morals, or ecclesiastical discipline, or create certain danger. Where the crime is not manifest, or there can be doubt about the opportuneness of the condemnation itself, let the work rather be referred to the Holy See.

Marginal heading: What if matters are controverted.

Yet because by their authority they cannot settle controversies which the Church tolerates, therefore it is not lawful for Bishops to proscribe a book because it contains doctrine disapproved by them indeed, but which has neither been condemned, nor comes near to condemned doctrine, nor is thought scandalous.

But if the writer has used that injurious manner of writing, or one contrary to Christian charity, which **Benedict XIV** orders to be restrained, they can certainly mark the book on account of this cause. To use other words, they must observe the rules which were proposed to the Sacred Congregation of the Index.

Marginal heading: If they are treated inopportunately?

But what if they judge a controversy, for example concerning probabilism, inopportune and pernicious in their diocese?

On account of inconvenience of this sort, a book does not seem able to be proscribed. But the Bishop can use his authority lest those subject to him handle these matters. And in an urgent case of warding off a grave evil, he can, from a certain presumed faculty of the Holy See, prohibit that book or controversy.[^7]

Marginal heading: What if a book is scarcely read in some diocese?

5. Published or diffused in their Diocese. Concerning works which are scarcely read in their diocese, there is no reason why Bishops should care. But the reason of proscription will already be present if they are made more certain that it will soon happen that the book is spread in their diocese. It is better and more efficacious to cut off the evil in the first root than to resist it after it has broken out. The Cardinal Vicar of the City went before by example, recently condemning a work which they were planning to spread in the City.

Marginal heading: Proscription is not always efficacious, nor is it used everywhere.

6. They should strive to proscribe and take from the hands of the faithful. Toward the end indicated by the final words, often another way besides simple proscription must be contended by, for example, pastoral exhortation, dealings with booksellers.

But not a few Bishops abstain from proscription as insufficiently efficacious. Certainly there are very many dioceses in which there is no episcopal edict touching certain books in species.

Marginal heading: Books ought not to be handed over to the Ordinary; but destroyed or given to one having the faculty. Whether they can be restored to the owner?

7. By the Constitution *Officiorum*, there is no longer prescribed a handing over to the Ordinary, which even before was urged little. **Arndt**, pp. 238, 239.

Therefore prohibited books in themselves are to be destroyed or given to one having the faculty; nor can they in themselves be restored to an owner not having the faculty. Yet you will be excused by notable inconvenience: for example, of quarrels, blasphemies, etc., and also (a special reason being excluded) of grave sadness of a friend, of fear lest friendship be dissolved. **Ballerini**, on **Gury**, I, 241; **Arndt**, cited place; **Berardi**, *De occasionariis*, II, p. 248.

II. On the Other Part

Marginal heading: Books to be reserved to the Holy See.

103. It happens that in a work there is a suspect novelty, which nevertheless is not destitute of patrons or specious reasons. It also happens that there is danger lest the episcopal sentence be disapproved and, for example, in other dioceses be exposed to contempt and mockery, or that the dignity of the author would make an episcopal decree imprudent. Doubt concerning the quality of the book, and the necessity of greater authority, are two causes on account of which article 29 prescribes to Ordinaries that they refer those works to Apostolic judgment.

[^1]: Cf. n. 64, p. 54. And this is well declared here by **Ciolfi**, n. 67, although in n. 61 he defended an opinion contrary to ours concerning the exemption of Regulars.

[^2]: Cf. **Albitius**, *De inconstantia in fide*, chapter 30, n. 166 and following.

[^3]: **Albitius**, cited place.

[^4]: **Arndt**, pp. 213, 214.

[^5]: Cf. **Ballerini-Palmieri**, t. 5, p. 427 and following, ed. 2, where they hold this as most certain, and add that episcopal reservation of a case also ceases by the fact that afterwards the Pope reserved the same to himself.

[^6]: That decree has these things: "Since it is established to Us concerning the plan of publishing soon in this City of Rome the book whose title is *La question biblique au XXe siècle*, by Albert Houtin, Paris, Librairie E. Nourry, 14, Rue N. D. de Lorette, 1906: Having heard the opinion of certain learned men, by Our ordinary authority we proscribe the aforesaid book and declare it proscribed. And so let it be lawful for no one, of whatever grade and condition, subject to Our jurisdiction, to sell or read or retain the proscribed book under mortal guilt. Given at Rome, May 14, 1906. Peter Respighi, Cardinal Vicar. Francis Canon Faberi, Secretary."

[^7]: This general right seems to belong to the Bishop of promptly meeting a certain and grave evil. Cf., for example, response of November 15, 1905, where, on account of special circumstances, an act contrary to the privilege of Regulars was approved. Cf. *Periodica nostra*, t. 2, n. 101, p. 57.



Part Two: Commentaries on the General Decrees

Title II: On the Censure of Books

Marginal heading: End and reason of being of censure.

104. 1. The censure of books was chiefly instituted for this reason: that subjects which indeed can profit much, but can also harm the spiritual utility of the faithful, may be proposed to them only cautiously and prudently.

And while ecclesiastical Prelates do not permit the faithful freely to bring forward publicly their opinions on religious matters, at the same time they inculcate and make manifest the distinction divinely introduced between the Church teaching and the Church learning.

The Bishops of England observed this in their encyclical letters of the year 1900.

Marginal heading: What "Imprimatur" signifies.

Yet beware lest you confuse the license of publishing with positive approval. For a work which ecclesiastical power permits to be printed, it neither makes its own, nor positively praises or approves; but in itself it merely indicates that, at least in the present circumstances, it can be tolerated, since it does not seem to contain such things as are worthy of reproof to such a degree that the book itself seems to have to be suppressed. Therefore it is not repugnant that a work permitted in this place be prohibited in another, or that one now dismissed should afterwards have to be prohibited; and, conversely also, it can happen, and in reality does happen, that a book is struck from the Index.

Marginal heading: N.B. To what end censure?

2. Previous censure is required not so much in order that a book be committed to type, as in order that copies be scattered among the public. For almost everywhere in the Constitution the license is said to be sought or necessary in order that a work be published,[^1] be published into the light,[^2] be made public,[^3] become public.[^4] Hence if, in articles 37 and 38, speech is made concerning printing, that word seems to sound the same as publication in article 40. Cf. **Genicot**, cited work, I, 458.

Marginal heading: How the work is to be submitted to censure.

3. Nor are the solemnities of the Instruction of **Clement VIII**, *De Impressione*, sec. 4, now required.[^5] Therefore it does not matter whether you exhibit a manuscript codex, or sheets already described in type (*des épreuves d'imprimerie*), provided that you are prepared to make the prescribed corrections. **Genicot**,[^6] **Hollweck**.[^7] Nor must one copy now be given as a gift to the censor.[^8]

Marginal heading: What things do not undergo censure can be published without license.

4. Although in itself the approval of the censor differs from permission of publishing, because nevertheless a work is submitted to previous examination in order to obtain this faculty, a work which is exempted from previous censure can be spread in type without any license having been sought. **Pennacchi**, cited work, n. 78.

Marginal heading: Grave or light obligation.

105. You will ask concerning the grave and light obligation of conscience by which the laws on previous censure are to be observed.

In itself the obligation of obeying the laws on previous censure is grave. Yet in order that you may judge a particular fact, these things especially are to be observed:

a) With what strictness of usage the laws themselves are observed in the place where the work is published. For from this the account of scandal varies very much. Where strict observance is in force, the law cannot be passed over without suspicion of contempt being introduced; and this contempt is easily to be judged mortal. While in another place the matter, in a certain oblivion, ignorance, or at least imperfect good faith, obtains a milder explanation. But grave

scandal and contempt being excluded, there remains to be considered:

b) The objective gravity of the matter, which is different according to the different importance and subject matter of the book, and appears far less in a new edition of an approved book than in the first.

Chapter I: On the Prelates Set Over the Censure of Books

Marginal heading: Subject of the chapter.

This chapter first proposes the censures which are reserved to the Holy See or subject to a special condition; then it defines the Prelate to be approached by seculars and by regulars.

Article 30

In whose hands there is the power of approving or permitting editions and versions of the sacred Bibles is clear from those things which were established above (n. 7).

105 bis. By this article we are thrown back to the sanction explained above, and our interpretation of the words "under the vigilance of the Bishops" is confirmed. Cf. n. 71.

Article 31

Let no one dare to publish again books proscribed by the Apostolic See; but if, from a grave and reasonable cause, some singular exception in this matter should seem to be admitted, that shall never be done unless the license of the sacred Congregation of the Index has first been obtained, and the conditions prescribed by it have been observed.

Marginal heading: Force of the sanction.

106. This is the force of that article: that it prohibit a book, prohibited by a special Decree, from being published even when corrected. But it says that the Sacred Congregation of the Index must be approached, and that its laws must be observed.

Marginal heading: What if a book prohibited anew is published?

Indeed, as long as the proscribed book comes forth as morally the same, the new edition itself is affected by the decree of proscription, unless it has been positively permitted by the Sacred Index. Nor does it matter that the book was condemned only until it should be corrected. Cf. the preface of the Index, and the things said above, n. 46, 47.

Article 32

Those things which in any way pertain to the causes of Beatifications and Canonizations of the Servants of God cannot be published without the approval of the Congregation set over the guarding of Sacred Rites.

Marginal heading: What things pertain to causes of beatification or canonization.

107. The matter concerns those persons whose cause is pending, not yet completed by the definitive Decree of canonization. Examples are the proofs brought forward by defenders, the observations made by the Promoter of the faith, etc. Cf. **Pennacchi**, who pursues these things at length from n. 69. Therefore these things cannot be published without the approval of the Sacred Congregation of Rites.

Article 33

The same is to be said concerning Collections of Decrees of individual Roman Congregations: namely, these Collections cannot be published unless license has first been obtained, and the conditions prescribed by the moderators of each Congregation have been observed.

Marginal heading: What Collections are.

108. 1. Those periodicals do not make Collections which are accustomed to spread abroad various decrees of the Sacred Congregations, whether concerning several subjects or concerning one subject. For formally they do not come forth as Collections of some Congregation; nor even materially do they exhibit a sufficiently complete series of the acts of some Congregation, or draw documents from one Congregation in such a way that they can be regarded as Collections. Thus, for example, our volume II, *De Religiosis Institutis ac Personis*.

Marginal heading: Published Collections are not prohibited.

2. Collections published without due license are not now prohibited. For this sanction has not been enacted by the Constitution. Thus also **Pennacchi**, cited work, n. 70; **Wernz**, n. 122, note 100; **Ciolfi**, n. 80.

Article 34

Vicars and Apostolic Missionaries should faithfully observe the Decrees of the sacred Congregation set over the Propagation of the Faith concerning books to be published.

Marginal heading: Apostolic Vicars, who they are.

109. 1. Apostolic Vicars, as we take them here, are ecclesiastical Prelates, for the most part distinguished by the episcopal character, who in places of missions, in the name of the Supreme Pontiff, shepherd a region where the ordinary hierarchy has not yet been introduced. They are subject to the authority of the Sacred Congregation de Propaganda Fide.

Marginal heading: Apostolic Missionaries, who they are.

2. Apostolic Missionaries are not those Priests who, for the sake of honor and privilege, are decorated with this title by the Holy See even in our regions; but, says **Pennacchi**,^[9] they are those Priests who, approved by the Sacred Congregation de Propaganda Fide, dwell in the aforesaid places (of Missions), and there exercise their ministry under the authority of Apostolic Vicars.

Marginal heading: Prohibition made for Missionaries. Apostolic Missionaries.

3. The decrees of the Sacred Congregation de Propaganda Fide remain to be observed, insofar as they are in use today.^[10]

Now, from those decrees, Apostolic Missionaries are prohibited from publishing any writings whatever or books (both their own and others', both by themselves and through others), whether treating of religion directly or indirectly, or discoursing on ecclesiastical matters, unless by previous examination and approval of the Sacred Congregation de Propaganda Fide, to be obtained in writing and printed at the beginning of the work itself.

Nevertheless the respective Bishops or Apostolic Vicars can permit small doctrinal works, catechisms, instructions, and prayers to be published, which serve the daily use of the faithful.

Sometimes, by special Indults, they obtain greater faculties.

These things are drawn out from various Decrees of the Sacred Congregation de Propaganda Fide, especially those which are reported in **Coll. P. F.**, nn. 1869, 1870, 1872.

Marginal heading: What concerning books, periodicals, which report letters of Missionaries.

4. From the former law, all books treating of the sacred missions were to be approved by the Sacred Congregation de Propaganda Fide. But if even before merely historical or geographical reports, taken, for example, from letters of missionaries, were published without penalty without the faculty of that Congregation,^[11] that will much less have to be reputed illicit today. Reports of this sort, or books "concerning knowledge which in no way refers to religion," **Pennacchi**^[12] excepts even from the law which regards Apostolic Missionaries.

Marginal heading: What concerning the Bishops of these regions.

5. You will ask why the Bishops of regions which are subject to Propaganda Fide have been passed over in silence. Thus England, Holland, the Indies, etc.?

C. Gennari^[13] and Pennacchi^[14] judge that those special laws are not in force in places in which the ordinary hierarchy has been restored. And that the matter stands thus in several regions is true. In all? We think that the Bishops of those places must consider the received usages and the proper Instructions which they have received from Propaganda Fide.^[15]

Article 35

The approval of books whose censure, by force of the present Decrees, is not reserved to the Apostolic See or to Roman Congregations, belongs to the Ordinary of the place in which they are made public.

Marginal heading: What things belong or do not belong to the Ordinary of the place.

110. 1. Therefore, except for works whose recognition is reserved through these Decrees to the Apostolic See or to Roman Congregations, the censure, from article 35, belongs to the Ordinary of the place in which the work is made public (not therefore, as formerly, of the place in which it is printed^[16]).

Moreover, through these Decrees there are reserved: versions of the Sacred Scriptures in the vernacular language without notes, concerning which article 7; certain publications of Indulgences, as was said in n. 87; and finally those things which are referred to here in articles 32-34.

Marginal heading: A book approved by one can be read everywhere.

2. But the approval of that Ordinary causes the book to be able to be read everywhere and by all. Thus from custom. But if another Ordinary shall have prohibited the same book, his non-exempt subjects, living in the territory of the one prohibiting, will have to observe this particular statute.

Marginal heading: What if there were several editors?

3. What if there have been several editors, and these in different Dioceses? It will be enough if you report the approval of one Bishop: namely, of him whom you prefer, provided he truly was an editor. Thus it seems to us. For why the distinguished Pennacchi^[17] should look to the domicile of the author, we do not see. But the reason why the book should not be approved by several Bishops is both because article 35 speaks in the singular, "to the Ordinary," and because usage favors, and satisfaction is thus made to the mind of the law; and because it would be against the benignity of present law to impose too great a burden on writers.

Marginal heading: What in places where very many books are published?

111. 4. What if in some city so many books are published that the forces of the censors seem unequal to recognizing them? Besides other provisions, this also can be taken: that the Ordinary of the place of publication defer to the sentence of the censor of the place where either the writer lives or the book is printed, so that, with the consent of this Ordinary, he makes that external censor as it were his own censor. And the Sacred Congregation itself positively confers a faculty of this kind. (Cf. the formulas below in Part Four.)

Marginal heading: What concerning books of Bishops?

112. 5. What if a Bishop publishes a work outside his own diocese? Outside, I say, his own diocese. For it is too evident that a work of which he himself is author is approved by him, for any mention of this matter to be necessary.

But although article 41 directly imposes the obligation of censure only on the faithful (by which word Bishops are not designated in themselves), since those faithful are not only the writers of a book but also the editors, the law of previous censure must also be observed concerning these books. We are confirmed by the usage of the City, where even the works of Cardinals come forth recognized by the Master of the Sacred Palace and by the Vicegerent of the City. But if a Bishop publishes a book at the same time in his own diocese and outside it, he himself will have to require no censure.

Article 36

Regulars, besides the license of the Bishop, should remember that by the decree of the sacred Council of Trent they are bound to obtain from the Prelate to whom they are subject the faculty of publishing the work into the light. But each concession is to be printed at the beginning or at the end of the work.

Marginal heading: It confirms the disposition of Clement.

113. 1. That clause reports, almost to the letter, the words of the Instruction of **Clement VIII** added to the Rules of the Index. From this:

Marginal heading: Equally with the rest they are subject to the censure of the Ordinary.

a) The doctrine, already certain before, is confirmed, according to which exempt Regulars are subject to the censure of the Ordinary of the place equally with the rest. Equally, I say, not more.^[^18] Therefore, only for books which from common law are subject to censure.

Marginal heading: How far, besides, the faculty of the proper Prelate is required.

b) There is also commemorated the decree of Trent, session 4, concerning the edition and use of sacred books, by which they are further bound to obtain the faculty of their proper Prelate. But because, in that decree, speech is only concerning books of Sacred Scripture, annotations, and commentaries, the pontifical law concerning the faculty of the proper Prelate to be sought seems to be circumscribed to the same things. Cf. **Desjardins**, *Etudes*, t. 71, p. 365.^[^19] But as to other works, they will stand by their proper Constitutions.

Marginal heading: Which Regulars?

2. Regulars are to be understood as those strictly such.^[^20] Those who are called such more broadly will much less escape the censure of the Ordinary. For the rest they will observe their proper Rules.

Marginal heading: Each concession to be printed.

3. Each concession is to be printed at the beginning or end of the work in that manner in which the sole concession of the Bishop is to be appended to the books of others. Cf. below, n. 116.

Article 37

If an Author dwelling at Rome should wish to print a book not in the City, but elsewhere, besides the approval of the Cardinal Vicar of the City and of the Master of the Sacred Apostolic Palace, no other is required.

Marginal heading: The former law partly abrogated.

114. 1. By the former law, by order of **Alexander VII**, those dwelling in the Pontifical State had to offer their books to be approved by the previous censure of the Cardinal Vicar of the City and of the Master of the Sacred Palace. Now the special obligation, if any remains, is circumscribed to the City alone.

Marginal heading: Force of the present article. It imposes an obligation.

2. Proceed now: the obligation seems to remain. For although the sentence of the law is in itself ambiguous and can be taken of a mere privilege,^[^21] nevertheless the reason of the former disposition remains in such a way that a correction of that law, which would be inexplicable, does not seem to have to be admitted. The usage of the City agrees, in which the Masters of the Sacred Palace urge their right in this way.^[^22]

But the reason of this sanction is drawn from a certain peculiar authority with which books that are considered to have been written under the eyes of the Holy See are vested, so that they seem to have to be fortified by the caution of Roman censure.

Marginal heading: And it confers a privilege.

3. At the same time, however, the article confers a most equitable privilege, by which these books, even if they are published elsewhere, need have no other approval. Thus the law is not made harsher for the inhabitants of the City, and fitting honor is given to Apostolic censure.

Marginal heading: Whom it affects.

4. Those properly dwell in the City who there have at least a quasi-domicile.^[^23] Those, however, who actually stay at Rome even for a shorter time will be able, as pilgrims, to share in the privilege of the inhabitants.

[^1]: Art. 8, 19, 34.

[^2]: Art. 31, 36.

[^3]: Art. 13, 15, 17, 20, 32, 42.

[^4]: Art. 35.

[^5]: **Dilgskron** explains those solemnities, *Analecta Eccl.*, 1897, pp. 89, 90.

[^6]: Cited place, 458.

[^7]: *Das kirchl. Bucherverbot*, p. 58.

[^8]: **Pennacchi**, cited work, n. 77.

[^9]: Cited work, n. 71. **Palmieri** proves the same in this place.

[^10]: **Wernz**, n. 121, note 101.

[^11]: Cf. **Arndt**, p. 277, n. 198.

[^12]: Cited work, n. 71.

[^13]: *Monit.*, cited place, p. 108.

[^14]: A. S. S., cited place, n. 71, p. 490.

[^15]: Thus also **Ciolfi**, n. 82. **Wernz**, note 101, distinguishes regions which are merely subject to the Sacred Congregation de Propaganda Fide, as Holland, England, etc., from regions which are still counted among the lands of infidels, although the ordinary hierarchy has been established there. He warns the Bishops of these latter regions that they should act cautiously.

[^16]: Rule X of the Tridentine Index required that.

[^17]: A. S. S., cited place, n. 72, p. 491.

[^18]: **Wernz**, n. 121, note 103, also holds the same, against certain persons who, relying on I know not what reason, already wish all books of Regulars to bear testimony of a double approval.

[^19]: Most think that by the Instruction of **Clement VIII** that prescription was extended to every book. Thus **C. Gennari** (cited work, in this place), **Genicot** (cited work, 460), and **Pennacchi** (n. 73). But in the same words by which our article does, that Instruction appeals to the decree of the Council of Trent. Therefore we do not perceive the force of the inference made. Nevertheless **Boudinhon** also admits this in this article, and **Wernz**, note 103. For the rest the matter is of the smallest importance, since at least from their proper Constitutions the books of Regulars must be approved by their Superiors.

[^20]: They are, however, the solemnly professed, and, from the Constitution of **Gregory XIII**, *Ascendente Domino*, also the simply professed of the Society of Jesus. Concerning the simply professed of other Orders this is doubted. Cf. **Bizzarri**, *Collectanea*, 1st ed., p. 801, note.

[^21]: Cf. **Palmieri**, in this place; **Ojetti**, *Analecta Eccl.*, 1898, pp. 383, 384.

[^22]: Cf. **Wernz**, n. 121, note 104.

[^23]: Quasi-domicile is acquired by real habitation joined with the intention of staying in some place for the greater part of the year. Thus the opinion received in the curia, although some, as **Lehmke**, II, 775, are content with staying through a notable part of the year: as, for instance, through 4 months. **Penn.**, A. S. S., cited place, n. 74, p. 495, judges that no space of stay is required for the use of that privilege.



Part Two: Commentaries on the General Decrees

Title II: On the Censure of Books

Chapter II: On the Office of Censors in the Previous Examination of Books

Marginal heading: Argument of the chapter.

Once the person of the censors has been defined, we now suitably come to describing the manner in which they ought to exercise their office.

Articles 38 and 39

Let Bishops, whose office it is to grant the faculty of printing books, take care that for examining them they employ men of tried piety and doctrine, concerning whose faith and integrity they can promise themselves that they will give nothing to favor, nothing to hatred, but, every human affection having been put aside, will look only to the glory of God and the utility of the faithful people.

Concerning various opinions and sentences (according to the precept of **Benedict XIV**) let censors know that they must judge with a mind empty of all prejudices. Therefore let them shake off affection of nation, family, school, institute; let them lay aside party zeal. Let them have before their eyes solely the dogmas of the holy Church and the common doctrine of Catholics, which are contained in the decrees of General Councils, the Constitutions of the Roman Pontiffs, and the consensus of Doctors.

Marginal heading: Censors to be well chosen.

115. 1. By each article it is commended to Ordinaries that they choose learned and upright censors, who set aside party zeal and consider only dogmas and the common doctrine of Catholics (art. 38, 39).

2. And since we are referred to the Constitution of **Benedict XIV**, it will not be displeasing here to transcribe from it two golden rules.

Marginal heading: One must not judge from a separated place.

"This also," the Supreme Pontiff observes in sec. 18, "we warn must diligently be noted, that a right judgment concerning the true sense of an author cannot be made unless his book be read from every side ... nor indeed is it to be pronounced concerning him from one or another proposition torn from its context or considered and weighed apart from the others which are contained in the same book."

Marginal heading: One must incline into a good sense when the author is Catholic.

And in sec. 19, he adds this, so consonant with evangelical charity: "But if certain ambiguous things have fallen from an author who otherwise is Catholic, and of intact reputation in religion and doctrine, equity itself seems to demand that his sayings, explained kindly as far as possible, be taken in a good part." The book of the Exercises of our holy father **Ignatius** already contained similar things. "It is to be supposed," thus that Saint says at the opening of the Exercises, immediately after the annotations, "that every pious Christian ought with a readier mind to draw the sentence or obscure proposition of another into a good part than to condemn it. But if he can protect it by no reason, let him inquire into the mind of the speaker; and if he thinks or understands less rightly, let him correct him kindly; if this does not suffice, let him attempt all opportune ways by which he may render him sound in understanding and secure from error."

Article 40

When the examination has been completed, if nothing seems to stand in the way of the publication of the book, the Ordinary, in writing and entirely gratis, should grant to the author the license of publishing it, to be printed at the beginning or at the end of the work.

Marginal heading: Discretion of the Bishop.

116. 1. If nothing seems to stand in the way of the publication of the book. Therefore the faculty of denying approval is greater for the Ordinary than that of reprobating a book already published. Which books can be reprobated by him, we saw above, n. 102.

But in order that he not concede the faculty of publishing, it is enough that a truly just cause stand in the way, for example, of protecting peace, concord, of awaiting opportuneness.

At the same time, however, if nothing seems to stand in the way, he must concede the license. He cannot at will give or deny a faculty which in itself is to be given, unless something stands in the way.

Marginal heading: Yet the reasons for rejection are to be indicated.

2. From the rescript of the Sacred Congregation of the Index, September 3, 1898, if the book seems capable of correction or expurgation, the Ordinary must indicate to the writer the reasons why he was unwilling to approve the book. This is an equitable disposition, and one by which arbitrary rejections are guarded against.

Marginal heading: Whether remuneration of the censor is excluded?

3. Necessary gratuitousness does not exclude, strictly speaking, congruous remuneration for the labor of the censor. Yet provision for the decent sustenance of the censor will be better made by another arrangement. Cf. **Desjardins**,^[1] **Peries**,^[2] **Pennacchi**.^[3]

Marginal heading: What if the faculty is given orally?

4. The faculty must be given in writing. Yet one which has been conceded only orally does not therefore become null, or without effect. **Pennacchi**, cited work, n. 77.

Marginal heading: How the obtained faculty is to be expressed.

5. You will ask whether the obtained faculty must be published in the very words by which it was given, or whether it is enough to use a formula by which it is clearly and distinctly indicated whose license was obtained?

C. Gennari^[4] and **Hollweck**^[5] hold the former; and formerly it was thus resolved.^[6] They argue from the text by which the license, which was given in writing, is said to be printed; and from the fact that otherwise it could not authentically be established concerning the license obtained.

Dilgskron,^[7] **Genicot**,^[8] **Pennacchi**,^[9] **Wernz**^[10] admit the latter, as quite sufficient for the end of the law; and consonant with the character of this Constitution, by which the solemnities have been made simpler. And this is confirmed by practice. Wherefore the law is obeyed if a secular man uses this or a similar formula: "with the permission of the Ordinary of such a diocese"; but a regular: "by the license of the Superiors of the Order and of the Ordinary of such a place."

Marginal heading: Whether it can sometimes be suppressed.

6. Formerly, if a just cause, for example lest the public utility of the book be impeded, demanded this, they admitted that, with the Bishop consenting, the obtained faculty could be suppressed.^[11] We are not compelled to be more severe today. And unless the omission, unduly made, is going to be for scandal or seems to contain contempt of authority, it does not seem to introduce grave guilt.

Marginal heading: Gravity of the obligation.

^[1]: *Etudes*, t. 71, p. 366.

^[2]: Pp. 205, 206.

^[3]: Cited work, n. 77.

[^4]: *Monit.*, cited place, p. 112.

[^5]: Cited work, p. 58.

[^6]: Cf. **Albitius**, cited work, chapter 30, n. 125, or **Arndt**, cited work, n. 209, p. 296.

[^7]: *Analecta Ecclesiastica*, 1897, p. 228.

[^8]: Cited work, I, 459.

[^9]: Cited work, n. 77.

[^10]: N. 121, note 109.

[^11]: **Dilgskron**, in the same place, citing **De Brabandere**, II, 1348.



Part Two: Commentaries on the General Decrees

Title II: On the Censure of Books

Chapter III: On Books to Be Submitted to Previous Censure

Marginal heading: Argument of the chapter.

Once the general rule concerning books which are to be submitted to previous censure has been handed down, a special sanction concerning secular clerics is enacted.

Article 41

All the faithful are bound to submit to previous ecclesiastical censure at least those books which regard the divine Scriptures, Sacred Theology, ecclesiastical History, Canon Law, natural Theology, Ethics, or other religious or moral disciplines of this kind, and generally all writings in which religion and the honesty of morals are specially concerned.

By the first words, **all the faithful**, the article professes that it establishes a common law, while the one immediately following treats of the special obligation by which secular clerics are bound. After this introduction, it is suitably divided into two parts, of which the former treats of books, the other of any writings whatsoever.

I. On Books

Marginal heading: What books are.

117. 1. Books, therefore not writings, nor journals, nor sheets, nor periodic pamphlets, at least of smaller bulk.

In itself, however, there are comprehended periodic publications of greater bulk, whose individual fascicles attain to the quantity of a book and are destined for treating theological or canonical subjects. The reason is that they have the bulk of a book and a sufficient unity of subject matter. Cf. above n. 34. With us are **Genicot**,^[^1] **Planchard**.^[^2] **Moureau**^[^3] seems to doubt; while **Hollweck**^[^4] releases all periodic publications from this obligation, because the Church trusts the persons by whom they are ruled. Yet this seems said gratuitously, unless usage or custom tempers the law. **Gopfert**^[^5] testifies that a usage of this kind was in force in Germany before our Constitution. Cf. **Arndt**,^[^6] and also **Wernz**, n. 121, note 109.

Marginal heading: What are other similar disciplines.

2. Or other religious or moral disciplines of this kind, for example, treatises concerning liturgical matters and matters of natural law;^[^7] lives of the servants of God; books which by institution report prodigious facts which, for example, occur in some sanctuary; books which under a moral or religious respect, thus **Genicot**,^[^8] not under a merely economic or political respect, treat of social science, as by commenting on the Encyclical concerning the condition of workers.

3. And this indeed is the general rule. For attention must also be paid to the special sanctions, explained above, by which works even of smaller bulk are governed. Thus the following are subject to previous censure, and sometimes to a special one:

Writings concerning which article 13 treats, that is, those which narrate new apparitions, miracles, etc. Cf. n. 78.

New images, from article 15. Cf. n. 85.

Pamphlets and sheets of Indulgences, from article 17. Cf. n. 87.

All litanies besides the most ancient and common ones, from article 19. Cf. n. 90.

Pamphlets written for fostering piety, from article 20. Cf. n. 91.

Works proscribed by the Apostolic See, from article 31. Cf. n. 106.

Those things which pertain to the causes of beatifications and canonizations, from article 32. Cf. n. 107.

Collections of Decrees of Sacred Congregations, from article 33. Cf. n. 108.

II. On Any Writings Whatever

Marginal heading: Comparison with the former law.

118. 1. While in that former part the decree of **Pius IX**, June 2, 1848, for the Roman dominion^[^9] was reported almost to the letter, the other part has been so furnished that, once it has been made proper to the new law, helps for right interpretation can be taken from the changes themselves introduced into the decree of **Pius IX**.

Marginal heading: Universality of the law.

2. All writings. Here, therefore, all things which come forth into the light are comprehended, whatever their form or bulk may be. Therefore periodic pamphlets, pamphlets of smaller form, and even a single sheet.

Marginal heading: In what things it is specially concerned.

3. In which it is specially concerned. Therefore while books need previous censure as soon as they handle a religious or moral discipline, writings need it only then if, for example from the circumstances, their subject matter is of peculiar importance for religion or morals, on account of which previous recognition is deservedly to be demanded by the Church. Thus, while the Vatican Council was being held, religion was specially concerned by a writing concerning the infallibility of the Vicar of Jesus Christ to be proclaimed; thus religion and morals were concerned by the article which we mentioned above from *Tablet*; thus in Italy by a writing treating of vindicating the temporal dominion of the Holy See, of the opportuneness for Catholics of casting a vote in political elections; so also, when some controversy is burning concerning the faculty of furnishing an oath to some law, a writing on that matter would easily be touched by this clause.^[^10]

Thus it will happen that periodic pamphlets even of smaller bulk, those pastoral periodicals which look to the Christian instruction of the people, such as those which in French are called *Semaines religieuses*, seem subject to this law.^[^11]

Indeed, not even newspapers in themselves escape this law, insofar as they publish those things "in which religion or morals are specially concerned." But in order that the execution of the law may be easier and more humane, Catholic newspapers are accustomed to settle the matter amicably with the Bishop, so that he, for example, approves one of the editors as censor, etc.^[^12]

Marginal heading: What in doubt?

4. In doubt whether it is specially concerned, necessity is not to be imposed; but if the Bishop prescribes anything, one must stand by his judgment.

Article 42

Men of the secular clergy should not publish even books which treat of arts and merely natural sciences without consulting their Ordinaries, so that they may furnish an example of an obedient mind toward them.

The same men are prohibited from undertaking, without previous permission of the Ordinaries, the direction of newspapers or periodic sheets.

Marginal heading: Force and division of the article.

By this article special law is described for the secular clergy, since provision seems sufficiently to have been made for regulars through the closer obedience which they exhibit to Superiors. Moreover, there is a double disposition: one

is concerning books, the other concerning periodic sheets and newspapers.

I. On Books

Marginal heading: The obligation is imposed.

119. 1. Contrary to what several^[^13] have thought, whom in the earlier editions we followed, the propriety of the words seems to demand that we take the sanction as concerning a true precept, to which the reason is added.

3. But the object of the precept is that clerics consult their Ordinary, not that they report a positive approval.^[^14] But occasion is given to the Bishop for seeing whether perhaps there is a just reason on account of which, by interposing a "Veto," he may impede that publication.^[^15]

Clerics of a non-exempt religious Congregation belong in themselves to the secular clergy. Therefore the Bishop will be able to require that, before they hand over books to type to be published, they approach him to consult. Yet for the most part, unless we are mistaken, he will tacitly permit them, as to the said matter just as to others, to be in the hand of their Superiors.

II. On Periodic Sheets

Marginal heading: Stricter disposition of the other part.

120. 1. By the other part of the present article more is required than the simple manifestation of counsel; ecclesiastical men must first obtain the permission of the Ordinaries before they undertake to direct newspapers or periodic sheets.

Marginal heading: What comes under this name?

2. By **periodic sheets** we understand those which, similar to newspapers, differ from these only by the frequency of editions. Therefore not those which in French are called *Revues*, since their fascicles are regarded as pamphlets. Cf. above, n. 91.^[^16]

Marginal heading: Whether of every subject matter?

3. For the rest, the prohibition is universal, and also embraces sheets whose subject matter is profane or indifferent. Indeed, according to **Pennacchi**,^[^17] the matter here would concern only profane sheets, nor would license be required for directing religious and ecclesiastical sheets. Yet he himself subjects these to previous censure.

Marginal heading: When they are judged to direct a sheet.

4. Directing. They are not prohibited from writing in those sheets or cooperating otherwise, provided they do not undertake the direction of them. With **Desjardins**,^[^18] we judge that it matters little whether they do this openly, or protected by the appearance of another's name. Thus also **Pennacchi**, cited work, n. 79.

Marginal heading: What concerning pupils of a religious Congregation?

5. Concerning pupils of a religious Congregation, the things just said return. Yet here there will more easily be a cause when the Bishop vindicates his rights.

[^1]: Cited place, 458.

[^2]: *Rev. Th. Fr.*, n. 73.

[^3]: *Rev. des Sciences Eccl.*, cited place, p. 117.

[^4]: Cited work, p. 45.

[^5]: Cited work, p. 321.

[^6]: Cited work, n. 207, p. 293.

[^7]: **C. Gennari** seems too subtly to separate Natural Law from Ethics.

[^8]: Cited place, 458, 7.

[^9]: It sounds thus: "In accordance with these things, therefore, we establish and permit that, from every kind of periodicals and books, only those cannot be published without previous ecclesiastical censure which are of a moral or religious subject matter, as we have said; but in the rest, only those articles which have a similar subject matter, so that they touch closely either the very cause of religion or the honesty of morals."

[^10]: In French we would translate thus: *Et tous ecrits qui offrent un interet tout special pour la Religion ou la morale*. Interpreters seem to have understood the intention of this paragraph before in a plainly different way, and not to have perceived the force of the word *specialiter*. Thus **Pennacchi**, cited work, n. 78. In proposing that sentence, we relied on the authority of **Lehmkuhl**, who then expressed it in his Moral Theology. With us now are **Wernz**, n. 121, note 109, and also **C. Gennari**, cited work, p. 109, note.

[^11]: Cf. **Wernz**, cited place, note 109.

[^12]: It would be entirely alien from our usage to submit to previous censure Catholic newspapers which wish to defend the Catholic religion or morals. In certain places, nevertheless, the previous faculty of the Ordinary is required for them to be published. **Arndt**, on the contrary, n. 207, p. 293, already under the former law, was content if the edition of an ecclesiastical or religious newspaper were approved previously once. Bishops can impose this law on the publication of any Catholic sheet. Cf. Council of Baltimore, II, chapter 4, cited by **Arndt**, cited place.

[^13]: **Desjardins**, *Etudes*, t. 71, p. 369; **Genicot**, *Theol. mor.*, I, n. 460. They themselves nevertheless think that the Bishop, relying on this article, can command that they not undertake these things without consulting him. Cf. **Hollweck**, *Das Kirchl. Buchverbot*, p. 45, note.

[^14]: Thus also **Wernz**, n. 121, note 110.

[^15]: And in this manner we understand the things which are contained in the Instruction concerning Christian popular action, January 17, 1902, and the Motu proprio concerning Christian Democracy, 1903, where our article seems to be taken as if it requires previous license. But, as can be demonstrated by more than one example, earlier acts are not accurately referred to the new diploma to the very nail. Therefore one must not argue too much from that manner of speaking, contrary to what R. P. **Van Ruymbeke** does, *Nouv. Rev. Theol.*, t. 36 (1904), p. 104.

[^16]: With us **Penn.**, n. 79, against **Peries**, cited work, pp. 209, 210; and **Wernz**, note 111.

[^17]: A. S. S., cited place, n. 79, p. 511.

[^18]: T. 71, p. 369.



Part Two: Commentaries on the General Decrees

Title II: On the Censure of Books

Chapter IV: On Typographers and Editors of Books

Marginal heading: Argument of the chapter.

In this chapter, the discipline concerning the censure and edition of books is completed by certain precepts or warnings which, although they are not strictly proper to typographers and editors, nevertheless pertain to them in a peculiar way. Moreover, in the inscription itself, as is clear from article 46, which is concerning sellers of books, by the name of editors all, however many, who contribute labor to spreading books are called broadly.

Article 43

Let no book subject to ecclesiastical censure be printed unless at the beginning it displays the name and surname both of the author and of the editor, and in addition the place and year of printing and of edition. But if in some case, for just causes, the name of the author seems to have to be suppressed, let the power of permitting this be in the hands of the Ordinary.

Marginal heading: Sum of the law.

121. 1. A book which is subject to censure must display at the beginning the name and surname both of the author and of the editor, and the place and year of printing and of edition. Nevertheless the Ordinary will be able to permit that, for just causes, the name of the author be suppressed.

Marginal heading: What concerning periodicals?

2. The sanction concerns books. Therefore, by positive law, nothing in itself is enacted concerning periodic publications.^[^1]

Marginal heading: Whether the author of the version is to be indicated?

3. Whose name must a version bear, that is, of the author of the original text, or of the interpreter? We judge that the name of either suffices.^[^2] For the letter wishes that the name of the author be manifested. Now, of a work which is rendered in another language, both he who conceived it in his mind, and that more properly, can be called the author; and the interpreter, insofar as the version is considered as another work, for which also a distinct approval is required. And this perhaps is more according to the mind of our Legislator.

Marginal heading: Who is an editor?

4. Often by the name of editor we understand him at whose expense a book is printed. Properly, however, if we opine anything, by this word he is designated in whose name and by whose labor the book is edited, that is, spread abroad, diffused, made public. For the most part he will be the owner himself of the typography who undertook the work to be printed, and he will be another than the author. Yet if no typographer were the editor, why, as the distinguished **Palmieri** wishes in this place, an indication of the typographical office would be required, we do not clearly see. The words of the law do not require it. Nor, in order that in every case there be had some utility, especially a secondary one, intended by the Legislator, is it right in an odious matter to abandon the propriety of words. And do not books sometimes come forth which make mention only of the author, by this or a similar formula: "it is for sale at the author's"?

Marginal heading: What if a society publishes a book?

5. What if a book is published not by a singular person, but by a society? Then it will be enough, for the end of the law, that an individual designation of the house be appended, for example, with the social name indicated, as we did for this work of ours. (*La firme ou raison sociale.*)

6. Observe that the place and year both of printing and of edition are to be expressed, namely, if the book has been printed in another place or year than it has been edited. This happens rather often concerning the place, sometimes also concerning the year, as if many thousands of copies, printed at one time, are destined for several editions. Cf.

Pennacchi, cited work, n. 79.

Marginal heading: What Ordinary gives the faculties here?

7. The Ordinary whose permission must be obtained for suppressing the name is he to whom, from article 35, the province of approving the book belongs; namely, in whose Diocese the work is made public. The same will be able, for similar causes, to permit that the book come forth under a feigned name (pseudonym).

Article 44

Let Typographers and Editors of books know that new editions of the same approved work require a new approval; and furthermore that the approval granted to the original text does not avail for its version into another language.

Marginal heading: New edition and permission.

122. Therefore a new edition, and a version into another language, of a work subject to the law of censure, demand a new approval.

Marginal heading: What if nothing is changed in the new edition?

Nor does it matter that you publish a later edition plainly similar to the earlier approved one; for the law does not distinguish; and after the earlier publication causes could have arisen or become manifest on account of which the approved work should again be committed to the press either not at all, or only after certain things have been removed. Cf. **Arndt**, cited work, n. 211, pp. 298, 299.

But if the new edition has appeared sufficiently conformable to the earlier approved one, in itself, or with scandal and contempt excluded, the omission of a new approval does not seem grave; nor for that reason would we judge the book prohibited, although it is among those which are prohibited unless they are published approved.

Concerning new editions of liturgical books, cf. article 18.

Marginal heading: What concerning excerpts from periodicals.

What if you separately publish an article excerpted from periodicals?

From the response of the Sacred Congregation of the Index, May 19-23, 1898, chapters excerpted from periodicals and separately published are not judged to be new editions. Wherefore they must report no distinct approval.

Yet the case will have been different if from various articles you compose a true book, which you thus publish into the light for the first time. For unless you understand this response reasonably, since, from the things said in n. 117 and 118, periodic publications are subjected to a less strict censure, you will easily have opened a way to mocking the law concerning previous censure of books. With us is **Boudinhon**. (*Canoniste*, 1898, p. 312.)

Article 45

Books condemned by the Apostolic See are to be judged prohibited everywhere among the nations, and into whatever language they are turned.

Marginal heading: Force of the article.

123. By this article the universal force of proscriptions which proceed from the Holy See is merely brought out. Concerning this force, cf. n. 23, 62, 95.

Article 46

All booksellers whatsoever, especially those who glory in the Catholic name, should neither sell, nor lend, nor retain books treating expressly of obscene matters; they should not have the rest of the prohibited books for sale unless they have obtained permission from the Sacred Congregation of the Index through the Ordinary, nor should they sell them to anyone unless they can prudently judge that they are legitimately sought by the buyer.

Marginal heading: Distinctions to be made.

124. 1. By this article those who glory in the Catholic name are distinguished from the common class of sellers; and books treating expressly of obscene matters are distinguished from the common prohibition of books. Account must be taken of these distinctions in the commentaries.

Marginal heading: Who booksellers are.

2. All booksellers whatsoever. Therefore the general precept is directed to all, however many, who are accustomed to sell books, whether in their own shops, or in rented stalls, or by walking through streets and squares, or by holding auctions. For all these are booksellers.

Marginal heading: What it is to glory in the Catholic name.

3. Especially those who glory in the Catholic name. Such are not those who in their private life adhere to the Catholic faith, but those who openly display themselves as being Catholics, and most of all those who adorn shops with the Catholic name: *librairie catholique*.

Marginal heading: Reason of the special precept.

Why a peculiar precept is directed to them, the chief cause does not seem to be that they are hoped to be more teachable, but because by a special danger of scandal they are prohibited more than the rest from violating these precepts.

Marginal heading: Concerning obscene books.

4. They are simply prohibited from selling, giving on loan, retaining books treating expressly of obscene matters.

What sort these books are, cf. above, n. 72.

Marginal heading: What if the works are classics.

What if they have been classics? They indeed will not be able in themselves to retain these, unless, from article 10, they are excused by reason of office or teaching. Nevertheless they will be able prudently to procure those works for those to whom it is permitted to read them.

Marginal heading: Concerning other prohibited books.

5. In order that they may have the rest of the prohibited books for sale, they need permission, which is to be obtained from the Sacred Congregation of the Index through the Ordinary.

Marginal heading: What is it to have books for sale?

But they have books for sale both who equip their shops with them for the sake of selling, and who propose books, bought from all sides in their own name, to be bought either at a price defined in a catalogue (*livres d'occasion*) or sell them at public auction (*vente publique*) through auctioneers.

Therefore they need seek no peculiar license in order accidentally, or from a special mandate, to buy the same works when they are about to sell them.

Marginal heading: To whom they can sell.

6. But whether they have their shops habitually equipped with these works, or whether they execute a special mandate, they cannot sell prohibited works here and there, with no selection of persons made, but only to those whom they can prudently judge legitimately to be seeking them.

Therefore they must not specially ask buyers concerning a license; but it suffices that, their quality having been considered, it appear probable that they legitimately seek them. For a broader obligation would impose too disagreeable a burden on booksellers. Moreover, a proportionate cause will also be able to excuse them if they sell a work to others, especially to those to whom the faculty of reading would not be denied by the Holy See.

Marginal heading: Concerning an auction held in another's name.

But can they hold an auction in another's name, of which prohibited books are a part, for example, pertaining to the library of a deceased person? **Heymans**^[^3] now seems to indulge this. Except, unless we are mistaken, those obscene books which are not commended by elegance of speech, so that morally they have no lawful use. Then at least a graver cause will be required in order that you cooperate in this sale. But concerning an official who from office presides over an auction, the Sacred Congregation de Propaganda Fide responded, June 26, 1820, that he is not bound to investigate whether among the goods ... there are found books of heretics or others containing obscene matters. "But if by chance he has known this, and can impede bad books from coming to bidders who will abuse them, let him indeed do this, etc." Cf. *Collectanea Prop. Fidei*, n. 1874.

Marginal heading: The rest are governed by natural law.

6. Besides this precept, which obliges booksellers and regards the sale of all prohibited books, and, however, the lending of obscene ones, acts of selling or giving on loan are governed by natural law alone, whose force we weighed above, n. 47, 59, 60.

[^1]: Cf. **Wernz**, who says this a little more moderately, and not altogether clearly, n. 121, note 112.

[^2]: With us **Sleutjes**, cited work, p. 54.

[^3]: Cited work, n. 356.



Part Two: Commentaries on the General Decrees

Title II: On the Censure of Books

Chapter V: On the Penalties Established Against Transgressors of the General Decrees

Marginal heading: Argument of the chapter.

Besides the obligation of conscience, which regards the penitential forum and was weighed by us above in n. 53, 61, the General Decrees are fortified by canonical penalties which are promulgated in the three articles of this chapter.

Moreover, two are *latae sententiae*, transferred here from the former law; but the third article establishes arbitrary penalties committed to the Bishop.

The clauses of conclusion follow those three articles; these no longer belong to Chapter V.

Article 47

All and each who knowingly, without the authority of the Apostolic See, read books of apostates and heretics defending heresy, as well as books of any author prohibited by name through Apostolic Letters, and who retain, print, and in any way defend the same books, incur by the fact itself an excommunication reserved in a special manner to the Roman Pontiff.

Marginal heading: Former law.

125. By this article, in the same words, the Excommunication borne in the Constitution *Apostolicae Sedis*, n. 2, of the first series, is repeated. Therefore in itself it will receive a similar interpretation. Hence:

Marginal heading: What "knowingly" means.

1. Knowingly. By this word the case of any ignorance is excepted, even, probably, affected ignorance. Moreover the word is referred also to those retaining, etc.^[1]

Marginal heading: Reading books. Whether periodic fascicles are books of heretics.

2. Reading books, in a notable quantity. Cf. here above n. 57. But who are readers was said in n. 57, 50. Also before, n. 33 and following, we weighed what comes under the name of book, and in what manner periodic publications are to be regarded as books. From this, in order that they be judged to protect heresy as a book, it is required that the periodic publications themselves rather generally stain themselves with this vice.

Marginal heading: What apostates are.

3. Of apostates. We defined these above as those who entirely cast off the Christian faith externally and internally, whether they pass over to the errors of **Mahomet**, etc., or simply profess themselves to be perfect "free thinkers." Cf. **Avanz.**, p. 8.

Marginal heading: Heretics and a heretical book.

4. And of heretics. It is necessary that the heresy be plainly established, either from the heretical sect to which the writer belongs, or, when the book is anonymous, or by an author hitherto Catholic, from manifest doctrine,^[2] and proposed pertinaciously.

Therefore books of this kind are not those which principally belong to a Catholic author, although a heretic has appended scholia, unless these are the greater part of the book; nor those which report some text of heretics "even if you read with the mind of learning heresy." **Laym.**^[3] Cf. **Piat,**^[4] against **Arndt.**^[5]

Nor books of infidels, Jews, schismatics, at least as such.

Nor are books of heretics which pertain to the first centuries of the Church, as now altogether harmless, comprehended here. **Lehmkuhl**, II, 923. Cf. above n. 66, where we transferred the same rule also to medieval heretics.

Marginal heading: To defend heresy.

5. Defending heresy. Not merely containing, or briefly defending as if while doing something else, but of set purpose, by bringing forward reasons. But it is not necessary that the subject matter of the book be religious. It is enough that the book defend one heresy in this way.

6. As well as books of any Author prohibited by name through Apostolic Letters. This clause requires:

Marginal heading: Through Apostolic Letters.

a) Apostolic Letters, or letters proceeding immediately from the Supreme Pontiff: a Brief, Bull, Encyclical, etc. **Piat**, on **V. der Velden**, p. 623.

Marginal heading: Made by name.

b) A prohibition made by name, that is, one by which a book is designated by its proper title. Yet a singular designation, for example of the author, is not demanded. Indeed, a generic indication of title seems to suffice. Hence **B. P.**^[6] judges that the clause is verified in the Constitution *Ecclesiam*, by which, in 1821, there were prohibited by **Pius VII**, under excommunication reserved to the Supreme Pontiff, "the catechisms of the Carbonari, the books by which they describe the things which are customarily carried on in their meetings, statutes, codes." But a disposition is not enough by which, for example, **Innocent XI** condemned all books and writings of **Michael Molinos**.^[7] Cf. **Avanz.-Penn.**, Appendix III.

Marginal heading: It is required that it be made under excommunication reserved to the Holy See.

c) A prohibition under excommunication reserved to the Holy See. Thus the common opinion: **Avanzini**, **Lehmkuhl**, **Bucceroni**,^[8] etc. The reason is drawn from the end of the Constitution *Apostolicae Sedis*, by which this censure was borne. For **Pius IX** wished to narrow censures. Therefore it would in no way be likely that under the gravest censure (specially reserved) he prohibited books which his predecessors had condemned without reserved excommunication.^[9] Cf. **Avanzini**, cited place. Wherefore if, for example, you read without faculty the work of **Lamennais**, *Les paroles d'un croyant*, you will have committed no pontifical censure, since the apostolic letters by which it is reprobated contain none. The same is the case with the works of **Jacob Frohschammer**.

Those which were proscribed under another penalty *latae sententiae* have now been simply condemned, unless they are heretical and at the same time have defended heresy. Except those which, for the causes indicated elsewhere, have fallen from the Index.

d) Yet it is not necessary that those letters bear the penalty of excommunication specially reserved; otherwise the present clause would effect nothing special. Thus the authors.

e) Finally, the disposition affects future proscriptions equally with past ones.

Therefore in a few words: from article 47, those books which the Supreme Pontiffs formerly proscribed by name through apostolic letters under excommunication *latae sententiae* reserved to themselves are now prohibited under excommunication specially reserved.

Marginal heading: What concerning future proscriptions?

Must it be said in the same way if certain books are hereafter condemned by the Supreme Pontiffs through apostolic letters by name? We think it must be said in the same way.

And **Hollweck**^[10] and **Wernz**^[11] judge that in this article no times are distinguished. Nevertheless, since the legislator merely uses the past tense, while he could so easily have said **prohibited or to be prohibited**, the matter seems uncertain to us.

But if future proscriptions are touched, there is no cause why in these you should require mention of reserved excommunication, unless there is a cause on account of which the Pontiff must be judged to have been unwilling to refer himself to the present article, but to pronounce absolutely concerning the sanction.

Marginal heading: What books are touched by this clause?

N.B. Because other apostolic letters by which works are condemned either do not bear the penalty of reserved excommunication, or indeed bear it but one afterwards removed, or do not indicate books by name, in reality this clause today has force only concerning 82 books which in the eighteenth century were proscribed by apostolic letters,^[12] concerning the work of **Fr. Vigil**,^[13] and concerning two books of **J. Nuyts**,^[14] which **Pius IX** condemned by Briefs of June 10 and August 22, 1857. Wherefore in sentences of this kind inquiry must be made only from the beginning of the eighteenth century.^[15]

Yet it easily happens that, on account of another cause, because they have been written by a heretic and defend heresy, they are prohibited by law under the penalty of excommunication specially reserved.

Marginal heading: When those retaining are punished.

7. And retaining the same books: knowingly and in that manner in which it is prohibited under grave obligation. Cf. above n. 51 and 58.

Marginal heading: Who those printing are.

8. Printing, in the commentaries on the Constitution *Apostolicae Sedis*, were understood as all who cooperate proximately, by mortal cooperation, toward "printing." Cf. **Lehmke**, II, 924.

But, from the general canon which we proposed at the beginning, we are not forbidden, the former law having been put aside, to explain this censure according to the benignity of the present Constitution. Now it seems sufficiently discordant that the same word "Printing" be taken in a different sense in two articles, of which one excepts the other. But in article 48, unless we wish, without a compelling reason, to interpret the words more strictly than formerly, the printer is he who undertakes the work to be printed: namely the impresser, whom in French we properly call *l'imprimeur*. From another side it agrees very much with our benign law not to strike with censure those workers who cannot pass judgment on the books toward whose printing they cooperate, will for the most part be ignorant of the penalty borne, and not rarely are excused from contumacy by moral necessity. Wherefore the sentence of **Hollweck**^[16] is not displeasing to us, according to which those printing are only the editor and the "impresser." The corrector, however, will be punished as reading. With us concerning workers is **Boudinhon**.^[17]

Marginal heading: Those defending. Inefficacious defense suffices.

9. And defending in any way. Cf. n. 48 and 55.

Observe, since the censure strikes readers, retainers, printers, and defenders in the same manner, namely directly and principally, defense is considered as a delict consisting in itself. Wherefore it is not necessary that the effect of the defense have been obtained, or that in reality, for example, you snatch the book from the flames. The act is judged consummated by the defense itself. Cf., for example, **Lehmke**, cited place.

Marginal heading: What force special reservation has.

10. By the fact itself an excommunication specially reserved to the Supreme Pontiff. Moreover this special reservation operates:

a) So that neither Bishops can for this case, even an occult one, use the faculty which they hold from chapter *Liceat* of the Council of Trent; nor is the case judged contained in the faculty simply given of absolving from reserved cases.

b) So that he who without faculty shall have presumed to absolve someone from that excommunication commits an excommunication simply reserved to the Holy See from the Constitution *Apostolicae Sedis* (after the first series).

c) So that one absolved, even in danger of death, by an inferior (that is, by one who did not have at least delegated faculty), must, under the penalty of falling again into censures, after he has recovered, within a month either seek a new

absolution from one having faculty, or, either himself by himself or through the mediation of a Confessor, have recourse by letter to the Holy See and obey its commands.

Article 48

Those who, without the approval of the Ordinary, print books of the Sacred Scriptures or annotations or commentaries on the same, or cause them to be printed, fall by the fact itself into an excommunication reserved to no one.

Marginal heading: Difference from the Tridentine censure.

126. 1. Thus, by expressing it more clearly, the Tridentine excommunication is renewed,^[^18] which nevertheless struck only anonymous books, while, according to interpreters of the Constitution *Apostolicae Sedis* (which confirmed the same censure), books which bear before themselves the name of the author are now also comprehended.

Marginal heading: It is necessary only that the approval of the Ordinary was given.

2. Without the approval of the Ordinary. It is enough, for escaping the censure, that it has been given, although perhaps not in writing nor appended in the book. And although regulars besides need the license of their Prelate, they do not commit the excommunication if the book is approved solely by the Ordinary of the place.

Marginal heading: Who are printing?

3. Printing, in the present case, seem to be only those who either are owners of the typography or sustain their person, so that they conduct the matter in their name. For the Tridentine text in the cited place contains commands and penalties which cannot be accommodated to workers, etc. Cf. **Pennacchi, Ballerini, Arndt,**^[^19] **Hollweck,**^[^20] against **Piat** (on **Van der Velden**), p. 861.

Marginal heading: Causing to be printed.

4. Causing to be printed: as the editor of the book, he by whose care the book is printed; not necessarily the author, for example, if he merely gave or sold the manuscript, caring nothing for the printing.

Marginal heading: Who absolves from this excommunication?

5. Excommunication reserved to no one. Therefore every Confessor can absolve from it, provided that contumacy has ceased.

Article 49

But those who have transgressed the other things which are prescribed by these General Decrees should, according to the diverse gravity of guilt, be seriously admonished by the Bishop; and, if it shall seem opportune, they should also be coerced by canonical penalties.

Marginal heading: Arbitrary penalties.

127. 1. This article, against transgressors who have violated other precepts of the General Decrees than those which are sanctioned by excommunication *latae sententiae*, establishes arbitrary penalties, since judgment concerning their opportuneness and gravity is permitted to the discretion of the Bishop, provided that they are canonical, that is, received in the ecclesiastical forum, and that a congruous admonition has first been made.

Marginal heading: Sanction of particular Decrees.

2. Although those penalties seem to sanction the General Decrees alone, particular decrees are fortified by the same penalties, since they prohibit individual books "under the penalties declared in the Index of forbidden books."

Additamenta

1. To n. 30. Concerning works which, every refutation omitted, set forth and report false dogmas, destructive of religion or morals, as the inventions and thoughts of others, **Benedict XIV** has words full of just severity in the Constitution *Sollicita ac provida*, sec. 21. Cf. p. 196.

2. P. 87, l. 19, read Clement XII.

[^1]: Cf. **Hollweck**, *Die kirchl. Strafgesetze*, sec. 107.

[^2]: **Lehmke**, II, n. 923; **Bucc.**, II, p. 339; **B. P.**, t. 7, n. 424.

[^3]: L. 2, tr. 1, chapter 15, n. 1.

[^4]: On **V. der Velden**, p. 621.

[^5]: P. 124, 3, n. 103.

[^6]: *De Cens.*, t. 7, 456. Yet against this, **Piat**, cited work, p. 625, because works published after this Bull cannot be said to be prohibited by name through it.

[^7]: Yet this cause has that peculiar thing, that there is only one work of **Molinus**, *Guida spirituale*, besides two little works which afterwards were published together with the former work. Nevertheless we judge that the nominal indication is lacking which is required for incurring excommunication. The propositions of the work were proscribed as heretical; but since the writer retracted the errors, the work does not seem to be that of a heretical author.

[^8]: Appendix III, pp. 126, 129; II, n. 923; p. 340.

[^9]: Nothing prevents our present Constitution, although in itself it softens the former laws, from increasing their sanction accidentally. From September 5, 1757 to November 11, 1784, by seven letters in the form of a Brief, works were proscribed under the penalty of reserved excommunication *latae sententiae* for laymen, and of suspension *latae sententiae* for clerics. In the same way, on August 2, 1851, two works of **J. Nuyts** were proscribed. That suspension is suppressed by our law; but, as it seems to us, now for all, even clerics, who unduly read those works, there remains, from our article 47, the penalty of excommunication which is specially reserved to the Supreme Pontiff.

[^10]: *Das kirchl. Bucherverbot*, in this place.

[^11]: *Ius Decretal.*, t. 3, n. 121, note 117.

[^12]: Cf. **Hilgers**, *Der Index*, p. 90 and following. He diligently explored this matter and afterwards accurately exhibits it in his valuable chronological Index of proscribed works (same place, pp. 418, 475). The same warns that those books can be found with difficulty, so that they can now do little harm.

[^13]: *Defensa de la autoridad de los gobiernos y de los obispos contra las pretensiones de la curia romana* (6 vols.).

[^14]: *Institutiones ecclesiasticae; Tractationes in ius ecclesiasticum universum*.

[^15]: Thus **Avanzini**, cited work, pp. 130, 131.

[^16]: Cited work, pp. 48, 49, notes 1 and 2.

[^17]: Cited work, p. 304. **Wernz**, n. 121, note 118, seems to favor us sufficiently.

[^18]: Session 4 (*Decree concerning the edition and use of sacred books*). As **Hollweck**, *Die Strafgesetze*, etc., sec. 108, 1, wishes, also for this reason it is established a little more severely than in the Council of Trent, because the Tridentine decree did not clearly comprehend Sacred Scripture itself.

[^19]: **Avanz.-Penn.**, t. 2, appendix 38, p. 232; note 62 on **Gury**, II, 789; cited work, pp. 246, 247, n. 180.

[^20]: Cited place. This sentence, which earlier, by I know not what law, R. D. **Van Coillie**, *Collat. Brugg.*, p. 551, had accused of too much benignity, he sincerely confessed in the Commentary in this place to be sufficiently pleasing to himself.



Part Three

Summary of the General Decrees; and a Brief Repetition Arranged in Logical Order

I. Laws on the Prohibition of Books and Works

128. A) Prohibition of Publishing, Reading, and Retaining Books.

Books prohibited to all and without qualification.

1. Books condemned before 1600 and not permitted by today's General Decrees (1).^[^1]
2. Books defending heresy or schism, or in any way overturning the foundations of Religion (2).
3. Books expressly obscene (9).
4. Books detracting from God, the Blessed Virgin Mary, the Saints, the Catholic Church and its cult or Sacraments, or the Apostolic See (11, 1st part).
5. Books which adulterate the concept of inspiration of Sacred Scripture, or too much restrict its extension (11, 2nd part).
6. Books of set purpose insulting the ecclesiastical Hierarchy or the clerical or religious state (11, 3rd part).
7. Books which teach or commend superstitious arts (10).
8. Books which establish duel, suicide, or divorce as licit (14, 1st part).
9. Books which, treating of masonic sects or sects of this kind, contend that they are useful (14, 2nd part).
10. Books which defend errors proscribed by the Apostolic See (14, 3rd part).

Books less universally prohibited.

1. Those licit in themselves which are forbidden on account of the defect of some condition.

a) Legitimate approval being lacking:

Books or writings which report new supernatural facts (13, 1st part).

Books which introduce new devotions (13, 2nd part).

Practical books of devotion, or of religious or moral instruction (20).

b) New editions of liturgical books or of sacred chant differing from the authentic ones (18 and decrees of 1905. Cf. appendix to article 18).

2. Books suspect in themselves, which by a certain law are permitted to all or to certain persons.

1. Those which by a certain law are permitted to all:

Books of non-Catholics (3 and 4).

Catholic versions of the Sacred Bibles in the vernacular language (7).

2. Those which by a certain law are indulged to certain persons:

Editions or non-Catholic versions of the Sacred Bibles (5, 6, and 8).

Obscene classical books (10).

129. B) Prohibition of Publishing, Reading, and Retaining Other Works and Books.

1. Unless they have been legitimately approved, the following are forbidden:

Writings which report supernatural facts (13, 1st part).

Writings which introduce new devotions (13, 2nd part).

Practical pamphlets of devotion or of religious or moral instruction (20).

2. Newspapers, sheets, and periodic pamphlets which attack religion or good morals of set purpose are proscribed (21).

3. Printed sacred images which are different from the sense and decrees of the Church are proscribed (15).

130. C) Prohibition of Publishing or Spreading Abroad.

They are absolutely forbidden to be published:

1. Apocryphal or revoked Indulgences (15).

2. Editions or versions, not corrected, of a proscribed work (31, 45).

They are forbidden to be published without the assent of legitimate authority:

1. New sacred images (15).

2. Books, summaries, pamphlets, sheets, etc., of Indulgences (17).

3. Litanies not approved by the Holy See (19).

4. Corrected prohibited books or corrected versions of them (31, 45).

5. All works whatsoever that are subject to previous censure. Cf. below, II.

131. D) Precepts Connected with These Prohibitions.

1. Pastoral vigilance is to be exercised:

In averting the faithful from reading bad newspapers, sheets, and periodic pamphlets (21).

In suppressing apocryphal or revoked indulgences (16).

In either proscribing or denouncing harmful books (27, 29).

2. Catholics, especially ecclesiastics, are not to publish anything without just cause in bad newspapers, sheets, and periodic pamphlets (22).

3. Sellers of books are not to sell or lend books expressly obscene; they are not to have other proscribed books for sale unless license has been obtained and circumspectly (46).

4. Pernicious books are aptly to be denounced to Bishops or to the Apostolic See (27, 28).

II. Laws on Previous Censure

132. A) Dispositions Common to All.

What things are subject to censure.

1. From the general rule:

Books which regard religious or moral disciplines (41, 1st part).

Writings in which religion and the honesty of morals are specially concerned (41, 2nd part).

A new edition and version of a work subject to the law of censure (44).

2. From special mention of the common law:

Versions of the Sacred Bibles (7).

Books or writings which narrate new supernatural facts, or introduce new devotions (13).

New sacred images (15).

Books, sheets, etc., of Indulgences (17).

Litanies not approved by the Holy See (19).

Books, pamphlets of practical devotion (20).

Proscribed books or versions of them, even if they are corrected (31).

Those things which pertain to causes of Beatification or Canonization (32).

Collections of Decrees of Sacred Congregations (33).

Liturgical books concerning sacred chant (Cf. Appendix to article 18).

2. From the peculiar law of the Missions, insofar as Apostolic Vicars or Missionaries must observe the decrees of the Sacred Congregation de Propaganda Fide (34).

To whom the censure pertains.

1. In itself to the Bishop of the place of edition (35).

2. The following are reserved to the Holy See:

Versions of the Sacred Bibles without notes (7).

Authentic editions of liturgical books or of sacred chant (subject matter from article 18 and the decrees of 1905).

Books proscribed by the Holy See (31).

Those things which look to causes of beatifications or canonizations (32).

Collections of Decrees of Sacred Congregations (33).

Those things which the Sacred Congregation de Propaganda Fide reserves to itself (35).

3. For Roman inhabitants, to the Master of the Sacred Palace and the Cardinal Vicar of the City (37).

Various secondary rules.

Censors are to be chosen well, who, human affection having been put aside, prudently and with right intention judge concerning books (38 and 39).

Gratis, in writing, if nothing stands in the way, the faculty is to be given, to be printed at the beginning or at the end of the work (40).

At the beginning of the book the name, place, year, are in themselves to be signified (43).

133. B) Dispositions Proper to the Secular and Regular Clergy.

1. Proper to the secular clergy:

That they not publish books without consulting the Bishop (42, 1st part).

That, without his assent, they not direct newspapers or periodic sheets (42, 2nd part).

2. Proper to the regular clergy:

By the Tridentine decree they are ordered also to obtain the license of their proper Prelate. Each license, of Bishop and of Prelate, is to be printed at the beginning or at the end of the work (36).

III. On the Sanctions of These Laws, and the Faculty of Reading and Retaining Prohibited Works

133 bis. A) On Sanctions.

1. Penalties *ferendae sententiae* (49).
2. Excommunication *latae sententiae*, specially reserved to the Holy See, if the case of article 47 has occurred (47).
3. Excommunication *latae sententiae* reserved to no one, if the case of article 48 has occurred (48).

133 ter. B) On the Faculty of Reading and Retaining Prohibited Works.

Necessity of license. No one can read proscribed works without competent faculty (23).

Who can give the faculty.

1. As to books proscribed by the Holy See:

Who in themselves can give a general faculty (24).

What Bishops and Prelates possessing quasi-episcopal jurisdiction can do (25).

2. As to books prohibited by Bishops (26, 1st part).

3. Obligation conjoined with the faculty.

Diligent custody of books is prescribed (26, 2nd part).

[^1]: The numbers enclosed in parentheses designate articles of the Constitution.



Part Four

Formulae and Catalogues

Chapter I: Formulae

Article 1

Formulae of the Sacred Congregation of the Index

I. Indults for Permitting the Reading of Prohibited Books

134. 1. For the use of Bishops:

"Most Ample^[1] and Most Reverend Lord,

"The suppliant prayers, by which Your Amplitude requested the faculty of permitting to the Christian faithful committed to Your pastoral care the reading of books prohibited by the Apostolic See, Our Most Holy Lord **Pius Pope X**, benignly receiving them, committed to this Sacred Congregation of the Index that to You, concerning whose religion, doctrine, and piety he greatly confides, it should impart the aforesaid faculty, namely of conceding to the faithful of Your diocese, from a just and reasonable cause, license to read and retain prohibited books, with certain laws and conditions, however, having been observed, until _____.

"Wherefore you may be able to concede:

"1. To upright and learned men only, license to read and retain any books whatsoever prohibited by the Apostolic See (and newspapers), except those which defend heresy or schism, or overturn the very foundations of religion; the reading of which you may be able to permit only to those whom you have ascertained to be more outstanding in doctrine, piety, and zeal of faith; but let the reading of books treating expressly of obscene matters be permitted to no one.

"2. To adolescents who devote themselves to studies in public schools, gymnasia, lyceums, academies, you may similarly be able to concede license of reading and retaining books proscribed by the same Apostolic See, which they are compelled by command of the lay power to have before their hands, so long as they remain in that necessity.

"But the aforesaid licenses are to be conceded gratis under any title, and without any emolument to be received by Your episcopal curia, under penalty of nullity; and in the individual letters of concession express mention of the Apostolic faculty is to be made.

"In faith of which, etc.

"Given at Rome, from the Secretariat of the Sacred Congregation of the Index, on the day _____, month _____, year _____."

135. 2. For the use of Rectors of a seminary or college:

"Most Illustrious Lord,

"The suppliant prayers offered by you to Our Most Holy Lord **Pius Pope X**, by which you implored the faculty of permitting to the pupils or adolescents of the seminary or college committed to your care the reading of books prohibited by the Apostolic See, the same **His Holiness** benignly hearing, committed to this Sacred Congregation of

the Index that it should impart to you, until _____, the aforesaid faculty, to be exercised by you entirely gratis under any title, under penalty of nullity, with the following conditions:

"1. That only those books be permitted to the aforesaid pupils or adolescents, and to each of them, which are proper to their discipline and whose reading, by reason of their studies, seems necessary for them.

"2. That prohibited books of this kind, before the reading of them is permitted, be diligently examined, and it be ascertained whether they can be handed over to the hands of adolescents without graver danger. But if from the examination of them it is clear that they expressly treat against faith or good morals, or are so depraved that it must gravely be feared lest they corrupt youthful minds and infect them with perverse opinions, they are in no way to be permitted to adolescents. But in conceding the rest one must act cautiously, and it must diligently be cared for by you that the danger of infection, as far as can be done, be removed, and that against the poison with which these books are imbued, an opportune antidote be supplied.

"3. That you warn the same pupils that the license mentioned above has been conceded to them only for the time in which they remain in the college; but if they seem to need it also after departure from the discipline of the college, it is necessary that they have recourse to the Ordinary or to the Congregation of the Index itself.

"In faith of which, etc.

"Given at Rome, from the Secretariat of the Sacred Congregation of the Index, on the day _____, month _____, year _____.

"To the Most Illustrious Lord

Lord _____."

136. 3. For the use of Professors:

N., most devotedly prostrate at the feet of Your Holiness, humbly asks the faculty by which he may be able to permit his disciples, especially those who are occupied in writing a dissertation for obtaining the degree of doctor, that they may be able to read under his direction the prohibited books which they need for studies of this kind.

And God, etc.

"... by the authority committed to us, etc., we concede the requested faculty as in the prayers."

137. 4. For the use of a Librarian:

"... we concede that in a particular case it may be lawful for the petitioner to give to one asking from him a prohibited book kept in the said library, and that it may be lawful for the one asking to read it, provided that, according to the prudent judgment of the Petitioner, such a book will not bring harm, and is not among those which expressly attack the Catholic religion or destroy good morals."

138. II. Faculties of Reading and Retaining

a) We give the formulae as they are in use today, approved by the General Congregation on July 2, 1897. It is known that they are sometimes changed.

b) Except the first, all faculties have the clause: "If the things set forth are true and with attention given to the testimonial letters." Yet if these are lacking, mention of them is omitted.

c) Except for faculties which are made to pupils, for the sake of studies, and to a community of women, the remaining ones are conceded for as long as the petitioner shall have lived.

139. 1. Faculty reserved to Cardinals and Bishops:

"... Any prohibited books whatsoever and newspapers, yet under custody lest they come to the hands of others."

140. 2. Reserved to most outstanding priests and ecclesiastics, which is called "most ample":

"... As long as he shall have lived, to read and retain, under custody nevertheless lest they come to the hands of others and with scandal removed, any prohibited books whatsoever and newspapers. Except works treating expressly of obscene matters."

141. 3. Customarily conceded to ecclesiastics, which is called ample "for the effect":

"... As long as he shall have lived, under custody, ... and with scandal removed, any prohibited books whatsoever and newspapers, not excepting books expressly defending heresy or schism, or in any way overturning the very foundations of religion, for the effect of impugning them, and as an aid of the sacred ministry and of honest studies. Except works treating expressly of obscene matters."

N.B. For most outstanding laymen, it is said: "For the effect of impugning them (the books), and as an aid of one's own office (or function) and of honest studies, etc."

142. 4. Ample, special, and one which is also conceded to certain laymen (it is used very rarely):

"... As long as he shall have lived, under custody ... and with scandal removed, any prohibited books whatsoever and newspapers. Except works treating expressly of obscene matters, as well as books defending heresy or schism of set purpose, or in any way overturning the very foundations of religion."

143. 5. Common to secular and regular priests:

It is the same as n. 4, except that the word **in any way** at the end is suppressed.

144. 6. Customarily conceded to laymen of any status:

"... As long as he shall have lived, under custody ... and with scandal removed ... any books whatsoever and newspapers, except nevertheless books treating expressly of religion and similarly those which of set purpose treat, narrate, or teach obscene matters."

145. 7. Customarily conceded to pupils of universities, etc.

"... It may be lawful for the petitioner, by reason of studies ... to read and retain books proper to his discipline, except works treating expressly of obscene matters and defending heresy or schism or in any way overturning the very foundations of the Church. But when he shall have completed the course of studies and completed the twenty-fourth year of age, let him supplicate again, and account will be taken of him."

146. 8. For women, directed to the confessor:

"... the prayers are remitted to the prudent discretion of the confessor of the petitioner, with the necessary and opportune faculties of permitting the same petitioner to read and retain those books and newspapers ... which he shall have judged expedient for her. Except, etc."

N.B. Mention is not made of newspapers unless it is expressly requested. Sometimes only books treating expressly of obscene matters are excepted.

147. 9. For Spain, Lusitania, and South America:

The prayers, unless special ones have been offered, will be remitted to the confessor.

148. 10. For keeping books in the library of a family:

That faculty is conceded "except works treating expressly of obscene matters, which, if perchance they are found in it, are immediately to be burned"; with the "clause of diligent custody lest they come to the hands of others."

149. 11. For booksellers and typographers:

"With attention given to the testimonial letters of the Ordinary of the petitioner, the prayers are remitted to the discretion and conscience of the same Ordinary, with the rules prescribed in the newest General Decrees of the Index (t. 2, c. 4) concerning the printing and sale of prohibited books nevertheless being observed."

150. 12. For a librarian, or for an assistant librarian, if the librarian lacks faculty:

"... the faculty by which he may be able to hand over to those who ask prohibited books existing in the library of N. city N., yet with those asking warned that the book is prohibited, as often as this can conveniently be done and there is hope that the warning will be profitable. Except, nevertheless, works which expressly treat of obscene matters."

151. 13. For a pupil who is preparing a dissertation:

"... books, provided and insofar as, for the end ... they seem necessary or useful to him by the judgment of teachers or other learned men. Except those expressly obscene."

152. 14. For a community of women:

"... It is conceded to the prudent discretion of the confessor, with various clauses and usually for a two-year period. Except books expressly against religion or morals."

N.B. a) Nuncios request the faculty from the Secretariat of State.

b) To an Ordinary who alleges that too many books are published in his diocese for them to be able to be recognized by his examiners, it is permitted that he may be able to approve books examined and approved by the proper Ordinaries of the authors.

Article 2

Formulae of the Sacred Congregation de Propaganda Fide

I. Indults for Permitting the Reading of Prohibited Books

153. A) Separate indult:

"From the Audience of the Most Holy One held on the day _____.

"Our Most Holy Lord _____, by Divine Providence Pope _____, with me, the undersigned Secretary of the Sacred Congregation de Propaganda Fide, reporting, granted the faculty to _____

"of permitting, according to his own discretion and conscience, to priests, clerics, and other men more outstanding in virtue and knowledge subject to him, that they may be able to read and retain newspapers and books prohibited by the Apostolic See, except those treating expressly of obscene matters; under custody nevertheless, lest they come to the hands of others, and with those cautions and restrictions which are contained in the attached instruction. Anything whatsoever to the contrary notwithstanding.

"Given at Rome, from the Buildings of the Sacred Congregation de Propaganda Fide, on the day and year aforesaid.

"(Gratis)."

154. Attached Instruction on the faculty of reading prohibited books:

"The Bishop or Ordinary furnished with Apostolic authority of permitting to clerics or laymen subject to him that they may be able to read and retain books prohibited by the Holy See should note that these things which follow are to be observed.

"1. That to more outstanding priests, and those constituted in some ecclesiastical dignity, the aforesaid faculty can be conceded of reading prohibited books, even those expressly defending heresy or schism, or in any way overturning the very foundations of Religion, for the effect of impugning them or as an aid of the sacred ministry and of honest studies: always excepting works treating expressly of obscene matters.

"2. That to most outstanding laymen the faculty of reading prohibited books can be conceded as above n. 1, but only for the effect of impugning them or as an aid of one's own office and of honest studies.

"3. That to other priests, whether secular or regular, and also to laymen outstanding in virtue and knowledge, the aforesaid faculty can be conceded: always excepting those treating expressly of obscene matters, as well as those defending heresy or schism of set purpose, or in any way overturning the very foundations of Religion.

"4. That to clerics or laymen, for the sake of studies, the faculty of reading and retaining prohibited books proper to their discipline can be conceded by reason of studies and until they shall have completed the course of studies; except works treating expressly of obscene matters, as well as those defending heresy or schism, or in any way overturning the very foundations of Religion.

"5. That to laymen of either sex asking, there can be conceded, by the prudent discretion and conscience of their own Confessor, the faculty of reading and retaining, under custody nevertheless and with scandal removed, those prohibited books by name which the same Confessor shall have judged expedient in the Lord; altogether excepting works treating expressly of obscene matters, as well as those defending heresy or schism or in any way overturning the very foundations of Religion.

"Moreover, it will have to be noted that the aforesaid faculty can be conceded:

"I. To upright and learned men only, whom it has been ascertained to be more outstanding in doctrine, piety, and zeal.

"II. To adolescents who devote themselves to studies in public schools, gymnasia, lyceums, academies, as to those books which they are compelled by command of the lay power to have before their hands, as long as they remain in that necessity.

"III. But to pupils of the Seminary or of Colleges let only those books be permitted which are proper to their discipline, and whose reading by reason of their studies seems necessary to them. But books of this kind, before the reading of them is permitted, are to be diligently examined, and it is to be ascertained whether they can be handed over to the hands of adolescents without grave danger. But if from the examination of them it is clear that they expressly treat against faith or good morals, or are so depraved that it must gravely be feared lest they corrupt youthful minds and infect them with perverse opinions, in no way are they to be permitted to adolescents. But in conceding the rest one must act cautiously, and it will have to be diligently cared for that the danger of infection, as much as can be done, be removed, and against the poison with which the books are imbued, an opportune antidote be supplied to them; the same pupils always being warned that this license has been conceded to them only for the time in which they remain in the College or Seminary: but if they seem to need it also after departure, it will be necessary for them to have recourse to the Ordinary or to the Holy See itself.

"But the aforesaid license in individual cases is to be conceded gratis under any title, and mention having been made of the Apostolic power obtained for this."

B) Indults among the temporary faculties of Bishops.

155. 1. In formulae I, II, VI, X:

"... Of holding and reading, not however of conceding to others, except, however, for a time, to those Priests whom he knows to be especially fit and honorable, prohibited books, except the works of **Dupuy, Volney, M. Reghellini, Pigault-Lebrun, De Potter, Bentham, J. A. Dulaure, *Fetes et Courtisanes de la Grece, Nouvelle di Casti***, and other works treating expressly of obscene matters and against Religion."

156. 2. In formula III (for Bishops of Austria, Belgium, Holland, Germany, etc.):

The same faculty except that after the word **Priests** there is added:

"or laymen whom he has ascertained to be more outstanding in doctrine, piety, and zeal of faith."

157. 3. In formula U:

"Of conceding license to Catholics subject to his spiritual jurisdiction of retaining and reading prohibited books, even those expressly treating against Religion, for the effect of impugning them, provided nevertheless that according to his prudence and discretion (which let him use sparingly) he knows that licenses of this kind are necessary and will yield to the good of Religion, except those astrological, superstitious, and expressly obscene."

3-bis. In formula Q the faculty is conceded in the same way, with only the word **expressly** suppressed.

158. 4. In formula T and Extr. C:

"Of retaining and reading books prohibited by the Apostolic See, even those expressly treating against Religion, for the effect of impugning them, which nevertheless he is to guard diligently lest they come to the hands of others, except those astrological, judicial, superstitious, and expressly obscene; and also of conceding the same faculty to others, sparingly nevertheless and provided he can prudently presume that they will suffer no detriment from reading of this kind."

159. 5. In formula S (Broader):

"Of retaining and reading books prohibited by the Apostolic See, even those expressly treating against Religion, for the effect of impugning them, which nevertheless he is to guard diligently lest they come to the hands of others, except the expressly obscene, and of communicating this faculty to his Missionaries."

160. 6. In formula IV (for Oriental Missions) many more books are excepted by name.

II. Faculties of Reading and Retaining Prohibited Books

A) Separate faculties:

161.

"From the Audience of the Most Holy One held on the day _____.

"Our Most Holy Lord _____ by Divine Providence Pope _____, with me, the undersigned Secretary of the Sacred Congregation de Propaganda Fide, reporting, benignly conceded the faculty to _____:

"of reading and retaining books prohibited by the Apostolic See, even those expressly treating against Religion, for the effect of impugning them, which nevertheless he is to guard diligently, lest they come to the hands of others; except those astrological, judicial, superstitious, and expressly obscene.

"Given at Rome, from the Buildings of the Sacred Congregation, on the day and year as above."

"(Gratis)."

162. From the Audience of the Most Holy One held on the day _____.

"Our Most Holy Lord _____ by Divine Providence Pope _____, with me, the undersigned Secretary of the Sacred Congregation de Propaganda Fide, reporting, granted the faculty with the consent of the Ordinary to _____ R. _____

of reading and retaining, under diligent custody nevertheless lest they come to the hands of others, and with scandal removed, books prohibited by the Apostolic See, altogether excepting works expressly treating of obscene matters, as well as those defending heresy or schism of set purpose, or in any way overturning the very foundations of Religion.

"Given at Rome from the Buildings of the Sacred Congregation de Propaganda Fide, on the day and year aforesaid.

"(Gratis)."

B) Faculties numbered among quinquennial faculties, etc.

163. 1. In formula Extr. F:

"Of holding and reading books of condemned authors, even those expressly treating against Religion, for the effect of impugning them, which nevertheless he is to guard diligently, lest they come to the hands of others, except the expressly obscene."

164. 2. In formula R:

"Of retaining and reading books prohibited by the Apostolic See, even those expressly treating against Religion, for the effect of impugning them, etc., as in Extr. F."

165. 3. In formula O:

"Of retaining and reading books of heretics or infidels or apostates defending heresy, for the effect of impugning them, and other books of any author prohibited by name through Apostolic Letters."

166. 4. In formula Z:

"Of publishing books in the native language of the aforesaid Vicariate, yet so that he transmit to the Sacred Congregation copies of those books which he will publish in type.

"Of holding and reading prohibited books, especially books both of the Old and of the New Testament, and also of sacred History, published by heretics in vernacular languages; of communicating the faculty to the neophytes themselves, provided there is no danger of perversion."

[^1]: If the Bishop is at the same time a Cardinal, for **Most Ample** and **Amplitude**, there is written: **Most Eminent** and **Eminence**.



Part Four

Formulae and Catalogues

Chapter II: Catalogues

I. List of Writers Whose Works Are Marked by the General Clause, Together with the Day of the Decree

167. Understand the clause as **All works**, where another is not indicated; but the day as the day of the last decree, if the writer has been condemned several times.

Where by decree there is proscribed not the very universality of the works but a work whose title is general, for example **All works**, the words "All works" are written in ordinary letters and within parentheses. But if at any time that proscription seemed to be equated to a universal and collective one, we have prefixed to the name of the writer the sign *.

ALBERTI, Valentinus. - May 10, 1757. ALSTEDIUS, Ioannes Henricus. - May 10, 1757. *ALTING, Iacobus. All theological, analytical works, etc.* - May 10, 1757. *ALTING, Henricus.* - May 10, 1757. AMESIIUS, Guilelmus. - May 10, 1757. ARNISAEUS, Henningius. - October 29, 1622. BALZAC, H. de. *All amorous novels.* - June 20, 1864. BARONIUS, Robertus. - May 10, 1757. BASNACE, Jacques. - May 10, 1757. BAYLE, Pierre. - May 10, 1757. BEBELIUS, Balthazar. - May 10, 1757. BLONDELLUS (Blondel), David. - May 10, 1757. BORDAS-DEMOULIN, Jean-Baptiste. *Oeuvres posthumes, published by J. Huet.* - April 9, 1866. BOTSACCUS, Johannes. - May 10, 1757. BOURIGNON, Antoinette. (*Toutes les oeuvres contenues en dix-neuf volumes.*) - May 10, 1757. BROCHTONUS (Broughton). - December 13, 1608. BRUNO, Giordano. - February 8, 1600. BUDDEUS, Johannes Franciscus. - May 5, 1750. BULLUS, Georgius. (*All works.*) - June 13, 1757. CALIXTUS, Georgius. - July 7, 1693. CASMANNUS, Otto. - March 6, 1610. CASSANDER, Georgius. (*All works which could be found.*) - February 23, 1617. CATUMSYRITUS, I. B. *All works which have not been recognized by the author and printed at Rome.* - May 9, 1636. CAVE, Gulielmus. - November 11, 1693. CAYLUS, Charles, *Gabriel de Thubieres de.* (*Les oeuvres.**) - August 29, 1753. CHAMPFLEURY (Pseud.), see Fleury, Jules. CLAPMARIUS, Arnoldus. - April 21, 1632.

CLAUDE, Jean. - May 10, 1757. CLERICUS (Le Clerc), Iohannes. - March 16, 1733. CLUVERIUS, Ioannes. - January 23, 1640. COLBERT DE CROISSY, Charles Ioachin. (*Les oeuvres.*) - May 15, 1743. COLLIN DE PLANCY, Jacques-Albin-Simon. - September 10, 1827. CONRINGIUS, Hermannus. - May 10, 1757. CRELLIUS, Joannes. (*All exegetical, dialectical works, etc.*) - May 10, 1757. DALLAEUS, Joannes. (*Daille, Jean.*) - January 29, 1686. DE DOMINIS, Marcus Antonius. - March 16, 1621. DESCARTES, Renatus. (*Philosophical works. Until corrected.*) - November 20, 1663. D'ESPAGNE, Jean. (*Les oeuvres.*) - November 17, 1676. DIEU, Ludovicus de. - April 12, 1660. DORSCHAEUS, Iohannes Georgius. - May 10, 1757. DRELINCOURT, Charles. - May 10, 1757. DUDEVANT, see Sand, George. DUMAS, Alexandre (father). *All amorous novels.* - June 22, 1863. DUMAS, Alexandre (son). *All amorous novels.* - June 22, 1863. DUMOULIN, Charles, see Molinaeus, Carolus. DUMOULIN, Pierre, see Molinaeus, Petrus. DU PLESSIS-MORNAY, Philippe, see Mornaes, Phil. EPISCOPIUS, Simon. (*Theological works.*) - September 5, 1684. FERRARI, Giuseppe. - March 24, 1877. FEYDEAU, Ern. *All amorous novels.* - June 20, 1864. FLEURY, Jules. *All amorous novels.* - June 20, 1864. FRISCHLIN, Nicodemus. - October 14, 1601. GEIERUS, Martinus. - May 10, 1757. GENTILIS, Albericus. - December 14, 1602. GERHARDUS, Ioannes. - May 10, 1757. GIOBERTI, Vincenzo. - January 14, 1852. GIORDANI, Pietro. (*Opere. Until corrected.*) - September 5, 1825. GOLDASTUS, Melchior. - September 20, 1706. GROTIUS, Hugo. (*All theological works.*) - May 10, 1757. GUICCIARDINI, Franciscus. (*Opere inedite illustrate da G. Canestrini*) - January 20, 1859. HEIDEGGERUS, Ioannes Henr. - November 21, 1690. HOBBS, Thomas. - May 7, 1703. HOORNBECK, Ioannes. - May 10, 1757. HOTTINGERUS, Ioannes Henr. - May 10, 1757. HUME, David. - September 10, 1827. HUNNIUS, Helfericus Ulricus.

- July 19, 1619. JURIEU, Pierre. - May 10, 1757. KORTHOLTUS, Christianus. - May 10, 1757. LABADIE, Jean de. - November 23, 1694. LAMBARDI, Giacomo. - March 28, 1675. LA METTRIE, Iulius Offray de. (Oeuvres philosophiques*, whether collected into one or separated.) - February 15, 1770. LA PLACETTE, Jean. - May 10, 1757. LAUNOIUS (Launoy), Ioannes. (All letters, comprised in eight parts.) - May 27, 1687. LAURENTIUS, Iacobus. - September 22, 1692.

LAZZARETTI, David. - July 24, 1878. LENFANT, Jacques. - May 10, 1757. LETI, Gregorio. - March 20, 1702. LEYDECKER, Melchior. - May 10, 1757. LIGHTFOOTUS, Ioannes. (All works.) - February 28, 1690. LUBBERT, Sibrandus. - May 10, 1757. MARESIUS (Des Marets), Samuel. - June 27, 1678. MESTREZAT, Jean. - May 10, 1757. MOLINAEUS (Du Moulin), Carolus. - July 9, 1658. MOLINAEUS, Petrus. - May 10, 1757. MOLINOS, Miguel de. - November 20, 1687. MORARDO, Gaspare. - December 17, 1821. MORNAEUS (Mornay), Philippus. - September 1, 1629. MORUS (More), Henricus. - July 11, 1701. MURGER, Henry. All amorous novels. - June 20, 1864. NOODT, Gerardus. (All works recognized by himself, etc.) - August 29, 1735. OSIANDER, Ioannes Adam. - May 10, 1757. OTTO (Ottius), Ioannes Henricus. - May 10, 1757. PALLAVICINO, Ferrante. (*Panegirici, epitalami, discorsi accademici, novelle e lettere amorse.*) - December 9, 1659. PERKINSUS, Guilielmus. - May 10, 1757. PFAFFIUS, Christophorus Matthaeus. - May 10, 1757. PISCATOR, Ioannes (of Strasbourg, 1546-1626). - May 10, 1757. POZA, Ioannes Baptista. - December 10, 1631. PRIDEAUX, Ioannes. (All theological works which exist in Latin.) - December 6, 1678. PROUDHON, Pierre-Joseph. - January 22, 1852. RAUPPIUS, Iacobus. - September 5, 1684. RICHTERUS, Gregorius. - December 13, 1608. RIVET, Andre. - May 10, 1757. ROCCABELLA, Tommaso. - December 18, 1646. SALMASIUS, Claudius. - December 18, 1646. SAINT-AUBIN, Horace de (pseud.), see Balzac, Honore de. SAND, George (pseud.). All amorous novels. - December 15, 1863. SCHLUSSELBURGIUS, Conradus. - October 22, 1619. SCHOOCKIUS, Martinus. - April 4, 1707. SCULTETUS, Abrahamus. - May 10, 1757. SOULIE, Frederic. All amorous novels. - June 20, 1864. SPANHEMIUS, Fridericus senior. - May 10, 1757. SPANHEMIUS, Fridericus junior. - May 10, 1757. SPAVENTA, Bertrando. All philosophical works. - December 22, 1876. SPINOZA, Benedictus de. (Posthumous works.) - August 29, 1690. STENDHAL, Henri Beyle de. All amorous novels. - July 20, 1864. SUE, Eugene. All amorous novels. - January 22, 1852. THOMAS, Anglus, see White. TURRETINUS, Benedictus. - May 10, 1757. TURRETINUS, Franciscus. - May 10, 1757. TURRETINUS, Ioannes Alphonsus. - May 10, 1757. TWISSUS, Guilielmus. - May 10, 1757. VAN ESPEN, Zeger Bernardus. - November 18, 1732.

VARLET, Dominique Marie. (Posthumous works.) - February 1, 1752. VELTHUYSIUS, Lambertus. (All works.) - January 25, 1684. VERA, Auguste. - December 22, 1876. VIGORIUS, Simon. (All works.) - November 23, 1683. VOLTAIRE. (*Oeuvres*, A. Dresde, 1748.) - September 6, 1752. The same. (*Romans et Contes.*) - July 2, 1804. WHITBY, Daniel. - May 10, 1757. WHITE, Thomas. - May 31, 1663. ZOLA, Emile. - September 1, 1898.

[^1]: We have borrowed this from the work of P. Hilgers, *Der Index*, p. 94.

II. List of Works Proscribed by Special Decree After the Index of Leo XIII Was Published[^2]

168. Having imitated the example of the new Index, we have given the day on which the decree was issued, not the day on which it was made public.

ALVI, Ciro. *S. Francesco d'Assisi*. (Novel.) - Milan, Palermo, Naples, 1903. (Decree, June 3, 1904.) BUISSON, Ferdinando. *La religion, la morale et la science; leur conflit dans l'education contemporaine*. - Paris, Fischbacher, 1901. (Decree, March 5, 1903.) COMBE, Em. *Le grand coup avec sa date probable, c'est-a-dire le grand chatiment du monde et le triomphe universel de l'Eglise. Etude sur le secret de la Salette*. 2nd ed., augmented by the brochure of Melanie and other justificatory pieces. - Vichy, 1896. (Decree, June 7, 1901.) DENIS, Charles. *Un careme apologetique sur les dogmes fondamentaux*. - Paris, 1902. (Decree, December 4, 1903.) The same. *L'Eglise et l'Etat; les lecons de l'heure presente*. - Paris, 1902. (Decree, December 4, 1903.) DOMPIERRE, Jean de. *Comment tout cela va finir. L'avenir jusqu'a la fin des temps; histoire anticipee des derniers ages du monde*. - Rennes, 1900. (Decree, June 7, 1901.) FOGAZZARO, Antonio. *Il Santo*. (Novel.) - Milan, 1905. (Decree, April 5, 1906.) GEORGEL, l'abbe. *La matiere; sa deification; sa rehabilitation au point de vue intellectuel et aimant; ses destinees ultimes*. - Oran,

1902-1903. (Decree, December 4, 1903.) HOUTIN, Albert. *La question biblique chez les catholiques de France au XIX siecle*. - (Decree, December 4, 1903.) The same. *Mes difficultes avec mon eveque*. - (Decree, December 4, 1903.) The same. *L'Americanisme*. - Paris, 1904. (Decree, June 3, 1904.) LABERTHONNIERE, L. *Essais de philosophie religieuse*. - Paris, no date. The same. *Le Realisme chretien et l'Idealisme grec*. - Paris, no date. (Decree, April 5, 1906.) LIZZOCCHI, Oniello. *Nuovi orizzonti filosofici, ossia avviamento a studi di filosofia*. Pistoia, Flori e C., 1904. (Decree, December 12, 1905.)

LOISY, Alfred. *La Religion d'Israel*. - (Decree of the Holy Office, December 16, 1903.) The same. *L'Evangile et l'Eglise*. - (Decree of the Holy Office, December 16, 1903.) The same. *Etudes evangeliques*. - (Decree of the Holy Office, December 16, 1903.) The same. *Autour d'un petit livre*. - (Decree of the Holy Office, December 16, 1903.) The same. *Le quatrieme Evangile*. - (Decree of the Holy Office, December 16, 1903.) *Lo scudo del debole oppresso e la giustizia di Dio verso l'oppressore unit* (without place, author, and time). (Italian version of the title of the work inscribed in the Arabic language.) (Decree, June 7, 1901.) MAGGIONI, Dr. Franco. *Questioni delicate*. - Rome, Forzani e C., 1904. (Decree, December 12, 1905.) MULLER, Iozef. *Der Reformkatholizismus, die Religion der Zukunft. Fur die Gebildeten aller Bekenntnisse dargestellt*. First and second part. Wurzburg-Zurich, 1899. (Decree, June 7, 1901.) OLIVE, Joseph. *Lettre aux membres de la pieuse et devote association du Coeur de Jesus et de N. D. des Sept Douleurs*. - Certe, 1886-1903. (Decree, December 4, 1903.) PAYOT, Jules. *De la croyance*. - Paris, Felix Alcan, 1906. (Decree, March 5, 1903.) The same. *Avant d'entrer dans la vie. Aux instituteurs et aux institutrices, conseils et directions pratiques*. Paris, Armand Colin, 1901. (Decree, March 5, 1903.) PLANCHET, F. Regis. *El derecho canonico y el clero mexicano, o sea anotaciones al Concilio V mexicano*. Mexico, 1900. (Decree, June 7, 1901.) The same. *La ensenanza religiosa en la arquidiocesis de Mexico, y suplemento a la obra "El derecho canonico"*. Mexico, 1900. (Decree, June 7, 1901.) PRESBYTER, Lucensis. *L'antichita intorno all'elezione dei Sacri Pastori*. - Lucca, Tip. del Serchio, 1902. (Decree, August 19, 1902.) QUIEVREUX, Camille. *Le paganisme au XIX siecle*, 3 vols. - Abbeville, 1895-97. (Decree, June 7, 1901.) SIFFLET, P. *Cours lucide et raisonne de doctrine chretienne. Les sept mysteres chretiens; Trinite, Peche originel, Incarnation, Redemption, Eucharistie, Resurrection des Corps, Eternite, Souffrance, au regard de la nature, de la raison et de l'irreligion*. - Lyon, Librairie S. Augustin and Librairie Delhomme et Brigue. (Decree, March 5, 1903.) Turs el-agiz el mazlum Wa-adl Allah bel-baci bai en-naqum.[^3] VIOLLET, Paul. *L'Infaillibilite du Pape et le Syllabus*. (Historical and theological study.) Besancon-Paris, 1904. (Decree of April 5, 1906.) VOGRINEC, Anton. *Nostra maxima culpa! Die bedrängte Lage der Katholischen Kirche, deren Ursachen und Vorschläge zur Besserung*. Vienna and Leipzig, 1904. (Decree, June 3, 1904.) ZINAI, Zino. *Il pentimento e la morale ascetica*. - Turin, Fratelli Bocca, 1902. (Decree, August 19, 1902.)

[^2]: In the years 1899 and 1900 no book is to be entered in the Index.

[^3]: The shield of the weak oppressed man and the justice of God in punishing the oppressor.

Leo XIII, Pope

Constitution on the Prohibition and Censure of Books

Leo, Bishop

Servant of the Servants of God

For Perpetual Memory of the Matter

Of the offices and duties which ought to be preserved most diligently and most holily in this apostolic height, this is the head and this the sum: to watch constantly and to strive with every effort that the integrity of faith and of Christian morals receive no detriment. And this, if ever at any other time, is especially necessary in this time, when, minds and morals having been unbridled by license, almost every doctrine which Jesus Christ, the Savior of men, entrusted to His Church to be guarded for the salvation of the human race is called into daily contest and danger. In this contest indeed the cunning and arts of harming of the enemies are varied and innumerable; but among the first is the intemperance, full of dangers, of writing and of disseminating among the public things which have been badly written. For nothing can be thought more pernicious for staining souls through contempt of religion and through many allurements of sinning. Wherefore the Church, fearing so great an evil, and as guardian and vindicator of the safety of faith and morals, very early understood that remedies against a pest of this kind had to be taken; and for that reason it perpetually strove for this, that, as far as lay in it, it might prohibit men from the reading of bad books, that is, from this worst poison. The times nearest the origins saw the vehement zeal of blessed Paul in this matter; and every following age in like manner perceived the vigilance of the holy Fathers, the commands of bishops, and the decrees of Councils.

But especially the monuments of letters testify with how great care and diligence the Roman Pontiffs watched in this matter, lest the writings of heretics creep about unpunished, to the public evil. Antiquity is full of examples. **Anastasius I** condemned the more pernicious writings of **Origen**, **Innocent I** those of **Pelagius**, **Leo the Great** all the works of the Manichaeans by a grave edict. Known also on the same matter are the decretal letters concerning books to be received and not to be received, which **Gelasius** gave opportunely. Similarly, in the course of ages, the sentence of the Apostolic See struck the pestilent books of the Monothelites, of **Abelard**, **Marsilius of Padua**, **Wycliffe**, and **Hus**.

But in the fifteenth century, once the new art of books was discovered, not only was action taken against bad writings which had seen the light, but provision began to be made lest any of that sort thereafter be published. And not some light cause, but altogether the protection of honesty and public salvation during that time demanded this providence; because too many had quickly turned an art best in itself, parent of the greatest utilities, born for propagating the Christian humanity of nations, into a vast instrument of ruins. The evil of bad writings, by the very speed of spreading, was greater and more swiftly effected. Therefore, by a most salutary counsel, both **Alexander VI** and **Leo X**, our predecessors, brought forth fixed laws, assuredly congruent with those times and morals, which would contain book printers in their office.

Soon, when a graver storm arose, it was necessary much more watchfully and strongly to prohibit the contagions of evil heresies. For this reason the same **Leo X**, and afterwards **Clement VII**, most gravely sanctioned that it should be lawful for no one to read or retain the books of **Luther**. But when, on account of the unhappiness of that age, the impure filth of pernicious books had grown beyond measure and had pervaded every part, there seemed to be need of a broader and more present remedy. This remedy indeed our predecessor **Paul IV** first applied opportunely, namely by proposing a list of writers and books from the use of which the faithful ought to beware. Not very long afterwards the Fathers of the Tridentine synod took care that the growing license of writing and reading be restrained by a new counsel. For by their will and command the prelates and theologians chosen for this not only gave their labor to increasing and polishing the Index which **Paul IV** had published, but also wrote rules to be observed in the edition,

reading, and use of books; to which rules **Pius IV** added the strength of apostolic authority.

But the account of public salvation, which had begotten the Tridentine rules at the beginning, as the ages slipped by, likewise commanded that something be renewed in them. Wherefore the Roman Pontiffs, and by name **Clement VIII**, **Alexander VII**, **Benedict XIV**, knowing the times and mindful of prudence, decreed several things which had value for explaining them and adapting them to the time.

These things brilliantly confirm that the principal cares of the Roman Pontiffs were perpetually placed in this: that they should defend from the civil society of men errors of opinions and corruption of morals, this twin stain and ruin of states, customarily begotten and disseminated by bad books. Nor did the fruit fail the labor, as long as in administering commonwealths the eternal law presided over the reason of commanding and prohibiting, and rulers of states agreed in one with the sacred power.

No one is ignorant of the things which followed afterwards. Namely, when day by day the circumstances of things and men had gradually changed, the Church did this prudently according to its custom, which, with the nature of the times having been examined, seemed more expedient and useful for the salvation of men. Several prescriptions of the rules of the Index, which seemed to have fallen away from their former opportuneness, it either itself removed by decree, or, when custom and usage prevailed somewhere, it benignly and at the same time providently allowed to become antiquated. In more recent memory, by letters given to the archbishops and bishops from the pontifical principate, **Pius IX** mitigated rule X in great part. Moreover, when the great Vatican Council was now near, he gave this business to learned men chosen for preparing arguments: that they should weigh and evaluate all the rules of the Index, and should render judgment as to what had to be done concerning them. They judged, with sentences agreeing, that they had to be changed. Very many of the Fathers openly professed that they both thought the same and were asking this from the Council. There exist letters of the Bishops of France on this matter, whose sentence is that it is necessary and must be done without delay, that those rules and the whole matter of the Index be restored in an entirely new manner, better adapted to our age and easier to observe. At that time the same was the judgment of the Bishops of Germany, plainly asking that the rules of the Index "be submitted to recent revision and reduction." With these agree very many bishops from Italy and other regions.

All these, indeed, if account is taken of the times, of civil institutions, and of popular morals, ask things plainly equitable and consonant with the maternal charity of holy Church. For in so swift a course of minds, there is no field of the sciences in which letters do not run forth more licentiously; thence the daily filth of most pestilent books. But what is graver, in so great an evil, public laws not only connive, but give great license. Hence, on the one side, the souls of very many are held in suspense in religion; on the other, there is an unpunished abundance of reading whatever one wishes.

Therefore, judging that these inconveniences must be remedied, We have thought two things had to be done, from which a norm of acting in this kind, certain and clear, may be available to all. Namely, We ordered the Index of prohibited reading of books to be most diligently revised; then, when it should be mature, to be published after it had been so revised. Besides, We applied our mind to the rules themselves, and We decreed that, their nature remaining unharmed, they be made somewhat milder, so plainly that to obey them, provided one is not of bad disposition, cannot be grave and arduous. In this We not only follow the examples of our predecessors, but imitate the maternal zeal of the Church: which indeed seeks nothing so much as to show itself benign, and has always cared, and cares, to heal those born from itself in such a way that it lovingly and zealously spares their weakness.

And so, after mature deliberation, and with the Cardinals of the Holy Roman Church from the sacred Council for marking books having been employed, We have resolved to publish the General Decrees which are written below and joined together with this Constitution: which same sacred Council is hereafter to use exclusively, and which Catholic men throughout the whole world are to obey religiously. We will that these alone have the force of law, with the rules published by command of the most holy Tridentine synod, observations, instruction, decrees, warnings, and every other statute and command of our predecessors on this matter being abrogated, with the one exception of the Constitution of **Benedict XIV**, *Sollicita ac provida*, which, just as it has been in force up to now, so We will to remain entirely in force hereafter.

General Decrees on the Prohibition and Censure of Books

Title I: On the Prohibition of Books

Chapter I: On Prohibited Books of Apostates, Heretics, Schismatics, and Other Writers

1. All books which before the year 1600 either the Supreme Pontiffs or ecumenical councils condemned, and which are not listed in the new Index, are to be held condemned in the same way as they were formerly condemned: except those which are permitted through these General Decrees.

2. Books of apostates, heretics, schismatics, and any writers whatsoever, defending heresy or schism, or in any way overturning the very foundations of religion, are altogether prohibited.

3. Likewise books of non-Catholics which expressly treat of religion are prohibited, unless it is established that nothing against Catholic faith is contained in them.

4. Books of the same authors which do not expressly treat of religion, but only touch incidentally the truths of faith, are not to be held prohibited by ecclesiastical law until they have been proscribed by special decree.

Chapter II: On Editions of the Original Text and Non-Vernacular Versions of Sacred Scripture

5. Editions of the original text and of ancient Catholic versions of Sacred Scripture, even of the Eastern Church, published by any non-Catholics whatsoever, even if they appear to have been edited faithfully and integrally, are permitted only to those who devote themselves to theological or biblical studies, provided nevertheless that in the prolegomena or annotations the dogmas of Catholic faith are not attacked.

6. In the same manner, and under the same conditions, other versions of the sacred Bibles, whether in Latin or in another non-vernacular language, edited by non-Catholics, are permitted.

Chapter III: On Vernacular Versions of Sacred Scripture

7. Since by experience it is manifest that, if the sacred Bibles in the vernacular language are everywhere permitted without discrimination, more detriment than utility arises thence, on account of the rashness of men, all versions in the vernacular language, even those made by Catholic men, are altogether prohibited, unless they have been approved by the Apostolic See, or edited under the vigilance of bishops with annotations taken from the holy Fathers of the Church and from learned and Catholic writers.

8. All versions of the sacred Bibles, made in any vernacular language by any non-Catholics whatsoever, are interdicted, and especially those which are spread abroad through biblical societies, condemned more than once by the Roman Pontiffs, since in them the most salutary laws of the Church concerning the publishing of divine books are fundamentally disregarded.

Nevertheless these versions are permitted to those who devote themselves to theological or biblical studies, with those things observed which were established above (n. 5).

Chapter IV: On Obscene Books

9. Books which expressly treat, narrate, or teach lascivious or obscene matters, since account must be taken not only of faith, but also of morals, which are customarily easily corrupted by the reading of books of this kind, are altogether prohibited.

10. Books of authors, whether ancient or more recent, whom they call classics, if they are infected with this very stain of foulness, on account of elegance and propriety of speech are permitted only to those whom the reason of office or teaching excuses; nevertheless they will by no reason be handed over or read aloud to boys or adolescents, unless expurgated with diligent care.

Chapter V: On Certain Books of Special Subject Matter

11. Books are condemned in which there is detraction from God, or from the Blessed Virgin Mary, or the Saints, or the Catholic Church and its worship, or the Sacraments, or the Apostolic See. To the same judgment of reprobation are subjected those works in which the concept of inspiration of Sacred Scripture is perverted, or its extension too much restricted. Books also are prohibited which of set purpose afflict the ecclesiastical hierarchy, or the clerical or religious state, with insults.

12. Let it be forbidden to publish, read, or retain books in which sortileges, divination, magic, evocation of spirits, and other superstitions of this kind are taught or commended.

13. Books or writings which narrate new apparitions, revelations, visions, prophecies, miracles, or which introduce new devotions, even under the pretext that they are private, if they are published without legitimate license of the Superiors of the Church, are proscribed.

14. Likewise books are prohibited which establish duel, suicide, or divorce as licit, which treat of masonic sects or other societies of the same kind, and contend that they are useful and not pernicious to the Church and to civil society, and which defend errors proscribed by the Apostolic See.

Chapter VI: On Sacred Images and Indulgences

15. Images printed in any way whatsoever of our Lord Jesus Christ, of the Blessed Virgin Mary, of angels and saints, or of other servants of God, which differ from the sense and decrees of the Church, are altogether forbidden. But new ones, whether they have prayers attached or are edited without them, are not to be published without the license of ecclesiastical power.

16. It is interdicted to all to spread abroad in any way whatsoever apocryphal indulgences, and those proscribed or revoked by the Holy Apostolic See. Those which have already been spread abroad are to be taken from the hands of the faithful.

17. All books of Indulgences, summaries, pamphlets, sheets, etc., in which their concessions are contained, are not to be published without the license of competent authority.

Chapter VII: On Liturgical and Prayer Books

18. In authentic editions of the Missal, Breviary, Ritual, Ceremonial of Bishops, Roman Pontifical, and other liturgical books approved by the Holy Apostolic See, let no one presume to change anything: if it has been done otherwise, these new editions are prohibited.

19. All litanies, besides the most ancient and common ones which are contained in Breviaries, Missals, Pontificals, and Rituals, and besides the litanies of the Blessed Virgin which are customarily sung in the sacred house of Loreto, and the litanies of the most holy Name of Jesus already approved by the Holy See, are not to be published without the review and approval of the Ordinary.

20. Books or pamphlets of prayers, devotion, or doctrine and religious, moral, ascetical, mystical instruction, and other such things, although they seem to conduce to fostering the piety of the Christian people, let no one publish apart from the license of legitimate authority: otherwise let them be held prohibited.

Chapter VIII: On Newspapers, Sheets, and Periodic Pamphlets

21. Newspapers, sheets, and periodic pamphlets which attack religion or good morals of set purpose are to be held proscribed not only by natural law, but also by ecclesiastical law.

But let Ordinaries take care, where there is need, opportunely to warn the faithful concerning the danger and harm of reading of this kind.

22. Let no one of Catholics, especially of ecclesiastical men, publish anything in newspapers, or sheets, or periodic pamphlets of this kind, unless a just and reasonable cause persuades.

Chapter IX: On the Faculty of Reading and Retaining Prohibited Books

23. Books proscribed either by special decrees or by these general decrees can be read and retained only by those who have obtained opportune faculties from the Apostolic See, or from those to whom it has delegated its place.

24. The Roman Pontiffs placed the Sacred Congregation of the Index over conceding licenses of reading and retaining any prohibited books whatsoever. Nevertheless, the Supreme Congregation of the Holy Office, and also the Sacred Congregation de Propaganda Fide for regions subject to its governance, enjoy the same power. For the City alone, this faculty also belongs to the Master of the Sacred Apostolic Palace.

25. Bishops and other prelates possessing quasi-episcopal jurisdiction may be able to concede license for singular books, and only in urgent cases. But if the same have obtained from the Apostolic See a general faculty, so that they may be able to impart to the faithful license of reading and retaining proscribed books, let them concede it only with selection and from a just and reasonable cause.

26. All who have obtained the apostolic faculty of reading and retaining prohibited books are not therefore able to read and retain any books whatsoever, or newspapers proscribed by the Ordinaries of places, unless in the apostolic indult there has been made for them express power of reading and retaining books condemned by any persons whatsoever. Let those who have obtained license of reading prohibited books also remember that they are held by grave precept to guard books of this kind in such a way that they do not come to the hands of others.

Chapter X: On the Denunciation of Bad Books

27. Although it belongs to all Catholics, especially to those who excel in doctrine, to denounce pernicious books to Bishops or to the Apostolic See, nevertheless by a special title this pertains to Nuncios, Apostolic Delegates, Ordinaries of places, and Rectors of Universities flourishing in praise of doctrine.

28. It is expedient that in the denunciation of bad books not only the title of the book be indicated, but also, insofar as it can be done, the causes be set forth on account of which the book is judged worthy of censure. But to those to whom the denunciation is referred, it will be sacred to preserve secret the names of those denouncing.

29. Ordinaries, also as Delegates of the Apostolic See, should strive to proscribe and take from the hands of the faithful books and other harmful writings published or diffused in their diocese. Let them refer to apostolic judgment those works or writings which demand a subtler examination, or in which, for pursuing a salutary effect, the sentence of supreme authority seems to be required.

Title II: On the Censure of Books

Chapter I: On the Prelates Set Over the Censure of Books

30. In whose hands there is the power of approving or permitting editions and versions of the sacred Bibles is clear from those things which were established above (n. 7).

31. Let no one dare to publish again into the light books proscribed by the Apostolic See; but if, from a grave and reasonable cause, some singular exception in this matter should seem to be admitted, that shall never be done unless the license of the Sacred Congregation of the Index has first been obtained, and the conditions prescribed by it have been observed.

32. Those things which in any way pertain to causes of beatifications and canonizations of the servants of God cannot be published without the approval of the Congregation set over the guarding of sacred rites.

33. The same is to be said concerning collections of decrees of individual Roman Congregations: namely, these collections cannot be published unless license has first been obtained, and the conditions prescribed by the moderators of each Congregation have been observed.

34. Vicars and apostolic missionaries should faithfully observe the decrees of the Sacred Congregation set over the propagation of the faith concerning books to be published.

35. The approval of books whose censure, by force of the present Decrees, is not reserved to the Apostolic See or to Roman Congregations, belongs to the Ordinary of the place in which they are made public.

36. Regulars, besides the license of the bishop, should remember that by the decree of the sacred Council of Trent they are bound to obtain from the prelate to whom they are subject the faculty of publishing the work into the light. But each concession is to be printed at the beginning or at the end of the work.

37. If an author dwelling at Rome should wish to print a book not in the City, but elsewhere, besides the approval of the Cardinal Vicar of the City and of the Master of the Sacred Apostolic Palace, no other is required.

Chapter II: On the Office of Censors in the Previous Examination of Books

38. Let bishops, whose office it is to grant the faculty of printing books, take care that for examining them they employ men of tried piety and doctrine, concerning whose faith and integrity they can promise themselves that they will give nothing to favor, nothing to hatred, but, every human affection having been put aside, will look only to the glory of God and the utility of the faithful people.

39. Concerning various opinions and sentences (according to the precept of **Benedict XIV**) let censors know that they must judge with a mind empty of all prejudices. Therefore let them shake off affection of nation, family, school, institute; let them lay aside party zeal; let them have before their eyes solely the dogmas of the holy Church and the common doctrine of Catholics, which are contained in the decrees of general councils, the constitutions of the Roman Pontiffs, and the consensus of doctors.

40. When the examination has been completed, if nothing seems to stand in the way of the publication of the book, the Ordinary, in writing and entirely gratis, should grant to the author the license of publishing it, to be printed at the beginning or at the end of the work.

Chapter III: On Books to Be Submitted to Previous Censure

41. All the faithful are bound to submit to previous ecclesiastical censure at least those books which regard the divine Scriptures, sacred theology, ecclesiastical history, canon law, natural theology, ethics, or other religious or moral disciplines of this kind, and generally all writings in which religion and the honesty of morals are specially concerned.

42. Men of the secular clergy should not publish even books which treat of arts and merely natural sciences without consulting their Ordinaries, so that they may furnish an example of an obedient mind toward them.

The same men are prohibited from undertaking, without previous permission of the Ordinaries, the direction of newspapers or periodic sheets.

Chapter IV: On Typographers and Editors of Books

43. Let no book subject to ecclesiastical censure be printed unless at the beginning it displays the name and surname both of the author and of the editor, and in addition the place and year of printing and of edition. But if in some case, for just causes, the name of the author seems to have to be suppressed, let the power of permitting this be in the hands of the Ordinary.

44. Let typographers and editors of books know that new editions of the same approved work require a new approval; and furthermore that the approval granted to the original text does not avail for its version into another language.

45. Books condemned by the Apostolic See are to be judged prohibited everywhere among the nations, and into whatever language they are turned.

46. All booksellers whatsoever, especially those who glory in the Catholic name, should neither sell, nor lend, nor retain books treating expressly of obscene matters; they should not have the rest of the prohibited books for sale unless they have obtained permission from the Sacred Congregation of the Index through the Ordinary, nor should they sell them to anyone unless they can prudently judge that they are legitimately sought by the buyer.

Chapter V: On the Penalties Established Against Transgressors of the General Decrees

47. All and each who knowingly, without the authority of the Apostolic See, read books of apostates and heretics defending heresy, as well as books of any author prohibited by name through apostolic letters, and who retain, print, and in any way defend the same books, incur by the fact itself an excommunication reserved in a special manner to the Roman Pontiff.

48. Those who, without the approval of the Ordinary, print books of the sacred Scriptures or annotations or commentaries on the same, or cause them to be printed, fall by the fact itself into an excommunication reserved to no one.

49. But those who have transgressed the other things which are prescribed by these General Decrees should, according to the diverse gravity of guilt, be seriously admonished by the bishop; and, if it shall seem opportune, they should also be coerced by canonical penalties.

But We decree that the present letters and whatsoever things are contained in them can at no time ever be marked or impugned on account of a vice of subreption or obreption or of Our intention, or any other defect, but that they will always be and are valid and in their force, and must be observed inviolably by all of whatever grade and preeminence, in judgment and outside it; and We declare that it is null and void if it shall happen that otherwise concerning these things anything is attempted by anyone, by whatever authority or pretext, knowingly or ignorantly, anything whatsoever to the contrary notwithstanding.

Moreover, We will that to copies of these letters, even printed ones, yet subscribed by the hand of a notary and fortified with the seal by a man constituted in ecclesiastical dignity, the same faith be had which would be had to the signification of Our will if these presents had been shown.

Therefore let it be lawful for no man to infringe this page of Our constitution, ordination, limitation, derogation, and will, or to go against it by rash daring. But if anyone shall have presumed to attempt this, let him know that he will incur the indignation of almighty God and of blessed Peter and Paul His apostles.

Given at Rome at Saint Peter's, in the year of the Lord's Incarnation one thousand eight hundred ninety-six, the eighth day before the Kalends of February, in the nineteenth year of Our Pontificate.

A. Card. Macchi.

A. Panici, Subdatary.

Seen.

De Curia I. de Aquila e Vicecomitibus.

In place of the Lead Seal. **I. Cugnonius**

Registered in the Secretariat of Briefs.



Benedict XIV, Pope

Constitution by Which the Method to Be Observed in the Examination and Proscription of Books Is Prescribed

Benedict, Bishop

Servant of the Servants of God

For Perpetual Memory of the Matter

The solicitous and provident vigilance of the Roman Pontiffs our predecessors has always bent itself upon that care, that it might avert the Christian faithful from reading those books from which the unwary and simple could receive some detriment and be imbued with opinions and doctrines which are opposed either to integrity of morals or to the dogmas of the Catholic religion. For, to pass over the most ancient decree of Saint **Gelasius I**, and the things which long ago were established on this matter by **Gregory IX** and other Pontiffs, we judge no one to be ignorant of the things most diligently accomplished by our predecessors **Pius IV**, Saint **Pius V**, and **Clement VIII**, so that they not only might complete and perfect the most salutary work undertaken by the Fathers of the most holy Tridentine synod, maturely discussed and almost brought to an end, concerning the Index of books of forbidden reading to be compiled and published, but might also fortify it with most wise decrees and rules. The Apostolic See continually urges and promotes this business, with two Congregations of Cardinals of the Holy Roman Church deputed for this, on whom the burden has been imposed of inquiring into bad and harmful books, and of judging to which emendation and to which proscription is due. This duty is reported to have been committed by **Paul IV** to the Roman Congregation of the universal Inquisition, and it continues still to be exercised by it, where judgment concerning books pertaining to certain kinds of matters occurs. But it is certain that Saint **Pius V** was the first founder of the Congregation of the Index, which subsequent Pontiffs, **Gregory XIII**, **Sixtus V**, and **Clement VIII**, then confirmed and increased with various privileges and faculties; and its proper and almost sole office is to call books into examination, concerning whose proscription, emendation, or permission deliberation must be taken.

§ 1. With what maturity, counsel, and prudence deliberation is made in the Congregation of the universal Inquisition concerning books to be proscribed or dismissed, We not only think is hidden from no one, but We ourselves have plainly observed and learned by long experience; for, when constituted in minor orders, We rendered censure in it concerning some books; and We long discharged the office of consultor of the same Congregation; afterwards, having been enrolled among the Cardinals of the Holy Roman Church, We obtained the place of general Inquisitor in it; and finally, having been raised to the Apostolic See, though with unequal merits, We have been accustomed not only sometimes to read and weigh the observations of censors on certain books, but also in the Congregations which are held before Us on individual Thursdays, before anything is decreed concerning the same books, to hear and receive the sentences and votes of the Cardinals. We can, and indeed ought, to bear testimony of no lesser diligence for the other Congregation of the Index, upon which it generally falls, as We said above, to decree concerning the proscription of any books whatsoever. For while We were in minor orders, We more than once discharged in that Congregation the office of first and second censor, or relator; but since We bear the supreme Pontificate, We have ratified the proscription of no book unless the secretary of the Congregation has been heard, who would accurately explain to Us the matter of the book, the censures of the reviewers, and the judgments and votes of the Cardinals.

§ 2. But since it is known and explored by Us that many proscriptions of books, especially those whose authors are Catholics, are sometimes brought into reprehension by public and unjust complaints, as if this matter were conducted rashly and perfunctorily in Our tribunals, We have judged it worth the work, by this Our Constitution which will have force perpetually, to propose certain and firm rules, according to which hereafter the examination and judgment of

books are to be carried out; although it can plainly be affirmed that this very thing has long since been constantly done, either in entirely the same manner or in another equivalent one.

§ 3. Moreover, the Roman Congregation of the universal Inquisition consists of several Cardinals of the Holy Roman Church chosen by the Supreme Pontiff, of whom some are conspicuous in doctrine of sacred theology, others in doctrine of canon law, others in experience of ecclesiastical affairs and exercise of the duties of the Roman Curia, and finally in praise of prudence and probity. To these is added one of the prelates of the Roman Curia, whom they call the assessor; also one from the Order of Preachers, a master of sacred theology, whom they call the commissary; besides, a fixed number of consultors, who are taken from each clergy, secular and regular; finally other men outstanding in doctrine, who, ordered by the Congregation, establish censure concerning books, and to whom the name of qualifiers has been given. In the aforesaid Congregation various matters, and very grave ones, are treated; but chiefly causes of faith, and persons guilty of violated religion. But when it happens that some book is referred to it as worthy of proscription, unless it remits the matter to the Congregation of the Index for judgment, as usually happens, but, according to the account of things and times, judges that it must itself take cognizance of it, We, adhering to the decree issued by the same Congregation on Wednesday, the Kalends of July, in the year 1750, and confirmed by Us on the following Thursday, command judgment to be instituted by this reason and method.

§ 4. First, namely, let the book be handed over to one of the qualifiers or consultors to be designated by the Congregation; let him read it with attentive mind and diligently weigh it; then let him commit his censure to writing, with places and pages indicated in which the noted errors are contained. Soon let the book with the observations of the reviewer be sent to the individual consultors, who in the Congregation customarily to be held on individual Mondays in the buildings of the Holy Office are to say their sentence concerning the book and the censure; then let the censure itself, with the book and the votes of the consultors, be transmitted to the Cardinals, so that in the Congregation which is customarily held on Wednesday in the monastery of the Friars Preachers called Saint Mary above Minerva, they may pronounce definitively concerning the whole matter. Afterwards, by the assessor of the Holy Office, let all the acts be referred to the Pontiff, by whose judgment every judgment will be completed.

§ 5. But since it has been received by ancient institution that the book of a Catholic author is not immediately proscribed after the censure of only one relator has been examined, according to the norm of the aforesaid decree of the month of July in the year 1750, We will that that custom be observed altogether; so that, if the first censor judges that the book must be proscribed, although the consultors come together into the same sentence, nevertheless the book and the censure are to be handed over to another reviewer chosen by the same Congregation, the name of the first censor having been suppressed, so that the other may set forth his judgment more freely. But if the second reviewer agrees with the first, then the observations of both are to be sent to the Cardinals, so that, after these have been weighed, they may decree concerning the book; but if the second disagrees with the first and judges that the book should be dismissed, a third censor is to be chosen, to whom, with the names of the prior ones suppressed, each censure is to be communicated. But if his report does not differ from the prior sentence of the consultors, it is to be communicated immediately to the Cardinals, so that they themselves may decree what will have been opportune. But if otherwise, again let the consultors, after the third censure has been examined, cast their vote; and let this, together with all the aforesaid reports, be exhibited to the Cardinals, who, the matter having thus been maturely weighed, will have to pronounce finally concerning the controversy. But as often as the Pontiff, either on account of the gravity of the matter which is treated in the book, or because he judges that this is to be granted to the merit of the author and to other circumstances, has decreed that the judgment of the book be held before himself in the Congregation of Thursday, which has often been done by Us, and as often as We judge it to be expedient, will also be done hereafter; then it will be enough to exhibit to the Pontiff and Cardinals the censures of the book and the votes of the consultors, the examination of the Congregation of Wednesday and its report, which We said was to be made to the Pontiff by the assessor, being omitted: for the matter will be completed by the votes of the Cardinals to be cast before the Pontiff himself, and by his definitive sentence, or by another opportune counsel to be taken in the same Congregation.

§ 6. The other Congregation also, of the Index, embraces several Cardinals assigned to it by the Pontiff himself, and endowed with the same gifts with which the Cardinals of the Holy Office are customarily strong; since it also happens that some of them have a place in each Congregation. Of these one exists as Prefect of the same Congregation; but the

perpetual assistant is the Master of the Sacred Palace; and the secretary, from the first institution of the Congregation up to the present day, has customarily been chosen for the time by the Supreme Pontiff from the Order of Friars Preachers. There are besides consultors and relators of the same Congregation, chosen from each clergy, secular and regular; and indeed, when someone has once, twice, a third time laudably completed reports of books before the Congregation, then the Congregation itself is accustomed to ask the Pontiff that by his authority he be referred into the number of consultors.

§ 7. Under the very beginnings of Our Pontificate, this thought came to Us: that We should establish some certain and immutable method to be observed for the examination and judgment of books in this Congregation of the Index. Concerning this matter We not only sought the counsel of Our beloved son **Angelo Maria**, Cardinal of the Holy Roman Church called **Quirini**, librarian of the same Holy Roman Church and Prefect of the said Congregation, who with equal prudence and doctrine declared to Us his sense in writing, but We also ordered some of the older consultors of the same Congregation to come together before Our beloved son **Joseph Augustine Orsi**, of the Order of Preachers, then secretary of that Congregation, but now Master of the Apostolic Palace, and to open their sentence, which, likewise conceived in writing, was exhibited to Us even then. And since all these things have been diligently preserved with Us, now at last, resuming Our old deliberation, just as We have established by Our authority those things which pertain to the examination and judgment of books to be carried out in the first-named Congregation of the Holy Office; so also, wishing to establish by opportune decrees those things which can pertain to the Congregation of the Index, and to business of the same kind to be treated before it, adhering to the counsels of the praised Cardinal Prefect and to the votes of the said consultors, We decree that these things are hereafter to be observed.

§ 8. Since the Congregation of the Index, instituted only for the censure of books, as was said, is not customarily called together so frequently as the other Congregation of the Holy Office, which, on account of the multitude of causes and businesses, is customarily held three times in individual weeks, We therefore commit and entrust to its secretary the peculiar duty and office of receiving denunciations of books, as already before was customarily done. But he will diligently ask the one referring the book on what causes he asks that it be prohibited; then he will turn through the book itself not perfunctorily, so that he may know concerning the subsistence of the proposed accusation; two consultors also having been employed for this matter, to be chosen by him, with previous approval of the Supreme Pontiff, or of the Cardinal Prefect, or of him who supplies the place of the Prefect: after their counsel has been conferred, if the book seems worthy of censure and mark, some one relator fit for rendering judgment concerning it, namely, skilled in that faculty concerning which the book treats, will have to be chosen in the same manner which We have recently suggested, who is to report his observations in writing, with the pages noted on which the individual things reprehended by him are contained. But before his censure is brought to the Congregation of Cardinals, We will that there be held a private Congregation of consultors, which they once called the small one, but We will call preparatory, so that, the observations of the relator having been compared with the book, judgment may be made concerning their weight. A Congregation of this kind will have to be called together altogether once in individual months, or even more often, if it shall be necessary, by the secretary of the Congregation himself, either in his own rooms or in a more opportune place, as it shall seem to him, within the buildings of the aforesaid monastery, where he dwells. And there will always be present at it the Master of the Sacred Palace existing for the time, together with six others from the number of consultors, to be chosen in individual turns by the secretary according to the quality of the subject and matter concerning which there will have to be discussion, as was established above concerning the first two consultors and concerning the relator, besides the secretary himself, whose part it will be to put into the records the sentences of the consultors, which he will then send to the Congregation of Cardinals with the censure of the relator. Finally, in the general Congregation all those things will have to be observed which were established above for the Congregation of the Holy Office concerning the examination of books. And just as it belongs to the assessor of the Holy Office to make the Supreme Pontiff certain concerning the acts in the Congregation, so it will pertain to the secretary of the Congregation of the Index, as often as this Congregation has judged that some book must be proscribed or emended, to seek the assent of the same Pontiff, after a diligent report of all the acts has first been made.

§ 9. But since in the Congregation of the Index the matter is only concerning the prohibition of books, We judged that certain things should be added in this place, which will be of use especially to the same Congregation, yet which will also have to be observed equally by the other Congregation of the Holy Office, while it also involves itself in

causes of this kind, where similar circumstances of things present themselves. As often as the matter concerns a book of a Catholic author who is of intact reputation and illustrious name, either on account of other books published or perhaps on account of that very one which is brought into examination, and this indeed must be proscribed; let the custom received now for a long time be kept before the eyes, of prohibiting the book with the clause added: **until it is corrected**, or **until it is expurgated**, if it can have place, and nothing grave stands in the way, so that in the case concerning which the matter is treated it may be able to be employed. But when this condition has been added to the proscription, let the decree not be published immediately; rather, with its publication suspended, let the matter previously be communicated to the author, or to any other acting and asking for him, and let it be indicated to him what must be deleted, changed, or corrected. But if no one appears in the name of the author, or he himself, or another acting for him, refuses the correction of the book enjoined, when a fitting time has been defined, let the decree be published. But if the same author, and his procurator, has done the commands of the Congregation, that is, has instituted a new edition of the book with opportune corrections and changes, then let the decree of proscription be suppressed, unless perhaps copies of the prior edition have been sold in great number; for then the decree will have to be published in such a way that all understand that only copies of the first edition will be interdicted, but those of the second, now emended, permitted.

§ 10. We know that certain persons have sometimes complained that judgments and proscriptions of books are made without the authors being heard, with no place conceded to them for defense. But We know that to this complaint it has been answered that there is no need that authors be called into judgment, where the matter is not indeed concerning marking or condemning their persons, but concerning consulting for the safety of the faithful, and averting from them the danger which is easily incurred from harmful reading of books; but if it happens that the name of the author is sprinkled with some stain of disgrace from this, that follows not directly, but obliquely from the condemnation of the book. By this reason indeed We judge prohibitions of books of this kind, made without the authors having been heard, by no means to be disapproved; especially since it must be believed that whatever the author could have brought forward for himself, or for the defense of his doctrine, was in no way unknown or neglected by the censors and judges. Nevertheless, what it is established has often at other times been done by the same Congregation with the highest account of equity and prudence, this also We greatly desire to be observed by it hereafter: that when the matter concerns a Catholic author illustrious by some fame of name and merits, and his work, with the things to be removed having been removed, is recognized as able to come forth into public, it either hear the author himself wishing to defend his cause, or designate one of the consultors who from office may undertake the patronage and defense of the work.

§ 11. But just as, when We were treating of the Congregation of the Holy Office, We undertook that We would always be present at it as often as judgment is treated concerning a book whose matter is of graver importance (which will be very easy for Us, since the same Congregation is held before Us on any Thursday); so also We are prepared to devote Our presence to the Congregation of the Index as often as the gravity of the matter will seem to deserve it. For neither is it to be said that this is needed when either the book of a heretical man is denounced, in which the author deliberately hands down or defends errors opposed to Catholic dogma; or some work is brought into examination by which right rules of morals are weakened, and nourishment is furnished to vices and corruptions. For in these cases it will not be necessary to employ even those more accurate cautions which We have written above; but once the heretical dogma or the bad incitement of morals has been ascertained, the decree of proscription will immediately have to be sanctioned, according to the first, second, and seventh rules of the Index published and spread abroad by command of the most holy Council of Trent.^[^1]

§ 12. Since in the praised Congregation of the Holy Office it has been provided by most severe laws that no one speak with another outside it concerning matters of the same Congregation, We prescribe that this same law of silence be religiously kept by the relators, consultors, and Cardinals of the Congregation of the Index. Nevertheless We make power for its secretary, that he may be able to communicate observations on books subjected to censure to their authors, or to others acting and asking in their name, under the same law of secrecy; the names of the denouncer and of the censor always being suppressed.

[^1]: To these three rules having been abrogated there correspond in the Constitution *Officiorum* General Decrees 1, 2, 9, and 10.



Benedict XIV, Pope

Constitution by Which the Method to Be Observed in the Examination and Proscription of Books Is Prescribed

§ 13. For examining and correcting books, those things are very opportune which are contained in the ten rules of the Index drawn up, and published, by the Fathers of the Tridentine synod. But in the instruction of **Clement Pope VIII** of happy memory, added to the same rules, title *On the correction of books*, § 5, the care is committed to bishops and inquisitors that, for the examination of books to be published, they employ men of tried piety and doctrine, concerning whose faith and integrity they can promise themselves that they will give nothing to favor, nothing to hatred, but, every human affection having been put aside, will look only to the glory of God and the utility of the faithful people. Moreover, in these virtues and gifts of mind, if not for a greater, yet certainly for an equal cause, the reviewers and consultors of this Our Congregation ought to excel. And since We are not ignorant that all those who now obtain offices of this kind are such, it is to be desired and hoped that those who will hereafter be chosen for this will not be unlike: men, namely, of intact life, of approved doctrine, of mature judgment, of incorrupt affection, alien from all party zeal and acceptance of persons; who join equity and liberty of judging with prudence and zeal for truth. But since their number is not now certain and established, We will await and take counsel from the Cardinals of the same Congregation whether it is proper or expedient to define it for future times: yet even now decreeing this, insofar as their number is defined, that both relators and consultors be taken from each clergy, namely secular and regular: some theologians indeed, others skilled in both laws, others outstanding in sacred and profane erudition, so that from their body, according to the variety of books which are referred to the Congregation, there will not be lacking fit men for rendering judgment concerning each.

§ 14. Moreover, We warn and vehemently exhort the relators and consultors themselves, both those now existing and those who will be in the future whenever, that in the examination and judgment of books they diligently inspect and accurately keep the following rules.

§ 15. **I.** Let them remember that this office and burden has not been imposed on them, that they should by all means care for and urge the proscription of books handed over to them for examination; but that, weighing the book itself with diligent zeal and with a settled mind, they should supply to the Congregation their faithful observations and true reasons, from which it may be able to render right judgment concerning it, and to decree according to merit its proscription, emendation, or dismissal.

§ 16. **II.** Although provision has thus far been made, and We do not doubt provision must hereafter be made, that only those be admitted for reporting and consulting in the aforesaid Congregation who possess, acquired by long study, knowledge of the matters which the books referred respectively contain - for it is fitting that only artisans judge concerning arts - nevertheless, if perhaps it happens that, by error, some matter to be discussed is committed to someone alien from his peculiar studies, and this is detected by the censor or consultor chosen from the very reading of the book, let him know that he will be free from fault neither before God nor before men, unless as soon as possible he opens this to the Congregation or to the secretary, and, having professed himself less fit for rendering censure on a book of this kind, takes care that another more fit be substituted for that duty: and he is so far from suffering a loss of his estimation before the Pontiff and Cardinals, that rather he will procure for himself a great opinion and praise of probity and candor.

§ 17. **III.** Let them know that concerning the various opinions and sentences contained in each book they must judge with a mind empty of all prejudices. Therefore let them shake off affection of nation, family, school, institute; let them lay aside party zeal; let them have before their eyes solely the dogmas of the holy Church and the common doctrine of Catholics, which is contained in the decrees of general councils, the constitutions of the Roman Pontiffs, and the consensus of orthodox Fathers and doctors; thinking besides this, that there are not a few opinions which to one school, institute, or nation seem more certain than certain, and nevertheless, without any detriment to faith or religion, are

rejected and attacked by other Catholic men, and the opposite opinions defended, with the Apostolic See knowing and permitting, which leaves each opinion of this kind in its degree of probability.

§ 18. IV. This also We warn must diligently be noted: that a right judgment concerning the true sense of an author cannot be made unless his book be read from every side, and the things which are placed and located in diverse places be compared among themselves; furthermore, the whole counsel and undertaking of the author must be attentively considered; nor indeed is it to be pronounced concerning him from one or another proposition torn from its context, or considered and weighed apart from others which are contained in the same book. For often it happens that what was handed down by an author in some place of the work perfunctorily or somewhat obscurely is so distinctly, fully, and clearly explained in another place, that the shadows cast over the prior sentence, by which it displayed, while enveloped, the appearance of a bad sense, are entirely dispelled, and the proposition is recognized as free from every stain.

§ 19. V. But if certain ambiguous things have fallen from an author who otherwise is Catholic, and of intact reputation in religion and doctrine, equity itself seems to demand that his sayings, explained kindly as far as possible, be taken in a good part.

§ 20. Moreover, let censors and consultors always have proposed to their mind these and similar rules, which will easily occur among the best writers treating of these matters, so that they may be able, in this most grave kind of judgment, to consult for their conscience, the reputation of authors, the good of the Church, and the utility of the faithful. But there are two remaining things plainly opportune for that end, which We judge must altogether be added in this place.

§ 21. Sometimes books come forth in which false and reprobated dogmas or systems, destructive of religion or morals, are set forth and reported as the inventions and thoughts of others, without the author, who has exerted himself to burden his work with bad wares of this kind, taking upon himself the care of refuting them. But those who do such things think themselves subject to no reprehension or censure, because, as they say, they themselves affirm nothing concerning the opinions of others, but act historically. Yet whatever may be the case concerning their mind and counsel, and concerning personal action against them, which those who pronounce law in tribunals instituted for coercing crimes will see to, certainly it cannot be doubted that by books of this kind great stain and destruction is brought upon the Christian commonwealth, since they present poisons to unwary readers, with no antidote exhibited or prepared by which they may be preserved. Let reviewers most diligently attend to this most subtle invention of human malice, and new kind of seduction, by which the minds of the simple are easily entangled, and subject it to censure, so that either books of this kind, if some utility can be taken from them, may be emended, or may altogether be referred into the Index of forbidden books.

§ 22. In that instruction of Our predecessor **Clement Pope VIII**, which We praised above, title *On the correction of books*, § 2, one reads that it was most wisely provided that those things should be expunged which detract from the reputation of neighbors, and especially of ecclesiastics and princes, and are contrary to good morals and Christian discipline. And a little after: "jests also, or sayings thrown out to the destruction or prejudice of the reputation and estimation of others, are to be rejected." Would that books of this kind were not brought forth into the sight and light of men in this license and depravity of the times, in which dissenting authors cut each other down with mutual quarrels and insults, lash with censure the opinions of others not yet condemned by the Church, brand adversaries and their schools and associations, and hold them as ridiculous, indeed to the great scandal of the good, but to the contempt of heretics, who plainly triumph when Catholics fight among themselves and tear each other mutually. But although We understand that it cannot be done that all disputes be removed from the world, especially since the number of books is continually increased - for there is no end of making many books, as it is in Ecclesiastes, chapter 12 - and furthermore it is known to Us that great utility can sometimes be taken from them; nevertheless We deservedly will that measure in defending opinions and Christian moderation in writing be preserved. "Not uselessly," says **Augustine** in *Enchiridion*, chapter 59, near the end, "are minds exercised, if a moderate discussion is employed, and there is absent the error of those opining that they know what they do not know." Those who are accustomed to put forward zeal for truth and for purer doctrine as a pretext by which they excuse the biting character of their writings should first understand that no less account is to be taken of evangelical meekness and Christian charity than of truth. But charity from a pure heart is

patient, is kind, is not irritated, is not emulous, does not act wrongly; and, as the same **Augustine** adds in the book *Against the Letters of Petilian*, chapter 29, n. 31, "without pride it presumes concerning truth, without savagery it contends for truth." That great doctor, no less of truth than of charity, showed these things beforehand both by writing and by work. For in his continual conflicts against the Manichaeans, Pelagians, Donatists, and others opposing both himself and the Church, he always most diligently guarded this: that he not injure or exasperate any of them with injuries or insults. Whoever shall have done otherwise by writing or disputing, he indeed shows that neither truth is principally dear to him, nor that he follows charity.

§ 23. Those also do not seem to bring a sufficiently fit and just excuse who, on account of the singular zeal which they profess toward ancient doctors, judge that that manner of writing is lawful for them; for if they dare to carp at new ones, perhaps they would by no means have restrained themselves from injuring the ancient ones if they had fallen into their times. This was brilliantly observed by the author of the *Unfinished Work on Matthew*, homily 45: "When you hear," he says, "someone beatifying the ancient doctors, test what sort he is toward his own doctors. For if he sustains and honors those with whom he lives, without doubt he would have honored those if he had lived with them; but if he despises his own, if he had lived with those, he would also have despised them." Wherefore let that stand firm and ratified for all who write and dispute against the sentences of others, which was gravely and wisely prescribed by the venerable servant of God, Our predecessor **Innocent Pope XI**, in the decree published on the second day of March in the year 1679: "Finally," he says, "that doctors, or scholastics, or any others whatsoever, may abstain hereafter from injurious contentions, so that peace and charity may be consulted, the same Most Holy One commands them in virtue of holy obedience, that both in printed and manuscript books, and in theses and preachings, they beware of every censure and mark, and also of any insults whatsoever against those propositions which are still controverted among Catholics, until they have been recognized by the Holy See and judgment is rendered concerning them." Therefore let that license of writers be restrained, who, as **Augustine** said, book 12 of the *Confessions*, chapter 25, n. 34, loving their own sentence, not because it is true, but because it is their own, not only disapprove the opinions of others, but also mark and traduce them ungenerously. Let it not be borne at all that private sentences be thrust forward by someone in books as if they were certain and defined dogmas of the Church, and that the opposite ones be accused of error, by which disturbances are excited in the Church, dissensions among doctors are either sown or fostered, and the bonds of Christian charity are very often broken.

§ 24. The Angelic prince of the schools and doctor of the Church, Saint **Thomas Aquinas**, while he wrote so many volumes never sufficiently praised, necessarily encountered various opinions of philosophers and theologians which, with truth impelling, he had to refute. But this wonderfully heaps up the other praises of so great a doctor, that he seemed to slight, carp at, or traduce none of his adversaries, but to treat all dutifully and very humanely; for if anything harsher, ambiguous, or obscure lay beneath their sayings, he softened and explained it by interpreting gently and kindly. But if the cause of religion and faith demanded that he explode and refute their sentence, he performed this with such modesty that he merited no lesser praise by disagreeing with them than by asserting Catholic truth. Those who are accustomed to use and glory in so excellent a master (whom We rejoice to be in great number, on account of Our singular devotion and zeal toward him), let them propose to themselves for emulation the moderation in writing and the most honorable manner of acting and disputing with adversaries of so great a doctor. Let the rest also strive to compose themselves to this, who withdraw from his school and doctrine. For the virtues of the Saints have been proposed by the Church to all as an example. And since the Angelic Doctor has been enrolled in the catalogue of the Saints, although it is lawful to think differently from him, nevertheless it is not at all lawful to enter upon a manner of acting and disputing contrary to him. It matters exceedingly for public tranquility, for the edification of neighbors, and for charity, that envy, bitterness, and scurrility be absent from the writings of Catholics, as things altogether alien from Christian institution and discipline, and from every honesty. Wherefore let reviewers of books, for their office, seriously direct censure against license of writers of this kind, and let them subject it to be known by the Cardinals of the Congregation, so that they may coerce it according to their zeal and power.

§ 25. The things thus far proposed and established by Us, plainly consonant with the decrees of Our predecessors, and also approved by the laws and customs of Our Congregations, We decree by apostolic authority to be observed hereafter in instituting the examination and judgment of books: commanding all and singular persons who obtain a place in the aforesaid Congregations, or in any way furnish their labor to them, that they presume to say, innovate,

decree, or attempt nothing against the foregoing things thus established by Us, without the express faculty of Us, or of Our successors, Roman Pontiffs existing for the time.

§ 26. Anything whatsoever to the contrary notwithstanding, even apostolic constitutions and ordinances, and also decrees, usages, styles, and customs of the same Congregations, even those strengthened by apostolic authority or by any other firmness, even immemorial ones, and all other things whatsoever making to the contrary.

§ 27. Therefore let it be lawful for no man at all to infringe this page of Our decrees, commands, statutes, wills, and derogations, or to go against it by rash daring. But if anyone shall have presumed to attempt this, let him know that he will incur the indignation of almighty God and of blessed Peter and Paul His Apostles.

Given at Rome at Saint Mary Major, in the year of the Lord's Incarnation one thousand seven hundred fifty-three, on the seventh day before the Ides of July, in the thirteenth year of Our Pontificate.

D. Card. Passioneus.

I. Datary.

Seen.

De Curia I. C. Boschi.

In place of the Lead Seal. **I. B. Eugenius.**

Registered in the Secretariat of Briefs.



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Alphabetical Index of Things

Numbers before which p. is not placed are marginal numbers. An asterisk * signifies annotations. An inserted dash (-) = the word placed at the beginning.

A

Abbas Nullius, prohibiting books, 102.

Abrogation of the prior law of the Constitution *Officiorum*, 18, 20.

Non-Catholics, who they are, 67. Their books, 66, 67, 68; editions, versions of Sacred Scripture, 69, 70. What is a book of a non-Catholic, 67, N.B.

Ad aures nostras, Brief of **Alexander VII**, January 12, 1661, concerning the French version of the Missal, p. 106*.

For the effect of impugning, clause, 97, 98, 5.

Adolescent, who he is, 73, 5. University pupil reading obscene classics, 73, 5. - excused by office, 95, 2.

Alexander VI, imposes previous censure, 8.

Alexander VII, author of the Index, 5. His Brief *Ad aures*, concerning the Missal rendered in French, p. 106*. His command as to books of the Pontifical State, 114.

Pupils, what faculty they obtain, 145, 151. - excused by office, 95, 2. - reading obscene classics, 73, 5.

Anarchists, masonic society, 82, 83.

England, as to the decrees of the Index, 23; socialists, 83.

Annales parlementaires, 66, 7.

Year in Bulls, 13*. - of printing and edition to be placed in books, 121.

Anonymous books, 121.

Apocryphal indulgences, 86. Norms of discerning, p. 94.

Apostates, who they are. Various kind, 66. Their books, 66, 125.

Apostolic See. *Acta Apostolicae Sedis*, what they are, 84*. Books detracting from the same, 74; examples, p. 76; defending errors proscribed by it, 84. Force of faculties conceded by it, 95-98; of its proscriptions, 123. Whom it delegates for permitting reading, 97; for proscribing, 63, 102. Formulae of its faculties, 134-166.

Apostolic Letters, what, 125, 6.

Apostolicae Sedis, Constitution of **Pius IX**, October 12, 1869, concerning censures. It abrogates prior laws less fully than the Constitution *Officiorum*, 19, 20. Concerning the practice of seeking the name of the accomplice in confession, 84. Concerning masonic sects, p. 87.

New apparition. Books or writings narrating it, 78.

Arbitrary penalty, what, 127.

Arius, writer of *Thalia*, 2.

Articles excerpted from periodicals, edition, 123.

Ascetical books, 91. What if they were published without approval before Leo XIII's Constitution, 91, 4.

Author, see **Writer**.

B

Cause of Beatification. Publication of miracles to be approved by the Sacred Congregation of Rites, 78. Books (or writings) looking to these causes are reserved to the Sacred Congregation of Rites, 107.

Belgium. Censure concerning sacred images in Belgium, 85. Whether newspapers are proscribed by diocesan law in Belgium, 93. - enjoys the faculties of Propaganda Fide, 95. Socialists of Belgium, p. 89.

Bellarmin's Controversies in the prepared Index, 5.

Benedict XIV, author of the Index, 5; condemning inquiry concerning the accomplice, 84. His Constitution *Providas*, concerning masonic sects, p. 86; *Constitution Sollicita ac provida*, 5, 13, 15, 115; pp. 189-199. *Constitution Sollicitudini*, concerning images, 85. His decrees concerning prohibited books not expressly indicated by name in the Index, 19; concerning indulgences to be published, 87. His letter *Redditae nobis**, 20.

Bethleem L., *Romans a lire et Romans a proscrire*, 45*.

Sacred Bible, see **Sacred Scripture**.

Bookbinder, whether he retains books, 51, 58.

Booksellers, 60, 124. Formula of the faculty made for them, 149.

Library. Faculty of preserving prohibited books in a family library, 148.

Librarian, or custodian of a Library, whether he retains a book, 51. Faculties for his use, 137, 150.

Good morals, what they are, 92, 5. Newspapers opposed to them of set purpose, 92, 5. See **Obscene**.

Breviary, how to be published, 88. Use of a Breviary illicitly published, p. 101.

Bull indicates the year of the Incarnation, 13*.

C

Calendar, is not a book, 35.

Canonization. Books looking to these causes, to be approved by the Sacred Congregation of Rites. The same must be said concerning writings, 78, 107.

Books of sacred chant, 89.

Carbonaria, masonic society, 82. Catechisms of the Carbonari, p. 153.

Cardinals, subject to previous censure, 112; obtaining license to read prohibited works, 95; by what formula, 134, 139.

Carriere. His paraphrastic version of Sacred Scripture, 71.

Reserved case. Impediment of having recourse for a reserved case is estimated with respect to ordinary power, p. 119. - cannot be reserved to the Holy See by a Bishop, 102.

Urgent case, for one conceding license to read prohibited things, 96.

Catechisms, how to be published, 91. - of the Carbonari, p. 153. - in places of missions, 109.

Innkeepers, 60.

Censors of books, who are to be chosen. Their office, 115; remuneration, p. 140.

Censure, penalty, see **Excommunication**. To be interpreted strictly, 25.

Previous censure. Historical, 7-9. End and force of censure, object in general, solemnities, 104; obligation of conscience, 105 bis. Prelates set over censure, 105-114. How the office is to be carried out, 115. Works subject to censure, 117, 118. Special law of secular clerics, 119, 120; of regulars, 113. Summary of laws concerning censure, 132, 133.

Ceremonial of Bishops, how to be published, 88.

"**Chrestomathies**", 31.

Classes of condemned works which were formerly distinguished, 5, 65.

Obscene classics, 29, d. 73, 124, 4. Their versions, 73, 7.

Clauses: For the effect of impugning, 98, 5; **Against religion**, 92, 4, 98; **Of set purpose**, 43; **Concerning religion**, 67, 92, 4; **Until corrected**, 17, 29, d; **Also as delegate of the Apostolic See**, 64, p. 54 and n. 102; **Expressly**, 43; **All amorous novels**, 45,

2, 125; **Defending heresy**, 66; **In the diocese**, p. 120*; **In hatred of the author**, 5, 44; **So that books are not taken away outside the diocese**, 98, 6; **All works**, 44, 45; **Defending schism**, 66; **Knowingly**, 125; **Excommunication simply and specially reserved to the Supreme Pontiff**, 125, 10.

Clement VIII, author of the Index, 5, and previous censure, 8. His Instruction which was prefixed to the Index, 18, 19, 113. - concerning the prohibition of books to be made by Bishops, 64, p. 56.

Clement XII, Constitution *In eminenti*, concerning masonic sects, p. 86*.

Clerical state. Books injurious to the same, 76.

Clerics. What faculties they obtain, 140, 141, 143. - secular, Special law of previous censure, 119, 120.

Collections of Decrees of Sacred Congregations, not to be spread without license, 108. - of Indulgences, 87.

Rector of a college, what faculty he obtains, 135.

Pontifical Commission concerning the biblical matter, 75.

Loan of a prohibited book, whether and how forbidden, 47, 60, 124.

Communities of Sisters. Faculty of reading, etc., 152.

Ecumenical Council. Books condemned by it, 65; defending errors proscribed by it, 84. - Lateran, 8; Nicaean, 2; Tridentine, 18, 113, 126.

Condition sine qua non, how it is expressed, p. 123*.

Confessor and bad newspapers, 57, 60. - can be delegated for permitting prohibited books, 96, 97. His license is no longer required for reading Sacred Scripture, 71.

Confraternity, for Summaries of Indulgences, 87.

Custom, contrary to the Constitution *Officiorum*, 21.

Books or pamphlets of sermons, 91.

Controversies, whether they can be the reason why a Bishop prohibits a book, 102, 4.

Cooperation, proximate, remote, furnished to one publishing a book, 49; or to bad newspapers or periodicals, 94.

Corrector, how he cooperates in edition, 49; *of an obscene classical work*, 73, 4. - *is to be numbered among readers*, p. 39 and 155.

Society fostering cremation of corpses is not necessarily masonic, p. 88.

Grave or light guilt in violating the laws of the Index, 53-61.

Catholic worship. Books detracting from it, 74. Examples, p. 76*.

Custody of a prohibited book, 99.

D

Of set purpose, clause, 43. - A book doing something of set purpose, 43, 76.

General Decrees concerning the censure and prohibition of books. Notion, 14. - of Benedict XIV, 18, 19. - of Leo XIII. How they are to be interpreted, 17, 20, 22, 25-27. Their summary, 128-133 bis. Their universal force, 23. Force and efficacy for the past, 28.

Defensa de la autoridad de los gobiernos, etc., work of **Vigil**, p. 154.

Defense of a prohibited book, what it is, and insofar as forbidden, 47, 48. Gravity of guilt, 55. Excommunication, p. 155.

Delegation of the Holy See for permitting readings, 97; for proscribing, 63, 102.

Apostolic Delegate, who he is, 100, 3. - referring books to the Holy See, 100, 3.

Denunciation of bad books, 100, 101, 103.

De scriptoribus ecclesiasticis, work of **Gennadius**, 7.

Destruction of a prohibited book, whether commanded, 102, 7.

Detraction, what, 74, 3. How it differs from heresy, 74, 3. Books detracting from God, etc., 74.

God. Books detracting from Him, 74. Examples, p. 76*.

New devotions. What they are, 80, 2. Books or writings which introduce them, 80. - disapproved by the Holy Office, p. 84*. Books or pamphlets of devotions, 91.

Newspapers, whether they constitute a book, 33. What if reduced into one volume, 33, 34. - whether subject to previous censure, 118. - whose moderator is a cleric, 120. - which contain pious announcements, 91; - narrate supernatural things, 78, 3. - which are prohibited, 92. Purchase of prohibited newspapers, 61; reading, 57, d; with faculty, 98, 2; renting, lending, 60; subscription, 61; retention, 58. Parts of the Confessor, 57. Whether it is lawful or expedient to increase bad newspapers with good articles, 94.

Day, which is indicated in the catalogue of the Index, 17.

Divina Psalmodia, Constitution of **Urban VIII**, January 25, 1631, concerning Breviaries to be published, p. 99*.

Divination, what. Books teaching or commending it, 77.

Division of the Commentaries, I.

Divorce. What. Books which establish divorce as licit, 81.

Learned man, whether he is exempted from the laws of the Index, 95.

Until corrected, clause, 17, 29, d.

Duel. Notion. Books which patronize duel, 81.

Dumas (each). By what reason their works are proscribed, 45*.



Alphabetical Index of Things

E

Catholic Church. Books detracting from it, 74. Examples, p. 76.

Ecclesiam a Iesu Christo, Constitution of **Pius VII**, September 15, 1821, concerning masonic sects, p. 86*.

Edition, what it is, 49, 121, 126. - of Sacred Scripture, 69, 70. - new edition of an approved book, 122; of an article excerpted from periodicals, 123. - new or preceding edition of a prohibited work, 17, 29, c, d. 47, 106, 123. What concerning compendia of books of this kind, 30, p. 158. What the prohibition of publishing a book infers, 52. Evil of a prohibited edition, 49, 56.

Editor, who he is, 49, 121, 126.

Purchase of a prohibited book, 61; of newspapers, periodic pamphlets, 61.

En route, work of **Huysmans**, 72, 3.

Newspapers, whether they constitute a book, 33. What if reduced into one volume, 33, 34. - whether subject to previous censure, 118. - narrating marvelous facts, 78, 3; announcing pious ceremonies, 91. - which a secular priest wishes to moderate, 120. - prohibited, 92. If they are read, lent (among innkeepers), rented, bought (by subscription or otherwise), retained, what guilt: 57, 58, 60, 61. Parts of the Confessor, 57. Faculty of reading prohibited newspapers, 98, 2. Cooperation through honest articles, 94.

Epikeia, in the laws of the Index, 95.

Bishop, see also **Ordinary of the place**; approving books in general, 110; books of devotion, 91; new devotions, 80; litanies, 90; liturgical books, 88; books of indulgences, 87; books of supernatural facts, 78, 79; books or commentaries of Sacred Scripture, 126; vernacular versions of Sacred Scripture, 71. - conceding to a secular cleric that he publish a book, moderate a newspaper, 119, 120; conceding the reading of prohibited books, 96, 97; the publication of an anonymous or pseudonymous book, 121, 6. - referring books to the Holy See, 100. - publishing a book, 112. - fortified with faculties. Formulae of faculties, 134, 139, 152, N.B. 153-160. - prohibiting books or newspapers, 63, 98, 102. What if the book has already been approved; what if proscribed by the Holy See, 102, p. 158. What he can do toward regulars, 64, 97, 98, 113, 126. - punishing violators of the laws of the Index, 127. - of a mission region, 109, 5.

Bishops of England, 83, 104; of Belgium, 85, 93; of Liege, p. 113*. Of France and Germany, p. 22.

Errors. Books which defend proscribed ones, 84.

Esser, O.P., author of the Preface of the Index, 13, 17.

Also as delegate of the Apostolic See, clause, 64, 102.

Euchologia, how to be published, 91, p. 97.

Excerpts from periodicals, 122.

Excommunication, penalty against certain violations of the law of the Index, 125, 126; against those teaching that the practice of seeking in confession the name of the accomplice, etc., is licit, 84. What specially reserved operates, 125, 10.

Exemption from the laws of the Index, 23, 24, 95. - of regulars, how it is to be conceived, 64.

Expressly, clause, 43.

F

Amorous novels. What? 42. Concerning the clause by which all amorous novels are condemned, 45, 2.

Faculty of publishing a book, to be conceded gratis; to be printed how and with what strictness. When the reason for a denied faculty is to be given, 116. See **Censure**.

Faculties of reading or permitting prohibited books. Formulae, 134-166. How they are to be interpreted, 27, 96, 97, 98. - to whom and how they are conceded, 95-98. Necessity of license for reading, 95. Use of faculties outside territory, 95 bis, 98, 6. What if you have changed domicile, 95 bis. What faculties are judged temporary, p. 120. Summary of laws, 133 ter.

Servant, ordered to retain prohibited books, 58.

Fascicles of periodic pamphlets, whether books, 33, 34. - posterior to proscription, 29.

Fenians, masonic society, 82.

Cause of faith. Subjection of Regulars in a cause of this kind, p. 53.

Sheets, are not a book, 33. What if they pertain to a condemned book, 36. - of indulgences, 87. - which are prohibited by general decree, 92, 94, 3. - periodic, which a cleric wishes to moderate, 120. See also **Newspapers**.

Formulae of faculties and indults, 134-166.

Francis de Victoria, **Relectiones**, and the Index, 5.

Frohschammer, his condemned works, p. 154.

G

Gelasius. Decree concerning books, 2. - receives the book of **Gennadius** to be examined, 7.

Gennadius hands over the work *De scriptoribus ecclesiasticis* to the Pope to be examined, 7.

Godfrey of Viterbo hands over the work *Pantheon* to the Pope to be approved, 7.

Gregorian chant, edition, 89.

Gregory XIII, author of the Congregation of the Index, 6.

Guida spirituale, work of **Molinos**, p. 153.

H

Heresiarchs, under the prior and present law, 66.

Heresy, what, 67, 74, 3. Books defending heresy, 66, 125.

Heretical proposition, condemned after the book has been published, 28.

Books of heretics, what they are, 67, N.B. 125, p. 153*. Sanctions of the prior and present law, 66, 67, 68, 125. Concerning more ancient, medieval, modern heretics, 66, 7, 125. - editions, versions of Sacred Scripture, 69, 70. - impugnation, whether it exempts from the laws of the Index, 94.

Ecclesiastical hierarchy, what? Books which afflict it with insults, 76.

Hilgers, his work *Der Index* is praised, 2, 5, 7, p. 154* and passim.

Sacred History, of each Testament, 69, 7.

Historical notes, concerning previous censure, 7-9; concerning the prohibition of books, 2-6.

Houtin, author of the work *La Question biblique au XX siecle*, 102, 3.

Humanum genus, Encyclical of **Leo XIII**, April 20, 1884, concerning masonic sects, 82.

Huysmans, works *En route* and *La-Bas*, 72, 3.

Modern hypnotism, how to be judged, 77, 9, p. 80.

I

Images collected are not a book, 37. - printed, which ones, 85. - obscene, 79, 4. - sacred, which are new or abnormal, 85. - in memory of a deceased person or of priestly first-fruits, 87.

Immensa aeterni Patris, Constitution of **Sixtus V**, January 22, 1588, instituting Congregations, 6.

Printing of a book, what? 104. - of apostates, heretics, etc., 125, 8. Solemnities for books subject to censure, 121. - of Sacred Scripture, 126. - its year to be placed in books, 121, 6.

Impressor, 125, 8, 126.

"Imprimatur", whether it infers approval of the book, 104. - how to be given and published, 116.

One printing, who he is, 125, 8; 126.

To impugn, what, 69, 4.

Books of unbelievers, proscribed by special mention, p. 110.

Spanish Index, 5. - of **Leo XIII**, 5, 13, 17. *Its editions*, 13; preface, 13, 17. Utility of the suppressed Index, 22. - particular of regions, 5. - first Roman, 2, 5. - Tridentine, 5.

Various Indexes, 5. - of pseudo-reformers and politicians, 9. History of the Index, 2-9; utility, 10-12. See also **Law**.

Congregation of the Index. Origin and office, 6, 28, 62. *Faculties*, 95 bis, 124. *Formulae, Indults*, 134-152. *Interpretation of faculties*, 97-99. *Proscribing works*, 28, 62. Responses concerning errors proscribed by the Syllabus, 84; concerning the reason to be rendered why approval of a book is denied by an Ordinary, 116; concerning spreading excerpts from periodicals, 122.

In the diocese, clause, p. 120, p. 124.

Indulgences, apocryphal or revoked, 86. Norms of discerning, p. 94. Books, etc., concerning indulgences, 87. - apostolic, 87.

Indults of the Sacred Congregation of the Index, concerning reading prohibited books, p. 120*, nn. 134-152. - of the Sacred Congregation de Propaganda Fide, 153-166.

In eminenti, Constitution of **Clement XII**, 1738, concerning masonic sects, p. 86*.

Innocent VIII establishes previous censure, 8.

Innocent XI, condemning the works of **Molinos**, p. 153.

In hatred of the author, clause, 5, 44.

Sacred Inquisition, see **Holy Office**.

Inspiration of Sacred Scripture, books treating perversely of it, 75.

Institutiones ecclesiasticae, condemned work of **Nuyts**, p. 155*.

Instruction of Clement VIII, 19, 113.

Inter multiplices, Constitution of **Alexander VI**, June 1, 1501, concerning previous censure, 8. - Letters of the Sacred Congregation of the Index, in the name of **Pius IX**, 63, 64*.

Interpretation of the Constitution Officiorum, 19, 20, 25-27. - of faculties and indults, 96, 97-99.

Inter sollicitudines, Constitution of **Leo X**, May 4, 1515, concerning previous censure, 8.

So that books are not taken away outside the diocese, clause, 98, 6.

J

Journal Officiel, 66, 7.

K

Calendar, whether a book, 35.

Knights of Pythias, American society, p. 89*.

L

La-Bas, work of **Huysmans**, 72, 3.

Labbe, Collection of Councils, 66, 7.

Faculties conceded to laymen, 142, 144, 145.

Lamennais, condemned work, p. 153.

La Question biblique au XIX siecle, condemned work of **Houtin**, p. 128.

Lateran Council and previous censure, 8.

Reading of a book, what it signifies, 50. - of a prohibited book: gravity of guilt, 57. - of books of apostates, heretics, etc., 125. What if you read periodical newspapers or pamphlets, 57. Who and how concede reading of prohibited books, 95-98.

Legislator. How his mind is a rule of interpretation, 26. Application, 65.

Leo X, and previous censure, 8.

Leo XII. His mandate and the newest Addition concerning censures, 19, 63. - against masonic sects, p. 87*.

Leo XIII, author of the Index, 5, and of the Code concerning the censure and prohibition of books, 13, 14, 16. Constitution *Officiorum ac Munerum*, pp. 179-188. - mitigating previous censure, 8. With what mind he founded the new laws, 17. How far he abrogated the prior law, 19, 20. Describing masonic sects, Encyclical *Humanum genus*, 81. Condemning socialists, Constitution *Quod Apostolici*, 83.

Bishop of Liege, p. 113*.

Les paroles d'un croyant, work of **Lamennais**, p. 153.

Odious law, what, 26. - how to be interpreted, 26. - when it ceases contrarily, 95.

Prescriptions of natural law, 24, p. 19, 26, 47, 3, 49, 57, p. 47, 59-61, 73, 92, 124.

Laws on the censure and prohibition of books: history, 2-9; obligation of conscience, 53-61; utility, 10, 11; odium is explained, 12; present summary and description, 13-17, 128-133 bis; universal force, 23, 95.

Periodic pamphlets, condemned, as to later fascicles, 29. - those printing a work previously or afterwards condemned, 32. - how far they are not or are to be held in place of books, 33*, 34. - subject to censure, 117, 118, 3. - proscribed by general decrees, 92-94. How excerpts from periodicals are to be published, 122.

Pamphlet, what it is, 40. - of indulgences, 87. - of litanies, 90, 4. - ascetical, of prayers, 91. - periodic, what, 92.

Book. Accurate notion of book, 33-39. - of a non-Catholic, of a heretic, what, 67, N.B. 125, p. 153*. - condemned, how it is condemned whole, 29; inserted in a newspaper or periodic pamphlet, 32; how far it can be corrected, 17, 29, d. 106. Compendium of such a book, 30, p. 158. What must be done concerning a prohibited book, 102, 7. - subject to censure, 117. - printed in type but not strictly spread abroad, 39. - **Of set purpose**, treating a matter **expressly**, 43.

Books condemned absolutely or restrictively by the General Decrees, 128-131; condemned before 1600, 65; after the catalogue of Leo XIII was published, 168. - published before the Constitution of Leo XIII, 28. - struck from the Index of Leo XIII, 17; which are referred into the Index, 17. Why so many from France and Italy, 17*. - subject to censure, 117. - by what power they are condemned, 62, 63, 64, 102. - written by secular clerics, 119; by regulars, 113.

Loan of prohibited books, 47, 60. - defense, 47, 48, 55. - destruction, 102, 7. - edition, 17, 29, 30, 47, 49, 52, 56, 123. - purchase, 61. - reading, 47, 57, 95-98. - renting, 47, 60, 124. - retention, 51, 58, 124. - sale, 47, 59, 124. - version, 123.

License, see **Faculty**.

Litanies, how to be published, 90.

Lithographs, whether a book, 38. Images expressed lithographically, 85.

Liturgical books, 88. What of one who recites the hours from a prohibited Breviary, p. 101. - with chant, 89.

M

Magic, what. Books commending or teaching it, 77.

Master of the Sacred Palace. Notion of office, 95*. - conceding the reading of prohibited works, 95 bis. - approving books, 112, 114. - formerly condemning books, 6.

Teaching office excusing the reading of obscene classics, 73, 4, 95.

Modern magnetism, how to be judged, 77, 9, p. 80.

Mandate of Leo XII which was prefixed to the Index, 19.

Manuscript, whether a book, 38. - concerning new supernatural facts, 78. See **Writing**.

Mary, Blessed Virgin. Books detracting from the Virgin, 74. Examples, p. 76*.

Masonic sect, which, 82. What of socialists, 83. Books by which it is commended, 82.

Grave matter, light, 53-61, 116, 6.

Mazzinian society, masonic, 82.

Meditations. Books or pamphlets which propose them, 91.

Migne, *Patrologia*, 66, 7.

Miracle. What, p. 81*. Books or writings reporting new miracles, 78, 79.

Literary miscellany, 31.

Order of Mass, rendered in vernacular language, 91, 3.

Missal, how to be published, 88.

Apostolic missionaries, who they are, 109, 2. Their books, as to previous censure, 106.

Molinos. How his works were condemned, p. 153.

Monaco (Card.). Letter of August 20, 1894, concerning American sects, 83.

Warnings of the Sacred Congregation of the Index, customarily prefixed to prior catalogues, 18, 19.

Books of moral instruction, 91.

Good morals, what. Newspapers contrary to them, 92, 5.

Women, what faculty is conceded to them, 146.

Function excusing the reading of obscene classics, 73, 4; of other prohibited books, 95, 2.

Books of mystical instruction, 91.



Alphabetical Index of Things

N

Natural law, see **Prescriptions of natural law**.

Necessity exempting from the laws of the Index, 95. - of license to be sought, 95.

Nicaean Council, 2.

Nihilists, masonic society, 82, 83.

Name of author and editor, how far and how to be indicated, 121.

Book condemned by name, which one, 125, 6.

Catholic notes in a book of a heretic, 67, N.B. and, conversely, p. 152, 4. - required in a vernacular version of Sacred Scripture, 71.

Medal, 85.

Announcements in bad newspapers, 94, 3.

Apostolic Nuncio, refers bad books, 100. - permits reading of prohibited books, 96. - asks licenses from the Secretariat of State, 152, N.B.

Nuyts, condemned works, p. 153*, 155.

O

Obligation of conscience from the laws of the Index, 53-61, 105 bis, 116, 6. - universal, 23, 95.

Obscene images, 72, 4.

Obscene books, 29, d. 72, 73, 124. Faculty of reading obscene books, 96.

Observations prefixed to prior Indexes, 18, 19.

Odd Fellows, American society, p. 89*.

Officiorum ac Munerum, Constitution of **Leo XIII**, January 25, 1897, concerning the censure and prohibition of books, 13, 14, pp. 179-188. How it is to be interpreted, 20, 22, 25-27. Its universal force, 23, 95.

Holy Office, condemning books, 62. - condemning evocation of spirits, 77. Causes of the Holy Office reserved to it, 64. - explaining the notion of masonic sect, p. 86, 88, 89. - *defining what acts are of the Apostolic See*, 84. - permitting the reading of prohibited works, 95 bis. - qualifying propositions, 100.

Office excusing the reading of obscene classics, 73, 4; of other prohibited books, 95, 2.

All works, clause, 5, 17, 45, p. 153*.

Workers of the typography, in what way they cooperate in edition, 49, 125, 8. - whether those printing, 125, 8; 126.

Little works, see **Pamphlets**.

Ordinary faculty of indulging prohibited books, 95, 96.

Ordinary, who he is, 102.

Ordinary of the place, approving books, 110. - averting the faithful from bad newspapers, 93; and books, 102. - condemning books, 63, 98, 102. What if approved, if proscribed by the Holy See, 102. Delegate from the Holy See, 63, 64, 102. Using ordinary power, 102. Whether prohibited books are to be handed over to him, 102, 7. - permitting an anonymous or pseudonymous book, 121. Formulae of his faculties, 134, 139, 152, N.B. 153-166. - using faculties for the benefit of Regulars, 64*. See **Bishop**.

P

Pantheon, work of **Godfrey of Viterbo**, 7.

Parish priest, no longer permits the reading of Sacred Scripture, 71; can be delegated for permitting the reading of prohibited books, 96, 97.

Saint Paul, hostile to superstitious books, 2.

Paul III, entrusting the prohibition of books to the Holy Office, 62.

Paul IV, author of the Roman Index, 5.

Sin of those violating the laws of the Index, 53-61, 105 bis, 116, 6.

Pilgrims, 114.

Periodicals, see **Periodic pamphlets**.

Books of philosophy, 117.

Images expressed photographically, 92, 11.

Paintings, 92, 11.

Books of piety, 91.

Pius IV, author of the Tridentine Index, 5.

Saint Pius V, and the origin of the Congregation of the Index, 6.

Pius VI, condemning books of unbelievers, p. 110.

Pius VII, Constitution *Ecclesiam a Iesu Christo*, concerning masonic sects, p. 86*.

Pius IX, author of the Constitution *Apostolicae Sedis*, 19, 2, 20. - mitigating previous censure, 8, p. 143. - *condemning the works of Nuyts*, p. 155. - *stirring up the zeal of Ordinaries*, 63. *Encyclical Quanta cura*, p. 87.

Pius X, concerning sacred chant, 13, 4, 89; concerning Christian popular action, concerning Christian democracy, p. 145*.

Penalties declared for those violating the laws concerning the Index, 125-127.

Pontifical, edition (law of Urban VIII), p. 101*.

Pornographic letters, 72.

Precepts and prohibitions of the Constitution Officiorum, how they are to be interpreted, 26; they oblige conscience, 53-61; universally, 23, 95.

Prelate, possessing quasi-episcopal jurisdiction, 96, 102.

Regular prelate, see also **Regular superior**. Who has quasi-episcopal power, 96. - approving books of his own, 113.

Pamphlets and books of prayers, 91. - in places of missions, 108.

Professors. Faculty which is made for them, 136. - excused by necessity, 73, 4, 95, 2.

Prohibition of a book, what it forbids, 47, 95. - of publishing a book, 52. By what power it is made, 62, 63, 64. - of an approved book, or of a book already condemned by the Holy See, 102.

Prohibitions of the Constitution Officiorum, how they are to be interpreted, 26. Their summary, 128-130. Connected precepts, 131. - posterior to the Index of Leo XIII, 168.

Congregation de Propaganda Fide, indulging the reading of prohibited works, 95 bis. How it interprets its faculties, p. 120. Their formulae, 153-166. - reserving to itself approval of certain books, 108. Concerning public sale of prohibited books, 124, 5.

New prophecy, reported by book or writing, 78, 79.

To defend, what, 66.

Providas, Constitution of **Benedict XIV**, March 18, 1751, concerning masonic sects, 82.

Providentissimus Deus, Encyclical of **Leo XIII**, November 18, 1893, concerning Sacred Scripture, 75.

Pseudonymous books, 121.

To publish, what it is, 78, 2, 5.

Boys, who they are, 73, 5. As to obscene classics, 73, 5.

Q

Quamvis, Constitution of **Urban VIII**, June 16, 1634, concerning the edition of Pontificals, p. 101*.

Quanta cura, Encyclical of **Pius IX**, December 8, 1864, p. 87*.

Quasi-domicile, what, p. 138*.

Questions actuelles, 66, 7.

Quod Apostolici, Constitution of **Leo XIII**, December 28, 1878, concerning socialists, 83.

Quo graviora, Constitution of **Leo XII**, March 13, 1825, against masonic sects, 82.

R

Reformers and the censure or prohibition of books, 9.

Regulars, whether they are held by the prohibitions of Bishops, 64, 98. How their exemption is to be taken, interpreted, 64. - can obtain from the Bishop license of reading prohibited things, 97. Power of their Prelates, 96, 113. Their books as to previous censure, 113, 126. Who are regulars, p. 137*.

Religion. Signification of the word, 67, 92, 4. - foundations of religion, 66, p. 109, 98. Writing in which religion is specially concerned, 118. Against religion, what, 92, 4, 98. Historical origin of the clause, p. 110. To treat of religion, what, 67, 92, 4.

Books of religious instruction, 91.

Non-exempt religious, as to the special censure of clerics, 119, 120.

Religious state. Books injurious to the same, 76.

Restitution of a prohibited work to an owner not having faculty, 102, 7.

Retention of a book, what, 51. - of a precious book on account of images, covers, etc., 51. - when grave, light, of a prohibited book, 58. - prohibited, 47, 51, 105, 7, 124; punished, 125. - of prohibited newspapers, 58.

New revelation. Books or writings by which it is narrated, 78, 79.

Ritual, how to be published, 88. Concerning the Ritual of the Carmelites, p. 99*.

Sacred Congregation of Rites, prohibiting books, 62. Censures reserved to it, 78, 6. Decrees concerning sacred chant, 89.

Rome. Special law concerning the approval of books, 114.

Roman Pontiffs, Brief of **Leo XIII**, September 27, 1900, promulgating the Index, 13, 16.

Romani Pontificis circumspecta, Constitution of Saint **Pius V**, concerning faculties of regular Prelates, p. 118*.

Romans a lire et Romans a proscrire, work of **L. Bethleem**, 45*.

S

Sacraments. Books detracting from them, 74. Examples, p. 76*.

Secular clerics. Special obligation of previous censure, 119, 120.

Saints. Books detracting from them, 74. Examples, p. 76*.

Sanctions of the laws concerning the Index, 125-127, 133 bis.

Sand, Georges. By what reason works are condemned, 45*.

Books defending schism, 66.

Schismatic, who he is, 66. - whether non-Catholic, 67.

Writer to be condemned, whether he is to be heard concerning his book, 28*. - whether necessarily among editors, 49; or among those "causing to be printed," 126. - marked by the general clause, 167.

Writing, what it is, 41. - concerning new supernatural facts, 78. - introducing new devotions, 80. - what is subject to censure, 118.

Sacred Scripture. Editions, versions, 69-71 bis, 91, 3, 105, 126. Books treating perversely of its inspiration, 75. Students of Sacred Scripture, who, 69.

Masonic sect, what, 82. Whether socialists constitute such a sect, 83. Books which commend sects of the masonic kind, 82.

Rectors of seminaries, what faculty they obtain, 135.

Si quid est, Constitution of **Urban VIII**, September 2, 1634, concerning the edition of Missals, p. 99*.

Sixtus IV praises the University of Cologne on account of previous censure, 7.

Sixtus V, author of the Index, 5. - instituting Roman Congregations, 6.

Books of social science, 117.

Socialists. Whether a masonic sect, 83.

Biblical Societies, publishing Sacred Scripture in the vernacular language, 71 bis.

Sollicita ac provida, Constitution of **Benedict XIV**, July 9, 1753, 5, 13, 15, pp. 189-199.

Sollicitudini, Constitution of **Benedict XIV**, October 1, 1745, concerning sacred images, 85.

Sons of Temperance, American society, p. 89*.

Sortilege, what, 77, 1. A book teaching or commending it, 77.

Evocation of spirits, what? Reprobated by the Holy Office. Books teaching or commending it, 77.

Statues, 92, 11.

Pontifical State. Law of Alexander VII concerning books, 114.

Subscription (*Abonnement*), of newspapers, of periodic pamphlets, 61.

Suicide. Notion. Books which establish suicide as licit, 81.

Summaries of indulgences, 87.

Superior General of an Order, receiving the faculty of conceding prohibited books, 97. His faculties pass to successors, 97.

Regular superior, what parts he has in prohibiting books or in executing these laws, 63, 64.

Books or writings narrating supernatural facts, 78, 79.

Books teaching or commending superstition, 77.

Syllabus. Books defending errors proscribed by the Syllabus, 84.

T

Thalia, book of **Arius**, 2.

Books of theology, 117. Who devote themselves to studies, 69. - professor excused by necessity, 95.

Later volume of a condemned book, 17, 29, b. Work consisting of several volumes, 29, b.

Tractationes in ius eccles. universum, condemned work of **Nuyts**, p. 155*.

Council of Trent, 18, 113, 126.

Typographer, as cooperating with the editor, 49. Faculty which is made for him, 149.

U

University of Cologne and previous censure, 7. - of Paris and previous censure, 7.

University pupils, reading obscene classics, 73, 5; faculty which is made for them, 145, 151. - rectors, denouncing bad books, by what title, 100; what faculty they obtain, 135.

Urban III receives the work of **Godfrey**, 7.

Urban VIII, concerning the report of miracles, 19*, 79; concerning liturgical books, 88.

City (Rome), Special law concerning the approval of books, 114. See **Vicar of the City**.

Urgent case of conceding prohibited reading, 96.

Until revocation, p. 120.

V

Sale of a prohibited book, 47, 59, 124.

Various words: Non-Catholics, 67; Adolescent, 73, 5; Apostasy, Apostate, 66, p. 61; Apostolic Letters, 125, b; acts of the Apostolic See, 84; *Authentic edition*, 88; *Worship*, 74; *To defend, defense*, 48; *To publish a book, editor*, 49, 121, 126; *Amorous novels*, 42; *Periodic sheet*, 120; *Heresy, Heretic*, 66, 74, 3; *One printing*, 125, 8; 126; *To print*, 104; *To impugn*, 69, 4; *To read*, 50; *Pamphlet*, 40; *Periodic pamphlet*, 92; *Book*, 33-39; *Miracle*, p. 81; Good morals, 92, 5; Obscene, 72; Ordinary, 102; Prelate of quasi-episcopal jurisdiction, 96, 102; To defend, 66; Boy, 73, 5; Religion, p. 109; Foundations of religion, p. 61; n. 98; To retain a book, 51; Writing, 41; Schism, 66; Sect, 82; To establish, 81; To treat, 67; Sale of a book, 59, 124.

Version of an approved work, 122. - of a prohibited work, 17, 29, c. - of Sacred Scripture, 69-71 bis. - of epistles, gospels of the year, Order of Mass, 91, 3.

Apostolic Vicar, who he is, 109. - permitting the reading of prohibited books, 96, 97. - prohibiting books, 102. - what books he approves, 108. Faculties conceded to him for books, 153-166.

Capitular vicar, permitting the reading of prohibited works, 96, 97; prohibiting books, 102.

Vicar general, permitting the reading of prohibited works, 96, 97.

Vicar of the City, approving books, 112; prohibiting a book proscribed by the Holy See, 102, 3.

Fr. Vigil, condemned work, p. 154.

New vision reported by book or writing, 78, 79.

Volumes published after prohibition, 17, 29. What if the cause of prohibition is in one volume, 29.

Flying sheets, 92.

Z

Zola, how far he is condemned, 45.



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