

*Some Practical Guides for Priests
and Seminarians*

THE
ADMINISTRATION
OF THE
SACRAMENTS

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FOREWORD

Pastoral theology is the branch of sacred theology which in the light of Revelation investigates and teaches how pastors of souls are to discharge their office in the economy of salvation. In contrast, the pastoral art is the practical ability or aptitude to accomplish this, which can grow only with personal exercise and experience. In the economy of salvation a very fundamental element is the exercise of divine worship and the sanctification of the souls of men, accomplished by the offering of the Holy Sacrifice of the Mass and the distribution of the graces proceeding from a right administration of the Sacraments. Herein lies the principal office and duty of the priesthood instituted by Christ the Savior and High Priest. Thus, every priest, engaged in the parochial ministry or not, is necessarily involved in the administration of the sacraments. A sufficient and adequate knowledge of the proper administration of the Sacraments is an indispensable quality of the priesthood and a major concern of all seminary training and education.

The number and complexity of moral principles and their application, the extensive body of current canonical legislation, and the continuous stream of practical problems and perplexing situations which the priest throughout his life encounters in his ministry, tax his knowledge and memory to such an extent that various aids and shortcuts have been supplied him over the years. These have taken the form of handbooks, summaries, vademecums, etc., of moral and pastoral theology. However, in an age devoted to the digest and the capsule presentation of almost every branch of knowledge no work concerned exclusively with the administration of the sacraments has appeared in English. It is hoped that such a work designed for priests and seminarians which presents the proximate moral principles and canonical norms directing and guiding the sacramental ministry will be of some service and benefit. It is offered as a handy reference aid to the priest and as a text and review aid for the seminarian.

Consideration of the differing opinions of the commentators has been avoided in favor of a statement of the common teaching and of what is safe to act upon in practice. Recourse is easily had to larger works for fuller discussions. Similarly, citations and references have been limited

almost wholly to canon law and the indications and expressions of the mind of the Holy See. In view of the purpose of the work, Holy Orders has been treated mainly from the aspect of the qualities and requirements necessary for the reception of Orders.

"Now may the God of peace, who brought back from the dead the Great Shepherd of the sheep, our Lord Jesus Christ, with the Blood of an everlasting Covenant, make you perfect in all good for the accomplishment of His will, effecting in you what is pleasing in His sight through Jesus Christ, to whom be the glory throughout the ages of eternity. Amen." (Heb. 13:20-21)

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General Norms
of
Sacramental Administration

GENERAL NORMS OF SACRAMENTAL ADMINISTRATION

I. PRELIMINARY NOTIONS

A. - SACRAMENT.

1. - *Notion.*

1. — a) The word probably derives from the Latin verb “sacrare,” to set apart as sacred, and thus it relates to something holy and to sanctity. Since sacred and divine things have something about them of the hidden, “sacrament” in Greek is termed *mystery* (μυστήριον).

b) A sacrament of the New Law is defined by St. Thomas as the “sign of a holy thing inasmuch as it (the holy thing) makes men holy”;¹ by St. Bernard as “a visible sign of an invisible grace, instituted for our justification”;² by the Baltimore Catechism as “an outward sign instituted by Christ to give grace.”³ The sacraments are therefore the instruments of Christ in the sanctification of men.⁴ By His institution they have the power in the New Law not only to signify sacred things but also to accomplish or to produce the sacred effects of which they are the signs. Wherefore the sacraments are effective signs or signs which are at the same time causes.⁵

2. — c) The Council of Florence has stated⁶ that three essential elements are required for the existence or effecting of any sacrament instituted in the New Law, namely, matter, form, and the right intention of the minister. Each element is considered later in its proper place.

3. — 2. - *Division.* It is of faith that there are only seven sacraments: Baptism, Confirmation, Eucharist, Penance, Extreme Unction, Holy Orders, Matrimony.⁷ A sacrament may be:

4. — *valid*: when all the elements essential to the confection or constitution of the sacrament have been employed; *invalid*: when any such element is lacking.

lawful: when all that has been prescribed concerning the confection or administration of the sacrament is observed; *unlawful*: when some prescription has been omitted without proportionate reason.

formed: when it is valid and actually causes its grace in the soul of the recipient.

formless: when it is valid but, because of some obstacle, such as grave sin, it does not actually cause its grace.

permanent: which of itself remains as a permanent reality after its confection. The Eucharist is the unique example.

transitory: which exists only when confectioned and administered, as in the case of the remaining sacraments.

repeatable: which can be received more than once throughout life as befits the nature of each sacrament.

non-repeatable: which can be received only once during life. This is true only of the sacraments imprinting a character.

necessary: necessary for *individuals* without which they cannot be saved (Baptism) or for *society* (Orders and Matrimony). Some have a necessity as *means*, being so required for salvation that without them actually, or without at least desiring them, salvation cannot be obtained, even though they are inculpably omitted, e.g., Baptism for all men and Penance for the baptized who are in mortal sin. Others have a necessity by *precept*, since their reception is required because it is prescribed and sin is committed if they are omitted through neglect or disdain, e.g., the Eucharist and more probably Confirmation and Extreme Unction; yet their inculpable omission does not prevent one from obtaining salvation.

B. - SACRAMENTAL GRACE AND CHARACTER.

1. - Grace.

5. — a) The causality or efficacy of the sacraments of the New Law is directed to the effects intended by Christ their Author. The principal effects of the sacraments are divine grace and a supernatural character.⁸ Each sacrament has been instituted to accomplish its special end, i.e., to aid the Christian soul to perform well certain special acts of the Christian life. Thus, for example, Baptism confers the grace of spiritual regeneration by which a man dies to sin and becomes a member of Christ. The grace proper to each sacrament is called *sacramental grace*, which over and above sanctifying grace and the virtues and gifts perfects the soul and its powers in order to achieve, conformable to the condition of each one, certain special effects necessary in the Christian life.⁹

6. — b) It is of faith that the sacraments of the New Law contain the grace which they signify and that they confer this grace *ex opere operato*.¹⁰ When a person receives a sacrament and places no obstacle to its effect God confers grace precisely because the sacramental rite itself is being conferred. Thus the sacramental grace conferred by the sacrament is not infused precisely in view of the faith, piety, dignity or other merit of either the recipient or the minister of the sacrament (*ex opere operantis*).

7. — c) Two sacraments, Baptism and Penance, are called *sacraments of the dead* because they are conferred upon a soul dead to grace and supernatural life by sin. They are directly ordained to cause *per se first grace*, that is, to remove from the soul original or actual sin and to infuse sanctifying grace where presently it does not at all exist. The remaining sacraments are called *sacraments of the living* because they increase grace in the soul already existing in grace, thereby nourishing the supernatural life present in the soul. They are directly ordained to cause *per se second grace* in the soul.

d) It is held also that the sacraments of the dead will *per accidens* cause second grace in a soul already justified before receiving the sacrament, and that the sacraments of the living will *per accidens* cause first grace in a soul placing no obstacle to its action, e.g., in the case of the individual who in good faith and with at least attrition forgets (or in the case of the unconscious moribund is incapable of confessing) a mortal sin and approaches the sacrament.¹¹

8. — e) It is of faith that the sacraments are not equal in dignity,¹² the Eucharist being the most noble and excellent. Thus it would appear that by their different specific natures the sacraments vary in the amount of grace they confer. The same sacrament, however, conferred upon two equally disposed recipients is of itself apt to confer an equal amount of grace; this may vary accidentally, on the other hand, due to the special mercy of God, the special faith and fervor of a recipient or of a minister of the sacrament. For this reason, not only the preparation and fervor of the recipient, but also the holiness, preparation and attention of the minister of a sacrament is of great value, the latter being capable of adding by his more Christ-like administration to the benefit realized by the recipient.

2. - Character.

9. — a) It is of faith that only three sacraments of the New Law, Baptism, Confirmation and Holy Orders, imprint a character on the soul, i.e., a certain spiritual and indelible mark by reason of which they cannot be repeated.¹³ The character empowers, deposes or renders fit its possessor to receive and to dispense divine things, and distinguishes him as a Christian from all others and configures him to the priesthood of Christ.¹⁴

10. — b) Theologians commonly teach that a sacrament which in some way cannot be repeated and yet is valid but formless will later become formed or revive upon the removal of the obstacle. This is true of the sacraments imprinting a character and of Extreme Unction (which may not be repeated in the same danger) and of Matrimony (which may not be repeated in the same union). If these sacraments were not to

revive, i.e., to confer their grace at a later moment when the obstacle is removed, the recipients of the valid sacrament would be permanently deprived of their necessary effect. Penance and the Eucharist do not revive, since the former cannot be valid and formless (as will be noted later), and the latter would endow more richly at a future time one who had frequently communicated sacrilegiously.

II. PROPER MATTER AND FORM

The matter and form are essential parts of a sacrament.¹⁵ They are objective and immutable in the manner instituted by Christ; they alone may be used by the minister for a valid sacramental administration.

A. - NOTION OF MATTER AND FORM.

11. - 1. - The *matter* of a sacrament is some sensible, concrete thing or action. *Remote* matter is the material thing to be used (as water in Baptism) or sensible action to be employed (as the acts of the penitent in Penance) in the sacrament. *Proximate* matter is the very application or use of this matter (pouring the water, expressing or confessing the contrition) in confecting the sacrament.

12. - 2. - The form of a sacrament is the words or some other equivalent signs (as a nod expressing consent in Matrimony) which determine the matter more particularly, both matter and form thus constituting the external sign and producing the sacramental effect. The form perfects the signification of the matter. In order to qualify for a sensible sign, the form must be pronounced vocally (or equivalently, as is possible in Matrimony) and not mentally only.

B. - UNION OF MATTER AND FORM.

13. - 1. - The matter and form of a sacrament must be united by the minister in such a way that they can be truly said to constitute the one sign instituted by Christ. Thus some union of matter and form is required for *validity* at least, in order that the words of the form be verified, with the type of union varying for the different sacraments. Union is either *physical*, if the words of the form are pronounced at the same instant the matter is applied (to say "*ego te baptizo...*" and at the very same time to pour the water), or *moral*, if the matter and form are successively applied (to say "*ego te baptizo...*" and subsequently to pour the water).

2. - For the *Eucharist* a physical conjunction of matter and form is always absolutely required. The pronouns *hoc* and *hic* in the formulas

of consecration are not verified unless the matter they designate is physically present to the minister. It is common teaching that for the validity of *Baptism, Confirmation, Extreme Unction, Holy Orders* a moral conjunction will suffice. The matter may be applied immediately after the form is pronounced without the words of these forms losing their meaning or verification. Whether any delay (such as less time than it takes to say an Our Father) between the application of the matter and the pronouncement of the form invalidates the sacrament is controverted by the authors. Wider latitude in moral union is recognized for *Penance* and *Matrimony*. Since *Penance* is administered after the manner of a judgment and *Matrimony* follows the nature of a contract, the penitential judgment may be extended over a notable period of time before being completed, and matrimonial consent of one party may be supplied later to validate the contract, as long as the consent of the other party perseveres.

14. - 3. - The *lawfulness* of sacramental administration requires that the minister observe that union of matter and form prescribed by the Church in her rites.¹⁶ In the case of the sacraments it is regularly unlawful to use a merely probable opinion at the risk of nullity of the administration.¹⁷ Thus, in practice, the physical union as prescribed by the rubrics, especially in *Baptism, Confirmation, Extreme Unction*, is to be observed, whatever the theoretical opinion, and even though the sacrament would have to be repeated conditionally.¹⁸ Care should always be taken that the matter and form are so united that at least one has begun before the other is finished.

4. - With the exception of *Penance* and *Matrimony* (by reason of their character of judgment and of contract) the matter and form of each sacrament must be conjoined by one and the same minister on the same subject.¹⁹ This is demanded by the signification of the words of the form. One and the same minister may validly confer a sacrament on many subjects employing a plural form, e.g., "*ego vos baptizo*," "*ego vos absolvo*," but not lawfully outside the case of necessity.

5. - However, many ministers placing the whole matter and the entire form at the same time validly confect a sacrament, e.g., many ministers baptizing at the same time the same infant. The form must be pronounced simultaneously by all. In the Latin Church multiple ministers of a sacrament are permitted only in the concelebration of the Eucharist in the ceremonies of sacerdotal ordination and episcopal consecration, and in the conferral of the episcopal character.²⁰ If a sacrament is made up of many parts, e.g., in the Eucharist, *Extreme Unction*, many ministers validly act, each administering a part, as long as each minister places the part of the matter corresponding to the

formula he pronounces. Thus the signification of the words of the form is verified if one minister using the prescribed formula anoints the eyes, another the ears, etc. This is gravely unlawful, except in the case prescribed by the Church when the celebrant of Mass dies immediately after the consecration of the bread.²¹

C. - ALTERATION OF MATTER AND FORM.

15. - 1. - In the administration of the sacraments by fallible ministers it sometimes occurs that the matter and form are not rightly applied, due to inadvertence, negligence, error or deliberate will. In any case the objective change that results will be either substantial or accidental. Judgment of the quality of the change effected will be made not by the criteria of the physical sciences but in accordance with the common usage and estimation of prudent men.

2. - A *substantial* change takes place when in ordinary usage and prudent estimation the matter no longer remains of the same species and name as that determined in the sacrament (e.g., to use milk in baptizing), or when the words used in the form no longer retain the same sense (e.g., to say "*ego te baptizo in nomine matris. . .*"). A change is *accidental* when the matter remains the same in usage and name but altered in some accidental quality (e.g., to use leavened bread or a square host), or when the words of the form are different but retain the same sense (e.g., to say "*ego te abluo. . .*").

16. - 3. - Regarding corruption or change in the sacramental form St. Thomas²² notes that, if the change in the words is at the beginning of the words, the sense is generally altered essentially or substantially, but not usually if the change takes place at the end of the words. If the corrupt forms cannot have other than a sacramental sense, they generally remain valid forms. Thus the separation of individual words or of syllables does not constitute a substantial alteration, unless the interval is long enough to alter the meaning of the sentence (more easily admissible when syllables are separated). In such a case the moral unity of the form as one complete prayer is destroyed by the interruption and also by such grammatical changes or mistakes as could actually change the meaning of the form. Substantial alteration may also be risked by faulty articulation or by clipping words through haste. In practice, where a complete word is de facto interrupted through a pause between syllables, it is advisable to repeat the word, unless the interruption is extremely slight.

17. - 4. - A *substantial* change in matter and in form always invalidates a sacrament, whereas a *purely accidental* change does not have this

effect. It is never permitted and it is always gravely sinful to use substantially altered matter or form in the sacraments; it is a sin of irreverence to the sacrament, uncharity to the recipient who is thus deprived of a sacramental benefit, injustice on the part of a minister who has by office the care of souls. The use of *accidentally* altered matter or form outside of grave (and not always extreme) necessity is sinful, because it violates reverence for the sacrament and contravenes the precept of the Church.²³ It is venially or mortally sinful depending upon the degree of voluntary alteration, but clearly gravely sinful when attributable to contempt or to a deliberate will to introduce a new rite of administration. When some grave necessity urges, such an administration may be lawful, e.g., when only non-consecrated water is available in the case of an urgent baptism.

D. - DOUBTFUL MATTER AND CONDITIONAL FORM.

18. — 1. - Since the occasion for using a doubtful form would very rarely arise, the principles pertinent to the use of doubtful matter would apply equally in the case of doubtful form. *Doubtful matter* is that which is not certainly apt for the valid conferral of a sacrament, e.g., tea in Baptism. It is never lawful, but rather it is gravely sinful to use doubtful matter when certain matter is available, since nullity of the sacrament is risked without sufficient reason; likewise, charity and justice may also be violated. This is confirmed by the reproof of Innocent XI.²⁴ In defect of certainly valid matter urgent and grave necessity will permit the use of doubtful matter. The administration must be conditional, e.g., "If this is valid matter..." The conditional administration thus contains due reverence for the sacrament, and the possibility of the sacrament being validly administered provides for the spiritual necessity of the recipient. The necessity will be determined by the nature of each sacrament, e.g., Baptism, Penance and sometimes Extreme Unction are necessary for salvation, whereas the Eucharist is not so necessary and the danger of idolatry in the use of doubtful matter here can never be tolerated.

19. — 2. - The formula prescribed by the Church for each sacrament is absolute, i.e., its truth does not depend upon any condition or circumstance. However, in some cases a *conditional form* alone will be possible. The condition ought to be—and regularly is presumed to be—with respect to the *validity* of the sacrament and not its lawful conferral or reception or fruitfulness.²⁵ The condition may be of the past, e.g., "*si non fuisti baptizatus . . .*," or of the present, e.g., "*si vivis . . .*," or of the future, e.g., "*si restitueris . . .*" Excepting the sacrament of Matrimony, a conditional form in the sacraments is valid only when the condition is of the past or the present. In such cases, if the condition of the form

is verified, the matter and form being thereby conjoined, the sacrament is valid; a future condition would impede any physical or moral conjunction of matter and form and thus invalidate the administration. Matrimony, following the nature of a contract, can be validly entered into under a future condition. It will take its effect at the future verification, as long as the consent of both parties perseveres.

20. — 3. - No sacrament may be administered under a condition without a just cause, because of the danger of nullity and irreverence. As in the case of doubtful matter, grave urgency may *require* a conditional administration where absolute administration is impossible due to a doubt of the matter or of the previous administration or of the capacity of the recipient, e.g., with the unconscious. Outside of such necessity as the salvation of the recipient, a just cause will permit but it does not oblige a conditional administration. The justifying cause will vary with different sacraments. To act without sufficient cause would be gravely sinful, but only venially sinful if the minister is morally certain the condition is verified. The justifying cause may be founded upon *charity*, e.g., if the confessor does not recall imparting absolution to a worthy penitent, or *justice*, e.g., if a sacerdotal ordination is prudently doubted, or *religion*, e.g., if the celebrant prudently doubts having pronounced the words of consecration at Mass. As a general rule, a sacrament may be conferred conditionally when there is danger of it being invalid if administered absolutely, or when a person would be deprived of a great good or his salvation imperilled if the sacrament were denied absolutely.

21. — 4. - In every sacramental administration the condition must be expressed *at least mentally*, as the circumstance enters into the very intention of the minister. For *lawfulness* the condition must be *vocally* expressed in two sacraments, as prescribed in the Roman Ritual (the prescription of itself binding venially), namely, in repeating Baptism: "*si non es baptizatus . . .*",²⁶ and in conferring Extreme Unction on the doubtfully alive: "*si vivis . . .*"²⁷ In practice, it is advisable to express every condition orally in words, in order to assure the placing of the condition. Some moralists teach that the intention to administer a sacrament as it should be administered according to the mind of the Church includes implicitly and virtually each necessary condition; others hold that this is too generic and indefinite, especially in those instances when the law and the Ritual state very precise conditions, as otherwise there would be no particular point in especially prescribing conditional administration. In any case, the purpose of a condition is not to assure validity but to prevent the serious irreverence of administering a sacrament invalidly when all the requisites for validity are not present.

III. MINISTER

22. — A. - NECESSARY POWER, ATTENTION AND INTENTION.

1. - Power.

a) A sacrament does not depend for its *validity* upon the disposition of the minister; it acts by divine power *ex opere operato*, neither faith nor state of grace nor holiness being presupposed in the minister.²⁸ However, its *valid* administration does require that the minister be divinely empowered according to the institution of Christ, and that he have the necessary attention and intention.

b) The true *minister* of a sacrament perfects the sacramental rite by acting in the name of Christ, the principal minister, and by applying the form to the matter. An *ordinary minister* by virtue of the power of Orders can administer a particular sacrament, although at times he may need permission, which can be granted without special cause, e.g., a simple priest to baptize solemnly. An *extraordinary minister* may administer some sacrament by right of Orders but only with special permission given for a just cause (e.g., a deacon to baptize solemnly), or with some special power or privilege conferred upon him (e.g., a priest confirming or conferring minor orders), or out of necessity and without Orders (e.g., a layman baptizing privately). A *consecrated minister* is one specially deputed by the Church to administer the sacraments.

23. — 2. - Attention.

a) The minister of a sacrament must have that *attention* without which the administration would not be a truly human action. Attention is the application of the mind to what is being done; it is an act of the intellect (intention is of the will), and is opposed to distraction. Since man cannot always act with full or actual advertence but is sometimes distracted even involuntarily, it is necessary and sufficient to be truly human and responsible that his action proceed in some way from a deliberate will. An *internal attention*, i.e., which is free from all voluntary distraction, is not necessary, since Christ did not intend to require of the minister of His sacraments a condition which at times would be impossible. For a *valid* administration the minister must have at least *external attention*, i.e., that deliberateness which is responsible for and the cause of the external action of the sacramental rite and which excludes any action physically incompatible with internal attention (if the latter were present or suddenly required). Thus, external attention is the "follow through" resulting from the minister's intention to administer the sacrament, although he is distracted at the time by surrounding circumstances or by thoughts of things other than what he is doing. Lack of

external attention implicitly revokes the intention to administer a sacrament and thus invalidates it.

24. — b) A *lawful* administration requires also *internal attention*, which excludes all voluntary distraction. This degree of reverence for the sacredness of the sacramental rite is to be expected from one who is Christ's minister in this action of conferral of grace. A voluntary distraction is usually a venial sin; it may be a grave sin if danger is present of substantial error in the sacramental action, e.g., through carelessness or hastiness in the use of the matter or in the pronouncement of the form. Attention, therefore, answers the question: how much must the individual be aware of what he is doing; intention responds to the query: what must the individual will to do and how must he will it.

25. — 3. - *Intention.*

a) The valid administration of a sacrament demands of the minister a *right intention*. Intention is an act of the will by which a person decides to do something or to omit something. Being a human or animated instrument of Christ and so that his action might be therefore intelligent, the minister must will to use his power in conformity with the disposition of the principal agent, Christ. Thus, for a valid sacrament the minister must have a true and serious intention,²⁹ not only to perform an external rite but also a sacramental rite, i.e., he must have an internal intention.³⁰ He thereby wills to do, through the means of the sacramental sign, that which the Church does. His intention determines that this matter and this form shall signify sacramentally.

26. — b) Among both older and recent authors there is some disagreement on terminology and some confusion of meaning regarding the quality of intention. The following division is more common. On the part of the minister placing the action his *intention is actual*, i.e., his will or intention is being elicited here and now while the sacramental action is in progress, e.g., his intention to administer Extreme Unction when he is anointing. Or *virtual*, i.e., his intention was made or elicited at a previous time and never retracted but in some way is now influencing the sacramental action being performed here and now; he is doing what he is now doing precisely because at some time previously he had determined or intended to do it, e.g., having intended to say Mass the priest prepares for and celebrates it in a distracted manner. Or *habitual*, i.e., his intention was made at some previous time and not revoked but here and now it does not exert any positive influence on the action he is performing (it may be said to have negative influence in the sense of not having been retracted and thus remaining as it were in habit), e.g., a minister baptizing while very intoxicated, insane or hypnotized. Thus the previously elicited intention, although remaining habitually, because not retracted, is not the reason for and the cause of the action

being performed at the moment. (An habitual intention is a disposition to receive but not to act). An habitual intention is called: *explicit*, if what was intended was clearly and distinctly apprehended, e.g., a dying unconscious Christian who when well expressed by word or sign his desire to receive the last sacraments in danger of death and never later retracted this will is said to have such an intention to receive the sacraments; *implicit*, if what was intended was not clearly and distinctly apprehended but in some way contained in the object explicitly known and willed, e.g., the same dying person who never evidenced this desire either when well or ill but yet lived as a Christian or at least never threw over his religion.³¹ Or *interpretative*, i.e., a will or intention which has never been elicited either explicitly or implicitly and does not exist presently but it is considered that the individual would have elicited it if he had thought of it or could think of it; *de facto* there is no real intention at all but merely a hypothetical one, e.g., an intention of receiving Baptism in an unconscious infidel who has been leading a naturally good life and who knows nothing of Baptism: he would want to be baptized if he knew what it was and meant. The interpretative intention is based in a sense upon a presumption of the future, that if the person were to know, he would intend the object. A habitual implicit intention is based upon a presumption of a presently existing (although not active) intention as perceived from some fact or disposition in the past.

27. — c) An actual intention in the administration of a sacrament is always highly desirable and more secure, if not always within the power of the minister. A virtual intention suffices for the validity of a sacrament, since it alone (and never an habitual or interpretative intention) positively influences the sacramental action of the minister and causes the matter and form to signify sacramentally. It is of faith³² that the object of the minister's intention must be *to do what the Church does*. He is performing a sacred rite in the name of Christ and thus must intend what Christ, and therefore the Church of Christ intends. It suffices that this intention be implicit, i.e., contained in his intention to do what Christ instituted or what the true Church does or what Christians believe in or what is requested of the minister. The latter need not believe in God or in Christ, in the institution of the Church or in the Roman Church, in the sacrament or its efficacy, as long as he intends to do what *de facto* in the Church by Christ's institution is a sacrament.

28. — d) The intention of the minister must be sufficiently *determined*, i.e., definite and specific regarding the matter and the recipient of the sacrament. Thus (unless the intention is exclusive) it is sufficient to intend, for example, to absolve or to baptize the individual present, although the minister is unaware or even in error that it is a male and not a female, or to consecrate all the hosts before him, although he is unaware of or even in error regarding the exact number. If the intention

of the minister is not precise and inclusive in accordance with the nature of the matter or of the recipient of the sacrament, the intention is invalid, e.g., to consecrate some hosts in a ciborium not indicating which ones, or to say "*ego te absolvo*" not distinguishing which of the two individuals are to be absolved.

29. — e) The intention must always be *absolute*, as a sacrament may be conferred under a condition only for proportionate cause. In a conflict of *contrary intentions* the one prevails which explicitly or implicitly revokes the other, notwithstanding the chronology of the intentions. Otherwise, if one intention succeeds another, the latter prevails, since it is actually influencing the sacramental action of the minister. If two intentions are simultaneous, the predominant one is that which would have been chosen by the minister if he had known of their repugnance. But if it cannot be so ascertained which prevails, the sacrament is null, for the impossible is intended and one intention destroys the other. In doubt of prevalence or of succession of intention, the sacrament is doubtfully valid.

B. - FREEDOM FROM SIN AND PENALTY.

30. — 1. - The *lawfulness* of a sacramental administration requires that the minister be free from serious sin and from ecclesiastical prohibitions, and that he be properly deputed. The role of minister of Christ in the sacraments demands by consecration and office a holiness which is at least a freedom from grave sin. The minister in serious sin must always at least elicit an act of perfect contrition and, in the case of the celebration of Mass, go to confession, if a confessor is available.³³

31. — 2. - A minister *certainly sins gravely* who in the state of serious sin fulfills three simultaneously concurring conditions: 1) that he be ordained for the sacrament conferred, 2) that he confect the sacrament (which coincides with its administration in every sacrament except the Eucharist), 3) that he do so solemnly (outside of necessity and with the rites and ceremonies prescribed by the Church). Lacking any of the conditions the minister will certainly sin venially but not always gravely. Thus the following *more probably sin venially* when acting in the state of grave sin: a layman administering private Baptism, spouses as ministers in Matrimony (although they sin gravely as recipients), a simple priest confirming by privilege, a priest or deacon baptizing privately in case of necessity, a priest validly assisting at a marriage, a subdeacon or deacon assisting at solemn Mass or Benediction or other sacred function, a priest or deacon immediately touching or carrying the Blessed Sacrament, a priest confecting sacramentals. It is more commonly held that to distribute Communion is more probably a venial sin, since the unworthy minister is not handling (confecting) It unworthily;

but only one venial sin, since it is one administration and one "*convivium*." Some authors hold that to hear several confessions or to baptize many individuals successively while in the state of serious sin is to commit as many grave sins as persons absolved or individuals baptized, since each sacramental administration is complete in itself. Others hold that each series is considered morally one and thus there is only one seriously sinful administration and the same irreverence toward God. In practice, the confessor will inquire about the number of sacraments conferred in each series, even though not imposing the stricter view in his penitential judgment. A priest celebrating Mass in mortal sin more probably commits only two grave sins of sacrilege—as minister and as partaker of the Eucharist. In confession it suffices simply to confess the celebration of Mass in serious sin.

32. — 3. - To administer a sacrament without necessary and proper permission or legitimate presumption, outside of necessity, is unlawful and sinful, as a violation of another's right. A minister in mortal sin, even though excommunicated, suspended or interdicted, may lawfully administer the sacraments or sacramentals, if spontaneously requested by the faithful, without even being bound to question the reason for the request. A minister *vitandus* or one under declaratory or condemnatory sentence may so act only in danger of death. Only an urgent necessity of administration may possibly excuse from the obligation to acquire the state of grace in these cases.³⁴

C. - OBLIGATIONS.

1. - Administration.

33. — a) The obligation of a minister in the administration of a sacrament³⁵ will be qualified by his status, the condition of the petitioner and the necessity of the request. Ministers of the sacraments are either those who have the care of souls or those not so entrusted. *Ministers with the care of souls* are: local Ordinaries, pastors or their equivalent by law or institution, canonically instituted curates, military chaplains, hospital or prison or community chaplains, clerical religious superiors. Their obligations toward that part of Christ's flock entrusted to their care urge in *justice*, from the quasi contract entered into on assuming the office or delegation (clerical religious superiors are probably bound in religion or obedience). *Ministers not having the care of souls* are bound to administer the sacraments out of *charity*, lest their neighbor be deprived of a needed spiritual good which has been entrusted to the minister requested.

34. — b) A *reasonable request* for the administration of a sacrament is made: 1) in *common need* or *light necessity*, such as the need to satisfy an obligation to receive the sacrament, e.g., during Paschal time, or to

overcome grave sin or to withstand grave temptation which may otherwise be overcome only with difficulty and for which the grace of the sacrament is desired, or out of devotion for spiritual progress. 2) in *serious need*, when only with notable difficulty would the petitioner without the sacrament be able to save his soul, although absolutely he could, e.g., a dying inveterate sinner who has perhaps forgotten how to make an act of contrition or finds it very difficult. 3) in *quasi extreme need*, when the petitioner can scarcely otherwise save his soul, e.g., an infidel or heretic in danger of death, a dying sinner who cannot elicit an act of perfect contrition. 4) in *extreme need*, when salvation can be obtained in no other way, e.g., dying unbaptized children or unconscious adult sinners.

35. – c) The obligation of the minister in each case will be affected by the necessity of the sacrament requested. Thus where the minister is called upon to risk his life, his obligation involves certainly only the absolutely necessary sacraments, viz., Baptism, Penance and Extreme Unction in default of Penance. The minister is also befittingly prepared to administer the non-necessary sacraments. A pastor or other minister may also be relieved of his obligation inasmuch as he uses a substitute (unless he is requested by name), or inasmuch as he is impeded or other ministers are readily at hand. For a minister, especially one with the care of souls, to be bound to administer a sacrament with the concurrent proximate, very grave and certain risk of losing his own life there must be a moral certainty of the proportionate need of the recipient *and* a morally certain hope of a successful administration, with no greater evils following upon the fulfilment of this obligation (such as the loss of a pastor depriving many other needy of a shepherd, as in mission countries), e.g., it is improbable that the dying person can be reached before succumbing or before the minister loses his own life.

36. – d) Therefore, in the administration of the sacraments: 1) in *common need*, *pastors of souls* are held even with serious inconvenience but not at the risk of their life;³⁶ *non-pastors* are, outside of necessity, generally held lightly and without any inconvenience. Thus a pastor sins gravely who refuses even once a serious request made because of an obligation or the necessity for receiving a sacrament, or frequently refuses requests made solely from devotion, or whose denial brings injury to the reputation of or great anxiety to the one requesting, or who harms souls by persistently showing his displeasure or irritation and by his tardiness, or who seldom provides Mass or confession for his people. A refusal now and again is not a grave sin, unless the sacrament is necessary, since there is no grave injury or neglect of duty. For a sacrament that is not necessary the minister, every time he is requested, would not be bound to grave inconvenience, such as to travel at a great distance, in bad weather, or while indisposed. He would not sin at all if the request was

unreasonable or indiscreet (e.g., at an unsuitable time) or inordinate (e.g., repeated out of scrupulosity). The minister is perhaps also excused in putting off the administration until a more suitable time, without inconvenience to the petitioner. 2) in *grave need*, *pastors of souls* are held even at the risk of their own life to administer Baptism and Penance³⁷ and also the Eucharist and Extreme Unction when possible. *Non-pastors* are bound with grave if not notable inconvenience, but not at the risk of their own life. 3) in *extreme* or *quasi extreme need*, *both pastors and non-pastors* are bound even at the risk of their own life.³⁸

37. – e) The Church requires that the administration of the sacraments be gratuitous. However, offerings spontaneously given on the occasion of the administration or regulated by a provincial council of bishops or by legitimate custom may be accepted.³⁹

2. - Refusal.

38. – a) The sacraments must be refused those who are incapable and those who are unworthy of them, since the sacraments require certain conditions and dispositions for their reception as befitting their nature and the action of Christ in them. A sacrament must be denied to one *incapable* of receiving it, since the administration would be invalid, a simulation, gravely sacrilegious and intrinsically evil, e.g., to baptize an unwilling adult, to absolve an infidel, to ordain a woman. This is never lawful, even to avoid the loss of life.

39. – b) A sacrament is to be denied to one who, although capable, is due to sin *unworthy* to receive it. The holy things of God should not be given to the indisposed.⁴⁰ Fidelity to his office as minister of Christ, charity toward his neighbor lest he cooperate in another's sacrilege, and the avoidance of scandal to the faithful gravely oblige the minister to refuse his administration. The minister should make himself morally certain of the worthiness of the recipient, which must be positively evidenced in the case of the baptism of adults, Penance, Orders and matrimonial impediments; otherwise a presumption of worthiness suffices in the absence of evidence to the contrary.

40. – c) A sacrament may be *lawfully* administered to the unworthy only for a *very grave reason* all scandal being removed. Such cooperation in another's sin of sacrilege is permitted only for proportionate cause, lest greater evils result from a refusal (but never when a sacrament is asked for out of hatred of the faith or contempt of religion, which would be intrinsically evil). In practice, an excusing reason would be: 1) to avoid violation of the sacramental seal; 2) to avoid grave scandal arising or causing the faithful to be disturbed so that, not knowing the cause of the refusal, they are led to stay away from the sacraments fearing lest they also may be repulsed; 3) to avoid defaming an occult sinner,

with consequent general damage to all, or probably even without this damage;⁴¹ 4) to avoid very serious private injury to the minister, such as death or some morally equivalent evil.

41. — d) Thus the administration of a sacrament, especially the Eucharist, to a public or an occult sinner, who seeks it either publicly or occultly (i.e., privately), will follow certain norms.⁴² In regard to this, according to canon 2197 a *crime* is: 1) *public*, if it is already divulged or is so situated that it may and must be safely concluded that it will easily become commonly known; 2) *notorious in law*, after a sentence of a competent judge definitively determining the issue or after a judicial confession of the delinquent made in accordance with canon 1750; 3) *notorious in fact*, if it is publicly known and if it has been committed in such circumstances that it is entirely impossible to conceal it or to offer any legal justification for it; 4) *occult*, if it is not public; materially occult if the crime itself is not known, formally occult if its imputability is not known. It should be added also that a public crime may later become occult. It is divulged when a notable part of the community knows the fact and the delinquent's responsibility. A crime may remain occult, even when the several persons who may know it will not spread this knowledge, but it may be public if the few who may know it are likely to divulge it. A sinner is a public sinner, absolutely speaking, who is notorious; he is a public sinner, relatively speaking, who is known as such by those who observe him asking for a sacrament. Thus:

42. — e) A *public sinner* asking for a sacrament either *publicly* or *privately* is to be *refused*. Since there is no excusing cause, an administration would scandalize the faithful. (No sinner, however, is to be kept from Penance when seriously and properly disposed, or from Extreme Unction when unconscious). It is more than probable that where the crime is known by most present but not by all, so that the unworthiness is not absolutely public, the sacrament is not to be denied, as the sinner retains his good name with those unaware of his crime. But if it is absolutely public, refusal is in order, even though some present are unaware of the unworthiness. Also, if the crime is unknown in the place but is public elsewhere, and unless it is foreseen that it will be divulged soon, the sacrament may be given, since no scandal will ensue. If the unworthiness is due to the crime only *and* does *not* require satisfaction, reparation or removal of the scandal, it suffices that the sinner go to confession—since this can become easily known—and thereby be able to receive the other sacraments. In doubt whether the crime is public, the sacrament is to be given; if it is public, but there is doubt about the sinner's amendment, retraction or removal of scandal, it is to be deferred.

f) An *occult sinner* (known to the priest outside of confession) asking *privately* for a sacrament is to be *refused*. Reverence for the sacrament,

charity toward one's neighbor and absence of hardship from the denial would require the refusal.

g) An *occult sinner* asking *publicly* for a sacrament is *not* to be *refused*, as long as serious loss of his good name, grave scandal or disturbance would result from the refusal.⁴³ Holy Orders is excepted,⁴⁴ since the public good demands that the unworthy be barred.

43. — h) Priests with the care of souls have no obligation in justice toward *non-Catholics*, but only to baptized Catholics;⁴⁵ non-Catholics are recommended to their care.⁴⁶ However, they do have an obligation in charity when the non-Catholics are in spiritual necessity and can be aided. The non-Catholics should be encouraged to elicit the necessary acts and to retract their errors and then in charity the sacraments may be given to them; in case of doubt they should be further urged, but the doubt remaining there seems to be no clear obligation binding the minister. The Church normally forbids the administration of the sacraments to heretics and schismatics outside the danger of death, unless they request them in good faith and reject their errors (at least implicitly, if they cannot be instructed in an explicit profession of faith).⁴⁷ Otherwise scandal would be given and religious indifference fostered and non-Catholics confirmed in their errors. In danger of death unconscious heretics and schismatics may be absolved and anointed conditionally, if it can be surmised that they are in good faith and implicitly reject their errors, providing scandal is not present.⁴⁸ Inasmuch as Protestants have no knowledge of the sacraments or reject them, there is slight probability that a (secret) conditional administration profits them. Pre-supposing the requisites, when there is even a slight doubt of the non-Catholic baptism, they should be first baptized.

44. — i) A minister who unlawfully confers the sacraments is liable to ecclesiastical penalties including suspension.⁴⁹ He must be very discreet in his refusal of the sacraments, especially publicly, lest those of ill will attempt to prosecute him in civil law for defamation.

3. - *Simulation and pretence.*

45. — a) To *simulate* or feign a sacrament is for a minister to change secretly and unlawfully either the matter or the form, or to change or withdraw the necessary intention, so that the sacrament becomes invalid with the recipient and others being lead into error. A rite or action (which appears to be sacramental) is falsely placed so that externally it is signified that a sacrament is confected or administered, and thus the recipient and others are deceived, e.g., to use grape juice in place of wine at the consecration, to omit an essential word in the form of absolution or last anointing. Simulation is formal or material as the concealment is intended or permitted. Simulation is *never lawful* under any circumstance, in order to avoid an unworthy reception, to save one's life

or for any reasons whatever.⁵⁰ It is a grave and sacrilegious lie. Moreover, it is never permitted to give a communicant an unconsecrated host, since it will be at least material idolatry (at least for others), even though he knows it lacks consecration: it is not a simulation of sacramental confection but of administration.

46. – b) *To dissimulate* or to pretend to administer a sacrament is to place a non-sacramental rite or action in circumstances in which others (and *not the recipient*) falsely judge that a sacrament is conferred. The minister intends to hide not the sacrament but the denial or non-conferral of the sacrament. No injury is done to the sacrament, since true matter and form are not employed; there is no lie inasmuch as the bystanders have no right to such knowledge, e.g., in place of absolution to say some prayers and to give a blessing to a penitent who cannot be absolved, or under grave fear to dissimulate refusal of consent in matrimony. The intention is not to deceive others but to hide the truth from them. This deception is lawful for a just cause which is urgent and grave, such as to avoid scandal and infamy.

4. - Repetition.

47. – a) To confer anew a sacrament already received will depend upon the validity of the previous conferral and the nature of the sacrament. Sacraments which imprint a character, when it is *certain* that they have been *validly* conferred, may *not* without grave sin and sacrilege be readministered in whole or in part to the same subject; likewise, Extreme Unction during the same danger of death and Matrimony while the same bond exists. Such repetition would be useless and a grave irreverence. Penance may always be repeated, even several times on the same day, as prudence may indicate. The Eucharist of its nature may be repeatedly administered but by ecclesiastical law not more than once on the same day to the same person, except in the case of legitimate bination or when Viaticum must be received.⁵¹

48. – b) In a *doubt* of the *validity* of a sacramental conferral, every sacrament *may* be repeated *conditionally*, and certain ones *must* be repeated. However, the doubt must be prudent and reasonable, since an imprudent and rash doubt causes an irreverence to the sacrament; a condition placed in such doubt is considered as not placed, and thus the repetition becomes absolute. All the sacraments may be repeated conditionally lest their fruit be lost to the recipient. Judgment whether a non-necessary sacrament ought to be readministered will be made on the strength of the doubt of its validity, its degree of usefulness to the recipient and the amount of inconvenience to the minister who is to repeat it. Certain necessary sacraments must be repeated lest grave damage to religion or neighbor result: Baptism, absolution of those dying in

mortal sin, Extreme Unction for the unconscious moribund, Holy Orders, the consecration of doubtfully consecrated hosts.⁵²

49. — c) If there is prudent doubt that a penitent has presented *necessary* matter for confession, the form can be repeated but it is not necessary, as there is no obstacle to the reception of Communion. A minister with only slight or negative doubts, such as not recalling having pronounced the words of the form, must not repeat them, unless the contrary is positively evident or quite probable.⁵³ In itself it is gravely sinful. In practice, the scrupulous are very often excused from serious sin, since they act either inadvertently or from a perplexed conscience, fearing to offend God if they do not repeat the form in whole or in part. They are obliged to avoid or to eradicate scrupulosity to the best of their ability.

5. - *Observance of rites and ceremonies.*

50. — a) *Rite* may be said to refer to the entire legitimate manner of carrying out an act of worship, *ceremonies* to the individual actions and gestures regarding this act, although the term “ceremonies” or even “rubrics” is sometimes used for both. These ceremonies are substantial or *essential* when they regard the legitimate use of matter and form in the sacraments, *accidental* when they regard the things instituted by the Church for their more worthy confection and administration, e.g., all those things pertaining to the solemnization of Baptism.

51. — b) The greatest care and reverence must be maintained in confecting, administering, receiving the sacraments; the rites and ceremonies of the approved liturgical books must be observed; everyone must follow his own rite as approved by the Church; major clerics who fail to observe these laws are liable to suspension.⁵⁴ Thus the obligation to observe the ceremonies is in itself serious and binds the minister in conscience. Ceremonies which are preceptive bind lightly or gravely; those of counsel do not bind under sin, outside of contempt or scandal. The words of the *Ritual* and accepted usage indicate what is grave or light or merely directive in the Ritual; the rubrics of the *Missal* within the Mass are considered to be almost all preceptive, outside the Mass merely directive.

52. — c) The vernacular in place of Latin may be used in the ceremonies of the administration of the sacraments in the measure approved by the Holy See and permitted by the local Ordinaries. The use of the *Collectio Rituum* in the U.S.A., approved by the Holy See first in 1954 and again as revised in 1959 (referred to as *Collectio Rituum* 1961) and contained in *Practical Handbook of Rites, Blessings and Prayers*, 1961, and *Priest's Ritual*, 1962, *only* for the administration of Baptism, Extreme Unction, Matrimony and for the Rite of Burial, requires at least the tacit permission of the local Ordinary.

6. - *Use of a safe norm.*

53. — a) In the conferral of the sacraments and the consecration of the Mass it is *never* permitted to follow a merely probable opinion or to pursue a probable course of action and to abandon a safer opinion or course with regard to the *validity* of the sacraments. The validity is to be secured by the safer procedure,⁵³ even with non-necessary sacraments. A violation is a grave sin against religion by irreverence in risking nullity, against charity by exposing the recipient to the loss of the effect of the sacrament, against justice because of the tacit obligation of the pastor by his office (and more probably of any minister) to confer the sacrament in a safe manner. Likewise, a recipient may never apply a merely probable opinion in preference to a safer one with respect to validity but only regarding the fruit or grace or effect of the sacrament, since a solid probability of the state of grace suffices for the reception of the sacraments of the living (moral certainty can be gained only by sacramental absolution, and this may involve serious inconvenience, anxieties or scruples). A probable in preference to a safer opinion may be followed when the Church supplies for a defect that may exist, e.g., in defect of jurisdiction in Penance and Matrimony according to the terms of canon 209.

54. — b) It is permitted in *urgent necessity* to follow a probable opinion or course of action, since in the supposition a safer one is not obtainable, e.g., to baptize or to anoint in danger of death with doubtful matter. In the conferral or reception of a sacrament a solidly safe opinion (i.e., one which safeguards sacramental validity) may be followed, although its contrary may be safer; a safe opinion is a morally certain one and thus more cannot be reasonably demanded, as God obliges to what is certain morally and not metaphysically. A probable opinion may be followed, even regarding validity or in the absence of urgent necessity or suppliance by the Church, in the case of those who otherwise would be in a state of perpetual anxiety of conscience, since the situation then becomes a real and urgent necessity, e.g., a penitent who is in frequent distress over the value of his sorrow, a celebrant who constantly worries about his intention to consecrate, a confessor who scruples over the dispositions of his penitents. When it is a question, not of a valid but of a lawful administration, a probable practical opinion may be followed, e.g., that a priest conscious of mortal sin and who distributes the Eucharist does not commit a grave sin.

55. — c) "Holy things are to be treated in a holy manner, so that it is not allowed rashly to expose the sacraments to nullity or unfruitfulness." On the other hand, "the sacraments are for men, so that in extreme cases it is permitted to try extreme measures." It is not allowed to confer the sacraments on one who, it is morally certain, lacks either the requisite intention for validity or the good disposition of will required for their

fruitful reception. In a case of extreme necessity, when there is no positive prohibition of the Church, the necessary sacraments may be conferred, at least conditionally, if the lack of requisite intention and disposition is not certain and there is at least a minimum *probability* of the presence of due intention and disposition based on some single act or sign or even on the general quality or character of the former life. In such circumstances the law of charity to succor one's neighbor is more compelling than the law of religion forbidding a minister to risk nullity to a sacrament. As long as there is some *probability* that the sacrament can be valid, nullity to the sacrament is to be risked rather than expose a soul to the danger of eternal loss. However, there must exist *some probability* of valid reception and not *mere possibility* which is not a reasonable basis for prudent judgment and practice in moral affairs; every sacrament may be *possibly* invalid or valid.

IV. RECIPIENT

A. - VALID RECEPTION.

56. — 1. - The *recipient* or *subject* of a sacrament is a wayfarer who alone is capable of receiving a sacrament and its effect. With the exception of Penance, for the *valid* reception of a sacrament neither faith nor uprightness of life is required, as the sense and practice of the Church shows in not permitting the rebaptism or reordination of heretics rightly baptized or ordained. Baptism is prerequisite to all the other sacraments.⁵⁶ From the practice of the Church it is certain that no disposition or intention is required of *infants* and the *perpetually insane* to receive validly the sacraments of which they are capable: Baptism, Confirmation and even Orders and the Eucharist.⁵⁷ Having no personal sin they need no personal act to be justified, and being unable to cooperate in their own salvation, the intention of Christ and the Church through the will of the minister suffices or supplies for them.

57. — 2. - Since no *adult* is justified and saved without his own consent, the *valid* reception of a sacrament requires that he also have an *intention* of receiving it, differing in the various sacraments. It must be a positive act of the will and not a passive attitude, neither willing nor not willing, but here and now the will is said to be not obstructing rather than positively consenting; fear does not invalidate the intention, except in Matrimony by positive law.⁵⁸ The intention must be at least *habitual*, and may be *implicit*, except for Orders, Matrimony and the Eucharist (not as Viaticum), when it must be *explicit*. However, in Penance a *virtual* intention is necessary at the time when the matter of the sacrament is placed (at least when the signs of contrition are given); in Matrimony also, since the parties are also ministers. Thus, presupposing

an habitual intention, the sacraments are validly received by those who are asleep, drunk, out of their mind or unconscious. (The intentions for the individual sacraments will be considered in their proper places). It should be noted that *attention* is not required on the part of the recipient for validity, since a human act proceeds from the intention of the will and not from the attention of the mind, and the sacraments enjoy the character of gifts, which do not require attention to be truly received.

B. - LAWFUL RECEPTION.

58. — 1. - The *lawful* and fruitful reception of the sacraments of the *living* require also the *state of grace* (known with solid probability), lest the effect of the sacrament be frustrated. A recipient in conscious mortal sin commits a further grave sin; the state of grace is first to be regained normally through confession (which is of precept for the Eucharist). To receive the sacraments of the *dead* lawfully adults need to make acts (at least implicit) of faith, hope and at least attrition, without which acts no adult can be justified. Moreover, the recipient must be free of all *censures* prohibiting reception and observe the prescribed *ceremonies* for each sacrament.⁵⁹

59. — 2. - Without sufficient reason it is forbidden to *request* a sacrament for oneself or others from an unworthy minister, i.e., one who it is foreseen will sin in conferring it. The request would be a grave or light sin in the measure of the unworthiness of the minister, offering the occasion for another to sin, cooperating in it and perhaps risking scandal or the danger of perversion. As long as another minister is not available and scandal is avoided, for any just reason, even reasonable devotion, it is lawful to request a sacrament from a minister who is excommunicated (excepting the sentenced and *vitandi* outside the danger of death) or suspended, and thus a *fortiori* from one simply unworthy.⁶⁰ In doubt of unworthiness it is always lawful to request and to receive a sacrament. The semi-insane and the doubtfully insane are to be given every benefit of sacramental administration befitting due reverence for the sacraments.

GENERAL NORMS

¹ *Summa Theol.*, III, q. 60, a. 2.

² Serm. de Coen. Dom., c. 2.

³ *Baltimore Catechism*, revised edition, n. 304.

⁴ It is important for later discussion to insist upon the role of sacrament as sign. Cf. *Summa Theol.*, *ibid.*, aa. 2,4,5; *Catechism of the Council of Trent*, p. 143 sq.

⁵ Trent, Denz. 695.

⁶ *Decretum pro Armenis*, Denz. 695.

⁷ *Ibid.*, Denz. 844; *Summa Theol.*, *ibid.*, a. 1.

⁸ The character is conferred only in Baptism, Confirmation, Holy Orders; some theologians following St. Thomas teach an analogous *ornatus animae* or adornment of the soul as effected in the other four sacraments.

⁹ *Decretum pro Armenis*, *loc. cit.*; *Summa Theol.*, III, q. 62, a. 2.

¹⁰ Trent, Denz. 849, 851.

¹¹ *Summa Theol.*, III, q. 72, a. 7, ad 2; q. 79, a. 3; *IV Sent.*, d. 23, a. 1, a. 2, qcla. 1, ad 1.

¹² Trent, Denz. 846.

¹³ *Ibid.*, Denz. 852.

¹⁴ Cf. *Summa Theol.*, III, q. 63, aa. 1-6.

¹⁵ *Decretum pro Armenis*, *loc. cit.*: "All these sacraments are brought to completion by three components; by material things as matter, by words as form, and by the person of the minister effecting the sacrament with the intention of doing what the Church does. And if any of these three is lacking, the sacrament is not effected."

¹⁶ c. 733, 1.

¹⁷ Innocent XI (S. Off. 4 mart. 1679) condemned the proposition: "It is not unlawful in the conferral of the sacraments to follow a probable opinion regarding the validity of a sacrament, while abandoning a safer one." Denz. 1151.

¹⁸ S. Off. 2 maii 1858, to the Vicar Apostolic of Abyssinia, commanded that Baptism be repeated conditionally whenever the form is pronounced after the water has been poured or vice versa.

¹⁹ S. C. Sac. 17 nov. 1916.

²⁰ c. 803.

²¹ Cf. *Missale Rom.*, *de Defectibus*, X, 3.

²² *Summa Theol.*, III, q. 62, a. 7, ad 3.

²³ c. 733, 1.

²⁴ Cf. n. 17 above.

²⁵ Cf. c. 732, 2.

²⁶ *Rit. Rom.*, tit. II, c. 1, n. 9.

²⁷ *Ibid.*, tit. V, c. 1, n. 14.

²⁸ Trent, Denz. 860, 855.

²⁹ *Ibid.*, Denz. 854.

³⁰ Alexander VIII (S. Off. 7 dec. 1690) condemned the proposition: "Baptism is valid when conferred by a minister who observes the entire external rite and form of baptizing, while he resolves within his own heart: I do not intend what the Church does." Denz. 1318.

³¹ Cf. c. 943.

³² Trent, Denz. 854.

³³ c. 807.

³⁴ Cf. cc. 2261, 1; 2275, 2^o; 2284.

³⁵ c. 682.

³⁶ c. 467, 1; *Rit Rom.*, tit. I, no. 5.

³⁷ S.C.C. 12 oct. 1576.

³⁸ cc. 892; 939.

³⁹ cc. 736; 1507, 1.

⁴⁰ Mt. 7:6; c. 855.

⁴¹ *Summa Theol.*, III, q. 80, a. 6, ad 2.

⁴² *Ibid.*, corpus; cf. c. 855. Communist Party members and supporters are included (S. Off. 1 iul. 1949; 28 iul. 1950).

⁴³ *IV Sent.*, d. 9, q. 1, a. 5, sol. 1.

⁴⁴ c. 970.

⁴⁵ cc. 467, 1; 731, 2; 750-751.

⁴⁶ c. 1350.

⁴⁷ c. 731, 2; S. Off. 20 iul. 1898; 15 nov. 1914 (private).

⁴⁸ S. Off. 17 maii 1916 ad 2; 1 nov. 1942.

⁴⁹ c. 2364.

⁵⁰ Innocent XI condemned the proposition: "Urgent grave fear is a just reason for simulation of the sacraments." Denz. 1179.

⁵¹ cc. 806; 857; 864, 2.

⁵² Cf. c. 732, 2.

⁵³ Cf. *Missale Rom.*, *de Defectibus*, V, 2.

⁵⁴ cc. 731, 1; 733; 2378. *Rit Rom.*, tit. I, c. un., n. 11: "When administering a sacrament, the minister will pronounce attentively, distinctly, devoutly and in clear voice the individual words pertaining to its form and administration. Likewise he will say devoutly and religiously the other orations and prayers; nor will he easily trust to his memory, which

very often errs, but will recite everything from the book. Moreover he will perform the other ceremonies and rites with such decorum and gravity of action that the bystanders will be rendered attentive and their thoughts raised to heavenly things." Cf. Paul VI, motu proprio, *Sacram Liturgiam*, 11, 25 ian. 1964.

⁵⁵ Cf. n. 17 above.

⁵⁶ c. 737; Trent, Denz. 869.

⁵⁷ Bened. XIV, Const. *Eo quamvis*, 4 maii 1745 a. 1; c. 737.

⁵⁸ Innocent III: (1201) "He who never consents, but entirely contradicts, receives neither the effect (grace), nor the character of the sacrament." Denz. 411. Cf. *Prostremo Mense*, Const. Bened. XIV; c. 1087.

⁵⁹ cc. 2241, 1; 2250, 2; on association with Communists cf. S. Off. 1 iul. 1949; 28 iul. 1950.

⁶⁰ cc. 2261; 2284; cf. n. 33 above.

II

The Administration
of
Baptism

THE ADMINISTRATION OF BAPTISM

I. NATURE

1. - A. - DEFINITION.

Baptism is from the Greek word βαπτίζω which means to immerse, to bathe, to wash. "Holy Baptism holds the first place among all the sacraments because it is the door of the spiritual life. By it we are made members of Christ and of His body, the Church."¹ It is a sacrament of the new law (genus) instituted by Christ (principal efficient cause) in which, by a washing with water (matter), done by the minister (ministerial cause) invoking the Holy Trinity (form), man, a wayfarer (subject), is regenerated to divine and supernatural life (principal effect) and aggregated to the Church (secondary effect).²

B. - DIVISION.

2. - 1. - *Solemn*. Baptism is solemn when administered with all the rites and ceremonies prescribed in the liturgical books,³ even if one or another rite or ceremony is lacking. The mere fact that all the ceremonies of solemn baptism cannot be observed does not automatically permit the conferral of private baptism.⁴

3. - 2. - *Private*. Baptism which is not solemn is considered to be private, even if one or another rite or ceremony is employed. Baptism conferred at home and outside of necessity by priests with a special faculty is considered to be solemn and is to be performed with baptismal water and with all the ceremonies.⁵

4. - 3. - *Sacramental*. Of the three ways in which grace may be imparted for justification only baptism of *water* is truly a sacrament, justifying *ex opere operato* actively. Baptism of *desire* is the sacrament *in voto*, justifying *ex opere operantis* and requiring reception of the sacrament when possible. Baptism of *blood* justifies *ex quasi opere operato* and, for adults, also with attrition at least or *ex opere operantis*. This tract is concerned with the sacrament.

5. — C. - MATTER.

True and natural water is necessary for baptism.⁶ Water is *true* if it is composed of the requisite elements for water; *natural* if it is commonly considered and used as true water, whether naturally or artificially produced. The water is judged not simply by the results of chemical analysis but by the ordinary judgment and use of prudent men.

1. - *Remote*a) *valid*.

6. — I. - *certain*. The following are accepted as certainly valid matter for baptism: natural water in a liquid state as found in rivers, the sea, wells, springs, fountains, pools, cisterns, baths, swamps, lakes, melted snow or ice or hail, mineral water, sulphur water, dew, condensed vapors, water from sweating walls, water mixed with a small amount of an extraneous element, as in the case of muddy water, as long as the water predominated, putrid water if it still remains true water in the common estimation.⁷ As an antiseptic measure one thousandth part of bichloride of mercury may be added to the baptismal water, e.g., in the necessary case of uterine baptism.⁸

7. — II. - *doubtful*. Because their substances do not certainly imply natural water or because their mixture with other elements almost supplants the water, these are doubtfully valid matter: light tea and coffee, thin soup and broth, light beer, thin ink, water produced from salt and lye or soapsuds, artificial water extracted by distillation from flowers (e.g., rose water) or herbs, or flowing from vines or trees or other plants (considered by some invalid).

8. — III. - *invalid*. Because these substances never have been water or have been so changed as no longer to be or to be considered water, they are invalid matter: wine, oil, meat or fat juice, amniotic fluid, fluids from the bodies of animals and men, milk, blood, urine, saliva, tears, sweat, thick soup or gravy, lard, grease, lacquer, shoe polish, foam, phlegm, the juices of flowers or herbs or roots or seeds or fruits or the sap of trees (doubtful for some), all things not in a liquid state, water mixed with another substance which predominates and is no longer considered apt to wash, mud, ink, thick beer or soup or coffee or tea or lye.

b) *lawful*.1. - *outside of necessity*

9. — α) *baptismal water*. Lawful matter alone is water which is pure and clean and specially blessed that year for that purpose on Holy Saturday or the eve of Pentecost.⁹ This applies also when the conferral of baptism is permitted outside a church or public oratory, e.g., at home.¹⁰ It is commonly considered to be a grave sin to use any other.

ε) *diminished supply*. If the quantity of the blessed water runs so low

that there seems hardly enough, a lesser amount of unblest water may be mixed with it, even more than once.¹¹ If the water is frozen over, it should be liquified; if it is too cold a bit of natural warm water can be added and then this tepid water used, lest the infant be harmed.

γ) *corrupted water*. It is gravely forbidden to use such water. If the water has been corrupted, run out or become foul, or otherwise is lacking, new water should be poured into the fully cleaned font and blessed according to the form of the Roman Ritual.¹²

π. - *in necessity*. In the case of necessity, i.e., the danger of death, if certainly valid matter is lacking and unavailable, one can and must use doubtful matter, even with the least probability of its validity, i.e., any matter about which there is not certain invalidity. The administration is conditional: "*si haec materia est valida*"; if the one so baptized survives, he is conditionally baptized again with certainly valid matter: "*si non es baptizatus*." Unconsecrated water is lawful in *private* baptism conferred in case of necessity, though holy water is to be preferred (not under obligation) to simply water; a priest or deacon should use baptismal water.¹³ Missionaries are to consecrate water or have such water always at hand without great inconvenience.¹⁴

10. - 2. - *Proximate*. The proximate matter is the external washing of the body by immersion (dipping), infusion (pouring) or aspersion (sprinkling); aspersion is no longer employed.¹⁵ There must be in the common estimation of men a true ablution or flowing of water whereby the whole body or the head is washed. The pouring of the water must be:

a) *threefold*. A triple pouring is made corresponding with the pronouncement of each name of the Trinity, according to the Ritual. Although it pertains to the lawful administration only, it is probably a grave obligation.

b) *on the head*. The head is the principal part where life integrally resides. Baptism is less certainly valid as the parts washed are less noble than the head. One baptized on other than the head in a case of necessity should be baptized later conditionally, if possible.

c) *flowing*. It is required for validity for a true washing that the water flow, even though there be only a few drops (although merely one or two drops are doubtfully sufficient). It does not suffice merely to anoint the person to be baptized, e.g., with the thumb moistened with blessed water.¹⁶ To draw a wet cloth or sponge or wet fingers across the head or forehead is at least doubtfully valid. Note that the water used is to flow off into the sacrarium part of the font and not into the font water; if a font is not employed, the water should be poured into a sacrarium or into the ground.

d) *touch the skin*. Unless the skin is washed the baptism is invalid or at least doubtful and thus must be conferred again conditionally.

Baptism is at least doubtful if the water touches only the hair; the hair should be separated to allow the water to flow on the skin, or across the forehead or temples. The administration is invalid if given only on the clothes of the baptized or on the body of the mother of the unborn child to be baptized. It is highly doubtful when given on the umbilical cord or on one of the two membranes immediately surrounding the fetus in the womb, even though they arise from the fetus. The third membrane which surrounds the fetus exteriorly is from the mother and thus baptism on it would be invalid. However, baptism is valid even if the head is covered with sores.

11. — D. - FORM.

The Latin Church employs the form: "*Ego te baptizo in nomine Patris et Filii et Spiritus Sancti.*" (I baptize you in the name of the Father, and of the Son, and of the Holy Spirit). There is no "*Amen.*"

12. — 1. - *Valid.* It is absolutely necessary that the following elements be present in the form: the *minister* or the person baptizing must be expressed, at least implicitly; the *act* of baptizing expressed, in order to determine the matter; the *subject* or person of the baptized mentioned, since the form is concerned with this party; the *unity* of the divine essence, provided for by the words "*in nomine*"; the *trinity* of Persons expressed by distinct and also probably by proper names.¹⁷

2. - *Lawful.*

13. — a) An administration is lawful when it follows the prescriptions of the Ritual.¹⁸

b) The form is to be pronounced at the same time as the water is poured. Thus, not only moral but also physical simultaneity of application of matter and form should be sought, since in practice the safer opinion must be followed, and this is the action prescribed.¹⁹

c) No one can baptize himself.²⁰ The administration is invalid when someone other than the minister pours the water and the latter pronounces the form.²¹ Likewise when several ministers partially and severally cooperate in the essential part of the rite.²² On the other hand, when a person is held by a minister under flowing water (fountain, gutter, rain) the baptism is valid, if the proper form is used. Likewise, when someone other than the minister pours the water, but the latter with his hand or with some instrument directs the water upon the person to be baptized.

d) One minister may baptize several subjects at the same time in accordance with the ceremonies or solemnities as laid down in the Ritual, using the plural as provided for in the formulas; the matter and form

must be singly applied to the subjects, except in the case of danger of death when time does not allow, in which circumstance a plural form may be employed.²³

II. MINISTER

A. - SOLEMN BAPTISM.

14. — I. - *Ordinary minister.* The ordinary minister is he who in virtue of his power of Orders is deputed primarily to confer solemn baptism. The distinction of ordinary and extraordinary minister refers only to solemn baptism.

a) *by reason of ordination.* A priest alone is the ordinary minister of baptism.²⁴

b) *by reason of office.* The solemn administration of baptism is a reserved function, a *parochial right* or pastoral act which pertains to the proper pastor (and local Ordinary). By this administration the one baptized is aggregated to a particular church or parish, and thus it pertains to one who enjoys jurisdiction in that church.

1. - *local Ordinary.* In his territory the Ordinary of the place, being the supreme pastor there, enjoys preeminently the right to baptize.²⁵ The baptism of adults (when not conditional), whenever feasible, shall be deferred to the Ordinary of the place so that, if he wishes, it may be more solemnly conferred by him or by his delegate.²⁶ It is considered that the law here expresses a desire but not a command, leaving stricter application to the prudent decision of the Ordinary. Where parishes or quasi-parishes are not yet established (as in some missions), the particular statutes and accepted customs must be consulted to determine what priests, besides the Ordinary, have the right to baptize, either in the entire territory or in some particular district.²⁷

15. — II. - *pastor.*

a) *by title.* A pastor (*parochus*) is a priest or moral person to whom a parish is entrusted with the care of souls to be exercised under the authority of the local Ordinary.²⁸ This is the pastor in the proper or strict sense, possessing the parish *in titulum* or in his own right. His is the right and the duty to preach and to administer the sacraments to a specific body of the faithful who are thereby constituted the passive subjects of his ministry.

ξ) *by administration.* A priest who merely administers a parish and does not possess it in his own right but rather *in administrationem*, is placed in the same category as pastors with all the rights and duties of the same.²⁹ Included here are:

1. - *quasi-pastor*. This is the priest (*quasi-parochus*) in charge of a subdivision of a vicariate or prefecture in mission territory.³⁰

2. - *parochial vicars*. They enjoy the rights and duties of pastors, if they possess full parochial powers.³¹

a) *vicar of a moral person*. He has the actual care of souls in a parish which is attached to a moral person, e.g., a religious community, which is considered to be the habitual possessor of the parish. He is designated as *vicarius actualis* or *vicarius curatus* and enjoys full parochial powers.³²

b) *vicar economo*. Usually called in the U.S.A. the administrator of the parish (*vicarius oekonomus*), he is appointed to care for a vacant parish pending the appointment of a new pastor. In this category falls the priest who takes charge until an administrator is appointed, e.g., the first assistant, the neighboring pastor, or the religious superior.³³ The administrator enjoys full parochial powers.³⁴

c) *substitute vicar*. When the pastor is to be away for more than a week, a priest to take his place (*vicarius substitutus*) is to be appointed by the pastor with the approval of the local Ordinary or by the latter. He enjoys full powers unless some restrictions have been imposed by the pastor or local Ordinary.³⁵

d) *auxiliary vicar*. When a pastor becomes unable to fulfill his duties because of old age, mental disability, blindness or other permanent affliction, the local Ordinary shall appoint a priest to take his place. Called *vicarius adiutor*, he may or may not be granted full parochial powers.³⁶

e) *parochial assistant*. He is the ordinary assistant of the pastor or a curate (*vicarius cooperator*) who is appointed by the local Ordinary to assist the pastor who, because of the number of souls or other reasons, cannot alone care for his parishioners. The extent and character of his parochial powers come from the diocesan statutes, his letters of appointment by the local Ordinary, and the commission of the pastor.³⁷ He does not act in the place of the pastor but rather as his helper.

γ) *rights*.

16. - 1. - *in his own parish*. The lawful administration of baptism is not reserved to any pastor but only to the proper pastor of the one being baptized. The proper pastor is one in whose parish a person establishes domicile or quasi-domicile;³⁸ if the same person has a plurality of domiciles or quasi-domiciles, the several pastors have equal rights. The above also applies to the suppli-ance of the ceremonies when necessity has justified a previous private baptism. A merely conditional baptism without ceremonies does not seem to be a parochial right. A national pastor has the right to baptize only his own national parishioners; the

non-national pastor has no right to baptize the nationals having their own pastor.

a) *parishioners*.

17. - 1. - *domicile*. A person is called a resident (*incola*) in the place where he has a domicile.³⁹ This latter is acquired by residence in any parish or quasi-parish, or at least in a diocese, vicariate or prefecture apostolic, provided that this residence is either combined with the intention of remaining there permanently (even though a change of residence may become desirable in the future), or is continued for ten years.⁴⁰ A minor has the domicile of the one in whose care he is; a wife not lawfully separated has that of her husband.⁴¹

ii. - *quasi-domicile*. A person is called a tenant (*advena*) in the place where he has a quasi-domicile.⁴² This latter is acquired by residence with the intention of staying in the places mentioned above for at least the greater part of the year, unless one is called away, or by an actual residence prolonged for the greater part of the year.⁴³

b) *visitors*. A visitor or stranger (*peregrinus*) is a person who is presently outside the place where he has a domicile or quasi-domicile.⁴⁴

i. - *unimpeded*. A visitor should be baptized solemnly in his own parish by his proper pastor, if this can be done readily and without delay.⁴⁵ Parents are commonly considered to sin gravely when outside the case of necessity and without the permission of their proper pastor they bring their child to other priests to be baptized. The necessity need not be grave.

ii. - *impeded*. If the child cannot be presented to the proper pastor readily or without delay, any pastor can solemnly baptize the visitor within that territory.⁴⁶ Typical cases would be the delicate health of the infant, the lack of transportation, the expense involved, etc. Diocesan statutes may precise more accurately in practice the extent of the impediment when a child is born outside the bounds of the parental parish.

c) *homeless*. A person is homeless or a wanderer (*vagus*) if he has neither domicile nor quasi-domicile.⁴⁷ His proper pastor or proper Ordinary is the pastor or Ordinary of the place in which he is presently staying; they have the right to baptize him solemnly.⁴⁸

18. - 2. - *in another's parish*. The right of the proper pastor to baptize is both personal and territorial. Thus he may normally baptize only his own parishioners solemnly within the limits of his own parish. For lawful administration in another parish he needs the permission of the Ordinary of that place or of the pastor of that place. (This applies also to a local Ordinary outside his territory).⁴⁹ Consequently, although a pastor can hear the confession of his subjects anywhere,⁵⁰ he is restricted to his own territory in the administration of baptism,⁵¹ extreme unction,⁵²

viaticum⁵³ and matrimony.⁵⁴ In general, pastoral functions are subject to the authority of the pastor of the place where these functions are to be performed. Where there are no parishes or quasi-parishes, as in some mission areas, particular statutes and accepted usage must be considered in determining what priest, besides the Ordinary, has the right to baptize in the entire region or in any part of it.⁵⁵

c) *by reason of permission.*

19. — I. - He who has the right to administer baptism solemnly can give permission (*licentia*) to another priest to baptize within the parochial limits under the care of the pastor granting the permission.⁵⁶ It is not strictly delegation, since there is no power or jurisdiction *de facto* given but merely the consent of the lawful pastor for another to exercise lawfully a priestly power within the pastor's parish. No cause is required that the pastor give his consent.

II. - It is commonly taught that priests sin gravely who baptize outside of necessity and without ordinary or delegated faculty or permission, since they do a grave injury to the right of another. However, there may be reasons excusing from serious sin. Any priest can baptize solemnly in the case of necessity, since the proper permission is lawfully presumed.⁵⁷ True necessity may arise because the pastor is absent or impeded and the conferral would be put off for some time or neglected, or the child is ill and the proper pastor is not available, or the distance from home or hospital to the parish church is too great. The necessity need not be one of danger of death.⁵⁸ Blood relationship with the one to be baptized is not sufficient cause to presume permission.

20. — 2. - *Extraordinary minister.*

a) The deacon is the extraordinary minister of solemn baptism. He may not use the power of his Order without the permission of the pastor (or local Ordinary), which is to be granted for a justifying reason and may be presumed in urgent need.⁵⁹ A cause to be just need not be grave. A just cause to *grant* permission may be light, e.g., the pastor is ill or greatly occupied at the time the sacrament is to be conferred, or (according to some) the deacon wishes to baptize his brother or cousin.

b) For a deacon to *presume* permission there must be a more serious cause or a true necessity estimated morally; otherwise he sins gravely when he acts without permission but he does not incur an irregularity (as in the case of lesser clerics).⁶⁰

c) A deacon who baptizes solemnly can and must use all the prescribed rites and ceremonies as for a priest;⁶¹ he uses the things blessed by a priest and thus probably cannot bless the salt and water, and lacking blessed salt he should omit this ceremony and prayer.⁶²

B. - PRIVATE BAPTISM.

21. - 1. - *Nature*. Observing due matter and form and intention private baptism may be validly administered by anyone, baptized or not, as long as he has the proper intention.⁶³ The rite consists solely in the application of the essential matter and form.⁶⁴ If the minister is a priest or a deacon, he supplies the ceremonies which follow the actual baptism; ⁶⁵ it seems also that, if there is no danger in delay, the ceremonies before the actual baptism should be observed.

22. - 2. - *Use*. Private baptism is permissible in the following cases:

a) *adult heretics*. Baptism may be administered privately with permission of the local Ordinary to heretics who in adult age are baptized conditionally.⁶⁶ This may be in any church, unless the local Ordinary rules otherwise. Diocesan statutes and faculties will indicate what ceremonies may yet be prescribed in this case, e.g., those following the actual rite of baptism.

b) *danger of death*. A private administration is lawful in danger of death.⁶⁷ The danger need not be imminent or certain, but a probable danger or well-founded fear suffices. The latter can be more easily admitted in mission territories; moreover, where customary, catechists or well-instructed, trustworthy Christians may administer baptism privately to infants of Catholic parents, even though the children are in good health, if the Catholic priest is absent or it is difficult to go to him.⁶⁸

3. - *Preferred minister*.

23. - a) *order*. A certain precedence in baptizing is to be observed; a priest is to be preferred to a deacon, a deacon to an inferior cleric, a cleric to a layperson, a man to a woman, unless for the sake of decency or because she knows the form and manner of baptizing better a woman is to be preferred.⁶⁹ Even a suspended priest is to be preferred to others who are not priests, but a layman is preferred to a cleric who is under censure after sentence has been passed.⁷⁰ Although a priest is available, it will always be more becoming for a physician or midwife to baptize a child before actual birth or while it is being born, if such a need should arise; a woman would be preferred to the father, if he were the only man present. It is unlawful for a mother or father to baptize their own offspring, except in danger of death, where there is no other person present who may baptize;⁷¹ spiritual and carnal parenthood would then originate with the same person.

b) *obligation*. The observance of this order or preference does not seem to be of grave obligation. If there is a question of the violation of a sacerdotal right, e.g., a priest is present and willingly able to baptize,

it is commonly held to be a grave sin. Likewise, if an infidel, heretic or schismatic⁷² or one personally excommunicated is preferred without necessity to a Catholic man.

24. — 4. - *Knowledge*. In anticipation of cases of necessity the pastor is to see to it that the faithful, especially physicians, surgeons and midwives, shall be thoroughly familiar with the correct method of conferring baptism.⁷³ This regards not only infants and others in danger of death, but also all prematurely delivered products of conception. The pastor's obligation is grave. The faithful generally, especially children at school, nurses, etc., should be taught the simple process of pouring a little water on the head of a child and pronouncing the correct form of words for valid baptism. Demonstration of the method in class by the teacher and occasional repetition by a member of the class before others is of more value than mere oral description.⁷⁴

25. — 5. - *Witnesses*. If possible, there should be two or at least one witness present by whom the administration of baptism may be proved.⁷⁵ They can testify to the fact of the administration and the use of the elements required for validity. They may or may not be sponsors; one unable to act as a godparent may be a simple witness. The pastor who judges the validity of a private baptism should first have the one baptized narrate what was done; if this is not satisfactory, he should then interrogate the minister and the witnesses separately.

III. RECIPIENT

A. - NORMS.

26. — 1. - Every and only a human wayfarer on this earth, who is not yet baptized, is capable of receiving the sacrament of baptism.⁷⁶ This is especially necessary for infants who maintain a tenuous hold upon life, and thus should be baptized as soon as possible. The sacraments produce grace where no obstacle exists; an obstacle is impossible in the case of infants who need no personal disposition for a valid and lawful reception of baptism.

27. — 2. - For baptism those are considered children (*pueri, parvuli*) or infants (*infantes*) who have not yet attained the use of reason, including those of adult years who have been destitute of reason since infancy; those possessing in sufficient degree the use of reason to be able on their own initiative to seek baptism and to be admitted to it are considered adults (*adulti*).⁷⁷

B. - CHILDREN.

1. - *Catholic parentage.*a) *obligation.*

28. - 1. - Infants are to be baptized as soon as possible; and pastors and preachers shall frequently admonish the faithful of this serious obligation incumbent on them.⁷⁸ The prescription is very ancient and the obligation of prompt execution (*quamprimum*) is a serious duty. The common law does not specify any particular time within which a grave obligation exists to baptize an infant. However, where a limit has been established by the local Ordinary, a delay beyond that time would be grave.

ii. - To postpone baptism (private or solemn) without a reason is sinful; to delay more than a month without sufficient reason is commonly considered a serious sin. A reliable private administration may be preferable to waiting overlong for solemn baptism. Unless circumstances require an earlier administration, it seems that in this country baptism should be conferred within ten to fourteen days after birth or on the next Sunday or opportune day after the infant is brought home from the hospital.

b) *bad Catholics.*

1. - The children of lax or bad Catholics, i.e., of parents who have fallen into indifferentism, who do not practice the faith, who oppose the faith without giving it up entirely, who are invalidly married, etc., since there is easily some hope of their Catholic upbringing, can and ordinarily must be baptized.⁷⁹ The parents in bringing the child to the priest for baptism imply the promise to rear him as a Catholic.

2. - In the case of a mixed marriage, the hope of Catholic education is present, if the Catholic party requests the priest to baptize the child and promises to rear it as a Catholic. If possible, the non-Catholic parent should be advised of the conferral of the baptism.⁸⁰

3. - The children of a Catholic parent who is dying and merely civilly married to an unbeliever should be baptized, if there is a possible hope that they might in due course be instructed in the true religion and such a promise is given; if no such hope can be entertained, administration must be denied,⁸¹ even though Catholic godparents offer them for baptism.⁸²

4. - Strictly speaking, the children of Catholic parents can be baptized, even unknown to their parents or against their will, as long as there is some hope that they will in some way be instructed in the true faith. This is especially pertinent if one parent or grandparent consents, but not if an almost certain danger of perversion is foreseen. Such cases may arise when the Catholic parents are Communists, etc. The local Ordinary may need to be consulted.

5. - The *illegitimate* children born of a Catholic with a non-Catholic party may be baptized if the Catholic has control of them and asks for baptism. Illegitimacy is not sufficient reason to refuse the sacrament, especially when Catholic education is assured. If it is foreseen that the child after baptism will be educated outside the faith, administration is to be denied. In danger of death all the children in the above-mentioned cases must be baptized. It suffices that the danger be probable.⁸³

2. - *Infidel (or Jewish) parentage.*

a) *obligation.*

29. - 1. - An infant of infidel parents can be *lawfully* baptized, even against the objection of the parents, if the danger of death of the infant is such that it is prudently judged that the child will die before it comes to the use of reason.⁸⁴

2. - Provided that the Catholic education of the child is guaranteed, an infant of infidel parents may be *lawfully* baptized, even though in no danger of death, if the parents or guardians, or at least one of them, consent.⁸⁵ In all cases of parental unwillingness the child would be *validly* baptized.

b) *cautions.*

1. - Baptism is not necessary unless the child is in proximate, certain and personal danger of death, when out of charity one *must* baptize him (at least secretly); thus the fact of a contagious disease breaking out is not sufficient cause to baptize unless the child has been affected by the disease.⁸⁶ Even in such danger of death baptism must be omitted, if hatred of the infidels (especially of Mohammedans) would be aroused and even persecution of the Church incited, e.g., in mission lands; prudence demands that the benefit of one soul be sacrificed and left to God's mercy for the sake of the common welfare of the Church and of many other souls.⁸⁷ If the danger of death is only probable but not certain, baptism *may* be administered.⁸⁸ In doubt whether the child of infidels who is in danger of death and who cannot be instructed has reached the use of reason, he should be instructed as well as possible, otherwise baptized conditionally,⁸⁹ when the doubt regards his will or desire to be baptized.

2. - Outside the danger of death, there must be a hope of Catholic upbringing and no proximate danger of future perversion. There should be moral certainty that the promise of Catholic education will be fulfilled. Thus, if despite their promise both parents are and intend to remain infidels, the child remaining under their authority must as a rule not be baptized, as the danger of perversion is great.⁹⁰ If there is a well-founded expectation of the conversion of the parents (and especially if they are catechumens), the child may be baptized;⁹¹ but in practice it is not

customary or to be done without prudent consultation, even of the local Ordinary.

3. - Although the children of infidels have a right to receive baptism contrary to parental will, if they have reached the use of reason and are properly instructed and disposed, yet circumstances indicating impending harm to the individual or to the Christian community may advise a postponement. However, the Church does not approve of an indefinite delay in receiving baptism, since such souls receive from the teaching and the sacraments of the Christian religion more benefit of soul and support in final perseverance than from any trial of their resolve through delay of the sacrament.⁹²

3. - *Heretical, schismatical, apostate parentage.*

30. - a) *obligation.* Baptism may be lawfully administered to infants of two heretics, two schismatics, or two Catholics who have lapsed into apostasy, heresy or schism, provided that the parents or guardians, or at least one of them consent to the baptism and that assurance is given that the child will be brought up in the Catholic faith.⁹³ Although the Church has a strict right over the children of her subjects, i.e., of all the baptized, she does not urge this right upon those so alienated from her. If the death of the child is prudently judged likely before it reaches the age of reason, it is to be baptized.⁹⁴

b) *requirement.*

1. - It is not allowed to baptize the child if it is to remain with the apostate parents, because there is no reasonable hope (moral certainty) of a Catholic education, even if the latter offer it spontaneously.⁹⁵ If the child is brought for baptism by both its Catholic mother and apostate father, it not being certain that the child will later be educated in the father's apostasy or superstitious practices, baptism must be administered; if only the Catholic mother requests the baptism, although the apostate father objects, it may be given.⁹⁶

2. - Baptism sought by heretical or schismatical parents for their child in defect of their own minister, but who will not also guarantee the Catholic education is not allowed.⁹⁷ It may be administered if both parents promise seriously and sincerely not to interfere with the child's Catholic upbringing,⁹⁸ or if at least one of the parents promises to embrace the Catholic faith and employs a Catholic sponsor.⁹⁹ Baptism requested by schismatical (Orthodox) parents may not be given to their child by a Catholic priest unless the hope of Catholic upbringing is more probable.¹⁰⁰

31. - 4. - *Foundlings.* Abandoned infants or foundlings (*pueri expositi et inventi*) are to be baptized conditionally, unless after a careful investigation there is clear proof of their baptism.¹⁰¹ A tag attached to the infant

attesting to the child's baptism does not suffice unless the credibility of the testifier is beyond question. Of itself the investigation must be made.¹⁰²

5. - *Unborn and monstrous infants.*

32. - a) *uterine.*

i. - No one enclosed in the maternal womb shall be baptized as long as there is probable hope that it may be born alive and then baptized.¹⁰³ It does not befit human dignity to baptize in the womb except in case of necessity. Baptism, moreover, is spiritual rebirth and thus normally presupposes (natural) birth. Emergency baptism of the fetus in the womb refers to a *viable fetus*, i.e., one that can live outside the womb. Theologians commonly hold that a nonviable fetus may not be baptized in the womb, since the fetal membranes may not be directly ruptured for this sole purpose as direct abortion would result, especially before the fifth month. Similarly the life of the mother may not be seriously endangered or her death hastened for the sake of this doubtfully successful spiritual benefit to the child.

ii. - It is forbidden to administer a doubtful sacrament outside a case of necessity. Even in such circumstances, in uterine baptism the difficulty of procuring a certain washing of the child's head renders the administration doubtful, and it is not entirely certain that the child in the womb is a capable subject of baptism. Consequently, the administration is conditional: *si es capax*, or in the case, *si vivis*. The fetus must be conditionally baptized again after birth: *si nondum es baptizatus*, or *si es capax*.¹⁰⁴ Uterine baptism is permitted, and is even obligatory, as soon as it is prudently judged that there is no hope of a normal birth, that the child is in real danger to its life, and that it is necessary to act promptly. (This applies also to vaginal baptism, with due adaptations). If the child will survive the imminent death of the mother, baptism may be delayed until after the mother's demise.

iii. - Modern improved medical techniques and instruments are available for reaching the head or some principal part of the child in the womb and washing it with water. Typical emergency situations are: in some cases of sudden convulsions (eclampsia) or severe hemorrhages; the child will probably succumb to a difficult presentation or an abnormally protracted labor; the infant is hydrocephalous; the death of the mother is uncertain, thus preventing a cesarian section; the child will succumb before the mother dies (a skilled operator may employ a mild local anesthesia, provided the mother's demise is not hastened or caused by the desire to baptize); the child of a living mother is dying (likewise, the desire to baptize the child offers no right to take the mother's life, or to endanger or shorten it seriously). By itself the imperceptibility of the fetal heartbeat is not a sufficient sign of the necessity of a uterine administration; there must be other companion indications.

iv. - Only a skilled operator, usually a physician or nurse, is expected to perform a uterine baptism. It is necessary to provide that the cervix be dilated or incised if not readily dilatable, that the fetal membranes (amnion, chorion, and decidua) be ruptured and the amniotic fluid discharged for the water to touch and flow on the skin, that a sterile bulb syringe or other irrigating instrument filled with tepid sterile water (if time permits) be inserted as close as possible to the head so that the water is forced against the skin while the words of the form are being pronounced.¹⁰⁵

v. - In the case of a difficult or a partial delivery the necessity for baptizing urges as soon as there is concern for the life of the infant. If there is no probable hope that the child will be born normally, then if the head of the child is born and the danger of death impends, baptism should be administered absolutely on the head; nor shall it be again baptized conditionally if the child is born alive.¹⁰⁶ The head is the principal part; thus, if it presents itself, the infant is considered born and the baptism certainly valid. If a member other than the head is born, e.g., a hand or a foot, and danger threatens, that member is to be baptized conditionally (*si es capax*, or *si possum*); but if the child is born alive, he must be baptized again conditionally (*si nondum es baptizatus*, or *si es capax*).¹⁰⁷ If one member appears and is baptized conditionally, and the danger of death continues while another member is born, then baptism is again conferred conditionally.

vi. - Sometimes a fetus must be taken from the mother by a *cesarian section* (hysterotomy). The operation consists in the incision of the stomach and the maternal womb for the purpose of extracting the live fetus which cannot be born in the natural manner. It is unlawful if the death of the mother is quasi necessarily induced.

z) Theologians are not in common agreement concerning the obligation in charity of the living mother to undergo a cesarian section for the purpose of baptizing the child who otherwise would be deprived of this means of salvation. For this reason, as well as because all conditions permitting such an operation are not always present, and since a uterine baptism often can be conferred, in practice a grave obligation in charity cannot be urged on the mother. Sometimes, too, a woman will consider it an extraordinary means. The operation is permitted if the fetus is viable, the mother strong enough and the physician or operator skilled. The mother should be exhorted to undergo the operation if the birth of the child is naturally impossible, the infant in the prudent judgment of an expert (usually the physician) cannot be otherwise be baptized, and if it is prudently hoped that the mother and child will be safe as a result. On the other hand, it would not seem right to say that the mother is never obliged to permit a cesarian. If she is obliged, prudence may require in the case that she be left in good faith, when it is foreseen that

she may refuse and thus die in the state of sin. A physician is bound to perform the operation when requested and to exhort the patient to undergo it if necessary.

6) If a mother dies during pregnancy, the fetus should be extracted by those whose duty it is and, if it is certainly alive, baptized absolutely; if there is doubt as to whether it is alive, it should be baptized conditionally.¹⁰⁸ A grave obligation of charity requires that provision be made for the spiritual salvation of the infant as well as the preservation of its temporal existence. A cesarian should be performed if there is moral certainty of the death of the mother, if it is probable that the fetus is living (probably after the third month and particularly if the mother's death is sudden) and viable (since otherwise it can be baptized in the womb), and a sufficiently skilled operator is available. A priest as a rule is forbidden to perform the operation, even on the missions, due to lack of skill, or the danger of scandal and the obligation of decency, although he may direct others.¹⁰⁹ Permission must be obtained from the nearest responsible relative and all the legal precautions taken before a post-mortem cesarian operation is performed, in order to avoid incurring legal action, especially in the case of a nonviable fetus.

b) *abortive*.

33. — I. - Abortive or premature fetuses, no matter at what stage of pregnancy they are born, are to be baptized absolutely if they are certainly alive, and conditionally if life is doubtful.¹¹⁰ Abortion is the ejection from the maternal uterus of an immature or nonviable fetus.¹¹¹ If an abortive fetus is certainly dead, there is no baptism; a doubtfully living fetus is baptized conditionally: *si vivis*, or *si es capax*. The difficulty, however, lies in determining when this product becomes an embryo or fetus, and if it is alive when aborted. It seems to be a fetus about three months after conception or when a sufficiently human form appears, in which case absolute baptism would be conferred; prior to this the administration would be at least conditional: *si es homo*, or *si es capax*. Within six months after conception baptism should be immediate because of the precarious hold on life. The usual sign of life is movement; before the end of the third month signs of life are difficult to discern. If the fetus is white, it should be baptized; if there is evidence of putrefaction (color or odor), life is absent.

II. - As it is usually small, a fetus or embryo ejected without being fully formed is best baptized by immersion. Care must be taken that the water touches it and not merely the protective coverings. The fetus is dipped into a pan of tepid water, the enveloping membranes ruptured with finger and thumb, the amniotic fluid allowed to run out, and the whole mass moved about in the water (or warm water may be poured in the ordinary manner on a large fetus) while the words of the form are pronounced. Movement of the water over the fetus or of the fetus

in the water is essential for validity. Unless the product ejected (including the apparently stillborn) is certainly dead, it should always be at least conditionally baptized.

c) *monstrous*.

34. - I. - Monsters (*monstra*) and prodigies (*ostenta*) are always to be baptized at least conditionally.¹¹² A monster or monstrous form of fetus is a fetus in which the appearance of a human body is totally or notably misshapen; a prodigy or unusual form of fetus is one whose members are multiplied or diminished or otherwise deformed. If there is doubt whether there is more than one human being in the birth, one is to be baptized absolutely and the others conditionally.¹¹³

II. - Anything born of woman that may be a living human being should be baptized at least conditionally: *si es homo*, or *si es capax*.¹¹⁴ In doubt whether an abnormal fetus or prodigy is single or multiple, one is baptized absolutely and the others conditionally: *si es homo et nondum baptizatus*, or *si es capax*.¹¹⁵ When the case indicates, the priest should console the mother in the circumstances of abortive or of monstrous birth, especially when there is any sense of blame.

35. - 6. - *Burial*. A baptized fetus should be buried in consecrated ground or put back into the uterus of the dead mother and buried with her. This applies also to a stillborn child or to a dead fetus in the womb, even though unbaptized, when the mother dies. An unbaptized fetus separated from the mother should be buried in an unblest plot close to consecrated ground. Diocesan directives or approved hospital practice are practical norms in these cases.¹¹⁶

C. - ADULTS.

1. - *Norms*.

36. - a) Adults as regards baptism are those who sufficiently enjoy the use of reason or are able to seek baptism on their own initiative and to be admitted to it.¹¹⁷ The local Ordinary for grave and reasonable cause may allow the ceremonies prescribed for the baptism of infants to be used in the baptism of adults, or in certain circumstances the order of conferral by separate steps.¹¹⁸ It is fitting that both the priest who is to confer the baptism and the adult recipient who is in good health be fasting,¹¹⁹ but this is of counsel and not of obligation. The baptized adult, except for serious and urgent reasons, should immediately assist at Mass and receive Holy Communion.¹²⁰ This does not seem to be a grave precept, and the baptism of the adult in the afternoon or evening with Mass and Communion following the next morning will satisfy the obligation.¹²¹ Sacramental confession is required for those rebaptized conditionally in order to insure the sacramental remission of grave sin.

b) The adult should receive baptism as soon as possible. It is a grave sin to defer or to neglect it without reasonable cause or through contempt. The length of the delay constituting a grave sin will be judged by the cause and the circumstances. Some deferral of the sacrament may be necessary due to the need for better instruction in the faith, or in order to avoid an imminent grave evil such as the persecution of Catholics,¹²² or because of fear of severe punishment or of great family animosity and even exclusion from the home, especially in the case of a minor. In any such case, the adult must immediately elicit an act of faith and of desire for the sacrament, and should try as far as possible to eliminate all proximate danger of perversion. It is up to the minister, for the lawful exercise of his office, to judge prudently whether the dispositions for valid and lawful reception of baptism are present.

2. - *Infidels (and Jews)*.

37. - a) *validity*.

i. - An *intention* is required of adults, since they are to receive baptism of their own knowledge and consent (*sciens et volens*).¹²³ Only in doubt as to the recipient's intention or will to receive the sacrament is baptism administered conditionally.¹²⁴ Thus an adult must have a positive will, which is at least habitual and implicit (as in the desire to become a Christian, although ignorant of baptism) of receiving baptism, since the present order of divine providence requires that an adult be justified and saved with the accompanying consent of his own free will to this gift of God.¹²⁵ The minimum intention may be the basis of the administration of the sacrament only in a case of danger of death, since the safer course must be followed and an explicit intention secured. A general desire to be saved is not sufficiently determined; likewise, goodness and uprightness of life are of themselves inadequate indications of sufficient intention. It is not allowed to presume a due intention of receiving baptism in an unconscious pagan.¹²⁶

ii. - There is a *certain obligation* binding the minister to administer conditional baptism to an adult in danger of death and unable to ask for it, if he has given or if he gives some probable indication of his intention of receiving the sacrament; if he later recovers and doubt remains about the validity of the first baptism, he is to be baptized again conditionally.¹²⁷ Theologians agree that some explicit desire or intention to embrace the Christian religion or the Christian way of life, even with unawareness of baptism, implicitly contains the desire for baptism and is a sufficient intention for its reception. It is commonly taught that even conditional baptism may not be administered to an adult who has given no sign of intention. Some theologians teach that a dying unconscious adult, whose only evidence of intention is some expression of attrition or contrition, may be baptized, and even the unconscious moribund about whom

nothing is known. Such opinions, of admittedly slight probability, are difficult to reconcile with the expressed norms of the Church for the lawful administration of baptism in danger of death.¹²⁸ Although they may be followed on the strength of their extrinsic authority, the minister has no *obligation* to baptize in such situations.

b) *lawfulness.*

38. - I. - *norms.* An adult shall not be baptized except with his own knowledge and consent and after due instruction in the faith. He is moreover to be admonished to repent of his sins.¹²⁹ But in danger of death, if he cannot be more thoroughly instructed in the principal mysteries of the faith, it suffices for the conferral of baptism that he in some way manifest his assent to these mysteries and earnestly promise that he will keep the commandments of the Christian religion.¹³⁰ Due instruction in the faith and sorrow for sin are thus required in the adult for the lawful reception of the sacrament of baptism.¹³¹

II. - *instruction.*

a) No convert should be baptized before he has been sufficiently instructed in the faith according to his capacity during the period when he is seriously preparing his way into the Church. Every opportunity should be offered to those interested in the faith of becoming acquainted with Catholic doctrine and life. However, serious steps leading to the free acceptance of the revealed truth, the observance of the Christian precepts and entrance into the Church require in a more or less degree the giving up of erroneous notions and of parting with forbidden or immoral practices. Instruction ought not to be continued if there is an inability to lead a life proper to the Christian and the state of the individual, or an unwillingness or lack of resolve to conform to the requirements for baptism in the Church, e.g., regulating one's marital status. In mission areas the period of strict catechumenate is often regulated by local legislation or customs. The prospective convert may be instructed privately or in a class, but a prudent judgment must be passed on the fitness of the individual for the reception of baptism. It should be kept in mind that the period of instruction is the only formal training in the knowledge and practice of the faith that the convert usually receives. The frequent lack of follow-up of the convert after his entrance into the Church, points out the need to secure for them as solid a preparation as can be in the circumstances.

ε) The convert must be instructed according to the degree of his intelligence in all the truths indispensable for salvation, especially the Trinity, Incarnation, Redemption,¹³² the precepts of the divine law and of the Church, the chief mysteries or articles of the faith as summarized in the Apostles' Creed, the sacramental life, the principles and practices of Catholic morality, how to make acts of faith, hope, charity and contrition,¹³³ the common prayers of the faithful, the obligations of his state

in life. It is not permitted to baptize before proper instruction has been completed, with the intention of completing it after baptism.¹³⁴ With every adult not in danger of death at least an initial faith is required, i.e., a knowledge and acceptance of the principal truths, at least of those which must be explicitly believed for salvation, with the disposition to profess the entire faith howsoever it is subsequently proposed by the Church to him.

γ) In danger of death the adult must be instructed as far as possible in the indispensable truths of the faith,¹³⁵ and, time permitting, in other principal truths and requirements of the Christian life. The instruction should be suited to the recipient's capacity and condition; it should be simple, direct and explicit. It is sufficient that the person evidence his belief in the truths, even though he may not be able to remember or to repeat them, and seriously promise to lead a Christian life upon recovery.¹³⁶ This also applies sometimes to old people in a similar condition, in which case it suffices for them to understand what the instructor (or, on the missions, the catechist) has taught them and to express their belief in these truths in the sense believed by the instructor.¹³⁷ In the case of those who continue to remain indisposed for the reception of baptism the priest should try to elicit from them an act of love and of repentance.

III. - *repentance*. The convert to be baptized should have a true and sincere supernatural sorrow, which is at least attrition, for all his actual, especially mortal, sins.¹³⁸ This will include a motion of hope and an implicit resolve to abandon any bad habits. Out of devotion he may confess his previous sins, but he is not so obliged in an absolute baptism.¹³⁹ An infidel who refuses to give up sinful practices cannot be baptized.¹⁴⁰

39. - 3. - *Heretics*. The baptized who are entering the Church must be rebaptized conditionally, if there is any doubt regarding the fact or validity of their former baptism. All are not to be baptized indiscriminately, but each case is to be decided on its own merits,¹⁴¹ even though rebaptism will as a rule result. Where there is doubt whether the reasons for rebaptism are sufficient, resolve the doubt in favor of the conditional rebaptism. The validity of schismatic baptism is more easily admitted. Instruction and repentance, as noted above, are necessary for a lawful reception, together with confession of all past actual sins, abjuration of errors and profession of faith.¹⁴² A dying unconscious heretic may be conditionally baptized, as long as scandal is avoided, since he is rightly presumed to desire all that is required for a Christian. A Protestant sectarian who knows the essential truths of salvation but does not know or understand the difference between the Catholic and other Christian Churches, if in danger of death and unable to be taught the difference in time or without becoming upset, may be left in good faith and baptized, if he so desires, absolutely or conditionally as the status of the previous baptism indicates.¹⁴³

40. - 4. - *Insane*. Those who have been insane from birth or who have become so afflicted before attaining the use of reason should be baptized absolutely as infants,¹⁴⁴ with the rite of infants, even against parental will or knowledge, as long as there is no danger of future perversion or of scandal. If they have lucid periods and desire baptism, they should be baptized while they have the use of reason,¹⁴⁵ with the baptism of adults, being instructed and prepared as circumstances allow. In danger of death, if this desire was manifested before they became insane, they should be baptized.¹⁴⁶ Those suffering from coma or delirium should be baptized only when awake and willing, but in danger of death as above.¹⁴⁷ Deaf-mutes fall under these norms, with due regard in certain cases for modern artificial aids in the development of their mental capacity.¹⁴⁸

D. - CEREMONIES.

1. - *Liturgical rite*.

a) *obligation*.

41. - i. - Baptism, except in the cases provided for in the law, should be administered solemnly,¹⁴⁹ i.e., with all the ceremonies and rites prescribed in the *Roman Ritual*. This is a grave precept of the Church based upon due reverence for the sacrament. A minister sins gravely who, without proportionate cause, omits all the ceremonies or a notable one, changes them notably or neglects a notable part of them. Important ceremonies are: the anointings with the oil of catechumens (O.C.) and with chrism (S.C.) such as have been consecrated for that year, the use of consecrated water,¹⁵⁰ the breathing on the one to be baptized used in exorcism, the use of blessed salt, the profession of faith, probably the use of a white garment and the handing of the lighted candle, the presence of godparents, a number of minor ceremonies cumulatively taken, to baptize in a church or public oratory, to wear some sacred vestment. The priest may omit touching with his saliva the nostrils and ears of the one to be baptized, whenever reasonable care for cleanliness or the danger of contracting or spreading disease demands.¹⁵¹

ii. - There is a grave obligation to use the oils blessed for the current year (on Holy Thursday), though the baptism need not be delayed in defect of them and old oils could be used. As in the case of baptismal water,¹⁵² in a condition of necessity¹⁵³ unblest oil in lesser amount may be added, even often, to a depleted quantity of blessed oil when no blessed oil is available.¹⁵⁴ Whenever the *proper* oil in the ceremony has not been used, the minister should correct the mistake at once; otherwise, if recognized later, the mistake need not be corrected.

iii. - Baptism is to be conferred *absolutely*, unless there is a reasonable doubt as to the fact or validity of a previous administration, when it is to be conferred *conditionally*.¹⁵⁵

b) *exceptions.*

42. — I. - *danger of death.* In danger of death private baptism may be conferred, only those things being done which are necessary for the validity of the administration; if the minister is a priest or deacon and time permits, the ceremonies following the actual baptism (i.e., the anointing with chrism and the conferral of the white garment and lighted candle) are performed.¹⁵⁶ Thus, lest death occur before the reception of the sacrament takes place, the minister simply commences with the words: "*Ego te baptizo, etc.*"¹⁵⁷ If the danger of death occurs during a solemn baptismal ceremony, the minister baptizes immediately, supplies the succeeding ceremonies and finishes with the ceremonies omitted previous to the actual baptism (*cessante periculo*).

II. - *outside the danger of death.* The local Ordinary cannot permit private baptism outside the danger of death, except in the case of heretics who as adults are baptized conditionally.¹⁵⁸ Even with adult heretics there is an obligation to observe all the rubrics of the *Ritual* for adult baptism, in the absence of permission for private baptism. The local Ordinary may also permit in the present case the use of the formula for infants, or the order of conferral by steps.¹⁵⁹ When permission is granted to use private baptism, it suffices to pronounce the conditional formula, unless the local Ordinary in dispensing from solemn baptism requires that other ceremonies be observed, e.g., those following the actual baptism.

c) *suppliance of ceremonies.*

43. — I. - *absolute baptism.* The ceremonies which for any reason have been omitted in the administration of baptism are to be supplied as soon as possible in the church, except in the case of the authorized conditional baptism of an adult heretic.¹⁶⁰ The order of suppliance of ceremonies regards infant baptism (even though the suppliance takes place in adult age)¹⁶¹ or adult baptism (including a conferral by steps).¹⁶²

II. - *conditional baptism.* When baptism is conferred again conditionally, any ceremonies omitted in the previous administration are to be supplied, except in the case of the authorized conditional baptism of an adult heretic; if they were properly observed in the previous administration, they may be omitted in the second.¹⁶³

d) *liturgical language.*

44. — I. - It has been the practice in the U.S.A. to use the Supplement to the *Roman Ritual* for the administration of the solemn baptism of children and for the form of suppliance of ceremonies in the same. The entire ceremony is in Latin but at least the questions are repeated in English by the minister and answered in English by the sponsors. Also, the sponsors recite the Creed and the Lord's Prayer in English together with the minister who is reciting them in Latin.

ii. - The *Collectio Rituum* or the current *Practical Handbook* or the *Priest's Ritual* (1962) approved for the U.S.A. may also be used by the minister of baptism *where this is permitted by the local Ordinary*.¹⁶⁴ In this ceremony the English prayers may be recited alone when they are placed side by side with the Latin text. The form of the sacrament, the exorcisms and all the anointings must be recited in Latin only, but their English version may be also recited either before or after the Latin.

45. - e) *baptismal name*. Before the actual ceremony begins the proposed name of the one to be baptized should be ascertained. This should be a Christian name (although the name of a *saint* is not strictly prescribed, it is urged); this is an ancient custom in the Church whereby the baptized is inspired by the example and protected by the patronage of the holy patron whose name he assumes. The choice of a Christian name is not of precept but of counsel. If this cannot be observed, the name of a saint should be added (at least *voce submissa*) to that proposed by the parents, and both names entered into the baptismal register.¹⁶⁵ The obligation of imposing a name belongs to the pastor, the right of selecting it to the parents (the mother for illegitimates) or guardians or sponsors, or finally to the priest. Names that are obscene, celebrated in fable, ridiculous, belonging to false gods or pagans must not be allowed.¹⁶⁶ Booklets containing Latin-English baptismal names are available for priests. A baptismal name cannot be changed, at least no change of name can be entered into the baptismal register without the consent of ecclesiastical authority.

46. - f) *preparations for the ceremony*.

1. - *materials*. Before the ceremony of baptism care should be taken that the following materials are prepared and ready:

1. - *baptismal water*, except perchance in the case of necessity and of emergency baptism.

2. - *oil of catechumens* (O.C.) and *holy chrism* (S.C.) of the current year, in metal stocks, which are to be under the care of the pastor and ordinarily secured in a safe and fitting receptacle (ambry) in the church or sacristy.

3. - *salt* which is blessed or to be blessed according to the prescribed form in the *Ritual*.

4. - *clean vessel* (ewer or shell) for pouring the baptismal water; *basin* to receive this flow of water, unless it is to flow directly into the sacarium.

5. - *cotton* to wipe the places anointed with the holy oils (and the fingers of the minister).

6. - *bread*, pieces of the innermost part, on which the priest may wipe his fingers which have used the oils. Custom seems to have substituted

cotton for the bread. *Water vessel* for washing the minister's hands after the baptism.

7. - *surplice* and *stoles*, purple and white, or one stole which is reversible.

8. - *white garment* in the shape of a small cloak, or a small piece of white linen cloth to be placed upon the head of the one baptized.

9. - *candle* to be lighted (matches) and handed to the one baptized (or to the sponsors).

10. - *Ritual Romanum* or *Collectio Rituum*, *Priest's Ritual* or *Practical Handbook*.

11. - *paper* and *pencil* for jotting down the necessary information to be recorded subsequently in the official baptismal register.

II. - *questionary*. Before the ceremony the minister should familiarize himself with the Ritual, the actions and their order, and the materials required. All necessary information should be obtained and written down, and any necessary instruction of the participants imparted.

1. - *recipient*. The minister will inquire about the parochial domicile of the one to be baptized, the sex, a possible baptism at home or elsewhere (and the date), by whom and according to what rite, the proposed name (if a Christian name must be added, both names are entered into the baptismal register). The date of birth is not of itself necessary information.

2. - *parents*. Besides the name of the parents (maiden name of the mother), their domicile and rite, it is advisable to ascertain the date and place of their marriage. A bad marriage is sometimes discovered and a convalidation may be initiated.

3. - *sponsors*. The names and qualifications of the sponsors are certified. The sponsor is to hold the child in the right arm and answer for him; if there are two sponsors, the godmother holds the child and the godfather places his right hand on the child's right shoulder at the time of the actual baptism. The face of the child may be pointed downwards or upwards, but the water must touch the skin and flow off into the sacrarium or basin and not back into the font. After the water has been poured, the minister carefully and gently dries the head of the child.

2. - *Juridic rite*.

47. — a) *general norm*. The sacrament of baptism not only confers on the recipient personality in ecclesiastical law, but at the same time usually determines the Catholic rite to which the person must adhere.¹⁶⁷ This is true, unless baptism by chance was conferred by the minister of another rite either fraudulently or because of grave necessity when a priest of the proper rite was unavailable, or an Apostolic indult permitted baptism in a certain rite but without transfer of rite.¹⁶⁸ No baptized person may change from one rite to another, nor after a lawful change revert

to the former rite, without permission of the Holy See (Oriental Congregation).¹⁶⁹ It is common teaching that unbaptized adults and non-Catholic baptized adults may choose the rite to which they wish to adhere.¹⁷⁰

b) *parental rite*. The offspring should be baptized in the rite of the parents.¹⁷¹ This is a grave precept. Should the parents request a minister of another rite to baptize their offspring and he do so (legitimately or not), the offspring is affiliated with the rite in which he should have been baptized according to canon 756.¹⁷² The offspring of apostates are baptized according to the general rule; those of other non-Catholics may be baptized in the rite chosen by their parents. A foundling is baptized in the rite existing in the place where he was found.

c) *paternal rite*. If one of the parents belongs to the Latin rite and the other to an Eastern (Catholic) rite, the offspring is to be baptized in the rite of the father.¹⁷³ If only one of the parents is Catholic, the offspring is to be baptized in the rite of this parent.¹⁷⁴ If the father, or in a mixed marriage the Catholic mother, lawfully transfers to another rite, the minor children automatically also transfer to that rite.¹⁷⁵ Offspring which are illegitimate or posthumous or of non-Catholic paternity are baptized in the rite of the mother. If the father of the illegitimate child recognizes it in accordance with canon 777, 2, the offspring is baptized in the rite of the father.

3. - *Place of baptism.*

48. - a) *private baptism*. In a case of necessity private baptism is to be administered anywhere.¹⁷⁶

b) *solemn baptism.*

1. - *ordinary place*. The proper place for the administration of solemn baptism is the baptistery in a church or a public oratory,¹⁷⁷ but not in a semipublic or a private oratory. For a justifying reason the local Ordinary may permit the administration to take place in the sacristy.¹⁷⁸ The place for solemn baptism also should have a font, which every parochial church has the right and obligation to possess.¹⁷⁹ For the convenience of the faithful the local Ordinary can command or permit that a baptismal font also be placed in another church or public oratory within the limits of a parish.¹⁸⁰ Even in this case the administration of baptism is reserved to the pastor within whose parish the church or public oratory is located.¹⁸¹

II. - *extraordinary place.*

1. - *church*. If the one to be baptized cannot come or be brought, without serious inconvenience or danger, to the parochial church or to another which enjoys the right to a font, because of the distance or other circumstances, solemn baptism can and ought to be conferred by the pastor in the nearest church or public oratory within the limits of his parish, even though they should lack a font.¹⁸² There is no need for the pastor to con-

sult the Ordinary, but under the required conditions he may proceed under the common law. If even this exceptional procedure cannot be followed, it seems that baptism will have to be deferred until such time as the party can be brought to the church or until permission can be obtained from the local Ordinary to have solemn baptism at home.

2. - *private home*. Solemn baptism ought not to be administered in private homes.¹⁸³ This is a grave precept. The law permits two exceptions: 1) children or grandchildren of those holding actual supreme civil authority or those having the right of succession to the throne may be baptized in a private home upon due request, 2) the local Ordinary may prudently judge that for a just and reasonable cause baptism should be administered at home in some extraordinary case,¹⁸⁴ e.g., the father refuses to allow baptism in the church, or a sick person cannot be brought to the church.¹⁸⁵

3. - *hospital*. Hospital chaplains are not ordinary ministers of solemn baptism, and children born in a hospital should be solemnly baptized by the proper pastor of the parents. Even where inconvenience or delay exists the local pastor has the right. Moreover, the chapel of the hospital is only a semipublic oratory, unless the local Ordinary formally approves it as a public oratory over and above its approval as a chapel. Thus it seems that a chaplain who wishes to baptize solemnly in a hospital must obtain the permission of the proper pastor of the subject, of the pastor of the parish in which the hospital is located, and of the local Ordinary who may permit it for a just and reasonable cause in an extraordinary case.¹⁸⁶

4. - *Time of baptism*.

49. - a) *private baptism*. In a case of necessity private baptism is to be administered at any time.¹⁸⁷

b) *solemn baptism*. Solemn baptism may also be administered on any day. It is fitting that the baptism of adults, according to the most ancient rite of the Church, be conferred, if this can be conveniently done, on the vigil of Easter and of Pentecost, particularly in metropolitan and cathedral churches, thus adding a note of solemnity desirable in their reception of the sacrament.¹⁸⁸ Children are to be baptized as soon as possible.¹⁸⁹

IV. SPONSORS

50. - A. - NECESSITY.

The sponsors are those who receive the one baptized from the font. Inasmuch as they take the one baptized under their care, they are spiritual parents.

1. - *Absolute baptism.*

a) *solemn.* According to the most ancient custom of the Church no one may be solemnly baptized unless, insofar as it is possible, he has his own sponsor.¹⁹⁰ This obligation is considered to be grave and only grave and reasonable causes excuse from its observance, e.g., the baptism would have to be deferred for a long time through lack of a sponsor. The obligation rests primarily upon the parents of the baptized. If an adult is being baptized, he can be instructed on the necessity of a sponsor and obtain some suitable person.

b) *private.* Even in private baptism a sponsor is to be employed if one can easily be had.¹⁹¹ This is not considered of grave obligation. If a sponsor was not used in the administration of private baptism, he is to be employed in the suppli-ance of the ceremonies (touching the one baptized at one of the principal acts), but in this case no spiritual relationship is contracted.¹⁹²

2. - *Conditional baptism.* When baptism is repeated conditionally, the same sponsor, to the extent possible, is employed as perhaps in the former baptism. In the event that the same sponsor is not available, there is no need for one in a conditional administration.¹⁹³ When a baptism is repeated conditionally, neither the sponsor present at the former baptism nor the one at the later baptism contracts a spiritual relationship, unless the same sponsor was used for both.¹⁹⁴

51. - B. - NUMBER.

There should be only one sponsor (even though of a different sex from the person baptized), or at the most two, a man and a woman.¹⁹⁵ If there is only one, it is expedient that the sponsor be of the same sex lest the matrimonial impediment be contracted. One sponsor suffices, two are permitted, more are prohibited, probably gravely. If the law (prohibitive but not invalidating) is violated despite the serious prohibition, all who have acted contract the obligation of sponsor, if the conditions for validity were observed.¹⁹⁶

52. - C. - QUALIFICATIONS.

The Church has always opposed the admission to the office of sponsor of those who are unwilling to perform their obligations in this role. To guarantee the presence of the required qualifications, the common law indicates the conditions that pertain to the valid and to the lawful assumption of the office. In *doubt* whether one can be admitted to the valid or lawful exercise of sponsorship, a pastor shall, if time allows, consult the Ordinary¹⁹⁷ of the place where the baptism is to be administered. If, on the other hand, the proposed sponsor is known to be

unfit, the pastor must refuse to allow him to act. This should be done in a prudent and kind manner with an explanation of the laws of the Church in this matter. If the refusal will cause an extremely difficult situation, the pastor could allow the party to assist at the baptism without touching the infant at the time of the actual baptism, thus being constituted a mere witness.

53. – 1. - *Validity*. The qualifications for *capability* to act as sponsor are contained in canon 765.

a) *fundamental requisites*.

i. - *baptism*. Only those who have been validly baptized can function validly in an ecclesiastical office, such as that of baptismal sponsor.¹⁹⁸

ii. - *use of reason*. Children (and the equivalent) who have not reached the use of reason cannot act as sponsor.

iii. - *intention*. The sponsor should understand the nature of the obligation that is being assumed and should deliberately accept it. However, it is not necessary that the intention be to contract a spiritual relationship, as this necessarily arises as a consequence of acting as sponsor. It seems that an habitual intention suffices.

b) *status*. The one designated to act as sponsor should not belong to an heretical or schismatical sect, nor have been declared excommunicated by condemnatory or declaratory sentence, or infamous by law, or excluded from legal acts, nor be a deposed or degraded cleric. It is preferable to have no sponsor than to have a heretic act.¹⁹⁹ No Catholic may act as sponsor in a non-Catholic baptism, either by himself or through a proxy.²⁰⁰

c) *kinship*. The proposed sponsor may not be the father or mother or spouse of the one to be baptized (one can act as sponsor for the children of one's spouse by another marriage). It is the duty of the sponsor to watch over the moral and religious education of his spiritual child, when those upon whom the duty primarily rests fail. The incongruity of having both primary and secondary obligations resident in the same person is evident. Moreover, there is a certain lack of fitness in having one of the two consorts so intimately united in marriage as the spiritual parent of the other.

d) *designation*. The one acting as sponsor must have been designated by the one to be baptized or by his parents or guardians, or in the absence of these, by the minister of the sacrament. The designation is thus the prerogative of the parents, but the acceptance of the qualifications of the sponsor belongs to the minister. The selection is made prior to the ceremony and subsequent ratification is inefficacious. If for some reason, e.g., infancy, imbecillity, the one to be baptized is unable to choose a sponsor, the parents or guardians should supply; should they

fail to do so or select one who is unqualified, the minister should supply. Where it is extremely difficult to bar an unqualified sponsor, the minister may allow him to be present as a mere witness.

e) *physical contact*. In the act of baptism the sponsor personally or through a proxy is to hold or to touch physically the one to be baptized, or immediately to lift him or receive him from the baptismal font or from the hands of the minister. Ordinarily the godfather rests his hand on the shoulder or breast of the child held in the arms of the godmother at the time of the actual baptismal form.

f) *proxy*. For a proxy (*procurator*) to act it is necessary that he do so in the name and by the authority of some other determined person and thus his authority must be proved, i.e., certified by qualified witnesses or by a legitimate document, unless the intention of this person is known with certainty by the pastor who baptized. The latter should know these details in order to investigate whether the designated sponsor has the requisite qualifications. Thus one not present at a baptism could not be said to be acting as a sponsor merely on the basis that he would act if he knew of the baptism.²⁰¹ In the absence of a very grave cause the admission of a non-Catholic to share in the ceremonies of baptism as proxy is gravely illicit, although valid, because the proxy assists actively in the ceremonies and is bound to give scandal. Catholics are forbidden to be sponsors, even by proxy, for one baptized in a heretical sect;²⁰² likewise, they are forbidden to act as proxies for non-Catholics.²⁰³ A parent or a spouse may validly and lawfully act as proxy for a sponsor at baptism, although they themselves may not be the sponsor in the case. Age (except that necessary for the execution of the duty) and sex are immaterial in the choice of proxy. The name of the proxy as well as that of the principal or sponsor must be entered into the baptismal register.

54. – 2. - *Lawfulness*. The qualifications for *acceptability* to act as sponsor are contained in canon 766.

a) *age*. The one designated must have attained the fourteenth year of his age unless, in the judgment of the minister, there is a just cause for allowing a younger person, e.g., the absence of another suitable sponsor. One could act as sponsor at the commencement of the fourteenth year, i.e., immediately upon completion of the thirteenth year.

b) *status*. The one acting as sponsor must not be excommunicated or excluded from legal acts, or infamous by law on account of a notorious delict, nor under interdict or otherwise publicly criminal, nor infamous in fact. There is no question of a sentence in these cases. Such are e.g., the Masons,²⁰⁴ militant Communists,²⁰⁵ those whose living in concubinage is notorious. Drunkards or those who have not made their Easter duty are not excluded from sponsorship by this prohibition.

c) *knowledge*. The sponsor's knowledge of the faith should include the principal mysteries, e.g., Trinity, Incarnation, the truths in the Apostles' Creed, which knowledge can be presumed in one who is in regular attendance at church. Such knowledge must obtain in order to instruct the godchild. Inability to recite the Apostles' Creed would not seem necessarily to prevent a person from being a sponsor, since it is possible that the rudimentary truths are known but not in such a form.

d) *religious*. The one selected should not be a novice or a professed in a religious institute, unless there is an urgent necessity and the expressed consent of at least the local superior is obtained. Presumed permission does not suffice, even if a real need exists. One who was a religious and later left that state is not affected by this prescription.

e) *cleric*. The person acting as sponsor should not be in sacred orders, unless expressed permission of his proper Ordinary is obtained. Those in minor orders are not excluded from sponsorship.

D. - EFFECTS.

55. — 1. - *Obligation*. The obligation of the godparent is of itself grave. Where he is rendered incapable of exercising his office, particularly due to civil law, he is excused from the obligation. Moral impossibility of fulfilment will counterbalance the serious duty arising from the ecclesiastical precept. If the child is being raised by Catholic parents, it is presumed that the necessary instruction is being provided, unless the contrary is demonstrated.²⁰⁶

2. - *Spiritual relationship*.

a) This is a spiritual bond which by ecclesiastical law unites certain persons by reason of baptism. Only the minister and the sponsor contract the spiritual relationship with the one baptized.²⁰⁷ (No relationship arises between minister and sponsor). It does not matter whether the administration of baptism is private or solemn, provided it is valid.

b) It seems that an infidel minister would not contract this relationship, because of his own lack of baptism. The proxy does not contract the bond, as a true proxy is neither designated to be a sponsor nor possesses the necessary intention.²⁰⁸ Strictly speaking, the minister is not excluded from being also a sponsor in the baptism, although distinct persons are indicated. Such sponsorship should be exercised through a proxy.²⁰⁹

V. STOLE FEE ²¹⁰

56. — 1. - Stole fees (*praestationes*) are offerings given for strictly parochial functions which belong by right to the pastor, e.g., the solemn

conferral of baptism. The amount is either determined by the free will of the donor or fixed by statute or established by the custom of the place. The service may not be refused if the fee is not forthcoming. The right of the assistant priest or curate to share in the stole fee depends upon custom, diocesan statute, episcopal decree or the free will of the pastor. When another assists at a function that is reserved to the pastor, the latter is ordinarily entitled to the fee. Even when the pastor delegates another to act in his place, the one delegated does not thereby obtain the right to the fee, unless previously agreed upon. The pastor ought not to waive his right when for some reason, such as good will, friendship, relationship, he allows another to perform the function. In such case, when a fee is in excess of what is customary, the surplus belongs to the pastor, unless the donor clearly intends that the actual minister receive it. The donor, however, has no right over the disposition of the customary fee.

2. - Although the common law does not provide for the offering of a fee specifically at baptism, it is an almost universal custom in the Church. The fee ordinarily goes to the proper pastor as the one enjoying the right to baptize. When another baptizes in a case of necessity, the minister would not be obliged in practice to transfer the fee to the proper pastor, since the pastor's right to it in such a circumstance is not beyond question. Where a notable inconvenience arises in bringing a child to its proper church "*quamprimum*," the pastor of the place of actual residence may baptize and retain the fee as the proper pastor.

VI. BAPTISMAL REGISTER

57. - A. - OBLIGATION AND PLACE OF RECORD.

1. - The baptismal register is the principal record among the parochial books. Every pastor has a serious obligation to note properly the reception of the sacrament of baptism, as this is the basic document certifying one's membership in the church and other factors relating to juridic status. Pastors ought carefully and without delay to inscribe in the baptismal register the names of those baptized, the minister, parents and sponsors, and the place and date of administration.²¹¹ It is important to write clearly and legibly with accurate use of the index, in order to facilitate the issuance of a certificate at some future date. Some commentators even insist that the pastor himself should sign the record, even though he has delegated another to fill out the information. The II Council of Baltimore²¹² prescribed that all entries should be made in Latin.

2. - Many registers have a column for the date of birth of the recipient of baptism, but this is not strictly necessary as the record proves only

the facts attending upon the administration of the sacrament. Information regarding a private administration is to be recorded, and also the suppli-ance of ceremonies. The private emergency baptism of the child of non-Catholic parentage should be inscribed in a private book and not in the regular parochial register.

3. - The place of administration usually need not be specified, as the register itself will provide this information. However, if baptism has been conferred in a place other than the church, e.g., a hospital, a notation to this effect should appear in the register. If baptism has not been administered by the proper pastor or in his presence, the minister is to send this information as soon as possible to the recipient's proper pastor.²¹³ A baptism thus conferred outside the parish of origin is to be recorded in writing, not only in the parish where it was actually conferred, but also in the baptismal register of the place of origin.²¹⁴ The place of origin is the place where the father has his domicile at the time of the birth of the child.²¹⁵

B. - PARTICULAR DATA.

58. - 1. - *Recipient*. The name of the recipient of baptism is the first thing to be noted. If the minister had to add the name of a saint to that proposed by the parents, both names are entered into the register. The conditional baptism of a convert is also noted; it is good practice in this case to note a marriage contracted in heresy or infidelity. It is most important also to note the rite, if it is non-Latin, in which the person was baptized or to which he juridically belongs. Further procedure regarding the recipient are contained below in connection with information on the parents.

2. - *Minister*. Inclusion of his name is especially required as he is the principal witness to the valid administration. Moreover, a lay person in conferring the sacrament contracts the diriment impediment to marriage of spiritual relationship. The name of the priest who assisted at the suppli-ance of the ceremonies should also be recorded.

3. - *Sponsors*. Apart from the obligations assumed and the spiritual relationship contracted, the names of the sponsors are of great importance in the event that it later becomes necessary to prove the fact or the validity of the conferral of the sacrament. When the sponsors do not contract the spiritual relationship, e.g., at the suppli-ance of the ceremonies, the entry is to be made in such a way as to make this clear. When a proxy is employed, both the names of the sponsor and of the proxy are entered with the latter clearly indicated.

4. - *Parents*. In the ordinary case the names of the parents of the one baptized are inscribed in the register, the maiden name of the mother

being entered. However, certain cases arise which require an exceptional procedure. The insertion of the parents' names is controlled by the desire to avoid the loss of good reputation.²¹⁶ All documents relating to parenthood and its certification should be posted in the register itself. It should be noted that, in the case of a marriage of conscience, the secrecy surrounding such a union demands equal caution with respect to the baptism of any offspring. The registration is made in the special book kept in the secret archives of the episcopal curia.²¹⁷ The child is baptized in the ordinary way but on the completion of the ceremony the pertinent facts are reported to the local Ordinary.

a) *illegitimate children.*

i. - When there is a question of illegitimate children the name of the mother must be inserted in the register if her maternity is publicly known with certainty, or if she freely requests this in writing or before two witnesses; the name of the father must also be included, provided that he willingly requests this of the pastor either in writing or before two witnesses (their names and addresses or means of location are entered into the record), or his paternity is known from an authentic public document; in other cases the child is registered as the offspring of an unknown father or of unknown parents.²¹⁸ This also protects the pastor from future libel action. The baptismal record is never to make direct and explicit mention of the fact of illegitimacy. When the name of either or of both parents of an illegitimate child are entered in the register a notation should be made in the record describing the canonical basis for the entrance. If the children have been born of adultery, incest or sacrilege, the same procedure as above prevails in entering the parental names, but all occasion of loss of reputation must be avoided.²¹⁹

ii. - Often the fact that an unmarried woman is the *mother* is known publicly, i.e., it has already been divulged or the circumstances are such that it can easily become known.²²⁰ However, if her maternity is not publicly known and is unlikely to become so later, insertion of her name depends upon her permission. If she lawfully requests that her motherhood be recorded, the request must be respected.

iii. - The fact that a particular man is publicly reputed to be the *father* of an illegitimate child is not sufficient for recording his name in the register, but the conditions of law are to be observed. An affidavit by a man would not of itself suffice, unless there was appended to it a request that his name be so entered. The declaration of an unmarried mother is clearly unacceptable for registering the man as the father. If the real parents subsequently marry validly, the name of the father can be inserted if: (1) he signs a document acknowledging fatherhood and requesting his name be recorded; (2) the pastor making the entry has a copy of the certificate of the marriage between the parents; (3) the pastor has investigated and found that there was no diriment impedi-

ment to the marriage at the time the child was born. The last two points enable the pastor to note that legitimacy was effected by subsequent marriage.

iv. - If two Catholics (or anyone bound to the Catholic form) have failed to observe the canonical form of marriage, it should be noted that the child is the offspring of parents married only civilly (e.g., *matrimonium civile* or *matrimonium attentatum*). If at least one of the parents was in good faith regarding the marriage at the time of the child's conception, it should be noted that the marriage was putative (and thus the child is legitimate).

v. - If the name of neither parent can be inserted in the record, the child is to be designated as born of *unknown* parents (e.g., *parentes ignoti*). If only the mother's name is recorded, the father is recorded as unknown. If the child has been born six months after the marriage of the mother or within ten months of the dissolution of the conjugal bond, it is *presumed* that conception took place during the marriage²²¹ (and thus the child is legitimate). This presumption stands even though the husband declares he is not the father and the mother admits to infidelity. Proof to the contrary must be brought forth and until this is done the name of the husband remains in the register as the father of the child baptized.

b) *Foundlings and adopted children*. In registering the baptism of a foundling there should be included a notation of the day, the place and by whom the child was found; also an estimate of the age of the child.²²² In the case of a child baptized subsequent to adoption (or of the issuance of a certificate of baptism which took place before adoption), the pastor should consult the local norms and legitimate practices, especially in the case of illegitimacy or of unknown parentage. Civil laws also must be kept in mind.

C. - SUBSEQUENT ANNOTATIONS.

59. - 1. - *Confirmation*. A notation of confirmation received is to be made in the baptismal register.²²³ It will suffice to record the date and place of administration. There is thus indicated where other details can be found in case of necessity, e.g., in seeking proof of Catholic education. The pastor of the place of confirmation is obliged to inform the pastor of the place of baptism that this second sacrament has been conferred.

2. - *Matrimony*. If baptism was administered where the marriage is celebrated, the pastor has only to note in his own baptismal register the fact of the marriage. However, if the spouse (or spouses) was baptized elsewhere, the pastor of the place of marriage, either directly or through the episcopal curia, must inform the pastor of the place of baptism of the fact of the marriage.²²⁴ This latter pastor then makes an entry of the

marriage in his own baptismal register. This procedure assures greater certainty in detecting matrimonial impediments. Should the marriage be later declared null by judicial process²²⁵ or summary process,²²⁶ or be dispensed either on the basis of *ratum et non-consummatum* or of solemn religious profession,²²⁷ the registers are to be corrected in order to show the proper present status of the former contractants. The pastor is enabled to do this by reason of the notice sent to him by the Ordinary.

3. - *Subdiaconate*. The local Ordinary or major religious superior is to send to the pastor of the place of baptism notice to the effect that the subdiaconate has been received, and this is recorded in the baptismal register.²²⁸ The initial reception of sacred orders must be noted, as it constitutes a diriment impediment to marriage. A later dispensation from orders should also be noted.

4. - *Solemn profession*. The superior receiving the solemn religious profession must inform the pastor of the place of baptism of this fact; this must be noted in the baptismal register.²²⁹ This is a matrimonial impediment distinct from sacred orders and should be specifically recorded; likewise any subsequent dispensation from solemn vows.

D. - BAPTISMAL CERTIFICATE.

60. - 1. - The normal proof of baptism is through the issuance of a baptismal certificate, which should be of recent date, i.e., issued within the last six months. It must contain all the necessary information as found in the register itself and be signed by the pastor of the place of issuance, or at least his name ought to be written on it and the one issuing the certificate countersign it, e.g., Rev. Henry Smith, pastor, per Rev. John Jones. The parish seal must be impressed on the certificate. This certificate enjoys the character of a legal public document, but it is full proof, however, of only the fact and date of baptism and the identity of the minister and sponsors.²³⁰ The pastor, moreover, in making entries into the baptismal record, is merely a public notary and not the judge of what is fitting or expedient. Thus he is forbidden to make any changes without consulting the local Ordinary; likewise he cannot attest on a baptismal certificate information that differs from the register itself. A baptismal certificate from a non-Catholic sect does not constitute full proof of the reception of valid baptism.

2. - With children who are *legitimated* by the subsequent valid marriage of their parents, if this fact has been properly noted in the baptismal register,²³¹ a certificate of baptism may be issued containing the names of both parents. Cases of children baptized before or after legal *adoption* are to be entered into the register in the manner required by canon 777 or referred to the local Ordinary. The same applies to the information

to be certified on the issuance of the certificate. The local Ordinary must decide what changes, if any, may be permitted in cases which counsel concealment of the child's adoption. A true record of *illegitimacy* must be available when the baptized party wishes to enter into marriage, the religious life or the priesthood. It does not seem that such information is necessary when a baptismal certificate is to be issued only for the purpose of testifying to the fact of baptism, e.g., for entrance to a Catholic school, or for first Communion. The local Ordinary must decide in all such cases what information, if any, may be withheld or changed.

61. VII. CHURCHING OF WOMEN

A pious and praiseworthy custom in the Church of early origin is the "churching" or blessing of a woman after childbirth.²³² This blessing of thanksgiving is a sacramental, which may be given to a woman even before her child is baptized, although the obligation of prompt baptism of the offspring will usually place it after. A woman may also receive this blessing whose child has already died, even without baptism.²³³ Liturgists agree that the blessing may be given collectively in the plural form when many mothers request it. An unmarried mother has no right to this blessing, but it may be imparted, provided it is done privately and without scandal. The blessing provided for a woman before childbirth is also praiseworthy and recommended.²³⁴

VIII. RECEPTION OF CONVERTS

62. - A. - GENERAL NOTIONS.

1. - A convert is one who, having been born and raised in beliefs contrary to the teachings of the Catholic Church, is moved by divine grace to embrace the Catholic faith and to seek membership in the society of the Church. Local Ordinaries and pastors have an obligation toward the non-Catholics in their territory to use every effort to bring about their conversion.²³⁵ In addition to efforts toward individuals, this may be also pursued through information or instruction classes for non-Catholics, study clubs, missions or retreats for non-Catholics, adequate premarital instruction of the non-Catholic in a mixed marriage, etc.

2. - Prospective converts should be prudently questioned to ascertain their motives in seeking information or instruction. Merely natural motives in the beginning are not to be excluded as in the workings of divine providence they often have their place in preparing a soul in respect to good will. However, merely to please a spouse, to acquire social or business advantage, etc., are unworthy motives. True reasons for embracing the

faith should be urged. No one should be baptized or reconciled with the Church who is not intellectually prepared (according to age, condition and capacity), morally free and disposed by supernatural desires to embrace the entire faith and to observe its requirements (e.g., regarding marriage). Converts should receive a thorough instruction in the Commandments, the truths of the faith, the precepts of the Church, the sacraments, the obligations of their state in life, the practices of the Church, the virtues, the liturgy, etc. It is helpful to take the convert on a tour of the church and explain its contents. As soon as possible the person under instruction should be taught how to say daily prayers (including the Rosary) and to become accustomed to the practices of Catholic life, especially those of obligation, encouraged to hear sermons, say the Stations, attend Benediction, etc. A discreet inquiry on his marital status should be made early and any diriment impediment made known, even if it keeps him from joining the Church; also an inquiry about membership in any forbidden society. Diocesan laws and practices concerning the instruction and the reception of converts must be consulted.

3. - A follow-up of the newly received convert for a period after reception is very important, either done by the priest or by laymen. Many converts lapse through lack of adequate help in deepening their faith and familiarity with the Church and its life. The leakage of converts from the Church reflects the need especially of a thorough preparation for entrance into the Church. The priest, moreover, must be most prudent in his contacts with women under instruction and with female neo-converts.

4. - The Code does not expressly provide a procedure to be followed in the reception of converts, but canon 2314 is applicable in many cases. This canon, based upon a presumption that an excommunication has been incurred, indicates that there is to be "observance of the other requirements of the law." This refers to the Instruction of the Holy Office of July 20, 1859 (which the III Plenary Council of Baltimore made particular law for the U.S.A.), and which the Code has since emended in that the abjuration of errors and profession of faith must be made in the presence of the bishop (or his delegate) and two witnesses. The present formula for the latter was promulgated by the Holy Office through the Apostolic Delegate on March 28, 1942. A shorter formula was approved by the Holy Office on June 13, 1956 for the U.S.A. "for those only who have not attained puberty or who are uneducated."

63. - B - INVESTIGATION OF BAPTISM.

1. - *Obligation.* It is absolutely necessary to determine if *de facto* baptism has already taken place and, if so, whether it was a valid administration. No preconceived notions or presumptions that all non-Catholic bap-

tisms are invalid or doubtfully valid suffice.²³⁶ Dogmatic errors do not of themselves make baptism by non-Catholic ministers invalid.²³⁷ Each case must be carefully considered to provide for the salvation of the soul and to guard against irreverence to the sacrament through a useless administration. Only moral impossibility excuses from such investigation. If nothing can be ascertained about the baptism, at least conditional baptism is necessary. Some dioceses have printed forms for the investigation and certification of baptism.

2. - *Fact of baptism.*

a) *certificate.*

I. - In the majority of cases proof of a previous *Catholic* baptism can be obtained through the baptismal certificate. In the absence of such public proof a private document can constitute a safe proof, e.g., a personal letter of the pastor certifying his baptism of the subject. However, the authorship of such a document and the credibility of its content must be determined. The same is true of a document intended as a public one but lacking authenticity by reason of the omission of some legal formality, e.g., lacking the impression of the parochial seal.

II. - Regarding *non-Catholics*, if the convert was born and raised in a sect not observing the rite of baptism and if he never joined one that baptizes, there is sufficient evidence that he was never baptized. If he belonged to a sect that baptizes, a certificate from this sect is not acceptable as full proof of the reception of baptism (or of its validity), having the probative value of a private document. Yet, if judged to be genuine and credible and if supported by other evidence confirmatory of this certificate, it would be acceptable.²³⁸

b) *subsidiary methods.*

I. - At times a public document to prove the reception of baptism may not be obtainable. In such cases testimonial evidence may be used to establish the fact. A *qualified witness* is a public official who is designated by law to testify to those acts which he executed or witnessed in the performance of the duties of his office. In the case of *Catholic* baptism the pastor is such a witness if he conferred the sacrament himself or was present at the administration. If such a pastor testifies in favor of a baptism, his testimony constitutes full legal proof. If the pastor has authorized another to administer the sacrament, the latter's testimony would be equivalent to that of a pastor. In an analogous manner, the non-Catholic minister of baptism is a more certain witness of the fact of baptism but not thereby of its validity, nor does his certification constitute full proof, as noted above.

II. - Besides the one who baptized *other witnesses* who attended the ceremony could testify to confirm the reception of baptism. When two or more such witnesses testify to the administration, their declaration could

constitute full legal proof.²³⁰ Unless there is a question of a qualified witness, the deposition of *one witness* ordinarily does not afford full proof. Canonical jurisprudence, however, admits certain exceptions. Thus, when there is a question of determining the baptism of a party, the testimony of one witness who is above all suspicion is sufficient to prove that the sacrament was conferred, provided that his testimony does not redound to another's prejudice.²⁴⁰ A person above suspicion is one who is absolutely trustworthy and whose testimony is not to be excluded by reason of unfitness, suspicion or incapacity.²⁴¹ The testimony of such a witness will not be prejudicial to another if the established fact of baptism does not run counter to the best interests of another, e.g., the nullity of a marriage dependent upon baptism.

III. - The sworn *oath* of the *party baptized* is a final source of proof. That this oath be acceptable, the claim to baptism must not be prejudicial to the right of another and the baptism must have been received as an adult.²⁴² In arriving at a judgment of the fact (or validity) of baptism in the procedure of the reception of a convert, the priest will evaluate the testimony and even the oath given. If there still remains any prudent doubt, no matter how slight, the sacrament will be conferred conditionally.

3. - *Validity of baptism.* This will depend upon the presence of the required matter, form and intention of the minister and the recipient. The investigation will include an examination of the ritual of the sect in which the convert was baptized. If the ritual prescribes a valid matter and form, or one which is of doubtful validity or which is clearly invalid, the initial presumption will likewise correspond. If the ritual is lacking or unobtainable, the investigation will cover the matter, form and intention. Moreover, the use of the ritual should be investigated to determine if the minister actually conformed to the ritual of his sect. The presumption of the Holy Office²⁴³ of valid intention for baptism among the Baptists, Disciples of Christ, Presbyterians, Congregationalists, Methodists, pertains only to judgment in *matrimonial* cases.

C. - MINISTER OF RECEPTION.

64. - 1. - *By baptism.* When an investigation reveals that no baptism has been received or that the former baptism is invalid, the convert is to be admitted to the Church through solemn baptism. The baptism of adults, where this can be done conveniently, is referred to the local Ordinary so that, if he wishes, it may be conferred more solemnly by him or by his delegate.²⁴⁴ In some diocesan statutes or faculties the one who has instructed the convert is designated as the delegate of the Ordinary. If the one who gave the instruction is not so delegated by the Ordinary or empowered by statute or custom, the proper pastor has the right to baptize.

²⁴⁵ The proper pastor of the convert is in practice the pastor of the place of administration.

2. - *By reconciliation.* When the convert from heresy, apostasy or schism is received through an abjuration of former error and absolution from the censure of excommunication, this authority in the internal forum is reserved *speciali modo* to the Holy See.²⁴⁶ Local Ordinaries in the U.S.A. often have quinquennial faculties to absolve in this case (if there has been no malicious dissemination of heretical doctrine among the faithful), even if the crime is public. A confessor may make the reconciliation in danger of death²⁴⁷ or in a more urgent case.²⁴⁸ By the common law²⁴⁹ the local Ordinary can receive in the *external* forum the the abjuration and absolve from the censure; he may delegate this power. The case is considered brought into the external forum by the fact that the convert seeks instructions and shows a general desire to enter the Church.²⁵⁰

D. - PROCEDURE OF RECEPTION.

65. - 1. - *Unbaptized.* When the investigation establishes the fact that the prospective convert has not received baptism at all or that it was certainly invalid, he is admitted into the Church through the reception of baptism. Neither the abjuration of former errors nor the absolution from censure (since he was never a subject of the Church) or from sins is required (the baptism takes away all sin for which there is at least attrition).

2. - *Doubtfully baptized.* When diligent investigation uncovers solid reasons for doubting either the administration or the validity of a previous baptism, there is a sufficient basis for a conditional rebaptism; where there is further doubt whether the reasons themselves for doubting are sufficient for rebaptism, resolve the doubt in favor of conditional rebaptism.²⁵¹ Rebaptize when there are good reasons against a former baptism or when there is no positive reason in favor of validity and at the same time invalidity cannot be proved. If a doubt cannot be resolved after examining the ritual, after interrogating the subject, the minister, the sponsors (if such were present), the parents, relatives or friends who attended the ceremony, or if all such further investigation is impossible, conditional rebaptism is warranted. The procedure in receiving a doubtfully baptized convert is:

a) *abjuration and profession of faith.* The 1942 formula is to be used in the presence of the properly designated priest and two witnesses.²⁵² The priest in surplice and violet stole sits in front before the middle of the altar or, if the Blessed Sacrament is present, on the Epistle side. The convert kneels before him and with his right hand on the book of the Gospels (or the missal) reads the formula. If the convert cannot read,

the priest reads the formula to him slowly and distinctly, so that he may understand and repeat the words. There is strictly no need to absolve from the censure in the external forum, as the baptism is doubtful, but a conditional absolution may be given.

b) *conditional baptism*. The conditional baptism is then administered solemnly, unless the local Ordinary permits private baptism.²⁵³

c) *sacramental confession and conditional absolution*. This is required by the 1859 Instruction and III Baltimore, although either the absolution or the baptism will, as a matter of fact, be invalid.

3. - *Validly baptized*. The procedure includes:

a) *abjuration and profession*, as above.

b) *absolution from censure*. The penal laws of the Church bind only the validly baptized, except those who have not yet attained the age of puberty, i.e., fourteen years of age. The censure in question is excommunication *latae sententiae ipso facto* incurred by apostates, heretics and schismatics. Even though the inquiry often shows that the convert is excused from the penalty, the presumption at the outset is that it has been incurred, because ignorance of the law is not presumed and violation of it is considered to be conscious and deliberate. Consequently, there must be observance of the censure in the external forum until innocence is established. In practice, absolution is usually given *ad cautelam*.

c) *confession and absolution*. Being certainly baptized and subject to the laws of the Church these converts must make a sacramental confession of their sins committed since baptism. Even if they are conscious of no serious sin, it is recommended as offering the occasion for fulfilling the precept of annual confession and of receiving the opportunity of grace and salutary spiritual direction. If the censure has been incurred, there will surely be grave sin requiring absolution.

d) *suppliance of ceremonies*. Unless the local Ordinary provides otherwise, the ceremonies omitted in the heretical baptism should be supplied. This is not customary in many places.

e) *reception of Communion*. Assistance at Mass and the reception of Communion should follow immediately the reception of the convert, unless grave and urgent reasons prevent.²⁵⁴

f) *Oriental converts*. A convert from an Oriental dissident sect may choose the rite to which he wishes to belong. He is urged to join the corresponding Eastern Catholic rite.²⁵⁵

BAPTISM

¹ Florence, Denz. 696.

² cc. 12; 87.

³ c. 737, 2.

⁴ S. Off. 28 feb. 1663; 15 sept. 1869.

⁵ S. C. Sac. 23 dec. 1912.

⁶ c. 737; Trent, Denz. 858.

⁷ S. Off. 17 apr. 1839.

⁸ S. Off. 21 aug. 1901.

⁹ c. 757, 1; *Rit. Rom.*, tit. II, c. 1, n. 5.

¹⁰ S.C.P.F. 8 sept. 1869.

¹¹ c. 757, 2. For example, in certain tropical regions, cf. S. Off. 17 apr. 1839.

¹² c. 757, 3; *Rit. Rom.*, tit. II, c. 8.

¹³ S. Off. 20 iun. 1883.

¹⁴ S.C.P.F. 8 sept. 1869.

¹⁵ Cf. cc. 737; 758.

¹⁶ S. Off. 8 nov. 1770; 9 iul. 1779; 14 dec. 1898.

¹⁷ a) To omit "in" before "*nomine*" does not invalidate the form. (S.C.C. 12 sept. 1801; S. Off. 22 maii 1871.) To say without evil intention "*cum*" instead of "*in nomine*" does not destroy the sense of the form. (S. Off. 2 maii 1720; S.C.C. 23 maii 1823; 16 aug. 1828.) To say "*in nomine Patris, in nomine Filii, in nomine Spiritus Sancti*" is certainly valid and safe. (S. Off. 11 ian. 1882.)

b) To omit "*et*" only between "*Patris*" and "*Filii*" is not invalidating, but the form is doubtful if it is omitted also between "*Filii*" and "*Spiritus Sancti*." (S.C.C. 12 maii 1753; 12 sept. 1801; S. Off. 3 aug. 1889.)

c) To use a word equivalent to "*baptizo*" in either Latin or the vernacular is valid. (S.C.C. 12 maii 1733; S. Off. 12 sept. 1801.)

¹⁸ c. 758.

¹⁹ *Rit. Rom.*, tit. II, c. 1, n. 8; S. Off. 2 maii 1858; cf. *General Norms*, nos. 13, 14.

²⁰ Innocent III, 28 aug. 1206. Denz. 413.

²¹ Cf. S. C. Sac. 17 nov. 1916.

²² In the case of immersion it is not sufficient that the one to be

baptized immerse himself; the minister must lead him into the water or out of it while the baptismal form is being pronounced.

²³ *Rit. Rom.*, tit. II, c. 2, n. 30.

²⁴ c. 738, 1; Florence, Denz. 696.

²⁵ c. 198.

²⁶ c. 744.

²⁷ c. 740.

²⁸ c. 451, 1.

²⁹ c. 451, 2.

³⁰ cc. 451, 2, 1^o; 216, 3.

³¹ c. 451, 2, 2^o.

³² c. 471.

³³ c. 472.

³⁴ c. 473.

³⁵ cc. 474; 465, 4-5. A substitute (*sacerdos supplens*) supplying the needs of the parish for less than a week's time is not a substitute vicar.

³⁶ c. 475.

³⁷ c. 476.

³⁸ c. 94, 1.

³⁹ c. 91.

⁴⁰ c. 92, 1.

⁴¹ c. 93, 1.

⁴² c. 91.

⁴³ c. 92, 2.

⁴⁴ c. 91.

⁴⁵ c. 738, 2.

⁴⁶ *Ibid.*

⁴⁷ c. 91.

⁴⁸ c. 94, 2-3.

⁴⁹ c. 739.

⁵⁰ c. 873, 1.

⁵¹ c. 739.

⁵² c. 938.

⁵³ c. 850.

⁵⁴ c. 1095.

⁵⁵ c. 740.

⁵⁶ c. 738, 2.

⁵⁷ *Ibid.*, 1.

⁵⁸ Cf. *ibid.*

⁵⁹ c. 741.

⁶⁰ c. 985, 7.

⁶⁰ c. 985, 7.

⁶¹ *Rit. Rom.*, tit. II, c. 2, n. 27.

⁶² S. C. Rit. 10 feb. 1888.

⁶³ c. 742, 1.

⁶⁴ S. Off. 15 sept. 1869.

⁶⁵ c. 759, 1.

⁶⁶ *Ibid.*, 2.

⁶⁷ *Ibid.*, 1.

⁶⁸ Cf. S.C.P.F. 10 feb. 1888; 16 ian. 1804. Infants baptized by midwives can be conditionally rebaptized in particular cases where there is *reasonable doubt* of the validity of the first baptism. (S. C. Conc. 19 dec. 1682.) Likewise, infants baptized at home in case of necessity are to be rebaptized when there is *probable doubt* of the validity of the first baptism. (*Ibid.*, 27 mart. 1863.)

⁶⁹ c. 742, 2.

⁷⁰ S. Off. 20 aug. 1671.

⁷¹ c. 742, 3.

⁷² S. Off. 20 aug. 1671.

⁷³ c. 743.

⁷⁴ Cf. Address of Pius XII to Italian Midwives, 29 oct. 1951.

⁷⁵ c. 742, 1.

⁷⁶ c. 745, 1.

⁷⁷ *Ibid.*, 2; 754, 1; 88, 3.

⁷⁸ c. 770; *Rit Rom.*, tit. II, c. 1, n. 39; S. Off. 18 feb. 1958, *Monitum*: "The custom has prevailed in some places of deferring the conferral of baptism on pretended reasons of advantage or of a liturgical nature. Some opinions, lacking indeed solid foundation, concerning the eternal lot of infants who die without baptism, favor this delay. Wherefore, the Supreme Sacred Congregation, with the approval of the Supreme Pontiff, warns that infants are to be baptized as soon as possible according to the prescription of canon 770. It exhorts pastors, however, and preachers to urge the accomplishment of this obligation."

⁷⁹ S.C.P.F. 31 ian. 1796.

⁸⁰ *Ibid.*, 20 nov. 1672.

⁸¹ S. Off. 6-8 iul. 1898.

⁸² *Ibid.*, 29 nov. 1764.

⁸³ *Ibid.*, 11 ian. 1899.

⁸⁴ c. 750, 1.

⁸⁵ *Ibid.*, 2.

⁸⁶ S.C.P.F. 17 aug. 1777.

⁸⁷ *Ibid.*

⁸⁸ S. Off. 18 iul. 1894.

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*, 22 iul. 1840.

⁹¹ *Ibid.*, 11 dec. 1850.

⁹² S.C.P.F. iul. 1895.

⁹³ c. 751. The prescriptions of cc. 750-751 were reasserted by Pius XII, *motu proprio*, 1 aug. 1948.

⁹⁴ c. 750, 1.

⁹⁵ S. Off. 29 iun. 1637.

⁹⁶ *Ibid.*, 17 sept. 1671.

⁹⁷ *Ibid.*, 26 aug. 1885.

⁹⁸ *Ibid.*, 10 iul. 1828.

⁹⁹ S.C.P.F. 29 nov. 1672.

¹⁰⁰ S. Off. 15 nov. 1941

¹⁰¹ c. 749.

¹⁰² S. Off. 5 ian. 1724.

¹⁰³ c. 746, 1.

¹⁰⁴ *Ibid.*, 5.

¹⁰⁵ Cf. 9 *Marquette Med. Rev.* 36. Baptism on the umbilical chord is most probably invalid. It is permitted (S. Off. 21 aug. 1901) to use a solution of one part bichloride of mercury in a thousand parts of water.

¹⁰⁶ c. 746, 2.

¹⁰⁷ *Ibid.*, 3.

¹⁰⁸ *Ibid.*, 4.

¹⁰⁹ S. Off. 15 feb. 1780; 13 dec. 1899.

¹¹⁰ c. 747.

¹¹¹ Hemorrhage in the first two or three months is the most evident sign of abortion. Many causes may induce the death of the fetus: lack of sufficient nutrition or of oxygen in the blood, hemorrhage from the uterus or other organs, nervous disorders or shock, disease, tumor, etc.

¹¹² c. 748.

¹¹³ *Ibid.*

¹¹⁴ A fleshy mass (*mola*) or vegetation produced in the uterus by liquids and fibers is not human and thus is not baptized. A mole should always be opened to discover whether a living being is present.

¹¹⁵ The number of human beings actually or possibly present determines the procedure to follow. If there is certainly one human being present, no matter how poorly organized, it is baptized absolutely. If there are certainly two individuals conjoined in the one body, the head of each (or what reasonably seems to be the head) is baptized absolutely. If there are two heads and two hearts but one trunk, there are two individuals and both should be baptized absolutely; if the two heads are so united as to seem to be one head and two brains, they can be baptized in the plural (*ego vos baptizo*) and each heart baptized conditionally. If there are two heads and one heart or one body, there can be two persons and thus one head is baptized absolutely and the other conditionally. If there is one head and two hearts or two bodies, since it is not clear whether there are one or two persons, the head is baptized absolutely and each heart or body conditionally. An acardiac fetus, as well as an acephalous fetus (though a rudimentary or atrophied heart may be

present), is baptized conditionally. Even though a delivery has only part of the torso and the legs, in practice it should be baptized conditionally. A double-faced fetus should be baptized on one forehead absolutely and on the other conditionally. When death is imminent, it is allowed to baptize multiple monstrosities simultaneously, i.e., pour water on each and pronounce a plural form.

¹¹⁶ The *Ethical and Religious Directives for Catholic Hospitals* of The Catholic Hospital Association states: (60) "The normal manner of disposing of a dead fetus, regardless of the degree of maturity, is suitable burial. A fetus may be burned only if sanitation or some similarly serious reason requires it. In exceptional cases, there is no objection to retaining a fetus for laboratory study and observation; but it should not be preserved in its membranes unless it is so obviously dead that baptism would certainly be of no avail. (Note: It is imperative that all who are concerned with the disposal of a fetus should know and observe pertinent prescriptions of civil law. If there seems to be a conflict between the provisions of civil law and the instructions given here the matter should be referred to the hospital authorities for clarification.)"

(59) Major parts of the body should be buried in a cemetery when it is reasonably possible to do so. Moreover, the members of Catholics should, if possible, be buried in blessed ground. When a burial is not reasonably possible, the burning of such members is permissible."

¹¹⁷ cc. 745, 2, 2^o; 88, 3.

¹¹⁸ c. 755, 2; S. C. Rit. 16 apr. 1962, *Decretum Generale*.

¹¹⁹ c. 753, 1.

¹²⁰ *Ibid.*, 2.

¹²¹ Salt taken in the ceremony of baptism does not violate the eucharistic fast.

¹²² S. Off. 21 iul. 1880.

¹²³ c. 752, 1; S. Off. 18 sept. 1850; 3 aug. 1860.

¹²⁴ S. Off., *ibid.*

¹²⁵ Cf. *General Norms*, nos. 26, 56.

¹²⁶ S. Off. 30 mart. 1898.

¹²⁷ c. 752, 3.

¹²⁸ Cf. nn. 126-127 above.

¹²⁹ c. 752, 1.

¹³⁰ *Ibid.*, 2.

¹³¹ S. Off. 18 sept. 1850; 3 aug. 1860.

¹³² *Ibid.*, 25 ian. et 10 maii 1703.

¹³³ S.C.P.F. 18 oct. 1883.

¹³⁴ *Ibid.*, 7 sept. 1626.

¹³⁵ S. Off. 30 mart. 1898.

¹³⁶ It is not enough that the recipient merely promise to follow instructions later upon recovery (*Ibid.*)

¹³⁷ S. Off. 8 mart. 1770.

¹³⁸ Cf. c. 752, 1.

¹³⁹ S.C.P.F. 31 maii 1823.

¹⁴⁰ Alexander VII 18 ian. 1658; S. Off. 10 maii 1703; 4 iun. 1851.

¹⁴¹ S. Off. 20 nov. 1878; S.C.P.F. 26 iul. 1845.

¹⁴² S. Off. 1 nov. 1941: "These sacraments (absolution and extreme unction) can be conferred conditionally however on those who are in error in good faith and are already deprived of their senses, especially if one may surmise that they have at least implicitly rejected their errors." Cf. below, *Reception of Converts*.

¹⁴³ S. Off. 27 ian. 1892.

¹⁴⁴ c. 754, 1.

¹⁴⁵ *Ibid.*, 2.

¹⁴⁶ *Ibid.*, 3.

¹⁴⁷ *Ibid.*, 4.

¹⁴⁸ Cf. S. Off. 4 dec. 1851; 11 dec. 1850; S.C.P.F. 17 apr. 1777.

¹⁴⁹ c. 755, 1.

¹⁵⁰ c. 757.

¹⁵¹ S. C. Rit. 14 ian. 1944; *Rit. Rom., Ord. bapt. parvul.*, n. 13.

¹⁵² Cf. no. 9 above.

¹⁵³ Cf. S. C. Rit. 7 dec. 1844.

¹⁵⁴ c. 734, 1-2.

¹⁵⁵ Cf. n. 68 above; c. 732, 2; *General Norms*, nos. 20-21.

¹⁵⁶ c. 759, 1.

¹⁵⁷ *Rit. Rom.*, tit. II, c. 2, n. 29.

¹⁵⁸ c. 759, 2.

¹⁵⁹ c. 755, 2; S. C. Rit. 16 apr. 1962, *Decretum Generale*.

¹⁶⁰ *Rit. Rom.*, tit. II, c. 1, n. 28.

¹⁶¹ *Ibid.*, c. 5.

¹⁶² *Ibid.*, c. 6; S. C. Rit. 27 aug. 1830; 16 apr. 1962, *Decretum Generale*: *Rit. Rom.*, tit. II, cap. IV, 2, n. 3.

¹⁶³ c. 760; *Rit. Rom.*, tit. II, v. 1, n. 29; cf. order of suppliance, n. 162 above.

¹⁶⁴ Cf. *General Norms*, no. 52.

¹⁶⁵ c. 761.

¹⁶⁶ *Rit. Rom.*, tit. II, c. 1, n. 70.

¹⁶⁷ cc. 87; 98, 1; *Codex Or.* c. 6, 1.

¹⁶⁸ c. 98, 1; *Codex Or.* c. 6, 2.

¹⁶⁹ c. 98, 3; *Codex Or.* c. 8, 1.

¹⁷⁰ Cf. *Codex Or.* cc. 11; 12.

¹⁷¹ c. 756, 1. Offspring here means a child below the age of puberty.

¹⁷² PCI 16 oct. 1919.

¹⁷³ c. 756, 2.

¹⁷⁴ *Ibid.*, 3. It seems that, if the father is a dissident Oriental and the mother a Latin or Eastern Catholic, and the father demands baptism in the Eastern Catholic rite corresponding to his, this may be done but without prejudice to the rite to which *de iure* the offspring belongs (i.e., the rite of the mother); this is to be noted in the baptismal register and whenever a certificate is issued.

¹⁷⁵ Codex Or. cc. 10; 15.

¹⁷⁶ c. 771.

¹⁷⁷ c. 773.

¹⁷⁸ S. C. Rit. 14 mart. 1861.

¹⁷⁹ c. 774, 1.

¹⁸⁰ *Ibid.*, 2.

¹⁸¹ c. 738, 1.

¹⁸² c. 775.

¹⁸³ c. 776, 1.

¹⁸⁴ *Ibid.*, 1°, 2°. Solemn baptism may never be administered in the homes of non-Catholics, not even in case of necessity or danger of death. (S.C.R. 17 ian 1914.)

¹⁸⁵ S. C. Sac. 22 iul. 1925.

¹⁸⁶ cc. 738; 776, 1, 2°.

¹⁸⁷ c. 771.

¹⁸⁸ c. 744.

¹⁸⁹ c. 770.

¹⁹⁰ c. 762, 1.

¹⁹¹ *Ibid.*, 2.

¹⁹² *Ibid.*

¹⁹³ c. 763, 1.

¹⁹⁴ *Ibid.*, 2.

¹⁹⁵ c. 764.

¹⁹⁶ c. 11.

¹⁹⁷ c. 767.

¹⁹⁸ c. 2256, 2°.

¹⁹⁹ S. Off. 3 maii 1893. Probably this impediment is not incurred by a baptized non-Catholic as sponsor in a non-Catholic baptism, cf. *The Administration of Matrimony*, n. 353.

²⁰⁰ S. Off. 10 maii 1770; 20 iun. et 7 iul. 1864.

²⁰¹ S. C. Sac. 25 nov. 1925.

²⁰² S. Off. 10 maii 1770.

²⁰³ S. Off. 3 ian. 1871.

²⁰⁴ c. 2339; S. Off. 2 iul. 1878.

²⁰⁵ S. Off. 1 iul. 1949.

²⁰⁶ Cf. c. 769; S. C. Sac. 25 nov. 1925.

²⁰⁷ c. 768.

²⁰⁸ S. C. Conc. 15 mart. 1631; 13 sept. 1721.

²⁰⁹ S. C. Rit. 14 ian. 1873.

²¹⁰ cc. 463; 2408; 2349.

²¹¹ cc. 777, 1; 470.

²¹² n. 223.

²¹³ c. 778.

²¹⁴ S. C. Sac. 29 iun. 1941, 11 d; S. C. Conc. 31 ian. 1927.

²¹⁵ Cf. c. 90, 1.

²¹⁶ Should there be difficulty in particular cases, recourse is to be had to the S. C. Conc. (Cf. PCI 14 iul. 1922.)

²¹⁷ Cf. cc. 379; 1107.

²¹⁸ c. 777, 2.

²¹⁹ PCI 14 iul. 1922.

²²⁰ Cf. c. 2197, 1°.

²²¹ c. 1115, 2.

²²² Cf. *Rit. Rom.*, tit. XII, c, 2.

²²³ c. 470, 2.

²²⁴ Cf. 470, 2; 1103, 2.

²²⁵ c. 1988.

²²⁶ c. 1990.

²²⁷ c. 1119.

²²⁸ Cf. cc. 470, 2; 1011.

²²⁹ Cf. cc. 470, 2; 576, 2.

²³⁰ Cf. cc. 1813; 1814.

²³¹ Cf. no. 58 above.

²³² *Priest's Ritual* (1962), p. 284; *Rit. Rom.*, tit. VII, c. 3; *Collectio Rituum* (1954), tit. V, 20 (p. 171), (it should be noted that all the blessings contained in the *Benedictionale*, tit. V, of this *Collectio Rituum* must be given entirely in Latin; the English version may then be recited); *Practical Handbook of Rites, Blessings and Prayers* (1961), Part One, Section XI, p. 278.

²³³ S. C. Rit. 19 maii 1896; cf. *Collectio Rituum*, *loc. cit.*, 21, (p. 176).

²³⁴ *Rit. Rom.*, *Appendix de Bened.*, n. 44; *Priest's Ritual*, (1962) p. 280; *Collectio Rituum*, *loc. cit.*, 19, (p. 166); *Practical Handbook*, *loc. cit.*, p. 273.

²³⁵ Cf. c. 1350, 1.

²³⁶ Cf. n. 141 above; S. C. Conc. 27 mart. 1683; S. Off. 6 apr. 1859; 21 feb. 1883.

²³⁷ S. Off. 28 dec. 1949.

²³⁸ Cf. Rota, *Decisiones*, III, 1911, 26-263.

²³⁹ Cf. c. 1791, 2.

²⁴⁰ Cf. c. 779.

²⁴¹ Cf. c. 1757.

²⁴² Cf. c. 779.

²⁴³ S. Off. 28 dec. 1949: "Q. Whether, in adjudicating matrimonial cases, baptism conferred in the sects of the Disciples of Christ, the Presbyterians, the Congregationalists, the Baptists, the Methodists, when the necessary matter and form were used, is to be presumed invalid because of the lack of the requisite intention on the part of the minister to do what the Church does or what Christ instituted, or whether such baptism is to be considered valid, unless the contrary is proved in the particular case. R. In the negative to the first part; in the affirmative to the second part."

²⁴⁴ c. 744.

²⁴⁵ c. 738, 1.

²⁴⁶ c. 2314, 2.

²⁴⁷ c. 2252.

²⁴⁸ c. 2254.

²⁴⁹ c. 2314, 2.

²⁵⁰ The formula of absolution is contained in the procedure for the reception of converts; cf. *Rit. Rom.*, Supplementum, p. 16; *Priest's Ritual* (1962), p. 44; *Practical Handbook*, Part One, Section III, p. 118.

²⁵¹ S. Off. 14 feb. 1885: "If doubt still exists or an investigation cannot be made, baptism will be repeated."

²⁵² Some dioceses have a printed form which is subsequently signed by the convert, the priest and the two witnesses, and sealed.

²⁵³ c. 759, 2. Some bishops have an indult to permit the use of the short form in the conditional baptism of adults.

²⁵⁴ c. 753; cf. no. 36 above.

²⁵⁵ Codex Or. c. 11.

III

The Administration
of
Confirmation

THE ADMINISTRATION OF CONFIRMATION

I. NATURE

1. - A. - NOTION.

1. - Confirmation¹ is a sacrament of the New Law (genus) in which, by an anointing on the forehead with chrism and the laying on of the hand (matter) under the prescribed form of words (form) done by a suitable minister, the baptized party (recipient) is strengthened in grace to profess and to defend the faith courageously and is made a soldier of Christ (effect). "As we require the grace of Baptism to form the mind unto faith, so it is also of the utmost advantage that the souls of the faithful be strengthened by a different grace, to the end that they be deterred by no danger, or fear of pains, tortures or death, from the confession of the true faith."² Confirmation is the complement of Baptism, the strengthening and perfecting of the Christian life inaugurated in Baptism and consummated in the Eucharist. "Therefore, the sacrament by which spiritual strength is conferred on the one born again makes him in some sense a front-line fighter for the faith of Christ."³

2. - It is of faith that Confirmation is a true and distinct sacrament of the New Law,⁴ and that it confers on the soul an indelible character.⁵ Thus it may not be repeated when once validly administered and received. The effect of this sacrament is to give an increase of grace, specifically the grace of strength in the faith through a more abundant infusion of the Holy Spirit, an indelible character, and (by ecclesiastical institution) a spiritual relationship between the confirmed and the sponsors.

2. - B. - NECESSITY.

The sacrament of Confirmation is not necessary for salvation,⁶ by a necessity of means or of precept, but it is morally necessary. Since it is a divinely instituted means of perfecting the way of salvation, it may not be neglected, and thus there is an obligation to receive it. Of itself a failure to be confirmed when opportune is not more than a venial sin; it can be grave, however, by reason of scandal, contempt or special spiritual need. Pastors must see to it that the faithful receive Confirmation at the proper time.⁷

3. — C. - MATTER.

1. - The matter of this sacrament is chrism (S. C.) or olive oil mixed with balsam, which is consecrated by a bishop on the last preceding Holy Thursday, and with which by an imposition of the hand the forehead is anointed in the form of a cross.⁹ This chrism must be used, and in the way prescribed, even by a simple priest who legitimately confirms. It is necessary for validity that the matter used be pure olive oil mixed with balsam.⁹ When the amount of chrism is too far diminished, other olive oil should be added to it, even repeatedly, but in a lesser quantity.¹⁰ It is never allowed to administer Confirmation without chrism or to receive the chrism from heretical or schismatical bishops.¹¹

2. - The making of the sign of the cross while anointing with the chrism is necessary for validity.¹² No instrument may be employed in the anointing, but the right hand itself (the four fingers) is directly laid on the head and the anointing made with the right thumb.¹³ To use any finger (even of the left hand) other than the right thumb in the anointing, without justifying cause, would be a venial sin but not invalidating. Validity requires only the imposition of the hand which accompanies the unction, and not the extension of the hands at the beginning or end of the ceremony.¹⁴

4. — D. - FORM.

It is common teaching that all the words of the Latin formula of this sacrament belong in practice to the substance of the rite and thus pertain to validity: "*Signo te signo crucis et confirmo te chrismate salutis, in nomine Patris et Filii et Spiritus Sancti.*"

II. MINISTER

5. — A. - ORDINARY.

1. - It is of faith that only a consecrated bishop is the ordinary minister of confirmation,¹⁵ by the very power of ordination itself and not by any special papal commission. Within his own territory the bishop confirms lawfully, even those who are not his subjects, unless the latter's own Ordinary has expressly forbidden it; outside his own territory he needs at least the reasonably presumed permission of the local Ordinary, except to confirm his own subjects privately and without use of the mitre and crozier.¹⁶ To act in violation of these provisions would be valid but gravely unlawful.

2. - A bishop is bound to confirm his subjects who properly and reasonably request this sacrament, especially during his pastoral visita-

tion,¹⁷ or to see that the sacrament is provided.¹⁸ Of its nature this is a grave obligation in justice, but admitting of lightness of matter. Excepting circumstances of scandal, contempt, etc., a bishop would not be gravely bound to accede to each individual request, but rather to provide convenient opportunity for general confirmations, at least within every five-year period.¹⁹ He would be bound lightly to honor an individual reasonable request, if he could conveniently administer the sacrament and it could not be deferred to the next Confirmation time. It would be a grave sin if he neglected to confirm for more than five years, unless physically or morally unable. Since it is not the common practice and is moreover usually gravely inconvenient, there is no strict obligation, outside of the danger of scandal or of great disturbance of souls, for a bishop to confirm each unconfirmed moribund who requests the sacrament of him.

6. - B. - EXTRAORDINARY.

The extraordinary minister of confirmation is a priest to whom that power has been granted either by the common law or by a special indult of the Apostolic See.²⁰ Those who labor in mission territories enjoy ample Apostolic faculties for conferring this sacrament, which should be consulted.

7. - 1. - *By common law.*

a) In virtue of the common law itself cardinals may confer this sacrament without restriction as to place or persons; abbots and prelates nullius, vicars and prefects apostolic may do so only within their own territory and during their term of office.²¹

b) A priest of the Latin rite who confirms in virtue of an indult validly confers the sacrament only on the faithful of his own rite, unless the contrary has been expressly provided for in the indult.²² Priests of the Oriental rite having the power or privilege of confirming infants of their own rite at the time of baptism commit a serious offense in confirming infants of the Latin rite.²³ A priest who dares to confirm without the faculty to do so is to be suspended, and one who should presume to exceed the limits of his faculty forfeits the faculty itself.²⁴

8. - 2. - *By general indult.* In 1946, by the general indult "*Spiritus Sancti Munera*," the power to confirm was universally extended, in restricted circumstances, to certain determined priests as extraordinary minister, "in order to provide for the spiritual welfare of so many infants, children and adults, who are in danger of death because of grave illness, and who most certainly should die without Confirmation, if the provision of the common law regarding the ordinary minister were strictly insisted upon."

²⁵ The decree and subsequent related indults contain a taxative list of ministers.

9. — a) *pastors.*

i. - Pastors who have their own proper territory are granted this indult; thus personal or family pastors are excluded, unless at the same time they have a territory of their own, even though jointly sharing it with others (e.g., Italian or Portuguese national parishes in the U.S.A.).

ii. - Likewise, actual vicars or vicars of a moral person,²⁶ and vicars economo or administrators of a parish.²⁷

iii. - Also, priests exclusively entrusted with the full and stable care of souls and with the rights and duties of pastors in a defined territory possessing its own church.²⁸ This is a perpetual vicarage, and is not strictly a parish. All other priests, therefore, even other parochial vicars with full parochial rights are excluded from this indult.

iv. - By a further Apostolic indult²⁹ all priests having the care of souls and who are subject to local Ordinaries under the jurisdiction of the Sacred Congregation of the Propagation of the Faith may be empowered by their Ordinaries to administer Confirmation to the faithful in their territory who are in danger of death. This indult, moreover, does not affect any other indult already enjoyed by the missionaries.

10. — b) *chaplains.*

i. - A special indult for the U.S.A. extends the grant of "*Spiritus Sancti munera*" to regularly assigned chaplains of so-called maternity homes, hospitals for parturient women, and orphanages under certain conditions to be mentioned below. Local Ordinaries may grant the faculty to chaplains of all hospitals, orphanages and prisons, in the absence of the pastor, to administer this sacrament to the faithful who are in danger of death, with due observance of the norms of "*Spiritus sancti munera*."³⁰

ii. - No other chaplains enjoy this faculty, not even chaplains exempted from parochial jurisdiction³¹ or military chaplains.³²

c) *conditions for use.*

11. — i. - *validity.* If the following conditions are not verified, the sacrament is rendered null and void.

α) The administration must be *personal*, i.e., by the priest who enjoys the faculty, and all subdelegation or further delegation is excluded.

β) The sacrament must be conferred only *within the territorial jurisdiction* of the one administering it.³³ Thus included are places that otherwise are often exempt from parochial jurisdiction, e.g., seminaries, hostels, hospitals, institutions of any kind, even those of religious no matter how exempt.

γ) The faculty to confirm may be exercised only on those *in true danger of death from grave illness, which it is foreseen will have a*

fatal result. The indult granted to missionary priests³⁴ through their local Ordinaries does not require the element of grave illness; thus an extrinsic cause that is productive of death, e.g., execution, is also admissible.³⁵

3) "*Spiritus Sancti munera*" authorizes Confirmation only of the faithful of the Latin rite. However, a further indult³⁶ has empowered priests of the Latin rite, who by indult enjoy validly and licitly the faculty to confirm members of their own rite, to confer the sacrament on members of the Oriental rites "in order to provide for the spiritual welfare of the faithful of the Oriental rites who are living outside their own territory and under the jurisdiction of the Ordinaries of the Latin rite. . . provided it is clear that it was not already conferred, according to the usual practice, immediately after baptism."

ε) The extension of the faculty of extraordinary minister to the *chaplains* mentioned above is under certain conditions. It is granted to "the chaplain who is regularly (*stabiliter*) assigned to the institutions mentioned, and in case more than one chaplain is so assigned to the same institution, that it be done by the first chaplain, to the complete exclusion of the others." Confirmation may be conferred *only* on the *children* received in these institutions. "The chaplain, however, may use this faculty only if the bishop of the diocese cannot be had or is prevented from administering Confirmation himself, and if there is no other bishop, even a merely titular one, in communion with the Apostolic See, who could without grave inconvenience take his place. Likewise, if the pastor of the place, in the same circumstances, cannot be had or is prevented from administering the sacrament himself. In the absence of the chaplain, or in case it is impossible for him to confirm personally, no one else, other than the bishop or local pastor, can validly administer this sacrament."

12. – II. - *lawfulness.* The faculty to confirm may be lawfully used by those enjoying it both in and outside the episcopal city, whether the See is occupied or vacant, provided the diocesan bishop (or also the local pastor, in the case of chaplains) is unavailable or lawfully prevented from personally confirming, and provided there is at hand no other (even merely titular) bishop in communion with the Holy See who can without grave inconvenience take the place of the diocesan bishop. Unless the bishop himself has given some guidance on the point to his clergy, the individual ministers must make the prudent judgment of the presence of this condition for the lawful use of their faculty, e.g., based on the fact that it is not the custom of the bishop to attend the dying.

13. – d) *Obligation to confirm.* A priest enjoying the Apostolic privilege of confirming is under an obligation to administer this sacrament to

those for whom the faculty has been granted, whenever they properly and reasonably request it.³⁷ This is part of his obligation as pastor to be particularly solicitous of the sick and the dying in his parish.³⁸ It is not certainly established that the obligation of the extraordinary minister is more binding than that of the bishop regarding Confirmation. Thus, the obligation of a priest enjoying this faculty is of its nature grave, but admitting of lightness of matter. A serious inconvenience will excuse from the fulfillment of the obligation; moreover, the seriousness of the inconvenience need not be as great as with Baptism, Penance and Extreme Unction, since the obligation of administering Confirmation to the dying is not of the same degree of gravity as with the necessary sacraments. It would seem to be not more than a venial sin (excepting the circumstances of scandal or contempt) if, without proportionate cause, e.g., the state of health of the priest, he neglected or refused to accede to an individual reasonable request. To neglect or to refuse habitually to administer Confirmation would certainly be a serious sin.

14. – e) *Subsequent requirements.*

1. - *registration.*

z) The priest who confirms his own proper subject must inscribe in the parochial register of Confirmations³⁹ "his own name and the name of the person confirmed (and also the parish and diocese of the same, if he is not a proper subject), the names of the parents and sponsor, the date and place, finally adding the words: 'Confirmation conferred by Apostolic Indult, the person being in danger of death from grave illness.' An annotation must also be made in the baptismal register."⁴⁰

ξ) "If the one confirmed belongs to another parish, the minister shall as soon as possible personally give notice of the administration of the sacrament to the proper pastor by an authentic document containing all the above mentioned information."

ii. - *report.* "The extraordinary ministers must also send to the proper diocesan Ordinary an authentic notice of the Confirmation which they have conferred, with all the circumstances which affect the case." This will include the date and place of administration, age and condition of the recipient, the proper registration of the conferral.

15. – f) *Stipend.* When this sacrament is conferred by an extraordinary minister, "on no title whatever may any charge be made for its administration." Thus an extrinsic title to emolument is excluded.

16. – g) *Ritual.* The Decree "*Spiritus Sancti munera*" included the Rite to be observed by the priest who was empowered to confirm.⁴¹ The following may be noted.

1. - The priest should be vested in a white stole and surplice (a stole suffices, if a surplice is not available); he must remind the bystanders before the ceremony that the bishop alone is the ordinary minister of

Confirmation and that he is acting merely in virtue of a right specially delegated to him by the Holy See. The sacrament is not to be administered in the presence of heretics or schismatics. If this cannot be avoided, then under no circumstances are they to take part in the ceremony, not even being allowed to hold the Ritual for the priest. Non-Catholics are to be discreetly requested to retire. There should be a table prepared with a white cloth covering; upon it are to be placed a crucifix, lighted candle, holy water and aspersion, a dish with cotton and bread, water and a towel. There should be writing materials for jotting down the necessary data for inclusion in the Confirmation register.

ii. - The sponsor is instructed to place his ungloved right hand on the right shoulder of the one to be confirmed (infant or adult). If Confirmation is the only sacrament conferred, it is recommendable that an aspersion be given first. The anointing with chrism (S.C.) is made in such a manner that the right hand of the minister rests upon the head of the recipient while the actual anointing in the sign of the Cross is being made on the forehead with the right thumb. No instrument may be used in the anointing.⁴² A light blow (*alapa*) is given with the minister's right hand on the left cheek. The priest carefully wipes the chrism from the forehead of the recipient with cotton, cleanses his own thumb with a piece of bread and washes his hands. A clean receptacle is used to bring the bread and cotton and the water used back to the church. The bread and cotton are burned and the ashes, together with the water used, are thrown into the sacrarium.

iii. - This sacrament, which imprints a character, cannot be repeated; but if a prudent doubt arises as to whether it was conferred, or whether the conferral was validly performed, it must be repeated conditionally.⁴³ It seems that a short formula of administration may be used in an emergency, when there is not time for the full ceremony, or when it is given in the case of apparent death conditionally (*si vivis or si es capax*).⁴⁴ Otherwise, the obligation of reciting the prayers preceding the anointing is considered grave, but of giving the blow on the cheek light.

iv. - When other sacraments are to be given, the proper place for Confirmation is following Penance and preceding Viaticum and Extreme Unction. It likewise will precede Matrimony *in extremis*. Confirmation, however, may follow the other sacraments, if, for example, the minister does not have the sacred chrism and must return later with it.

III. RECIPIENT

17. - A. - OUTSIDE THE DANGER OF DEATH. - The ordinary and extraordinary ministers of c. 782 can administer Confirmation to infants and adults

outside as well as within the danger of death, unless the extraordinary minister designated by special indult is restricted.

18. – 1. - *Qualifications for reception.*

a) One who has not received the sacrament of Baptism cannot be validly confirmed; moreover, for the Confirmation to be lawful and fruitful, the recipient must be in the state of grace, and, if he has reached the use of reason, sufficiently instructed.⁴⁵ An implicit habitual intention suffices for adults. The sacrament revives when an obstacle of serious sin impeding its effect is removed.

b) Those to be confirmed should first be properly instructed in the nature, dignity and effects of this sacrament, and the dispositions necessary to receive it worthily.⁴⁶ Those who due to age or lack of intelligence cannot remember or follow the instruction may still be confirmed. Heretics and schismatics may not be confirmed unless they have abjured their errors and been reconciled to the Church.

19. – 2. - *Obligation of reception.* Although this sacrament is not a necessary means of salvation, yet no one is allowed to neglect it when an opportunity to receive it is offered; on the contrary, pastors must take care that the faithful come to be confirmed at a suitable time.⁴⁷ Confirmation must be received before entering the novitiate of religious⁴⁸ or the clerical state,⁴⁹ and, if possible, before marriage.⁵⁰

20. – 3. - *Ask for Confirmation.*

a) In the Latin Church Confirmation should not be conferred until about the seventh year, although it may be conferred sooner if the infant is in danger of death, or if its administration seems to the minister justified for good and serious reasons.⁵¹ No other situations are admitted for the administration of the sacrament at an age earlier than about seven.⁵² On the other hand, the bishop may not forbid the reception of the sacrament before the age of ten years.⁵³ The delay prescribed until the attainment of the use of reason is to provide for proper instruction and more fruitful dispositions.

b) It is preferable that Confirmation be received before First Holy Communion. If First Communion was received before Confirmation could be opportunely received, then frequent reception of Holy Communion may not be prevented.⁵⁴

21. – 4. - *New name.* It is customary for the recipient of Confirmation to receive a new name.⁵⁵ Even when Confirmation immediately follows Baptism, this request for a new name must be granted. The new name is recorded in the proper place in the Confirmation register.

22. - B. - IN DANGER OF DEATH. - The general indult "*Spiritus Sancti munera*" makes Confirmation more available than does canon 782 for those who are in danger of dying without having received it. In addition to the presence of valid baptism, minimum intention and opportune instruction, the recipient of the sacrament in virtue of this indult must possess other requirements.

23. - 1. - *Territory*. To receive Confirmation validly the recipient must be "actually staying in the territory of these ministers" empowered to confirm.

24. - 2. - *Danger of death*. It is also required "that the faithful in question are in true danger of death from grave illness from which it may be foreseen they will die." In practice, the prudent (even though not necessarily certain) judgment of the existence of a real and grave danger of death must be made by the minister⁵⁶ and according to the norms used in Extreme Unction. It has already been noted that the "*Spiritus Sancti munera*," as extended to missionary priests, does not seem to restrict the danger of death to an internal source.

25. - 3. - *Persons*.

a) Both infants and adults are included. "Those to be confirmed who have attained the use of reason require from canon 786, in addition to being in a state of grace, the dispositions and knowledge necessary for receiving this sacrament fruitfully. It is for the minister, therefore, to give the necessary instruction to sick people according to their capabilities, and to arouse in them an adequate intention of receiving this sacrament for the strengthening of their souls. If later they are restored to health, those whose duty it is must provide opportune instructions for them in the mysteries of the faith, and on the nature and effects of this sacrament."

b) Since both "*Spiritus Sancti munera*" and the terms of its extension to missionary priests speak only of the "faithful" as the recipients of this benefit, Confirmation may not be validly conferred on heretics or schismatics before they are reconciled to the Church. Some commentators hold that such an administration would be valid but gravely unlawful. It seems that an infant of non-Catholic parents, who is being lawfully baptized in danger of death when there seems to be no possibility of survival, may be confirmed, if scandal is avoided.⁵⁷

IV. SPONSORS

26. - A. - *NORM*.

The ancient custom of the Church requires that, if it is possible to obtain one, a sponsor should be used at this sacrament, as at Baptism.⁵⁸

It is more generally taught that the obligation to have a sponsor is grave,⁵⁹ although less serious than in Baptism. The condition of a dying person would easily render the obligation light or impossible. The sponsor shall stand for only one or two persons, unless the minister for just reasons decided otherwise; moreover, each person being confirmed should have only one sponsor.⁶⁰

27. — B. - REQUIREMENTS.

1. - *Validity.*⁶¹ For one to be capable of acting as sponsor:

a) He must himself be confirmed, have attained the use of reason, and have the intention of acting as sponsor.

b) He must not belong to any heretical or schismatical sect, nor be excommunicated by a condemnatory or declaratory sentence, nor infamous by law, nor excluded from legitimate acts, nor be a deposed or degraded cleric.

c) He must not be the father, mother or spouse of the person to be confirmed.

d) He must be designated by the person to be confirmed, or by the latter's parents or guardians, or if these are absent or decline to act, by the minister or the pastor.

e) He must himself or through a proxy physically touch the person being confirmed in the very act of confirmation. He places his ungloved right hand on the right shoulder of the person confirmed.⁶²

f) A bishop, to act as sponsor, must designate a proxy for the act of touching the one confirmed.⁶³ A priest conferring this sacrament is not allowed to act also, even through a proxy, as sponsor of the recipient of his administration.⁶⁴

2. - *Lawfulness.*⁶⁵ For one to be worthy of acting as sponsor:

a) He must be a different person from the sponsor of baptism, unless in the judgment of the minister there is a reasonable cause to the contrary, or unless Confirmation is legitimately conferred immediately after baptism.

b) He must be of the same sex as the person to be confirmed, unless in particular cases the minister for a reasonable cause judges otherwise.

c) He must not be (without being sentenced) excommunicated for any notorious crime, nor excluded from legitimate acts nor infamous by law, nor under interdict or otherwise publicly criminal or infamous in fact.

d) He must know the rudiments of the faith.

e) He must not be a novice or professed religious in any institute, unless it is a case of necessity and the express permission of at least the local superior is obtained.

f) He must not be in sacred orders, except with the express permission of his proper Ordinary.

28. - C. - OBLIGATIONS. - "Valid Confirmation gives rise to a spiritual relationship between sponsor and the confirmed, binding the sponsor to regard the confirmed as permanently committed to his care and to safeguard his Christian education.⁶⁰ This spiritual relationship is no longer an impediment to marriage."⁶⁷

29. V. TIME AND PLACE

This sacrament can be conferred at any time, although Pentecost week is most fitting; it may also be conferred within the Mass when convenient.⁶⁸ Although the appropriate place is a church, it may be conferred in any other worthy place, for a just and reasonable cause in the judgment of the minister,⁶⁹ e.g., in the danger of death. In his diocese the bishop has the right to confirm even in exempt places, including the churches of regulars.⁷⁰

CONFIRMATION

¹ Called ἡ βεβαίωσις confirmation; τὸ χρίσμα chrism; τὸ μύρον anointment; ἡ σφραγίς sealing; ἡ χειροθεσία imposition of hands.

² *Catechism of the Council of Trent.*

³ St. Thomas, *IV Cont. Gent.*, c. 60. He also calls it the sacrament of the fullness of graces, and of the perfect age of the spiritual life. Cf. *Summa Theol.*, III, q. 72, a. 1.

⁴ Trent, Denz. 871; cf. also Denz. 465; 697; 871; 2044.

⁵ Trent, Denz. 852; cf. Denz. 695.

⁶ c. 787.

⁷ *Ibid.*, S. C. Sac. 14 Sept. 1946, *Decretum "Spiritus Sancti munera,"* n. 2.

⁸ cc. 780; 781.

⁹ Florence, Denz. 697.

¹⁰ Cf. cc. 734; 781.

¹¹ S. C. Sac. 20 maii 1934; "*Spiritus Sancti munera*," n. 25.

¹² S. C. Rit. 7 mai 1853.

¹³ c. 781; S. Off. 14 ian. 1885.

¹⁴ S. Off. 17 apr. 1872; 22 mart. 1892.

¹⁵ Trent, Denz. 873; c. 782, 1.

¹⁶ c. 783.

¹⁷ c. 785, 1.

¹⁸ *Ibid.*, 3.

¹⁹ *Ibid.*; Cf. also 343, 1.

²⁰ c. 782, 2.

²¹ *Ibid.*, 3.

²² *Ibid.*, 4.

²³ *Ibid.*, 5.

²⁴ c. 2365.

²⁵ S. C. Sac. *Decretum, De Confirmatione Administranda iis, qui ex Gravi Morbo in Mortis Periculo sunt constituti.*

²⁶ c. 471.

²⁷ c. 472, 1^o.

²⁸ cc. 476, 8; 1427; 1428.

²⁹ S.C.P.F. 18 dec. 1947.

³⁰ S. C. Sac. 18 nov. 1948; Paul VI, motu proprio, *Pastorale Munus*, I Fac. 12, 30 nov. 1963.

³¹ *Ibid.*, 30 dec. 1946.

³² *Ibid.*, 2 ian. 1947.

³³ Some commentators on the Indult of S.C.P.F., 18 dec. 1947, hold that the missionary enjoys the faculty throughout the entire mission territory of the local Ordinary.

³⁴ Cf. n. 29 above.

³⁵ The text itself, in contrast to the title of the Propaganda decree, merely states "*in mortis periculo constitutis*," thereby leading many commentators to affirm a wider faculty for mission conditions.

³⁶ S.C.E.O. 1 maii 1948.

³⁷ c. 785, 1-2.

³⁸ c. 468, 1.

³⁹ Cf. c. 798.

⁴⁰ Cf. c. 470, 2. The Latin statement to be inscribed is: *Confirmatio collata est ex Apostolico indulto, urgente mortis periculo ob gravem confirmati morbum.*"

⁴¹ The text is found in *Rituale Romanum* (1947), Appendix de Confirmatione, p. 359; *Collectio Rituum* (1954) Tit. II, p. 35; *Priest's Ritual* (1962), p. 176; *Practical Handbook of Rites, Blessings and Prayers* (1961), Part One, Section IV, p. 133.

⁴² c. 781, 2.

⁴³ c. 732. There is an obligation to reconfirm conditionally, if there is a question of promotion to sacred orders. (S. Off. 2 iun. 1827.)

⁴⁴ S. Off. 10 apr. 1958 (private) to the bishop of Norwich, Conn.: "Utrum in casu verae necessitatis in Confirmatione administranda a simplici Sacerdote iis qui ex gravi morbo in mortis periculo constituti sunt, licite et valide adhiberi possit formula brevissima: "N. Signo Cru \times cis (quod dum dicit, imposita manu dextera super caput confirmandi, producit pollice signum crucis in fronte illius, deinde prosequitur) et confirmo te chrismate salutis. In nomine Pa \times tris et Fi \times lii et Spiritus \times Sancti. Amen." "Affirmative." Cf. *Practical Handbook*, loc. cit., p. 137.

⁴⁵ c. 786.

⁴⁶ *Rit. Rom.*, Appendix de Confirmatione, II, n. 7.

⁴⁷ c. 787.

⁴⁸ c. 544, 1.

⁴⁹ cc. 974, 1, 1 $^{\circ}$; 993, 1 $^{\circ}$.

⁵⁰ c. 1021, 2.

⁵¹ c. 788.

⁵² PCI 16 iun. 1931. Contrary customs are sometimes tolerated for a time, but there is to be instruction given and effort made to bring about normal conditions.

⁵³ PCI 26 mart. 1952. The custom of delaying Confirmation until

twelve or fourteen years is not approved by the Church. (S. C. Sac. 30 iun. 1932).

⁵⁴ S. C. Sac. 30 iun. 1932; cf. also 20 maii 1934.

⁵⁵ S. C. Rit. 20 sept. 1749, ad 7. A name which is indecent or unfitting a Christian should be changed in Confirmation. (S.C.P.F. 4 mai 1774)

⁵⁶ Cf. S. C. Sac. 6 mart. 1947.

⁵⁷ Cf. cc. 750; 751.

⁵⁸ c. 793.

⁵⁹ Cf. S. Off. 5 sept. 1877.

⁶⁰ c. 794. The practice of using one man as sponsor for all the boys confirmed and a woman for all the girls is contrary to this canon. (Cf. S.C.C. 12 iul. 1823) Nor can one and the same sponsor stand for all. (S. Off. 16 iun. 1884.)

⁶¹ c. 795.

⁶² "*Spiritus Sancti munera*"; S.C.R. 20 sept. 1749; S. Off. 11 dec. 1850 ad 13.

⁶³ S. C. Rit. 14 iul. 1873 ad III.

⁶⁴ S.C.P.F. 21 sept. 1843. This is most likely true of the ministers of "*Spiritus Sancti munera*".

⁶⁵ c. 796. A custom of the baptismal sponsor also acting as sponsor in Confirmation should be removed (S.C.C. 16 feb. 1884); sponsors under fourteen years should not be allowed. (S. C. Rit. 23 aug. 1713)

⁶⁶ c. 797. Cf. *Pontificale Romanum*, Tit. *de Confirmatione*, on the instruction of children for Confirmation.

⁶⁷ c. 1079.

⁶⁸ c. 790; Paul VI, motu proprio, *Sacram Liturgiam*, 25 ian. 1964.

⁶⁹ c. 791.

⁷⁰ c. 792; S. Off. 16 iun. 1884.

IV

The Administration
of
Holy Eucharist

THE ADMINISTRATION OF HOLY EUCHARIST

THE EUCHARIST AS SACRAMENT

I. NOTION

1. - A. - NOMINAL DEFINITION.

1. - The word "eucharist comes from the Greek εὐχαριστεῖν signifying "to give thanks,"¹ which thanks are due because of the great benefit, the good grace (derived also from the same Greek root), which it confers, containing as it does the Author of grace. In its daily consecration thanksgiving is offered to God for benefits received and for the very institution of the sacrament itself. Many other terms have also been used in Scripture and in Tradition to refer to the divine sacrament and sacrifice.²

2. - "This sacrament has a threefold significance: one with regard to the past inasmuch as it is commemorative of Our Lord's Passion, which was a true sacrifice . . . , and in this respect it is called a *sacrifice*. With regard to the present it has another meaning, that of ecclesiastical unity in which men are aggregated through this sacrament; and in this respect it is called *communion* or σύναξις . For Damascene says that 'it is called communion because we communicate with Christ through it, both because we partake of His flesh and Godhead, and because we communicate with and are united to one another through it.' With regard to the future it has a third meaning, inasmuch as this sacrament foreshadows the divine fruition, which shall come to pass in heaven; and according to this it is called *viaticum* because it supplies the way of reaching there. . . . It is termed a *host* inasmuch as it contains Christ who is 'a host . . . of sweetness.'"³

2. - B. - REAL DEFINITION.

1. - The Eucharist is a sacrament of the New Law instituted by Christ (genus) in which under the consecrated species of bread and wine (sensible sign) the Body and Blood of Christ (effect and sign) is truly,

really and substantially contained, for the purpose of producing grace after the manner of a spiritual nourishment (proper effect). Thus this sacrament consists of something permanent from the moment of its consecration, the Real Presence.⁴

2. - It is of faith that the whole and entire Christ is permanently contained under each species and in every part (at least that which is sensible, however small) separated from either species.⁵ Thus, in every reception of the sacrament⁶ the following *effects* may be received: 1) an increase in sanctifying or common or second grace, since the Eucharist is a sacrament of the living; 2) the special grace of this sacrament or sacramental grace, which consists in a spiritual nourishment through union with Christ and His members, thus accomplishing in the spiritual life what material nourishment or food and drink effects in bodily life, namely, by sustaining, augmenting, repairing, delighting it; 3) a rich endowment of actual graces and a weakening of concupiscence and the inclination to sin even when habits have been formed; 4) the remission of venial sins and restoration of spiritual strength through the stirring up of charity in this sacrament whereby there is also a preservation from mortal sins and all future sins; 5) a remission of the temporal punishment due to sin, not in whole but in part, according to the devotion and fervor of the recipient of the sacrament; 6) a pledge of future glory or consummated union with Christ in the beatific vision; 7) the remission of mortal sins or the conferral of first grace, as an accidental effect of the sacrament and under the usual conditions.⁷

II. MATTER

It is of faith that the (remote) matter of the sacrament of the Eucharist is wheaten bread and wine of the grape-vine⁸ and not any substitute materials.

A. - BREAD.

3. — 1. - *validity*. The bread must be made from wheat, mixed with natural water, baked by the application of fire heat (including electric cooking) and substantially uncorrupted.⁹ The variety of the wheat or the region of its origin does not affect its validity, but bread made from any other grain is invalid matter. Bread made with milk, wine, oil, etc., either entirely or in a notable part, is invalid matter. Any natural water suffices for validity, e.g., even mineral water or sea water. The addition of a condiment, such as salt or sugar, is unlawful but valid, unless added in a notable quantity. Unbaked dough or dough fried in butter or cooked in water is invalid matter; likewise bread which is corrupted substantially, but not if it has merely begun to corrupt. Therefore, the valid

matter of this sacrament must be in the common estimation of men bread made from wheat and not mixed notably with something else so that it is no longer wheat.¹⁰ Those who make altar breads must be satisfied that they have purchased genuine and pure wheat flour.

4. - 2. - *lawfulness.*

a) The bread must be of wheat *flour* and only in case of necessity a white material thrashed or crushed from wheat.¹¹ It must be unmixed with any other substance besides wheat flour and water. It is gravely unlawful to consecrate with doubtful matter. Altar breads must be fresh or recently baked and must not be allowed to get mouldy, which condition varies with regions, climates, etc. Normally the hosts should be renewed frequently,¹² at least every fortnight; to use a host more than a month old is generally unlawful, slightly or gravely depending upon the delay in renewal. No more hosts should be consecrated than can be consumed in suitable time. Breads should be clean and unbroken. To use a soiled or broken or disfigured host is venially or mortally sinful depending upon the extent the host is affected or the scandal that may arise.

b) In the Oriental Church the minister is gravely bound to use leavened bread (except the Armenians and Maronites who use unleavened bread); Latin priests must use only unleavened bread.¹³ A Latin may use leavened bread in the sole case of completing a eucharistic sacrifice already begun; it is probable also that he is justified in an urgent case of Viaticum.¹⁴ Hosts must be round in shape in the Latin rite; in most Oriental rites they are square for the large host and triangular for the small breads. The large host usually carries on it the impression of the image of the Crucified.¹⁵ Hosts for the Sacrifice of the Mass should be larger than those for the communion of the faithful. If no large host is available, the celebrant may proceed with a small host, even in a Mass of private devotion, as long as no scandal is given. This procedure would be obligatory when there was need to consecrate for Viaticum or in order that people hear Mass on a day of precept.

B. - WINE.

5. - 1. - *validity.* To be valid matter wine must be made from ripe grapes of the vine and not substantially corrupted;¹⁶ it cannot come from any other fruits or from unripe grapes or from the stems and skins of the grapes after all the juice has been pressed out. In regions where fresh grapes cannot be obtained, it is lawful to use raisin wine, i.e., wine made by adding water to raisins.¹⁷ Wine from which all alcohol has been removed or which on the other hand has more than 20% alcohol or to which foreign ingredients (e.g., water) have been added in equal or

greater quantities is invalid matter. Wine is likewise invalid which has turned to acid or which is not natural but has been manufactured by some chemical process, i.e., by mixing the constituents found in wine so that the product resembles wine. Wine must be in a potable state, and thus if it is congealed (although most probably valid), it must be melted. The color, strength or origin of wine does not affect its validity.

6. – 2. - *lawfulness.*

a) It is gravely unlawful to use doubtful matter and thus it is unlawful to consecrate wine which is just beginning to turn sour or to corrupt. Wine must be naturally fermented and the use of "must" (unfermented grape juice) is gravely unlawful. To be lawful wine must be pure, free from the lees, diseases and foreign ingredients. No addition may be made to wine except where the Holy Office¹⁸ or theologians allow it, or where the addition is very small and a just reason permits it. Lawful wine may not contain more than 18% alcohol (obtained from the grape); wines which would not ordinarily ferment beyond 12% alcohol cannot be fortified beyond this limit.¹⁹ The Holy Office and the Sacred Congregation of the Sacraments have been insistent that sacramental or Mass wine come from sources beyond suspicion, since there are many ways in which wines can be vitiated or adulterated, many methods which are actually used in this country to preserve, age, ameliorate wines. Wine should never be purchased at a wine store but only from reputable vendors of Mass wine with episcopal endorsement.

b) It is a grave precept which requires that a very small portion of water be mixed with the wine when about to be used in the Holy Sacrifice.²⁰ This is not necessary by reason of the sacrament but by ecclesiastical precept in order to signify that both water and blood issued from the side of the crucified Savior.²¹ This is to be done by the celebrating priest (or by the subdeacon at a solemn Mass) at the prescribed time and before the Offertory. If the minister has forgotten to add the water, he should do so even after the Offertory but never after the Consecration. If no water is available to mix with the wine to be consecrated at the Mass, theologians teach that a Mass is not to be celebrated or interrupted, if begun, even though Viaticum is needed or the fulfilment of a precept (excepting proportionate scandal). The quantity to be added is usually three to ten drops. Priests should avoid too great concern over the exact number of drops. Even a single drop, as long as it is sensible, satisfies the precept; even one fifth water (or one fourth if the wine is stronger) is not unlawful, although an excess of one third the amount of wine renders the latter invalid or truly doubtful. If the quantity of water added appears to be more than lawful, the minister should add more wine or take fresh wine and add the correct amount of water.

III. FORM

7. - A. - WORDS.

The form of consecration of the bread is: "*Hoc est enim corpus meum,*" of the wine: "*Hic est enim calix sanguinis mei, novi et aeterni testamenti, mysterium fidei; qui pro vobis et pro multis effundetur in remissionem peccatorum.*"²² The word "*enim*" does not pertain to validity and its omission is a venial sin. The words which precede these formulas, viz., "*Qui pridie . . .*" "*Simili modo . . .*" in no way pertain to the form. It is commonly taught today that the essential words of the form of the Eucharist—and their omission would invalidate the form—are: "*Hoc est corpus meum*" "*Hic est calix sanguinis mei*" (or "*Hic est sanguis meus*"). Some hold that the remaining words "*novi et . . .*" are essential. In practice it is gravely prescribed to pronounce the entire form; if any of the words from "*novi et*" on are omitted, the whole form is to be repeated conditionally.

8. - B. - MANNER OF RECITATION.

The dignity of this sacrament wherein the priest speaks in the person of Christ Himself requires that the words of consecration be spoken with the greatest care and reverence.²³ At the same time they are to be said in a truly and normally human manner, without scruples, as one speaks important words. The priest should not interrupt the pronouncing of the form nor repeat it nor bob his head or move his body during its recitation; he would then represent Christ in a ridiculous manner and expose this most sacred action to becoming a distraction to others or even displeasing.

9. - C. - REPETITION. - There is a duty to repeat the form only in a case of a serious and well-founded and not scrupulous doubt. Repetition without a just reason is in itself a serious sin, although a perplexed conscience may excuse. The minister should not be disturbed if he cannot recall having said or said correctly the words required for consecration. If the omission of some essential part is certain or doubtful, the form should be repeated absolutely or conditionally. If awareness of the omission occurs at the consecration, the form alone is repeated; if later in the course of the Mass, the repetition begins with the "*Qui pridie*" or with the "*Simili modo*" in the case of the form of the wine alone.²⁴

IV. UNION OF MATTER AND FORM

A. - VALIDITY.

10. - 1. - *physical presence.*

a) The matter for the Holy Sacrifice, which is also the confection of the sacrament, must be physically and morally present to the celebrant

or minister who unites the matter with the form. This sacrament requires the maximum of presence and simultaneity of matter with form, so that the words "*hoc*" and "*hic*" truly signify and are demonstrable. Thus, matter which is on the corporal is present to the consecrator. It is not necessary that he see it, e.g., in a covered chalice or ciborium or in a group of hosts, but it is sufficient that the matter can be seen or touched in itself or in its container. A blind priest or one celebrating in darkness acts validly as long as he is morally certain of the presence of the matter.

b) Hosts located behind the altar or behind the priest, those locked in a tabernacle, those which are too far removed from the celebrant so as not to be designated by "*hoc*" but by "*illud*," e.g., more than fifty to a hundred feet away,²⁵ or matter so small that it cannot be sensibly perceived, are not validly consecrated because not present. Hosts lying beneath the corporal or the altar cloth or the chalice, or behind the Missal, are doubtfully present. To leave the ciborium covered at the consecration is a venial sin, but it is validly consecrated. It is unnecessary and unbecoming to come so close to the bread that breath covers the host or so fills the chalice that the wine is, as it were, buffeted with the sound of words.

11. — 2. - *definite intention.*

a) The matter to be consecrated must be definitely intended by the minister, since by intention the form determines the matter. Thus the matter—and the question in practice offers some difficulty mostly in respect to the hosts—must be determined or properly designated by the minister's intention. Although an actual intention is preferred, at least a *virtual* intention is required, which intention must be to consecrate the matter or at least to do what the Church does. If there is matter to be consecrated or which is consecratable on the altar, but its presence is unknown to the celebrant, *by that very fact* it is not consecrated, since the intention of the minister must in some sufficient way designate or include the matter that is to be consecrated. The rubrics of the Missal gravely oblige the minister to consecrate on the corporal. Thus it would be a grave sin for him *knowingly* to consecrate matter that was off the corporal.

b) Question concerning the validity of a consecration arises when matter has been placed on the altar and *off* the corporal by the minister or by another (with his knowledge) to which fact at the time of consecration he does not advert, or which is present on the altar but unknown to the celebrant. If his general or prevailing intention is to consecrate only apt matter which is *on* the corporal, the consecration is invalid. But, if the general or prevailing intention of the minister is to consecrate all consecratable matter (or apt matter to be consecrated) and which is on the altar, the matter is validly consecrated. Such an intention conforms

to the rubric: "... and so every priest ought always to have such an intention, namely, of consecrating all those (hosts) which he has placed before him on the corporal to be consecrated."²⁰ The celebrant does not intend, contrary to rubrical prescription, to place or to leave matter off the corporal, since he is habitually prepared to act in conformity with the rubrics, but, in order to provide for the incidence of inadvertence or ignorance with respect to matter factually off the corporal at the moment of consecration, his general or prevailing intention includes such matter for consecration. The extent to which he understands matter to be included in his intention, i.e., the meaning which the words "*hoc*" and "*hic*" has for him in order to include all circumstances, can be determined by him once and for all, e.g., at the time of ordination, although it is recommended that this understanding in his own mind be renewed from time to time. On the other hand, his will to consecrate at any particular moment must be actual or at least virtual; unless changed, this will must be considered to be in conformity with his general or prevailing understanding of the terms of the intention.²⁷ Every priest is urged in the beginning of his priesthood to form a clear intention regarding consecrating the sacred species and to recall it to mind in order to keep it fresh and to avoid anxiety and the danger of doubtful matter.

c) By his intention the minister is considered to will (at least implicitly) to consecrate all that is before him, and thus he consecrates an unknown quantity of hosts in a ciborium or pyx or on the corporal or in his hands, e.g., if at the Communion he should notice that there have been two large hosts stuck together. Small particles remaining in the ciborium or pyx or on the corporal are considered to have been consecrated. Drops of wine adhering to the outside of the chalice are not considered to have been consecrated. The rubrics direct that the interior surface of the chalice cup be wiped after the wine and water have been poured in for the Sacrifice. Drops or a film of wine which sometimes nevertheless adhere to the sides of the cup are to be considered in practice to have been consecrated, since the intention of the minister is to consecrate all consecratable matter in the chalice.

d) Hosts which are doubtfully consecrated must not be administered to the faithful but rather reserved in the tabernacle and conditionally consecrated at another Mass; if they are few in number, they may be consumed at the same Mass but after the Sacred Blood has been consumed. Hosts which are to be consecrated are to be placed on the corporal at the beginning of Mass, or at least before the Offertory. If for some reason they are brought out shortly after the Offertory, they are to be offered mentally. A grave reason is required if this takes place after the Preface has begun and a very grave reason after the Canon has begun. If one or another person would be deprived for some time of Holy Com-

munion, a small particle from the large Mass host may be given. Under no circumstance may hosts be consecrated after the Mass host has been consecrated.

e) Fragments of the Mass host must be consumed immediately before or after the ablution, according as when they are detected. Discovered before the priest has unvested in the sacristy, they should be consumed and the paten purified; discovered after he unvests, he should place them in the tabernacle or leave them to be consumed by another celebrant on that day. If neither method is possible, the priest must consume them. The same norms apply to fragments discovered from other than his own sacrifice, but a complete consecrated host should always be placed in the tabernacle, unless a very grave reason permits its consumption. A ciborium that is to be purified may be taken care of by the celebrant even after he has taken the ablutions.

f) If consecrated hosts should become mixed with unconsecrated ones, the priest should consecrate the latter at a subsequent Mass and before being distributed to the faithful, either by consecrating the whole amount conditionally, or absolutely only those not consecrated. The same procedure is to be followed if a quantity of unconsecrated wine is added to render the Real Presence doubtful.

12. — B. - LAWFULNESS.

1. - It is gravely required for lawfulness that the matter be *on the stone*, i.e., present for consecration either on a consecrated altar or upon an altar stone. If the altar stone is unfortunately too small for both the chalice and a ciborium to rest on, the chalice at least should be partly on it. However, it suffices that both sacred vessels be on the corporal which is spread over the stone and thus making a moral unity with it. It would moreover be a grave sin to consecrate except *on a blessed corporal*.²⁹ All the matter to be consecrated must be on the *same corporal*; the small hosts (or the large host for exposition or benediction) must be on the same corporal, either in a ciborium or pyx, on the paten or on the corporal itself. (At the time of celebration the host is held in the hands of the celebrant but over the corporal). It is prescribed, but not gravely, that a ciborium or pyx be uncovered at the time of consecration.

2. - Even in a case of extreme necessity it is never allowed to consecrate except *within the Mass*.²⁹ A consecration which is not accompanied by the principal parts of the Mass is probably invalid. A consecration of one species alone is likewise gravely forbidden.³⁰ To consecrate one species without the intention to consecrate the other renders the consecration doubtful. If, however, the intention to consecrate the other does exist, the consecration is valid. This is allowed for the completion of

the Sacrifice of the Mass when it is discovered between the consecration of the wine and the celebrating priest's communion that the bread and wine just consecrated was not valid matter.³¹

V. MINISTER

13. - A. - CONSECRATION.

The minister of the consecration of this sacrament is he who is capable of confecting this sacrament validly and lawfully. It is of faith that every priest and only a priest is the minister of the consecration of the Eucharist.³² Even heretical and schismatic priests validly consecrate. All co-consecrators at an ordination Mass or episcopal consecration Mass validly consecrate, even if one accidentally finishes the form sooner than the others, the recitation being considered morally simultaneous.

B. - DISTRIBUTION.

14. - 1. - *ordinary*.

a) It is certain teaching that the priest alone is the ordinary minister of Holy Communion.³³ However, any priest may distribute Communion during Mass, and if he celebrates Mass privately (i.e., a low non-conventual Mass), also immediately before or immediately after Mass,³⁴ which he celebrates. Before Mass means after the priest has approached the altar for Mass; after Mass signifies before he leaves the altar after Mass. Even outside of Mass every priest has the right to administer Holy Communion with at least the presumed permission of the rector of the church.³⁵

b) A priest with the care of souls has an obligation in justice to distribute Communion to his subjects whenever they reasonably request the same, unless he is lawfully impeded by a proportionate cause. He may fulfill his obligation by the ministration of others. Other priests are bound in charity to minister the Eucharist to the dying, but not in other cases, since necessity is not considered to exist.

c) It is safe teaching in practice which allows a priest (also a deacon) to communicate himself outside of Mass (vested in surplice and stole), even out of devotion, but only in the circumstance that he cannot celebrate, that no other priest is available to administer to him and that all scandal is avoided. A cleric or a layman may also communicate himself in order to avoid profanation of the Sacrament; it is probable that he may do the same when he is in danger of death and no priest is available. In certain sicknesses requiring special skill in the administration

of Viaticum the priest may allow another, e.g., the Sister infirmarian, to administer the Eucharist, using a spoon or other instrument. Communion may be distributed at any Requiem Mass.³⁶

d) The right and duty of carrying Holy Communion publicly to the sick outside the church, even when they are not his parishioners, belongs to the pastor within his parish; other priests can do so only in case of need or with the at least presumed permission of the pastor or local Ordinary.³⁷ To carry Holy Communion *publicly* is to observe the solemnities of the *Ritual*; to carry It *privately* is to wear a stole under the outer garment and to repose the Blessed Sacrament in a pyx which is in a burse suspended by strings from the neck and resting on the breast or in the inner pocket where this is the custom.³⁸ Any priest can carry Holy Communion to the sick privately with at least the presumed permission of the priest to whom the custody of the Blessed Sacrament has been entrusted.³⁹ The priest may wear a hat and use public means of transportation.

e) The pastor has the exclusive right to bring Viaticum both publicly and privately to the sick in his parish, even to those not his parishioners.⁴⁰ Other priests can do this only in the case of need or with the at least presumed permission of the pastor or local Ordinary. The pastor's prerogative is restricted to the first administration of the Eucharist as Viaticum. The superior of a clerical religious house has this right over his own subjects and those staying in his house.⁴¹ To the professed and the novices outside the house he can bring Viaticum privately or with the permission of the pastor publicly. Confessors of nuns with solemn vows enjoy this right, as also do chaplains of lay institutes whose house has been withdrawn by the local Ordinary from the jurisdiction of the pastor.⁴²

15. — 2. - *extraordinary*.

a) By ordination a deacon is the extraordinary minister of Holy Communion but only with permission of the local Ordinary or of the pastor granted by either for a serious reason, but this permission may be presumed in a case of need.⁴³ Apart from necessity a deacon would not be justified in acting without permission. Examples of need are Viaticum for a sick person, the large number of communicants and the insufficiency of priests, etc. The required permission can be granted by the rector of a church, seminary rector, religious superior. Even with priests present a deacon may transfer the Blessed Sacrament from one altar to another.⁴⁴

b) The deacon in administering Holy Communion observes the ceremonies as prescribed for a priest.⁴⁵ He wears the stole in the fashion of a deacon and unless a priest also distributes at the same time he gives his blessing with his hand at the end of the ceremony as prescribed.⁴⁶ Unlike inferior clerics the deacon, although sinning gravely, does not incur an irregularity if he acts without permission.

16.-3.-manner. The norms laid down in the *Ritual* for distributing Communion during Mass and outside of Mass, to the sick and to the dying, are to be observed by all.⁴⁷ In distribution outside of Mass the versicles "*Domine exaudi*" etc., and "*Dominus vobiscum*" etc., with the proper prayer, are of precept.⁴⁸ It is forbidden (in order to avoid false devotion) to give more than one particle to the same communicant or a larger host, whether out of devotion or any other reason.⁴⁹ A reasonable cause will excuse, e.g., if the priest cannot easily consume all the hosts that remain. If there are not enough hosts for the number of communicants, it is permissible to break each one into two or three parts.⁵⁰ Smaller divisions would be too small for sensible retention for the stomach. Particles which are left over should be consumed by the celebrant before the ablutions, if this can be easily done, or brought to another tabernacle, if they could not be otherwise consumed by celebrant or communicants. Holy Communion is to be distributed under the appearance of leavened or unleavened bread as the celebrant's rite requires, except in a case of urgent need and the unavailability of a priest of different rite, but always observing one's proper rite in the act of administration.⁵¹

17. VI. SUBJECT OR RECIPIENT

A. - RIGHT.

1. - Baptism of water alone is the gateway to the other sacraments. Every baptized person who is not restrained by law can and should be admitted to Holy Communion.⁵² It is unlawful to give Communion to a person in whom at least an habitual and implicit intention cannot be presumed, e.g., by his Christian manner of living.

2. - It is more common opinion that the grace of Holy Communion is received when the sacred species is received into the stomach. It is thus necessary to beware that the sacred species does not melt or corrupt in the mouth but is swallowed as soon as possible in order for it to reach the stomach since this sacrament is received after the manner of eating and drinking. If the recipient should die or vomit after the sacred species has been received in the stomach, the grace of the sacrament has been received. It is disputed whether the sacrament continues to confer grace as long as the species remain incorrupt in the stomach, given the fervor of charity in the well disposed recipient, or confers the grace once and for all as a sacrament in the instant of eating or reception into the stomach. It is thus important that especially in its first reception the Holy Eucharist be most fervently received. It is commonly held as a norm that after Communion the Real Presence under the sensible species perdures for one-quarter hour after Communion, although this varies with the different conditions of each stomach.

3. - Although the Eucharist as a sacrifice can benefit others inasmuch as it is offered for their salvation, it cannot, received as a sacrament, benefit others, since it is a food and drink which benefit only the partaker. However, Communion can benefit others as an act of satisfaction made to God for others, as suffrage for them, as quickening of charity which renders one more ready to petition God for others.⁵³

18. - B. - RESTRICTIONS.

1. - By divine law the Holy Eucharist should be withheld from one who in receiving It is likely, from his physical or mental condition, to cause irreverence.⁵⁴ It is unlawful to distribute Holy Communion to those who cannot distinguish ordinary bread from the Sacred Host due to lack of due reverence. Those who have never enjoyed the use of reason, since they are likened to infants, may not be given Communion even as Viaticum. Those who are insane, delirious or unconscious, if they had the use of reason and have lived a Christian life, can be presumed to possess a sufficient intention, but probably there will be danger of irreverence in the actual case. Viaticum can be given to those who in lucid intervals can absorb sufficient instruction to reverence the Real Presence.

2. - Those who are subject to violent or fitful coughing or vomiting may not be given even Viaticum, unless there is a well-founded hope that between the spasms there is no danger of the Sacred Host being emitted. Medical advice on the recipient's condition may be consulted to ascertain whether the Communion will set off another seizure or whether It can be received or retained in the stomach. In danger of death it may be expedient to experiment first with a small amount of solid or liquid food.

3. - The unworthy are to be excluded from receiving Communion, i.e., public sinners such as those who are excommunicated, interdicted, notoriously infamous in law or fact, those living in concubinage or married outside the Church, members of a forbidden Society, those engaged in sinful occupation, unless their repentance and amendment is publicly known and the public scandal caused by them has been previously repaired.⁵⁵ Secret sinners who privately request Communion are to be refused if the priest knows that they have not repented; they may not be refused when they make the request publicly and the priest cannot disregard them without scandal.⁵⁶ Communion is likewise denied to one who clearly intends to dishonor the Sacred Host, even if he is a secret sinner publicly requesting Communion.

4. - No one is permitted to receive the Holy Eucharist if he has already received It on the same day, unless he falls into the danger of death or there is need to prevent irreverence to the sacrament.⁵⁷

C. - DISPOSITIONS OF SOUL.

19. - 1. - *Law.* The Eucharist is a sacrament of the living and thus is lawfully received only by those who are in the state of grace.⁵⁸ No one with a grave sin on his conscience, no matter how contrite he may deem himself to be, is to go to Holy Communion without a previous sacramental confession of his sin; but in a case of urgent need and of the unavailability of a confessor, he is first to make an act of contrition.⁵⁹ For reception of Communion not absolute certainty but a prudent estimation is required that one is free from all serious sin. The obligation of confessing regards mortal sins committed since the last worthy confession. Serious sins for which there was sorrow but which were forgotten in the last confession, or a state of serious doubt whether mortal sin is present or not, do not oblige one to confess before going to Communion, although this is recommended, but renewal of perfect contrition suffices. Even when Communion is lawfully received without confession, the obligation remains of submitting to the keys all grave matter not directly remitted.

20. - 2. - *Necessity.* A need to celebrate or to communicate is present if Mass or Communion cannot be omitted without scandal, defamation of character or injury to another. A serious need to celebrate is e.g.: if Viaticum must be consecrated; if the priest must celebrate Mass for the people on a day of precept, on the occasion of a wedding, funeral, etc.; if he must satisfy an obligation assumed, e.g., a Gregorian series; if he remembers a mortal sin after beginning Mass; if failure to say Mass would cause scandal or loss of reputation; if he must complete the unfinished Sacrifice of another celebrant. The purpose of hearing Mass himself, devotion to a certain feast, the gaining of a stipend, etc., are insufficient causes. A serious need to communicate is, e.g., if the Sacred Species must be protected from profanation by evil persons; if the communicant, already at the altar rail, remembers an unconfessed serious sin or when such a recollection befalls a member of a wedding party just before the ceremony when all are to receive Communion, etc. Devotion, the desire to satisfy one's Easter duty, etc., are not justifying reasons. A daily communicant in a group or in a community may not, when he is conscious of sin and has not already confessed it, make an act of perfect contrition and receive Communion, even though the abstention may cause some wonderment among others. Many reasons can be given—or should at least be understood by others as possible, which easily explain a failure to go to Communion.

21. - 3. - *Freedom.* The Church has sought to provide in schools, seminaries and religious communities a freedom to abstain as well as to communicate.⁶⁰ Opportunity for daily confession, especially before Communion, should be provided. The superior, while showing pleasure at frequent Communion, should likewise indicate no reproach for those who

abstain. Religious constitutions which provide for specified days for Communion are merely directive and not preceptive. Superiors should take care that Communion is not brought to the sick who do not request it. The faithful are to be exhorted to practice daily reception of Communion but with the realization that this is not obligatory. If a term "general" Communion for the people is used, it should be explained that no one is obliged to receive on this occasion. A rigid or quasi-military approach to the altar or insignia worn by the communicants is not to be observed, so that anyone is thus deterred from abstaining freely from the reception of Communion.

22. — 4. - *Lack of confessor.* This refers, not to a lack of choice between confessors or to the absence of one's usual confessor, but to the absence of an approved confessor together with the inability to go to another without great difficulty, e.g., if a priest present were incapable or unwilling to hear the confession, as when the penitent is deaf, an accomplice, etc.; if an absent confessor cannot be reached without great difficulty, which is a relative inconvenience, such as one or two hours journey; if the penitent fears that from confession a serious inconvenience will arise which is *extrinsic* to confession and excuses from material integrity.⁶¹ Any great difficulty or confusion, repugnance or embarrassment caused by confessing one's sins is *intrinsic* to the institution of confession and does not excuse from the obligation. Confession by its nature is not easy and its inconveniences have been made part of the sacrament. Some theologians maintain, and it is safe to hold in practice, that a penitent may be excused from this obligation (as though a confessor were lacking) when the difficulty in confessing to a particular confessor is truly extraordinary and almost insuperable with regard to certain serious sins that must be confessed, e.g., a sister to her brother, a mother to her son, etc.⁶²

23. — 5. - *Priests.* A priest who is conscious of mortal sin, no matter how contrite he may believe himself to be, should not dare to celebrate Mass without first receiving sacramental absolution; but if, lacking a confessor to whom he is obliged to confess and at the same time being bound by necessity to celebrate, he then celebrates after having made an act of perfect contrition, he must go to confession as soon as possible (*quam primum*).⁶³ The obligation of confessing as soon as possible after celebrating Mass is a grave precept⁶⁴ and the time is not left to the arbitrary decision of the priest. It is an obligation distinct from that of confessing before celebrating Mass. The confession must be made *within three days*, even if the priest is not going to celebrate during that time. He is obliged to confess immediately after celebrating if a confessor is then available and it is foreseen that one will not be available later within the three-day period. The priest may not celebrate again without confessing, unless the condition of necessity together with the lack of a confessor still endures. The obligation does not bind a priest who has celebrated sacri-

legiously, either because there was no need to celebrate or because he failed to avail himself of the opportunity of confession or failed to make an act of perfect contrition. The purpose of the obligation—to deter from celebrating—would hardly be realizable in such a case.

24. - D. - BODILY DISPOSITIONS.

1. - Reverence for the sacrament of the Holy Eucharist demands that the recipient of Communion be decently attired according to his means. It is fitting that this attire should, as far as possible, be better than is worn ordinarily. Its suitableness is determined by the practice of good Catholics in the place and by any diocesan regulations that are laid down. Both in and out of the church men are to assist at sacred ceremonies with their heads uncovered, unless the approved usage of the people or particular circumstances require a different practice; women are to assist at them with head covered and dressed modestly, especially when they approach the holy table.⁶⁵ Immodestly dressed women and girls are to be forbidden admission to Holy Communion as unworthy.⁶⁶ To deny the sacrament the attire must be truly and gravely immodest so as to offer scandal to the faithful. Attire which is out of order by defect or excess, but not gravely immodest, is to be called to the attention of the offending party but Communion given. Deacons and priests communicating in the manner of the laity should wear a stole.⁶⁷ It is fitting but not obligatory that the communicant divest himself of the weapons or arms he is wearing.

2. - Cleanliness of body and of attire befits the due reverence for this sacrament. A clean appearance should be presented and any bodily diseases, etc., which are notably disgusting, e.g., leprosy, advanced eczema, etc., as far as possible should be covered or Communion received privately or delayed until later. Marital intercourse when necessary or reasonable, menstruation and involuntary pollution are not obstacles of themselves to the worthy reception of Communion. The eucharistic fast is also a bodily disposition required for reception of Communion.

3. - After reception of the sacred species communicants should spend some time in prayer and thanksgiving to God. They should not engage in distractions during this period, nor immediately eat or drink. After personal prayer and meditation the use of approved prayers, often indulged, is recommendable.

VII. THE EUCHARISTIC FAST

25. - A. - LAW.

The law of the natural fast from midnight, as embodied in canon 858, was extensively revised by the Apostolic Constitution, *Christus Dominus*,

of Pius XII on January 6, 1953 (with its accompanying Instruction of the Holy Office) and further extended by his *Motu Proprio, Sacram Communionem*, of March 19, 1957. Both Apostolic documents regulate the present eucharistic fast and oblige all (both in the Western and Eastern Churches) according to their terms. At the same time the Supreme Pastor of the Christian flock earnestly exhorted "priests and faithful who are able to do so to observe the ancient and venerable form of the eucharistic fast before Mass or Communion" and "all who benefit from these faculties [to] do their best to repay the favor received by more shining examples of Christian living, especially by works of penance and charity."⁶⁸

26. — B. - SUBJECT.

The eucharistic fast legislation binds all the priests and the faithful (i.e., all who are not priests). Those who receive Communion before their seventh year are also bound by this law of the Church. The infirm and those excused are considered below.

27. — C. - EXTENT.

1. - "Priests and faithful, before Holy Mass or Holy Communion respectively, must abstain for three hours from solid foods and alcoholic liquids, for one hour from non-alcoholic liquids. Water does not break the fast. From now on, the fast must be observed for the period of time indicated . . . , even by those who celebrate or receive Holy Communion at midnight or in the first hours of the day."⁶⁹ The three and one hour period for both priests and the faithful whenever receiving Communion must be reckoned exactly. The more common opinion is that the computation of the time must be strictly mathematical and that there is no parvity of matter. One may compute the fast by any time accepted in the place in which one dwells or in which one says Mass or receives Communion, viz., local (true or mean) or legal (regional or extraordinary) time.⁷⁰ A doubtful and not certain violation of the fast may be resolved in one's own favor, provided that there is no responsibility for the doubt because of a failure to ascertain the hour before deliberately eating and drinking in ignorance of the time.

2. - It is more commonly held that there is no parvity of matter in this obligation and that the eucharistic fast is broken even unintentionally. Anything digestible taken into the stomach from the outside in the manner of eating or drinking, and not as saliva, by respiration or by injection, breaks the eucharistic fast.⁷¹ What is solid food is left to the sound and common judgment of human association or the common estimation of prudent men. Solid food, whether hard or soft, is considered to be that which men are said to eat and with respect to the state in which it is when taken into the mouth, e.g., lozenges, pills, etc. Likewise with drink.

It is considered to be that which men are commonly said to drink in the state in which it is taken into the mouth. The drink may be pure or it may be nutritious, i.e., drink into which nutritious materials are mixed, as long as these latter are so dissolved in the fluid material that the whole can be reasonably said to be fluid, and not a fluid material or drink in which are contained small particles of undissolved solid food.⁷²

3. - Alcoholic drinks are those which are everywhere considered to be and are called alcoholic, e.g., wine, beer, whiskey, rum, liqueurs, etc. A drink is alcoholic whether taken by itself or mixed with something else, no matter how small the quantity of alcohol. Medicine is that which is so considered in the sound and common judgment of men. Common consent generally regards medicine prescribed by a physician as true and proper medicine. Other remedies may also be commonly considered to be medicines. In a case of doubt whether a thing is true and proper medicine a sound and prudent judgment, based on solid and positive probability, may be followed. "In fact, where there is a consideration of true and proper medicines, it is no longer necessary to determine their composition. For even if they contain alcohol, as long as they qualify as true and proper medicines in the commonly accepted sense of the word, they may be taken by the sick without any limitation of time whatsoever."⁷³ Regulations for the celebrant and ablutions before a second or third Mass are considered below.⁷⁴

28. - D. - INFIRM.

"The infirm, even though not confined to bed, can take non-alcoholic drink and true and proper medicines, either liquid or solid, without limitation of time, before celebrating Mass or receiving Holy Communion."⁷⁵ Infirmary in the wide sense is the weakening or defect or absence of health and thus is broader than the notion of sickness or disease. In the context of the eucharistic fast the notion of infirmity is based upon the sound and common estimation of men, who in their well-balanced judgment do not regard every indisposition or weakness as infirmity. Infirmary may be serious or light, chronic or acute, passing or enduring, requiring confinement or not, painful or painless, evident or hidden, more or less somatic or psychic, etc. In a case of doubt an indisposition or weakening of strength can be regarded as an infirmity. It suffices that a person of sound judgment and right conscience judges with true and positive probability that the particular case verifies the notion of infirmity.

29. - E. - EXCUSING CAUSES.

1. - In a case of danger (even probable) of death from any cause, whether internally or from without, one may receive Communion (especially as Viaticum) even daily without fasting.⁷⁶ Likewise a priest may

celebrate Mass without fasting when it is necessary to provide Viaticum. It is more praiseworthy, although not obligatory, all things being equal, if the person in danger of death can observe the fast.

2. - One may consume the Blessed Sacrament without fasting when there is need to safeguard It from irreverence or profanation, i.e., by desecrators, by fire or flood, bombs, etc.⁷⁷ Likewise when the celebrant discovers particles remaining after his Mass, or when he has become aware of consuming invalid matter and he must consecrate new matter. If the celebrant after the consecration remembers that he has not been fasting, he must continue with the Communion. If he finds that he is unable to continue after the consecration, even a priest who is not fasting must complete the Sacrifice. It is safely held that, in order to avoid scandal or defamation in a case in which the eucharistic fast is inadvertently broken, a candidate may receive Communion in the Mass accompanying the reception of Orders, a priest may proceed to celebrate his first Mass, and a person at the altar rail or a child before First Communion remembering having broken the fast may receive Communion. A priest who has broken his fast by taking solid food or drink (as distinct from the question of ablutions), may not celebrate a second Mass that day,⁷⁸ or even any Mass if he is not fasting as prescribed. However, it is probable that he may celebrate if this is necessary for the people to satisfy their precept of hearing Mass since usually offense is given to the people and the majority would not assist at Mass elsewhere. It is likewise possible that he may celebrate Mass without fasting even on another day if circumstances so conspire that infamy or scandal or great damage would arise from the omission of the Mass that day, e.g., a funeral or wedding.

VIII. OBLIGATION TO RECEIVE THE EUCHARIST

30. — A. - GENERAL PRECEPT.

1. - The actual reception of the Eucharist is strictly obligatory by a necessity of precept for all who have reached the use of reason.⁷⁹ By divine precept Communion must be received by those who are in danger of or at the moment of death; moreover, the faithful are likewise bound to refresh their souls with this heavenly bread at some times during life. When and how often this precept binds has been left for the Church to determine.

2. - By ecclesiastical precept Communion must be received once a year, at least during Paschaltide⁸⁰ and as often as it is required in order to satisfy another precept, e.g., the reception of Orders. A sacrilegious Communion does not satisfy either the divine or the ecclesiastical precept.⁸¹ The dispositions requisite for receiving Holy Communion are a

right intention and the state of grace.⁸² The faithful are to be exhorted to refresh themselves frequently, even daily, with the Eucharistic bread in accordance with the norms laid down in the decrees of the Apostolic See; and that those who assist at Mass receive Communion not only by a spiritual desire but also by the sacramental reception of the Holy Eucharist.⁸³

31. - B. - FIRST COMMUNION.

1. - The Eucharist should not be administered to children who, because of lack of age, do not have the knowledge or the intention required for the reception of this sacrament.⁸⁴ Children in danger of death are to be given Communion if they are able to distinguish between the Blessed Sacrament and ordinary bread, and if there is no danger of irreverence.⁸⁵ Though the fact may be otherwise in a particular case, it is presumed that a child does not have the requisite knowledge before the age of seven years.⁸⁶ Outside the danger of death a more thorough knowledge of Christian doctrine and a more detailed preparation are demanded, viz., that by which they may, in the degree in which they are capable, know at least the mysteries of the faith the knowledge of which is necessary for salvation and by which, when they approach the Blessed Sacrament, they may possess the devotion that is appropriate to their age.⁸⁷

2. - The obligation of the precept of receiving Communion binding on children under the age of puberty affects also and principally those who are charged with their care, i.e., their parents, guardians, confessors, teachers and pastors.⁸⁸ This is a grave duty. When the child begins to use his reason the pastor has an obligation to see that he is admitted to Holy Communion, and the child is thenceforward obliged to receive It annually. Judgment in this matter belongs in the first place to the child's confessor, then to his parents and guardians. Pastors have the duty to see to it that children receive Communion as soon as possible, but not before they reach the use of reason or before they are properly prepared; if necessary they may assure themselves of this by an examination.⁸⁹ The admission of children to Communion is not a pastoral right, except in the absence of the confessor's decision or when he has a reasonable doubt regarding the child's disposition.

32. - C. - EASTER DUTY.

1. - *obligation.* Everyone of the faithful of both sexes is bound, after he has reached the years of discretion, to receive the sacrament of the Eucharist once a year, at least at Easter, unless perchance with the advice of his own priest, for some justifying reason, he is convinced that he should temporarily abstain from It.⁹⁰ This grave precept of annual Communion remains in force even after the Easter season has closed, but not as the

precept of the Easter duty.⁹¹ The more common reckoning is made from Easter to Easter, although the civil or liturgical year may be used, as long as more than a year in the terms of the Code does not expire. The determination of the Easter season is not to remove the fulfilment of the obligation at another time, but to urge the duty. It is commonly considered that children are bound by this precept only with the beginning of the Easter season which follows upon their attainment of the use of reason. They are bound even before they reach the age of seven if they have been admitted to First Communion because they were judged to possess the required discretion.⁹²

2. - *time*. The common law requires that the Easter Communion be received between Palm Sunday and Low Sunday,⁹³ but an indult for the U.S.A. extends the period for fulfilment from the first Sunday of Lent until Trinity Sunday inclusively.⁹⁴ A person who foresees that he will not be able to communicate during the Easter season is obliged to anticipate the reception only if he will probably pass a whole year without having received Communion. This is in order to satisfy the duty of annual Communion and not the Paschal precept, which does not yet oblige. The sick who have received Viaticum must nevertheless make their Easter duty. The pastor or confessor can declare that in particular circumstances there is a reasonable cause for an individual to defer the fulfilment of the precept for a time,⁹⁵ e.g., when absolution must be deferred until certain conditions are satisfied.

3. - *place*. The faithful are to be persuaded to satisfy their obligation in their own respective parishes; if anyone fulfills it in another parish he is to take care to inform his own pastor of this fact.⁹⁶ This is not an obligation but a counsel regarding the place and the report.

4. - *rite*. All the faithful of every rite are authorized, for the purpose of devotion, to receive the Sacrament in whatever rite it has been consecrated; it is desirable, however, that each one satisfy his Easter duty in his own rite.⁹⁷ The rite must not be schismatical or heretical. Communion may be received under both species even if one's own rite does not so provide.

33. — D. - HOLY VIATICUM.

1. - In danger of death from whatever cause it may arise the faithful are bound by the precept of Holy Communion.⁹⁸ The divine precept begins to bind as soon as there is some certainty of the actual presence of the danger (and not necessarily the imminence) of death; it ceases when the danger passes, even though Viaticum was not received. Viaticum is probably not obligatory if Communion has been received within eight days of the time of the presence of the mortal danger. However,

it is strongly recommended that, even if the dying person received Communion on the same day before he was stricken, he should receive It again but as Holy Viaticum.⁹⁹ During the same danger of death Viaticum, according to the counsel of a prudent confessor, may be and is fittingly administered several times on distinct (and not the same) days,¹⁰⁰ even on successive days.

2. - The administration of Viaticum to the sick should not be postponed too long, and those entrusted with the care of souls (pastors, religious superiors, confessors, parents, etc.) are to be ceaselessly on guard to provide that the sick be refreshed by It while still in full possession of their senses.¹⁰¹ If the danger is not imminent two or three days is not too long. Viaticum is to be given to dying children who can distinguish the Body of Christ from ordinary bread, even if they have not made their First Communion.¹⁰² It is not to be administered to those who are continually subject to vomiting, coughing, etc., unless it is morally certain that the host will not be expelled. It can probably be given to a person who has an artificial esophagus but probably not to one who is fed through a stomach tube. In case of necessity Viaticum may be received in another rite,¹⁰³ but under no circumstances is It to be administered under the species of wine alone.

IX. DISTRIBUTION OF HOLY COMMUNION

34. - A. - PLACE.

The celebrant of Mass is not permitted to distribute Communion to the faithful so distant that he loses sight of the altar,¹⁰⁴ i.e., outside the oratory or place of celebration and not including the obstructions in the place itself. Outside of Mass Communion may be distributed wherever it is permitted to celebrate Mass, even in a private oratory, unless forbidden by the local Ordinary.¹⁰⁵ In private homes the local Ordinary, and the religious Ordinary in his house, may permit distribution to those who are not sick but in an extraordinary and single case,¹⁰⁶ which faculty may be delegated.

35. - B. - TIME.

1. - It is lawful to distribute Communion on all days,¹⁰⁷ but ordinarily only once a day.¹⁰⁸ The Reformed Liturgy of Holy Week provides for the distribution of Communion during the Triduum ante Pascha. Outside of Viaticum,¹⁰⁹ Holy Communion may be distributed only at those hours in which the Sacrifice of the Mass can be offered, unless a reasonable cause warrants otherwise.¹¹⁰ In the afternoon hours Communion may be distributed only at evening Masses, within the Mass and immediately

before or after.¹¹¹ The local Ordinary may also permit distribution of Holy Communion alone in the evening for a just cause.¹¹²

2. - "The proper time for distributing Holy Communion to the faithful is within the Mass, after the Communion of the celebrating priest, who himself distributes It to those who seek It, unless it is appropriate by reason of the great number of communicants that he be helped by another priest or priests. It is altogether improper, however, that Holy Communion be distributed by another priest, outside of the proper time of Communion, at the same altar at which the Mass is being celebrated."¹¹³

36. - C. - MANNER.

When Communion is distributed apart from Mass the priest must dress in surplice and stole of the color of the office of the day, or in a white stole (but not black or purple except the latter on All Souls' Day).¹¹⁴ To distribute Communion without any sacred vestment is a serious sin, without surplice or stole a venial sin, unless necessity excuses. There is a light obligation to use a burse and corporal and to light two candles. Distribution is made with the thumb and first finger of the right hand, unless a reasonable cause in a particular instance should require other fingers. Although valid, it is an abuse and not lawful for another priest to distribute hosts immediately after their consecration and before the celebrant's Communion, except for the gravest causes, e.g., for Viaticum.¹¹⁵

X. CUSTODY OF THE HOLY EUCHARIST

37. - A. - LAWFULNESS.

The Blessed Sacrament has customarily been reserved since ancient times, primarily to provide Viaticum for those in danger of death, but also as an opportunity for the faithful to communicate even outside of Mass and to foster the practice of visits to the Blessed Sacrament enclosed in the tabernacle.¹¹⁶ Two necessary conditions are required for reservation, viz., that there be a person charged with the custody of the tabernacle (even a layman), and that a priest regularly celebrates Mass at least once a week in the sacred place.¹¹⁷ An omission of one or another week for a just cause does not seem to be a violation.

38. - B. - PLACE OF RESERVATION.

1. - Church.

a) The Eucharist must be reserved in a cathedral church or its substitute, in every parish or quasi-parish church, and in a church attached to

a house of religious men or women.¹¹⁸ Subsidiary and not strictly parochial churches are not so obliged but the local Ordinary may grant this permission, where an immemorial custom exists.¹¹⁹ The church or public oratory¹²⁰ of exempt religious whose house is lawfully erected must reserve the Eucharist. The church must serve the religious in their practice of divine worship (whether or not they have possession of the church), or the community must say its obligatory prayers in it, whether it is immediately joined to the religious house or not. Collegiate churches and the principal oratory, whether public or semipublic, of a pious or a religious house or an ecclesiastical college in the charge of either priests or religious may be permitted by the local Ordinary to reserve the Eucharist.¹²¹

b) The Eucharist may be reserved in another place in the same building if there exist groups so distinct from one another as to constitute separate houses of religious or piety.¹²² An Apostolic indult is needed for reservation in other churches or oratories. The local Ordinary can also permit this for a justifying reason and for a given occasion (*per modum actus*), but only for a church or a public oratory,¹²³ which permission may not be granted habitually (*pro semper*) but it may endure for the length of the justifying cause, e.g., during repair work. No one is allowed to keep the Blessed Sacrament in his house or to carry It with him while traveling.¹²⁴ If a serious reason, approved by the local Ordinary, warrants it, it is not forbidden to keep the Blessed Sacrament outside the tabernacle, but only at night and on a corporal in a safe and worthy place with a lamp burning. This is usually a safe in the sacristy, or even some private place if necessary, with all due reverence.¹²⁵

2. - Altar.

a) The Blessed Sacrament cannot be habitually reserved on more than one altar of the same church.¹²⁶ The large host for benediction or the ciborium with small particles for Communion may be reserved at another altar temporarily for these functions on the occasion of some feast or special exercise, provided that they are returned to the proper altar upon completion of the function. In churches of perpetual adoration or where the Forty Hours' Devotion is observed the Eucharist is reserved on two altars, one for adoration and the other for distribution.¹²⁷ The Blessed Sacrament must be reserved in the most prominent and most honorable place in the church and thus generally on the main altar, unless there is another altar more ornate and better suited for veneration and worship, observing also the special liturgical laws for the Triduum ante Pascha.¹²⁸

b) In cathedral, collegiate and conventual churches in which choral functions are held at the main altar, it is preferable, to prevent interference with the ecclesiastical services, that the Blessed Sacrament, as a rule, be reserved not on the main altar but on another,¹²⁹ but sufficient reason will justify the contrary. The rectors of churches are to see to it

that the altar of the Blessed Sacrament is more elaborately decorated in order to excite by its very appearance the piety and devotion of the faithful.¹³⁰

39. — C. - MANNER OF RESERVATION.

1. - *Tabernacle.*

a) The Blessed Sacrament must be kept in an immovable tabernacle set in the middle of the altar. It must be fastened to the altar in such a fashion that it cannot be easily separated from it. Even when a temporary tabernacle is erected, during its actual use it must be fastened to the altar in a manner which excludes danger of desecration. It must be so solidly and safely constructed that danger of sacrilegious profanation may be prevented.¹³¹ A safe made in the form of a tabernacle or a safe inserted in a tabernacle is preferred; in any case the lock must be secure and the door safe. The tabernacle should harmonize with the style of the altar and the church and not depart radically from accepted usage. Liturgical regulations regarding the tabernacle and its careful custody should be observed faithfully in regard to this most noble and holy dwelling place.¹³²

b) No matter how ornate its exterior, the tabernacle should be covered at all times with a white veil or canopy, or one corresponding to the liturgical color of the day, with purple (never black) used for all Masses said in black. The veil may not be transparent or embroidered, etc.¹³³ The tabernacle has a special blessing and thus may not be used as a pedestal for statues, flowers, reliquaries, etc.

c) Consecrated particles in sufficient number for Communion of the sick and the faithful in general are kept in the tabernacle. They are always to be in a clean and blessed pyx or ciborium made of solid and acceptable material, tightly closed with a lid and covered with a white and properly ornamented silk veil.¹³⁴ The lunula for the large benediction Host may be faced with glass provided the Sacred Host does not touch the glass. The container for the lunula is not covered with a white veil.

2. - *Key.* The key to the tabernacle in which the Blessed Sacrament is reserved must be guarded with extreme care, and this is a grave obligation binding the conscience of the priest who has charge of the church.¹³⁵ The Holy See has regulated in detail the manner of custody of this key under various circumstances and in different institutes and chapels.¹³⁶ The local Ordinary is to investigate any sacrilegious theft or profanation, however motivated, and ascertain the culpability of those in charge, even exempt religious.

3. - *Lamp.* The sanctuary lamp symbolizes our faith and love and in accordance with the nature of divine worship there is a destruction of

visible matter. At least one lamp is to burn day and night before the tabernacle in which the Blessed Sacrament is reserved, in which olive oil or bees-wax is to be used; but where olive oil is unobtainable, it is left to the prudence of local Ordinaries to use other oils, preferably vegetable oils.¹³⁷ More lamps are permitted as long as the number is uneven. The glass of the lamp should be transparent, but colored glass, e.g., green or red, is tolerated.¹³⁸ The lamp must burn before the altar and not on it; it may be attached to the ceiling or the wall and be placed either in the middle of the sanctuary or at one side of it. A lighted sanctuary lamp is a grave obligation and many hold that to allow it to remain extinguished for twenty-four hours is a serious sin.

THE EUCHARIST AS SACRIFICE

XI. CELEBRANT

40. — A. — POWER AND OBLIGATION TO CELEBRATE.

1. — It is of faith that only priests have the power by divine institution to offer the Sacrifice of the Mass.¹³⁹ It is not allowed to several priests to concelebrate except in the Mass of sacerdotal ordination or episcopal consecration.¹⁴⁰

2. — By reason of the priesthood itself, all priests are bound by obligation to celebrate Mass several times a year; the bishop and the religious superior, however, are to see to it that they celebrate at least on Sundays and other holydays of obligation.¹⁴¹ This is commonly considered to be a grave duty arising from divine law; the several times, i.e., three or four times a year, is probably of ecclesiastical law, also binding gravely.¹⁴² The present practice of daily celebration of Mass is highly commended; some theologians hold that today, therefore, priests cannot be easily excused from fault who without reasonable cause abstain from daily celebration, since they would seem to depreciate so great a benefit and especially if they would cause scandal or wonderment to the faithful. Should there be an insufficiency of priests in a diocese, the bishop could probably command a priest to offer Mass on Sundays and days of precept so that the faithful could satisfy their obligation.

41. — B. — "CELEBRET" OR APPROVAL TO CELEBRATE.

1. — Letters of recommendation (*litterae commendatitiae seu testimoniales*) refer to the document by which the local Ordinary or the religious

superior testifies to the worthiness of the priest who is his subject and requests the rector of the church to admit him to the celebration of Mass (*celebret*: let him celebrate). A priest who is not attached to the church in which he desires to celebrate Mass shall, unless it is certain that he has in the meantime been guilty of some offense which would require that he be excluded from the celebration of Mass, be permitted to celebrate Mass if he present an authentic and still valid letter of recommendation of his Ordinary, if he is a secular, or his religious superior, if he is a religious, or of the Sacred Congregation for the Oriental Church, if he belongs to an Oriental rite.¹⁴³

2. - If he does not have these letters but it is at once evident to the rector that he is worthy, he can be given permission; but if he is unknown to the rector, he can still receive permission once or twice (i.e., a few times), provided that he be attired in clerical garb, that he receive no recompense on any title from the church for the celebration of Mass and that he set down in a special book his name, office, and diocese. Special rules laid down by the local Ordinary, consistent with the common law, must be observed by all, even by exempt religious except when they celebrate in the churches of their institute.¹⁴⁴ If a visitor's *celebret* is in order, and if he is not proved guilty of an offense, he cannot be refused permission, even by the local Ordinary, or be required to seek approval by the diocesan curia; if he has no *celebret*, he must be allowed the opportunity to celebrate a few times.¹⁴⁵

C. - DISPOSITIONS OF THE CELEBRANT.

42. - 1. - Soul.

a) The priest must be in the state of grace in order to celebrate Mass lawfully, and if he is conscious of mortal sin, he must confess it before offering the Sacrifice.¹⁴⁶ He should also be without irregularities and censures.

b) A priest ought not to fail to prepare himself for the offering of the Eucharistic Sacrifice by devout prayers and after the Sacrifice to give thanks to God for so great a blessing.¹⁴⁷ The remote preparation is the state of grace and a purity of soul which strives to avoid venial sins and the voluntary imperfections which retard the fervor of charity. The proximate preparation consists in the exercises of devotion which dispose the soul for a reverent and fruitful offering of the Sacrifice. There is no obligation to say the preparatory prayers contained in the Missal and other prayers may be said. To omit all preparation without due cause is slightly sinful. The vesting prayers are probably not preceptive, although they should be said; likewise the washing of the hands before and after Mass. It is at least a light sin to omit a thanksgiving after Mass without reason-

able cause because of reverence for the Real Presence.¹⁴⁸ The usual period recommended is a quarter of an hour.

43. - 2. - *Body.*

a) The *eucharistic fast* must be observed by the priest before celebrating Mass; the three and one hour period is to be reckoned from the moment of his Communion in the Mass.¹⁴⁹ "Furthermore, all priests who are going to say Mass twice or three times (in the same day, before or after noon), may in the prior Masses take the two ablutions prescribed by the rubrics of the Missal, but using only water, which, of course, according to the new principle, does not break the fast. But one who celebrates three Masses one after the other on Christmas Day or on All Souls' Day is obliged to observe the rubrics with regard to the ablutions. But if a priest who has to celebrate twice or three times should inadvertently take wine also in the ablution, he is not forbidden to say the second and third Mass.¹⁵⁰ A priest who says two or three Masses, if between one or another there intervenes a space of three hours, not only may but is obliged to take the ablution of wine, as prescribed in the rubrics of the Mass. On Christmas Day or All Souls' Day a priest who through forgetfulness also takes an ablution of wine and yet is not obliged to say the other Masses, may still say these Masses after waiting three hours from that ablution. The local Ordinary may allow priests who celebrate twice or three times to take some liquid, even if the space of one hour does not elapse before the celebration of Mass.^{150a}

b) The priest must be free from every defect of body which impedes the celebration of Mass, e.g., blindness, loss of arm or leg, etc.¹⁵¹ In many cases an Apostolic indult may be obtained.

44. - D. - SERVER TO ASSIST THE CELEBRANT.

1. - *Obligation.*

a) A priest may not celebrate Mass (*ne celebret*) without a minister who serves him and responds.¹⁵² The minister serving the Mass may not be a woman, unless, in the absence of a man and for a just cause, a woman may serve provided that she answers from a distance and does not for any reason approach the altar.¹⁵³ "On account of the dignity of such an august mystery, it is Our earnest desire, as Mother Church has always commanded, that no priest should say Mass unless a server is at hand to answer the prayers, as canon 813 prescribes."¹⁵⁴ In addition to valid privilege and to Apostolic indult, the Holy See¹⁵⁵ has acknowledged the following causes or exceptions as justifying the celebration of Mass without a server: 1) if Viaticum is needed; 2) if Mass must be said so that the faithful may satisfy the precept; 3) if in time of epidemic no server is available and the priest would have to abstain from celebrating for a notable time;

4) if the server leaves the altar during the Mass, even outside the time of the consecration and offertory, in which case the reverence due to the Holy Sacrifice requires that it be continued even in his absence.

b) All agree that the law of a server at Mass binds gravely. Moreover, it is also agreed that, outside of the exceptions mentioned above, this priest must use all moral diligence to secure a server for his Mass. Likewise, rectors of churches and religious superiors responsible for chapels have a duty, within reasonable limits, to provide servers. However, whether in other cases and circumstances, especially in a case of a motive of devotion alone, a priest may celebrate Mass without a server, when it has been found by him morally impossible to secure a server, is not unanimously agreed upon. The majority opinion holds that the exceptions mentioned in the Instruction are taxative or exclusive and that outside of them no other cause justifies proceeding without a server. The minority opinion maintains that the list is only illustrative or offers typical situations or categories and that other cases or circumstances which can be reduced to these justify celebrating without a server, even a motive of devotion which can be for a priest a hardship serious enough to overcome the alternative of abstaining from saying his daily Mass. In the context of serious commentaries at the present time, it is safe in practice, when a server is not available after moral diligence has been exercised to secure one in order to begin Mass, for a priest to celebrate Mass without a server *per modum actus*, i.e., on one or another occasion, but not habitually without an indult.

2. - *Order and number.* In the assistance of the celebrant at Mass a male is preferred to a female and a cleric to a layman. A male, who although unable to respond can perform the other duties, e.g., offer the cruets, change the Missal, etc., is preferred to a female who can respond. In case of necessity or with a just cause a female may be employed, who, however, (even if a religious) makes the responses from a distance and on no account comes to the altar.¹⁵⁶ In the celebration of a low Mass by a simple priest or a prelate inferior to a bishop, a plurality of servers is prohibited.¹⁵⁷ In the celebration of a Mass that is commonly designated as parochial, conventual or for a community, and others that are said with some solemnity by reason of the feast, a plurality of servers may be used.¹⁵⁸ In sung and solemn Masses a plurality is permitted.

XII. CONDITIONS REGARDING THE CELEBRATION OF MASS

45. — A. - PLACE.

1. - Mass must be celebrated on a consecrated altar and in a church or oratory consecrated or blessed according to law.¹⁵⁹ The law binds gravely. It is unlawful to celebrate Mass in the church of heretics or of schismatics, even though it was once properly consecrated or blessed,¹⁶⁰ unless truly

necessary and scandal and danger of perversion are removed.¹⁶¹ When an altar of his own rite is not available, a priest may, using his own rite, celebrate Mass on a consecrated altar of another rite, but not on the *antimensia* of the Greeks,¹⁶² without Apostolic indult.

2. - The privilege of a portable altar (*altare portatile, ara portatilis*) is granted only by law or by Apostolic indult. The local Ordinary may grant priests this faculty to celebrate Mass in a proper and fitting place, but never in a bedroom, occasionally for a just cause and habitually for a graver cause. To those enjoying the privilege of a portable altar the local Ordinary, for a just and serious cause, may grant the use of the *antimensium*. He may also grant permission to celebrate Mass on ship-board.¹⁶³ It is probable that Mass may be celebrated in one's stateroom or cabin, provided that there is nothing unbecoming or irreverent present.

3. - The local Ordinary, or in a case of a house belonging to an exempt religious institute the major superior, can grant permission for the celebration of Mass on a consecrated stone outside a church or oratory in a proper place, but not in a bedroom, provided a just and reasonable cause warrants it in an extraordinary and individual (*per modum actus*) case.¹⁶⁴ It is considered that the cause in the nature of the case is grave and not of normal occurrence, and that it is of temporary duration,¹⁶⁵ e.g., during the foundation of a parish, when there is no normal or adequate place for Mass, etc.

46. - B. - TIME.

1. - The Sacrifice of the Mass can be celebrated on all days except those that are excluded by the priest's own rite.¹⁶⁶ The Reformed Liturgy of Holy Week determines the functions for the Triduum ante Pascha; likewise the Restored Vigil of Easter. A priest may by indult celebrate his own Mass on Holy Thursday.

2. - The beginning of Mass shall not take place earlier than one hour before dawn or later than one hour after noon.¹⁶⁷ All Regulars may in virtue of privilege begin Mass anywhere two hours before dawn and two (and even three) hours after noon; in their own churches also they may, for a just cause, begin Mass two hours after midnight. Visiting priests may be permitted to celebrate Mass in the churches of these Regulars two hours after midnight and two (or three) hours after midday. The local Ordinary, for a just cause and with due observance of the other prescriptions of the law, may allow priests to celebrate Mass at any hour of the day and to distribute Holy Communion in the evening.¹⁶⁸ The regulations of the local Ordinary regarding the times for Mass are to be observed.¹⁶⁹ On Christmas night only the conventual or the parochial Mass can be commenced at midnight, and no other without an Apostolic indult. But in all religious houses and pious homes, if they have an oratory with the right of habitual reservation of the Blessed Eucharist,

on Christmas night one priest can celebrate three Masses of the liturgy or, observing usual regulations, a single Mass, at which all present may satisfy their obligation of hearing Mass and at which the priest may distribute Holy Communion to those who request it.¹⁷⁰ The conventual Mass is to be said after Terce, unless the Superior of the Community for a serious reason judges that it should be said after Sext or None; on the Vigil of Pentecost the conventual Mass is said after None.¹⁷¹

3. - The precept regarding time for celebration of Mass is violated, probably gravely, by a notable violation, at least one hour deviation. The need for Viaticum will excuse from the precept; also a just and reasonable cause (which should be stronger in order to anticipate than to extend the time), e.g., the priest must make an early trip on a day of precept and more probably on others also; workmen, etc., would be without Mass if required to wait until a later hour; a notable number of the faithful would miss Mass, even one of devotion; etc. In the public celebration of Mass noon must be computed according to the time in the locality in common use, but any method of computation may be employed for the private celebration of Mass,¹⁷² local (true or mean) or legal (regional or extraordinary). This latitude is not allowed in reckoning dawn, as this is a natural phenomenon or that period of light preceding the rising of the sun and the latter's arrival on the horizon.

47. - C. - CALENDAR.

1. - The universal calendar is the calendar used by the universal Church, which is prefixed to the Roman Breviary and Missal. A particular or proper calendar is diocesan or religious. It is made up by inserting particular feasts into the universal calendar.¹⁷³ The following have a religious calendar: a) regular Orders, and the nuns and Sisters of those Orders, as well as the Tertiaries associated with them, living in common and making simple vows; b) religious Congregations or Institutes of either sex, of pontifical right, and set up under the government of one general head, if they are bound to the recitation of the Divine Office in any way.¹⁷⁴

2. - Mass is to be said according to the calendar of the church or oratory in which the Mass is celebrated, or of the place, or of the celebrating priest himself, or of the universal Church, as explained in the following way. In a *church* or *public oratory* any priest, whether diocesan or religious, is obliged to celebrate according to the calendar of that church or public oratory; likewise in the *principal semipublic oratory* of a seminary, religious house, college, hospital, and the like. In *secondary oratories* of a seminary, religious house, college, hospital, prison, and the like, any priest may follow either the calendar of that oratory or his own. In *private oratories*, and when he celebrates on a *portable altar* outside

of a sacred place, any priest may follow either the calendar of the place or his own. An oratory definitely established *on a ship* is a public oratory, and the calendar of the universal Church is to be followed in it. When anyone celebrates on a *portable altar* outside of an oratory of this kind, however, he may follow either the calendar of the universal Church or his own calendar. The same holds for one who celebrates lawfully during a journey by air, river or railroad.¹⁷⁵

3. - A priest who celebrates in a church or oratory where a different rite prevails must keep to the calendar of that church or oratory with regard to the feasts and their rank, the commemorations and the imperated collect. As to the order of the Mass, however, he should take the variable parts proper to the rite of that church and keep the ceremonies and the Ordinary of his own rite. Every priest, even if he would otherwise be permitted to follow his own calendar, must celebrate the Mass of feasts of a principal patron of the nation, of the region or province, whether ecclesiastical or civil, of the diocese, of the town or city, as well as the Mass of the anniversary of the dedication of the cathedral church and the Mass of other feasts actually kept as holidays, if there are any such.¹⁷⁶

48. - D. - BINATION OR NUMBER OF MASSES.

1. - With the exception of Christmas and All Souls' Day, on which it is allowed to offer the Eucharistic Sacrifice three times, it is not permitted a priest to celebrate Mass more often than once a day, except with an Apostolic indult or with power granted by the local Ordinary. The same Ordinary may, due to a shortage of priests and for a just cause, allow priests to celebrate Mass twice on weekdays, and even three times on Sundays and holydays of obligation, if genuine pastoral need demands it.¹⁷⁷ Many bishops in the U.S.A. have an Apostolic indult to allow bination on certain other days, e.g., first Fridays, and even to allow trination under certain circumstances.

2. - Bination is not a privilege of convenience or a personal privilege, but it is granted for the benefit of the faithful. The prudent judgment of the necessity (which is made by the local Ordinary but called to his attention by the pastors) is to be based upon a wide interpretation, i.e., it is sufficient that a notable number of the faithful will otherwise not attend Mass. It is also necessary that no priest is *able* and *willing* to say Mass at the hour convenient for the people. A local Ordinary could require one of his own priests to celebrate in order to avoid bination, but not force a visiting priest to do so, even if the latter were saying a Mass in another place in the parish or even in the same church but at an hour inconvenient for the people. In charity and courtesy a visiting priest will be prepared to help in the needs of the place, but he is not strictly obliged;

the pastor is also to accommodate his request, as far as possible, to the convenience of the visitor. The pastor is not obliged at great inconvenience to make this request of another priest. A pastor may not indiscriminately add to his list of Masses or change his schedules if this will require bination which is not based on the cause noted in the law. Permission of the local Ordinary to binate can be presumed in an unexpected situation, e.g., illness of the scheduled celebrant. Any priest who supplies for one who has the faculty to binate may also say a second Mass. The number of faithful who would be deprived of Mass unless a priest binated is commonly judged to be between ten and thirty, but in the variability of actual circumstances the Church leaves it up to the prudent judgment of the local Ordinary and the one who binates, e.g., the need for Viaticum, the need of a community, hospital, school, etc. which would otherwise be without Mass.

3. - Whenever a priest says several Masses on the same day, and has to apply one from a title of justice, he cannot receive another stipend, excepting some compensation for an extrinsic reason.¹⁷⁸ This matter is treated at some length below under Mass stipends.

XIII. APPLICATION OF THE SACRIFICE OF THE MASS

49. — A. - NOTION.

1. - The value of the Mass is the intrinsic power which it enjoys to produce its effects or fruits. In itself the Sacrifice of the Mass has an infinite value and efficacy, since Christ, who is of infinite dignity, is both Priest or principal offerer and the sacrificial Victim. Moreover, being substantially the same sacrifice as that of the Cross, it possesses the same infinite value and sufficiency. Thus any one Mass in itself is capable of truly infinite praise and glorification of God, of thanksgiving and propitiation to Him, of securing from Him the remission of all sins and punishment whatsoever, as well as beseeching all possible goods and inexhaustible benefits. The Mass, of absolutely infinite value in itself, has a capability which is infinite both intensely and extensively, i.e., as regards the degrees of its effects and as regards the number of its effects and the individuals sharing in them. In other words, we cannot assign limits to the efficacy of the Mass either in the number and in the quality of its fruits. It is only in comparison with this essential and proper value and efficacy that the concomitant effectiveness of the impetration, the merit and satisfaction of the Church, of the priest or secondary minister, and of the assisting faithful is to be considered, i.e., inasmuch as the Mass is also man's oblation.

2. - Of the effects which are accomplished by the Mass, the goods and benefits attained or ends and purposes achieved, some of them, viz., the

latreutic or the worship of adoration and the eucharistic or the thanksgiving directly regard God and are infallible and automatic (*ex opere operato*), since, due to the holiness and merits of Christ, this Sacrifice is always and unfailingly pleasing and acceptable to God; the others, viz., the impetratory or the entreaties for spiritual and temporal goods, the propitiatory or the reconciliation with God, and the satisfactory or the remission of sins and their temporal punishment, directly regard man and are the fruits and benefits accruing to man from the Mass.¹⁷⁹ These latter especially are called the *fruits of the Mass* and are received in a limited degree and extent. Creatures are not capable of infinite goods. Moreover, the Mass cannot have greater efficacy regarding man than the Sacrifice of the Cross itself, or the sacraments which derive their power from the Cross. Even though the Sacrifice of the Cross is infinite in itself, it remains limited in its application; otherwise all men would be justified and saved, as likewise one Mass would suffice to save the whole world and eliminate Purgatory. This is the practice of the Church in repeatedly offering Masses to apply both for different persons and also for the same person and for the same benefit. Thus, as with the Sacrifice of the Cross, the Sacrifice of the Mass in the *application* of its effects, in its fruits directed towards man's welfare, depends not only upon the efficacy of the principal cause, Christ, but also upon the dispositions of those for whom entreaty, propitiation or satisfaction are offered.¹⁸⁰ These fruits may also increase as a result of the special prayers of the Church, e.g., in a votive or *requiem* Mass, or because of greater external solemnity, e.g., a high or solemn Mass, or due to additional ways of entering into the offering of the Mass, e.g., by offering an alms or stipend for the application of the Mass and also assisting at the very Mass offered.

3. - The fruits received by man from the Mass are threefold:

a) *general fruits*. These are by their nature ordained to the good of the whole Church, i.e., of all the faithful, living and departed who place no obstacle, and even of others that they might become members of the Church. As the unbloody repetition of the Sacrifice of the Cross the Mass is likewise offered up for all; it is essentially an act of public worship. No special application of the celebrant is required beyond a general intention to celebrate according to the mind of the Church. These fruits are not lessened by the number of individuals sharing in them.

b) *special or ministerial fruits*. These are applied to some person or purpose by the intention of the priest. This is the portion of the fruits of the Mass which is left to the free application or disposal of the celebrant through the intention he formulates. He alone takes the place of Christ and acts in His person in offering the Sacrifice, and thus he alone applies its fruits. The share of each one in these fruits is probably diminished as they are applied to more persons or purposes.

c) *most special fruits*. This is the portion of the fruits which is proper to the priest who offers the Mass and which always accrues to him; likewise, very special fruits are received by those who in some particular way are united with the priest in offering the Sacrifice, e.g., servers, assistants, attendants at Mass, offerers of the bread and wine, etc. The more intimately one shares in the offering of the Mass, the more fully its fruits are enjoyed. It is improbable that the priest can apply his very special fruits to another, and it is unlawful when the Mass is applied in justice.¹⁸¹ The number of persons enjoying these fruits does not lessen them.

4. - The application of the Mass, therefore, is the particular determination or disposition which the celebrant makes of the fruits to be enjoyed from the Holy Sacrifice. The beneficiary derives special impetratory, propitiatory and satisfactory effects, while at the same time adoration and thanksgiving are offered in his name. It is certain teaching that the priest alone has this power by his intention to apply the fruits of the Mass.¹⁸²

50. — B. - INTENTION.

1. - The intention of applying the Mass must be made by the celebrant. It is commonly taught that for validity this intention must be *at least habitual and implicit, absolute or equivalently such*. The intention once made must not be retracted, since the application is made in the manner of a donation or transferral of the fruits, and thus remains valid until revoked. The intention must be made *at least before the consecration*,¹⁸³ since the essence of the Sacrifice is in the consecration of both species. An actual and explicit intention is always preferable; in practice a priest should always formulate his intention before beginning Mass (although he may do so some time in advance), so that all the prayers of the Mass benefit the person or purpose for which the Mass is to be applied. The intention once made must not be retracted before the consecration is completed, if it is to retain its validity and effectiveness.

2. - The intention must be absolute and cannot be conditioned on a future event, since the intention is thereby suspended and the Mass is not offered for that intention. Thus, a Mass cannot be said under the condition that someone will later request a Mass (a stipend cannot be accepted for this),¹⁸⁴ nor for a person under the condition that they will leave the celebrant a legacy, nor for a living person that it will benefit his soul after his death. Equivalently absolute is a condition of the present or past, e.g., if John is not already dead; if I have not already satisfied this stipend, I intend to do so now; if I have, I intend to apply this Mass for such-and-such a person or purpose; if this purpose is not realizable now, I intend this other purpose; etc.

3. - The celebrant's intention must be *sufficiently determined at least implicitly, to a certain person or purpose*. It suffices that he conform his

will to the intention explicitly formulated by another, e.g., the intention of the giver,¹⁸⁵ the one noted in the Mass book, the intention of the superior or the sacristan (assuming that it exists), according to the order of stipends received, etc.; the intention is thus objectively and exactly determined and it is not necessary that the person or purpose be known or explicitly determined by the priest. It is permitted to apply a number of Masses to a number of persons or purposes collectively when the priest is unable to remember or does not know the precise order of precedence in the obligations undertaken (whether from the same or from several donors), e.g., ten Masses for the ten obligations undertaken; thus one-tenth share in each Mass is gained by each of the ten and the whole benefit enjoyed upon completion of the ten Masses. It is an invalid intention which is directed to some one on a list without further determination of which one. If the celebrant makes a simple error in application, thinking that the Mass was for a deceased man instead of a woman or a living rather than a deceased person, the application is valid, since his intention to fulfill his duty is considered to center on the person for whom applied and not the circumstance.

4.- If the priest has made several different intentions for the same Mass and he has no prevailing or overriding intention for such situations, it is commonly considered that the last intention formulated is the one that is satisfied, being the more actual and the stronger expression of his will. If he has a predominant will in this matter or prevailing intention, then that one is satisfied, e.g., if his prevailing intention is always to say the Mass for which there is the greater obligation, such as a Gregorian series Mass over a manual Mass or a special date obligation over one without attached circumstance. If both intentions made are equal, e.g., two different Gregorian Masses for the same day, it is considered that the second or last made intention is fulfilled. In any doubt, a second Mass can be celebrated on another day for the intention that was not said. If the priest makes no intention or application in the Mass, or one which is invalid, the special or ministerial fruits probably redound to himself (especially if he has made such a general intention—or to anyone else whom he has intended), or go into the spiritual treasury of the Church. It is recommended that a priest formulate sound prevailing intentions and renew them from time to time.

5.- A second intention in the Mass is the will that the Mass benefit another person or purpose, inasmuch as it does not prejudice the primary intention or application. This is always lawful. It also provides an alternate application of the fruits in the event that the primary intention for some reason is inapplicable. At the Memento of the living and of the dead as many persons or purposes as desired may be included, as these remembrances are not really applications of the Mass but a form of impetration deriving its special value from association with the Holy Sacrifice.

Moreover, the special or ministerial fruits of the Mass may be divided and applied variously, e.g., the impetratory for one, the propitiatory for another, the satisfactory for the departed, etc., even the same fruits being applied to both living and dead. However, this may be done only in those Masses which are not celebrated under any title of obligation in justice, since in the latter case it is considered that the whole benefit of the Mass is willed by the one to whom it is due.

51. — C. - FOR WHOM THE MASS MAY BE APPLIED.

1. - The Mass may be applied to all the *living* without distinction as long as the Church places no restrictions.¹⁸⁶ Mass may be offered privately for those who are excommunicated and also for a *vitandus* but only for his conversion.¹⁸⁷ Heretics, schismatics and even infidels may have Mass said for them (the priest even accepting a stipend), but not publicly and no scandal must be given by this celebration.¹⁸⁸ By private celebration is meant that the Mass is not announced and that only the priest or a few know for whom it is being applied, e.g., the family or a few friends. Even if the celebration is public, the application must be secret and always scandal must be avoided. Mass may not be applied publicly for those who have been denied Christian burial.¹⁸⁹ Mass may be publicly said for rulers for the good government and prosperity of the state. Mass may be said for the saints in heaven and for the angels, but only to implore an increase in the worship and external honor of them among men, or to beseech God for spiritual or temporal favors through their merits and intercession, or to thank Him for the benefits received through them.

2. - Mass may also be applied for all the dead who are in Purgatory.¹⁹⁰ Mass is certainly profitable for the suffering souls in Purgatory, but it is not certain to what extent it profits them or whether a certain soul alone profits. Consequently, it is the practice of the Church to celebrate many Masses for the dead and to pray for all the dead in each Mass. Application of the Mass for the damned in hell is invalid; likewise for infants who are in limbo. Mass may not be applied for baptized infants who die before reaching the use of reason; the Mass of the day or, the rubrics permitting, a votive Mass of the Angels may be celebrated for the intention of the donor, for the family in thanksgiving for the benefits received by the infant of the family, etc. Unless specified in a diocesan regulation, the stipend for such a Mass is not equivalent to that for the exequies of an adult. Those heretics, schismatics, the excommunicated and sinners who gave signs of repentance before death and who can be given Christian burial may have Mass said for them publicly, otherwise privately.¹⁹¹ For deceased infidels Mass may be applied privately and even publicly, if, as in the case of catechumens, they gave signs of conversion and can be given Christian burial.¹⁹² For those who have been denied Christian

burial no funeral nor anniversary Mass nor any public Mass may be celebrated.¹⁹³ A Requiem Mass is of more benefit to the departed, not substantially but sometimes accidentally, because of the special prayers recited.¹⁹⁴

XIV. OBLIGATION OF APPLYING THE MASS

52. - A. - PROMISE.

1. - A promise is a deliberate and spontaneous obligation of faith to another to do or to omit some thing or action. It obliges only after its acceptance and from the virtue of fidelity. A promise obliges in justice only when the one promising so intends to bind himself and it is so understood by the one accepting it. One can also vow to say a Mass and thus the obligation will bind gravely or lightly by the virtue of religion according as the one making the vow intends.

2. - A free or gratuitous promise given to apply a Mass obliges from fidelity and only lightly, since there is no intention of seriously binding oneself, unless such is expressly intended and accepted. The promise is usually given more for the purpose of showing good will rather than of binding oneself seriously. There must be a true and serious promise (although not a serious obligation) which has been so accepted by another, otherwise it may be the expression merely of a resolve, or may be made casually or without any purpose of binding oneself, etc., and thus its fulfillment does not bind under sin. One who intends to bind himself gravely and it is so accepted, or who undertakes a quasi contract, e.g., a priest who has accepted many benefits and who has promised the benefactor a Mass in gratitude and remuneration, is bound gravely and in justice to fulfill the *onerous* promise made; likewise if one has promised to undertake to fulfill the obligation of another. Unless it is an onerous promise that has been made, several promises may be satisfied by the same single Mass, e.g., a promise made to one person to say a Mass for his deceased relative, to another for his intention. The promise made by members of a pious confraternity or association to say a Mass or Masses for deceased members, etc., is an onerous obligation. But, unless it is expressly understood to be such, it is not certain that such an obligation binds in strict justice or that one sins gravely in failing to fulfill it.

53. - B. - PIOUS FOUNDATION.

1. - Stipends that are derived from the income of foundations are called funded, or funded Masses,¹⁹⁵ since the duty to celebrate and apply the Masses is founded upon an endowment. A foundation of Masses,

as any other foundation, is an endowment or capital established perpetually or for a long time and entrusted, with written permission of the local Ordinary,¹⁹⁶ or the religious Ordinary in the case of exempt religious,¹⁹⁷ to an ecclesiastical moral person for the purpose of celebrating Masses from the income derived from it for the period of the foundation; this obligation to which the moral person is bound, after legitimate acceptance, is in virtue of an innominate, synallagmatic or reciprocal contract: "*do ut facias.*"¹⁹⁸ There must be an acceptance by the moral person, the permission of the competent authority and the investment of the endowment.¹⁹⁹ The recipient of an income from a foundation is called the beneficiary or chaplain. Unless the founder has established the stipend, the obligations of the foundation must be reckoned by the diocesan custom or tax for funded Masses or by the stipend set by the religious Ordinary in the case of exempt religious.²⁰⁰

2. - A beneficiary is obliged in strict justice to celebrate and to apply funded Masses, since this is in the manner of a bilateral contract. The obligation is grave not only as to the number to be said but also as to whatever circumstances are attached, e.g., place, time, quality of Mass, etc. The reduction of burdens attached to a pious foundation is reserved exclusively to the Apostolic See, unless a contrary provision is contained in the articles of foundation; the local Ordinary in particular circumstances can make certain reductions of burdens, but not of the Masses.²⁰¹

54. — C. - OBEDIENCE.

1. - The bishop and the religious superior are to take care to see that their subjects celebrate at least on Sundays and other days of precept.²⁰² Ecclesiastical superiors can command the priests who are subject to them to celebrate and even to apply Mass, as this is connected with the external ministry and public worship. Examples of this are seen in the obligation of the Mass *pro populo* and the third Mass on All Souls' Day for the intention of the Holy Father. A secular or religious priest who applies Mass for other than the intention commanded by his superior validly applies the Mass but unlawfully.

2. - The religious superior can command his subject to apply a Mass for a stipend which the superior has accepted and the obligation thus contracted by the superior is transferred to the subject. The subject is then bound gravely in justice and in obedience to satisfy the Mass. The superior may prescribe that a subject say a Mass in obedience and for which no stipend is involved, e.g., a Mass of thanksgiving, for some community favor, for benefactors, etc. The subject is bound in obedience either gravely or lightly according as the superior has imposed the obligation. A subject is also often bound by his Constitutions to celebrate a

certain number of Masses and for special intentions; he is bound in such instances in the manner in which his laws bind in his Institute, usually not under sin.²⁰³ A confessor in the internal forum may command the application of Mass as a sacramental penance.

3. - The religious superior should not in prudence question the occasional omission or the one or another failure of a subject to celebrate daily Mass, when this seems attributable to valid and good reasons and, when given the manner of living and attitude of the particular subject, an explanation does not appear to be warranted. However, the superior should question when his precept or order has been neglected or violated, or a Mass for some public reason, e.g., parish Mass, Sisters' community Mass, etc., is omitted, or the omission might cause scandal, e.g., when it is frequent or over some days, or when the general order and discipline of the community is being affected or the discharge of stipend and other obligations is impaired.

D. - PASTORATE.

55. - 1. - *Obligation.* "Since by divine precept it is enjoined on all to whom is entrusted the care of souls to know their sheep, to offer sacrifice for them,"²⁰⁴ a pastor²⁰⁵ by a sort of contract whereby he is supported by his flock is bound *in justice* to procure and promote the spiritual welfare of those entrusted to his care, which is more efficaciously accomplished by applying the fruits of the Mass for them. Thus, based fundamentally on divine law and immediately on ecclesiastical law, a pastor is certainly bound to celebrate and apply Mass for the people (*Missa pro populo*) on certain stated days in the year. Religious superiors as such, although they are pastors over their communities and by divine law are bound to offer Mass sometime for their subjects, are not bound by the particular dispositions of canon law for the *Missa pro populo*. A vicar ecome or administrator of a parish,²⁰⁶ a quasi pastor²⁰⁷ and a pastor in a mission diocese²⁰⁸ are also bound by this obligation. No other parochial vicars or chaplains as such are subject to this law.²⁰⁹

56. - 2. - *Requisites*

a) Pastors in virtue of their pastoral office are bound to apply Mass for the people on the days prescribed by the Church.²¹⁰ A low Mass suffices. If one of the feasts falls on a Sunday, only one Mass is applied; likewise only one is applied on Christmas Day.²¹¹ The obligation, binding in strict justice, is both personal and real, i.e., attached to the office. It must be satisfied in person by the pastor, or if he is legitimately impeded, by another on the prescribed day; if a justifying cause prevents the offering of the Mass on the proper day even through another, he must offer it as soon as possible.²¹² It is said only for the living members of the congre-

gation. The nature of the grave obligation is such that it always remains intact, i.e., it is not removed by any excusing cause. There is a light obligation to say Mass in person, at the prescribed time or place, but the sin is grave if the last two are habitually violated. A pastor, and also a vicar ecome, in charge of two parishes *aeque principaliter* united, offers only one Mass.²¹³ No stipend may be taken for the *Missa pro populo*, nor for the second Mass in the case of bination.²¹⁴

b) A pastor's failure to celebrate Mass for the people on the prescribed day is without fault when there is a good reason, such as illness, an irregularity, legitimate absence from the parish, the obligation to say a conventual Mass,²¹⁵ etc. When the pastor is faced with saying another Mass on one of the prescribed days, e.g., a Requiem or nuptial Mass, he should seek permission of the local Ordinary to transfer the Mass for the people to another day, which permission the Ordinary may grant,²¹⁶ and which in many dioceses is generally granted to pastors. The place for offering the Mass is the parish church, unless circumstances require or advise its celebration elsewhere; a pastor lawfully absent from his parish may offer this Mass in the place where he is or through the priest taking his place in the parish.²¹⁷ Provided that the Mass is offered on the prescribed day, a less weighty reason justifies its being offered elsewhere than in the parish church or through another there. The local Ordinary need not be approached.

57. - 3. - *Prescribed days.* At the present time the *Missa pro populo* obliges on the days contained in the following *taxative* list:²¹⁸

FEASTS OF PRECEPT

Sundays of the first and second class.

Other Feasts of the first class in the Calendar of the Universal Church:

1. Christmas - 2. Octave Day of Christmas - 3. Epiphany - 4. Ascension
- 5. Corpus Christi - 6. Immaculate Conception - 7. Assumption - 8. St. Joseph, Spouse of the Virgin Mary - 9. Sts. Peter and Paul - 10. All Saints.

FEASTS NOT OF PRECEPT

Of the first class in the Calendar of the Universal Church:

1. Sacred Heart - 2. Precious Blood - 3. Annunciation - 4. St. Joseph the Worker - 5. Dedication of St. Michael the Archangel - 6. Nativity of St. John the Baptist.

Of the first class in particular Calendars:

7. Principal patron of the nation - 8. Principal patron of the region or province whether ecclesiastical or civil - 9. Patron of the diocese - 10. Anniversary of the dedication of the cathedral church - 11. Principal patron of the place or town or city - 12. Anniversary of the dedication of one's own church - 13. Title of one's own church.

Of the second class:

14. Nativity of the Blessed Virgin - 15. Purification of the Blessed Virgin - Feasts of the Apostles and Evangelists, namely: 16. St. Andrew - 17. St. Thomas - 18. St. John - 19. St. Mathias - 20. St. Mark - 21. Sts. Philip and James - 22. St. James - 23. St. Bartholomew - 24. St. Matthew - 25. St. Luke - 26. Sts. Simon and Jude.

E. - STIPEND OR ALMS.

58. - 1. - *Notion.* A stipend is a sum of money or some other thing of value which is given to a priest for his maintenance with the understanding that he will offer the Sacrifice of the Mass for a determined purpose.²¹⁹ The obligation is one of commutative justice arising from an onerous innominate contract "*do ut facias*" by which the priest is bound in justice to say the Mass or to restore the stipend if he does not or will not celebrate, and the person who has promised a stipend is bound in justice to give it when the Mass has been celebrated. The priest's obligation to satisfy the stipend is certainly grave, regardless of the smallness or largeness of the stipend, since the privation of the special or ministerial fruits is a notable damage.

59. - 2. - *Lawfulness.*

a) According to the traditional and approved usage of the Church it is permitted to every priest celebrating and applying a Mass to accept a stipend.²²⁰ The Mass is one source of support for the priest, who serving at the altar may live by the altar,²²¹ even those who are privately wealthy; sustenance refers only to a part of the day. Only if the stipend would be considered as the price of the Mass and as though the priest would not offer the Mass if the stipend were not forthcoming would there be simony.²²²

b) If a priest celebrates Mass more than once a day and applies one Mass under an obligation of justice, except on Christmas, he cannot take a stipend for another Mass but only some compensation based on a claim extrinsic to the application of the Mass.²²³ A grave sin of disobedience would be committed but no restitution of the additional stipend would be required, since the application would be valid and an injustice not committed. Extrinsic claims justifying compensation for celebrating a second Mass would be, e.g., the hour at which the second Mass would be said, the inconvenience or expense of the journey to celebrate the Mass or the loss entailed, the second Mass was high rather than low, etc. Sometimes an Apostolic indult permits Ordinaries to allow the acceptance of a second stipend in a bination, but only if the additional stipend is to be given to a seminary or some educational or charitable institution or good work.²²⁴ It is never permitted to receive a stipend for a Mass which must be applied in, virtue of another obligation, or to accept two stipends for the

application of one Mass, or to take one stipend for the celebration of the Mass and another for the application of the same Mass, unless it is certain that one stipend was given for the celebration without the application,²²⁵ e.g., a person about to make a journey wished to attend Mass on that day at a very early hour and offers a stipend for that to the priest with the understanding that he can apply the Mass at will.

c) In a bination, when two (or more) Masses are said on the same day and when one of them is said for a stipend or is *pro populo*, the second or other Mass may be said for an obligation arising from charity, vow, precept of a superior, statute or regulation in a confraternity or clerical union to which the priest belongs.²²⁶ It is more commonly held that an obligation incumbent upon a priest-member of a clerical union or society or other organization does not bind in strict justice and thus the priest can satisfy, e.g., his suffrage for deceased members, by the second Mass.²²⁷ A religious may in this way satisfy his personal obligation of suffrage Masses prescribed by his own Constitutions.

d) Although a priest may not accept a stipend for a second Mass when he binates, when he has already discharged an obligation in justice in the first Mass, he may, however, apply his second Mass gratuitously or in charity for the intentions of a person who offers him a stipend for the application of that Mass, and then discharge the justice obligation of the stipend on a subsequent day. Thus, if a donor cannot be put off to another day for the celebration of the Mass or it is not expedient to do so, the priest may choose thus to apply two Masses for the same intention, the bination Mass out of gratitude or charity and another Mass on a subsequent day as the stipend Mass, all of which more than satisfied his obligation to the donor.

60. — 3. - *Kinds of stipends.*²²⁸

a) *Manual.* Stipends which are offered by the faithful for Masses, whether because of their personal piety, as it were from hand to hand, or because of an obligation, even a perpetual one, imposed by a testator on his heirs, are called manual stipends.

b) *Ad instar manualium.* Similar to manual stipends are stipends for funded Masses when these cannot be applied at the place designated or by the persons obligated in the articles of foundation, and thus in accordance with the law or Apostolic indult are to be sent to other priests so that the obligations might be satisfied.

c) *Funded.* The stipends obtained from the income of foundations are called funded stipends or funded Masses.

61. — 4. - *Amount of the stipend.*

a) It is the right of the local Ordinary to fix for his diocese the manual stipend for Masses by a decree enacted, if possible, in the diocesan synod;

and it is not permitted to a priest to demand a larger one. Where there is no decree of the Ordinary the custom of the diocese is to be observed. Even exempt religious are obliged to abide by the Ordinary's decree or diocesan custom regarding manual stipends.²²⁹ The Mass stipend is not to be considered the sole source of income needed by a priest for his livelihood.

b) To demand a stipend higher than the diocesan stipend is in itself a grave sin against commutative justice and requires restitution. If it is voluntarily offered, a priest may accept such a higher stipend, as willingness on the part of the donor is sufficient title for the acceptance and the Ordinary may not forbid this.²³⁰ A stipend larger than the determined amount may be requested lawfully only by reason of some extrinsic title or circumstance or special inconvenience, e.g., a high Mass, Mass at a considerable distance or late hour, etc., but not because of the spiritual considerations or special graces connected with a Mass, such as Mass on a privileged altar or at some shrine of pilgrimage.²³¹ Preference may be given to larger stipends and this made publicly known. On the other hand, unless the Ordinary has forbidden it, it is permissible for a priest to accept a smaller stipend.²³² Even with such a prohibition, a priest may offer Mass for anyone he chooses without accepting any stipend at all.

62. - 5. - *Number of stipends to be satisfied.*

a) The number of Masses that are to be celebrated and applied are to equal the number of stipends given and accepted, no matter how small they may be.²³³ Even when the stipend is very small or when it is below the diocesan norm, there is a grave obligation entailed and restitution is involved in its violation.²³⁴ Even though stipends which have already been accepted should be lost without any fault on the part of him who has the obligation of celebrating the Mass, the obligation does not cease.²³⁵

b) If anyone shall have contributed a sum of money for the application of Masses without indicating the number, this is to be determined on the basis of the stipend of the place where the donor was staying, unless a contrary intention on his part should be lawfully presumed.²³⁶ The presumption must be at least highly probable and certainty is not required; on the basis of strong positive indications of the donor's intention in the case (e.g., in a letter, in a legacy, will or bequest) to give a larger stipend, together with indications to the contrary, the balance of the probabilities must weigh in favor of the more liberal intention in order to take a larger stipend. Thus if the donor customarily gave larger stipends, considered the diocesan norm too low, directed the Masses to be said in a poor place where the stipend is extremely low, etc., basis for judgment is present. In interpreting bequests, if nothing has been said about the nature of the Masses to be said, e.g., high or low, the mind of

the testator is ordinarily to be understood to favor low Masses according to the ordinary stipend; in peculiar circumstances indicating otherwise the Holy See should be consulted.²³⁷

c) No one is permitted to accept more Mass stipends to be celebrated by himself than he can satisfy within a year.²³⁸ This prohibition does not bind if the donor explicitly states that the Masses could be celebrated at any time even beyond the expiration of a year; the same is implicitly indicated when the donor requests more Masses than days in the year, e.g., 400. Nor does the limitation of one year affect the priest, if in accepting the stipends it is understood that he will send them to another priest or priests. In churches which, because of the special devotion of the faithful, there is such an abundance of Mass stipends that all the Masses cannot be celebrated there in due time, the faithful should be informed by a notice posted in an accessible and frequented place that the Masses requested will be celebrated either there, when it is convenient to do so, or elsewhere.²³⁹

63. – 6. - *Time specified.*

a) Masses for the celebration of which a time has been expressly specified by the donor must be celebrated exactly at that time.²⁴⁰ The time is expressly, although implicitly, specified if the stipend is offered for success in a scholastic examination or in some endeavor or for the happy death of a dying person, etc. The obligation to observe the time specified obliges under grave sin, if it is a necessary (*sine qua non*) condition (and also restitution). If the donor did not so express himself, manual Masses requested for an urgent purpose must be celebrated as soon as possible relative to the purpose to be attained (*tempus utile*),²⁴¹ i.e., before the realization of the purpose for which the Mass was requested becomes useless or impossible. In other cases the Masses are to be celebrated within a short time considering the larger or smaller number of Masses requested.²⁴²

b) If the donor should expressly leave to the priest the determination of the time of celebration of the Masses, he may celebrate them at the time most convenient for him.²⁴³ It is usually recommended in practice that Masses be said as soon as convenient and in the order of their reception, unless certain ones must be said sooner.

64. – 7 - *Place of celebration.* It is presumed that the donor wishes only the application of the Mass; if, however, he expressly specified certain circumstances to be observed in the celebration of Mass, the priest who accepted the stipend must carry out his intention.²⁴⁴ Unless a particular place was stipulated for the celebration as a necessary (*sine qua non*) condition, there is no obligation to return the stipend if this circumstance is not observed. Usually such an omission is not gravely culpable and is

even excused by a reasonable cause. If there is an obligation to celebrate on a privileged altar, the obligation is not satisfied by offering Mass elsewhere or by the application of another plenary indulgence. To rectify an error made in good faith, the safer course in practice is to apply another Mass on a privileged altar.²⁴⁵

65. - 8. - *Other qualifications.*

a) It is commonly taught that failure to observe the circumstances requested by the donor does not exceed a venial sin, in the absence of a reasonable cause, unless the circumstance was necessarily attached (*sine qua non*) and then the stipend must be restored. Unless express agreement was made for one or the other, a Mass for the deceased is satisfied by the celebration of any Mass, and a Requiem Mass may be celebrated for the living.²⁴⁶ The circumstance of a sung or solemn Mass, a privileged altar, a Gregorian series, etc., however, must be observed. If a sung or solemn Mass was requested, a low Mass will be valid, but at least a sung or solemn Mass must be celebrated later without being applied for the intention of the original donor. If no offering is made for a nuptial Mass or a funeral Mass, it is not strictly necessary to offer the Mass for the couple or for the deceased, and the celebrant may satisfy another stipend obligation,²⁴⁷ but it is most fitting to apply the Masses, especially in the case of the poor.²⁴⁸ There is no obligation on the part of the priest accepting a stipend to celebrate Mass personally; he may transfer it to another priest. Even if the donor indicates a desire for the recipient of the stipend to say the Mass, failure to do so rarely becomes a grave sin.

b) *Gregorian Masses* are a set of thirty Masses celebrated at any altar for thirty consecutive days for the soul of one departed. It is piously believed that these Masses or Trental have a special efficacy for liberating souls from Purgatory through the intercession of St. Gregory the Great; the Church has approved the practice but never enriched it with any indulgence.²⁴⁹ There is a grave obligation to celebrate the series of Gregorian Masses on thirty consecutive days. The series must be offered for a deceased person,²⁵⁰ and for only one person,²⁵¹ although the daily Mass need not be a Requiem Mass,²⁵² and the same priest need not say the series. The series is not considered to be interrupted by the last three days of Holy Week²⁵³ and one Mass on Christmas in connection with the series suffices. The series must be renewed if it is broken culpably; it is not certain that it must be begun anew if *inculpably* broken. It is safe in practice to follow the more common opinion that the priest is strictly bound only to satisfy the remaining Masses, although there is some obligation to repeat the series if only a few Masses have been said and the series can be recommenced without grave inconvenience and the priest has no other commitments to discharge. It is recommended that he should otherwise gain a plenary indulgence for the departed soul

in question, e.g., by celebrating on a privileged altar. A similar procedure would prevail regarding a novena or triduum series which is inculpably broken. A stipend larger than ordinary can be expected and requested for undertaking these obligations.

66. — 9. - *Consignment or transference of stipends.*

a) He who has a number of Masses which he is allowed to give to others may distribute them among priests of his choice, provided he knows that they are trustworthy or are recommended by the testimony of their Ordinary.²⁵⁴ This is with respect to manual stipends only and the local Ordinary may not forbid their transference outside the diocese. He who has Masses to be celebrated by others is to distribute them as soon as possible, but the lawful time for their celebration begins with the day of their reception by the priest undertaking the obligation, unless there is some other provision made.²⁵⁵ Administrators of pious causes and executors of wills and bequests are bound to this early or undelayed transference. He who has given to other priests Masses which he has received from the faithful, or which are in any way entrusted to him, is held to their obligation until he receives notice that the stipends have been received by the priest-transferee and that he has accepted the obligation.²⁵⁶ This notice may be given orally or in writing and is implied in a personal hand to hand transferal. A postal money order receipt or a cancelled check is not necessarily indicative that the consignee himself has received the stipend money or that he accepts the obligations. Until the stipends are accepted, any loss of them, even without fault, is the responsibility of the consignor and thus he is obliged to make good on the Mass obligations.²⁵⁷

b) One who sends to others manual stipends for Masses is to send the entire sum received, unless the donor has expressly permitted a portion of the stipend to be retained or it is clearly established that the portion in excess of the diocesan stipend was given for the benefit of the immediate recipient (*intuitu personae*).²⁵⁸ It is more commonly held that to retain a portion of a stipend outside the cases permitted by law is a grave sin against commutative justice and binds gravely to restitution. Title to a stipend is conditioned on the celebration of the Mass; thus this title passes to the actual celebrant when the stipend is transferred and the consignor consequently retains no just claim to any portion. Expenses of transferral and administration of stipends may be deducted but the consignor may not lawfully profit in an exchange rate transaction in such way that the entire stipend is not transferred. Moreover, he cannot satisfy his obligation of celebrating Mass for a stipend through another priest to whom he has given a smaller stipend.²⁵⁹ Expenses involved in finding a priest to celebrate novena Masses for which rather generous stipends have been offered cannot be deducted from the stipends owing

to the celebrant.²⁶⁰ A pastor who commits another priest to say a funeral or nuptial Mass is bound to give the celebrant the usual stipend for the Mass (low or sung) for that hour and may retain the remainder of the offering as the stole fee.²⁶¹

c) Unless the intention of the founder provides otherwise, the excess for Masses *ad instar manualium* is lawfully retained and it is sufficient to remit only the manual alms of the diocese where the Mass is celebrated if the larger stipend takes the place of the partial endowment of the benefit or pious cause.²⁶² Without exception all administrators of pious causes as well as all who in any way are bound to the fulfilment of Mass obligations, whether they are clerics or laymen, are, at the end of each year, to send to their Ordinaries in the manner which the latter specify all yet unsatisfied Mass obligations.²⁶³ Constitutions of religious institutes may make further regulations.

67. – 10. - *Record and surveillance of stipends.*

a) Rectors of churches and other pious places, secular and religious, in which it is customary to receive stipends, are to have a special book in which they accurately record the number of stipends received, the intention for which they are given, the amount of the stipend, and the fact of the celebration of the Mass.²⁶⁴ At least once a year Ordinaries are obliged to inspect books of this kind in person or through others.²⁶⁵ Local Ordinaries and religious superiors who entrust the celebration of Masses to their own subjects or to others, are to record promptly in a book in the proper order the stipends they have received together with their amount, and they are to exert every effort to see that the Masses are celebrated as soon as possible.²⁶⁶ All priests, secular and religious, must accurately record the intentions they have received and the fact of having satisfied them.²⁶⁷ This is a grave obligation; in the event of the incapacity or death of the priest unsatisfied Mass obligations are more easily perceived and taken care of.

b) The right and obligation of seeing that the Mass obligations are satisfied belongs in churches of seculars to the local Ordinary and in those of religious to the superior.²⁶⁸

68. – 11. - *Commercialism.* Every semblance of trading or selling must be entirely removed from Mass stipends.²⁶⁹ The practice is tolerated where pastors defray the expenses of boarding and lodging assistants from Mass stipends received from Masses celebrated by the latter, provided that the pastor makes no profit from the practice and provided that the Ordinary is alert to prevent any abuse.²⁷⁰ The pooling of Mass stipends in parishes is tolerated and is not unlawful, as long as all the priests involved give their consent. Profit is not sought thereby and the incidental increase accruing to a given priest is freely renounced by the

others. The arrangement cannot be imposed by the pastor upon his assistants and those not participating in it are not entitled to a share of the fund.

69. – 12. - *Condonation*. This is the forgiveness granted by competent authority for the *past* omission of Masses, either manual or funded, which should have been celebrated but were not. The Holy Father alone has the power of condonation, which he may exercise for a just and proportionate cause, supplying for the defect from the treasury of the Church. The Apostolic Delegate has certain faculties of condonation.

70. – 13. - *Reduction*. The Holy See for a just cause may reduce or lessen the number of Masses *to be said*. The donors of the stipends suffer no damage, since the deficiency is supplied from the treasury of the Church. Local Ordinaries in the U.S.A. by quinquennial faculties have limited powers to reduce perpetual Mass obligations.

71. – 14. - *Translation*. The faculty of transferring Masses which should be offered in a particular place or at a specified time to another place or time may be granted by the Holy See, usually because of lack of priests. Limited power in this area is granted local Ordinaries in the U.S.A. by quinquennial faculties.

APPENDIX

DEFECTS OCCURRING IN THE CELEBRATION OF MASS (according to the Roman Missal — 1961)

I.

The priest who is about to celebrate Mass should employ every care lest any of the requisites for the confection of the Sacrament of the Eucharist be lacking. However, a defect can take place on the part of the matter to be consecrated, on the part of the form to be used, and on the part of the minister confecting. For whichever of them is missing, namely, due matter, form with the intention, and the Order of the Priesthood in the celebrant, the Sacrament is not confectioned. And when these are present, no matter what others are missing, the Sacrament is truly present. There are other defects indeed which occur in the celebration of Mass and which, even if they do not hinder the truth of the Sacrament, can happen nevertheless either with sin or with scandal.

II. DEFECTS IN THE MATTER.

Defects can occur on the part of the matter if something is missing from the things required of it. For it is required that the bread be wheaten and the wine be of the vine: and for such matter to be consecrated, it should be, at the moment of consecration, before the priest.

III. DEFECTS IN THE BREAD.

1. - If the bread is not wheaten, or, if wheaten, is mixed with other grain in such quantity that the whole is not wheaten bread, or again if the bread is otherwise corrupted, the Sacrament is not confectioned.
2. - If it is made from rose water, or from any other distilled liquid, it is doubtful whether it is confectioned.
3. - If it has begun to corrupt, but is not yet corrupted; likewise if it is not unleavened, according to the custom of the Latin Church, it is confectioned, but the one confectioning sins gravely.
4. - If the celebrant discovers before the consecration that the host is corrupted, or is not wheaten, then, putting that host aside, he should

take another, and having made an oblation, at least mentally, should continue from the place where he left off.

5. - If he averts to this after the consecration, even after the consumption of that host, taking another he is to make an oblation, as above, and begin from the consecration, namely, from the words: *Qui pridie quam pateretur*; and if he has not consumed that previous host, he should consume it after the consumption of the Body and Blood, or preserve it reverently in another place. However, if it shall have been consumed, he must nevertheless consume the one he has consecrated: because the precept of the perfection of the Sacrament is of greater weight than that it be consumed by one fasting.

6. - But if this should happen after the consumption of the Blood, he must again take new bread and wine mixed with water; and, having first made an oblation, as above, the priest is to consecrate, beginning with the words: *Qui pridie*, and immediately consume both, and continue the Mass, lest the Sacrament remain imperfect, and so that due order might be preserved.

7. - If the host should disappear, either by some mischance, as through wind, or was taken by some animal and cannot be found, then another one is to be consecrated by him beginning with: *Qui pridie quam pateretur*, having first made an oblation, as above.

8. - In the cases 5-7 above, the elevation of the Sacrament should be omitted, and everything done with the avoidance of as much scandal and wonderment of the faithful as possible.

IV. DEFECTS IN THE WINE.

1. - If the wine has become completely sour, or is entirely corrupted, or was made from bitter or unripe grapes, or was mixed with so much water that the mixture is no longer wine, the Sacrament is not confected.

2. - If the wine has begun to sour or corrupt, or has become somewhat bitter, or has not fermented, or was not mixed with water, or was mixed with rose water or some other liquid, the Sacrament is confected but the one confecting sins gravely.

3. - If the celebrant before the consecration of the Blood, although after the consecration of the Bread, discovers that either the wine or the water or both are not in the chalice, he must at once take wine mixed with water and, having first made an oblation, as above, consecrate it, beginning with the words: *Simili modo, etc.*

4. - If after the words of consecration he discovers that wine was not taken, but water, having poured the water into a vessel, he again places wine mixed with water into the chalice and consecrates it, resuming from the aforesaid words: *Simili modo, etc.*

5. - If he discovers this after the consumption of the Body or of this water, he should take another host to be consecrated again, and wine mixed with water in the chalice, offer both, and consecrate, and consume, although he is not fasting.

6. - In the cases 3-5 above, the elevation of the Sacrament should be omitted, and everything done with the avoidance of as much scandal and wonderment of the faithful as possible.

7. - If he should observe before the consecration, or after the consecration, that the whole wine has soured, or otherwise corrupted: he is to follow the same procedure as above, as though he discovered that wine was not taken, or that only water was put into the chalice.

8. - If the celebrant discovers before the consecration of the chalice that water was not taken, he must put it in at once, and pronounce the words of consecration. If he discovers this after the consecration of the chalice, he is not to put it in at all, since it is not of necessity of the Sacrament.

9. - If the matter which was to be used, because of a defect in either the bread or the wine, cannot be made use of at all: if this eventuates before the consecration of the Body, he is to proceed no further; if after the consecration of the Body, or even of the wine, a defect in one species is discovered, and the other is already consecrated, then, if it cannot be made use of at all, he is to proceed and finish the Mass, yet in such a way as to omit words and signs which pertain to the missing species. But if by waiting a little while it can be procured, he will have to wait, lest the sacrifice remain imperfect.

V. DEFECTS IN THE FORM.

1. - Defects on the part of the form can happen when something is lacking which is required for the integrity of the words in the consecration itself. Thus the words of Consecration, which are the form of this Sacrament, are the following: *Hoc est enim Corpus meum*. And: *Hic est enim Calix Sanguinis mei, novi et aeterni testamenti: mysterium fidei, qui pro vobis et pro multis effundetur in remissionem peccatorum*. Thus if anyone should shorten anything, or should change anything in the form of consecration of the Body and Blood, and if by the change the words do not signify the same thing, he would not consecrate the Sacrament. If in fact anyone should add or subtract anything, which would not change the meaning, he would indeed consecrate it, but would sin most gravely.

2. - If the celebrant does not remember having said what is usually said in the consecration, he need not be disturbed thereby. But if he is clearly certain that he has omitted something essential to the Sacrament, that is, the form of consecration or a part of it, he is to repeat the form and proceed with the rest in order. If he has in fact a very probable

doubt about omitting something essential, he should repeat the form with at least a tacit condition. But if these things are not essential, he is not to repeat and is to go straight on.

VII. DEFECTS IN THE MINISTER

1. - Defects on the part of the Minister can happen with regard to those things required of him. These are: first an intention, then disposition of soul, disposition of body, disposition of vestments, disposition in the ministry itself regarding those things which can take place in it.

DEFECT OF INTENTION.

1. - If one does not intend to consecrate the Sacrament, but to do something deceitfully; likewise if through forgetfulness some hosts remain on the altar, or some portion of the wine or a host escapes his notice, since he does not intend to consecrate except what are on the corporal; likewise if he has before him eleven hosts, and he intends to consecrate only ten, not determining which ten he intends, in these cases he does not consecrate, since an intention is required. On the other hand, if he thinks there are only ten, yet he has intended to consecrate all he had before him, then all will be consecrated; and therefore every priest should always have such an intention, namely, of consecrating all that he has placed before him on the corporal to be consecrated.

2. - If a priest, thinking that he held one host, finds after the consecration that two have stuck together, he should consume both together at the same time. But if he discovers after the consumption of the Body and the Blood or even after the ablution that some consecrated particles remain, he is to consume them, whether they are small or large, since they belong to the same sacrifice.

3. - If a whole consecrated Host should remain, he should put it back into the tabernacle with the others; if this cannot be done, he should consume it.

4. - If because of wandering of the mind his intention is not actual in the consecration itself, but virtual, since in coming to the altar he intends to do what the Church does, the Sacrament is consecrated, although the priest should take care to have also an actual intention.

VIII. DEFECTS OF DISPOSITION OF SOUL.

If anyone should celebrate in mortal sin or when impeded by an ecclesiastical penalty, he truly consecrates the sacrament, but sins most grievously.

IX. DEFECTS OF DISPOSITION OF BODY.

1. - If a priest has not been fasting before Mass for at least three hours from solid food and alcoholic drink, or for at least one hour from non-

alcoholic drink, he cannot celebrate. However, the fast is not broken by taking water.

2. - The infirm, even though not confined to bed, can take non-alcoholic drink, and true and proper medicines, either liquid or solid, without limitation of time, before celebrating Mass.

3. - Priests who are able to do so are earnestly exhorted to observe the old and venerable form of the Eucharistic fast.

X. DEFECTS OCCURRING IN THE MINISTRY ITSELF.

1. - Defects may also occur in the ministry itself, if something required for it is missing: thus, if Mass is celebrated in a place that is not sacred, or that is not lawfully designated, or on an altar that is not consecrated, or that is not covered with three cloths; if there are not wax candles; if it is not the proper time for celebrating, which is commonly from one hour before dawn until one hour after noon, unless for certain Masses another time has been established, or the local Ordinary shall have permitted also some evening Masses; if some one of the priestly vestments is omitted; if the priestly vestments or the altar cloths are not blessed by a bishop or by one having this power; if there is not a cleric present, or someone else who can serve Mass, or someone present who cannot serve, such as a woman; if there is not a proper chalice and paten, with the requirement that the cup be gold or silver or tin and not copper or glass; if the corporals are not clean, which corporals are required to be of linen and not of silk ornamented in the middle, and which should be blessed by a bishop or by one having this power, as is also mentioned above: if without a dispensation anyone celebrates with head covered; if there is no Missal, even if one knows by heart the Mass he intends to say.

2. - If while the priest is celebrating the Church is violated before the Canon, Mass is to be discontinued; but not after the Canon. If an enemy incursion, a flood or the collapse of the building is feared where the celebration takes place, Mass is discontinued before the consecration; after the consecration, however, the priest must hasten to the consumption of the Sacrament, omitting everything else.

3. - If before the consecration the priest becomes seriously ill or faints or dies, Mass is discontinued. If this happens after the consecration of the Body only, before the consecration of the Blood, or after both consecrations, the Mass is to be completed by another Priest from the place where the other left off, and in a case of necessity even by a non-fasting priest. If, however, he does not die but has become ill, and yet he can still communicate, and there is no other consecrated Host, the priest who is completing the Mass should divide the Host and give one part to the ill priest and consume the other himself. If, however the priest dies after pronouncing only part of the form of the Body, since there has been no consecration, it is not necessary that the Mass be completed by another.

If he should die after only part of the form of the Blood has been pronounced, then another should continue the Mass and repeat over the same chalice the entire form beginning with: *Simili modo, postquam coenatum est* or he may pronounce the entire form over another chalice which has been prepared, and consume the Host of the first priest, and the Blood consecrated by him, and then the chalice left semi-consecrated.

4. - If anyone outside of a case of such necessity should not consume the entire Sacrament, he sins most grievously.

5. - If a fly, or a spider, or anything else has fallen into the chalice before the consecration, the wine is to be poured out in a fitting place, and other wine put into the chalice, mixed with a little water, offered, as above, and the Mass continued; if after the consecration a fly or something like it falls in, he should extract it, and wash it with wine, burn it after Mass, and throw both burned and washed remains into the sacrarium.

6. - If something poisonous should fall into the chalice, or something that would provoke vomiting, the consecrated wine must be put into another chalice, filled with water, so that the species of wine is dissolved; and this water should be thrown into the sacrarium. However, other wine with water to be added is to be freshly consecrated.

7. - If something poisonous has touched the consecrated Host, then the priest should consecrate another, and consume it in the manner mentioned above, and the first Host is to be placed in a chalice filled with water, as noted in n. 6 above regarding the Blood.

8. - If in consuming the Blood a particle remains in the chalice, the priest should draw it up to the lip of the chalice with his finger, and consume it before the ablution, or pour in water, and consume it.

9. - If the Host is found to be broken before the consecration, unless it is clearly noticeable to the people, such a host should be consecrated; if, however, there may be scandal to the people, another one is to be taken and offered; but if such a host has already been offered, he should consume it after the ablution. But if before the offertory the host appears to be broken, another whole one should be taken, if this can be done without scandal or lengthy delay.

10. - If the consecrated Host falls into the chalice nothing is for that reason to be repeated; but the priest continues the Mass, performing the customary ceremonies and signs with the remaining part of the Host, which has not been soaked with the Blood, if this can be opportunely done. If in fact the whole Host was wet, he should not extract it, but should say everything, omitting the signs, and consume both Body and Blood, signing himself with the chalice, and saying: *Corpus et Sanguis Domini nostri, etc.*

11. - If the Blood freezes in the chalice in winter, the chalice should be wrapped in warm cloths; but if this has no effect, it should be put in warm water close to the altar, as long as it does not enter into the chalice, until it liquefies.

12. - If any of the Blood of Christ should have fallen out, if only one drop has poured out, it is sufficient to pour a little water over it, to be wiped afterwards with a purificator; otherwise the corporal or the altar cloth or the place is to be washed in the best possible manner, and the water afterwards thrown into the sacrarium.

13. - But if it happens that the entire Blood is spilled after the consecration, if some even small amount remains, it is to be consumed, and the spilled Blood remaining treated as mentioned. If however, nothing at all remains, the priest should put in wine and water again, and consecrate it beginning with: *Simili modo, postquam coenatum est, etc.*, after first making an offering of the chalice, as above.

14. - If a priest should vomit the Eucharist, the vomit should be collected and sent to some decent place.

15. - If the consecrated Host or any part of it should fall on the ground, it should be taken up reverently, and a little water poured on the spot where it fell and cleaned with a purificator. If it should fall on clothes, it is not necessary that the garment be washed. If it should fall on the clothes of a woman, she should take the particle and consume it.

16. - Defects may also occur in the ministry itself, if the priest ignores the rites and ceremonies themselves which are to be observed in it, about which entire subject mention has been fully made in the above Rubrics.

HOLY EUCHARIST

¹ Cf. I Cor. 11:24.

² Cf. e.g., Jn. 6:32, 35, 51; Acts 2:42; I Cor. 10:16; 11:20, 23-24; agape, consecration, mystery of faith, sacred mystery, etc.

³ *Summa Theol.*, III, q. 73, a. 4.

⁴ Jn. 6:52; Mt. 26:26; c. 801; Trent, Denz. 874-875; 883-884.

⁵ Trent, Denz. 885-886; cf. *Summa Theol.*, III, q. 76, aa. 2-3.

⁶ It is commonly taught that reception of the Eucharist under both species imparts no increase of grace.

⁷ Cf. Jn. 6:48-59; I Cor. 10:16 sq.; Trent, Denz. 875; 887; *Summa Theol.*, III, q. 65, aa. 1, 3; q. 73, a. 1, ad 1; a. 3; q. 79.

⁸ Lateran IV, Denz. 430; Florence, Denz. 698; c. 814.

⁹ c. 815, 1.

¹⁰ S.C.Sac. 26 mart. 1929.

¹¹ S. Off. 23 iun. 1852.

¹² cc. 815; 1272.

¹³ Cf. Florence, Denz. 692; also c. 816.

¹⁴ Cf. cc. 851, 2; 866, 3.

¹⁵ S.C.Rit. 26 apr. 1834.

¹⁶ c. 815, 2.

¹⁷ S. Off. 22 iul. 1706; 7 maii 1879; 10 apr. 1889.

¹⁸ *Ibid.*, 4 maii 1887; 30 iul. 1890; 15 apr. 1891; 25 iun. 1891; 27 apr. 1892; 9 maii 1892; 22 maii 1901; 5 aug. 1906; 1 iun. 1910; 2 aug. 1922; 15 iul. 1925; 16 dec. 1958; S. C. Sac. 26 mart. 1929.

¹⁹ S. Off. 5 aug. 1896.

²⁰ c. 814; cf. Trent, Denz. 945; Florence, Denz. 698.

²¹ Cf. *Summa Theol.*, III, q. 74, a. 6.

²² For an explanation of the form, cf. *Catechism of the Council of Trent*. S. Off. 23 maii 1957: "Q. Do several priests validly concelebrate the Sacrifice of the Mass, if only one of them pronounces the words 'Hoc est corpus meum' and 'Hic est sanguis meus' over the bread and wine, and the others do not quote the words of the Lord, but, with the knowledge and consent of the celebrant, have and manifest the intention to make his words and actions their own. R. In the negative; because,

by the institution of Christ, he alone celebrates validly who pronounces the words of consecration."

²³ Roman Missal, *Ritus servandus in celebratione Missae*, VIII, n. 5: "...cubitis super Altare positus, stans capite inclinato, distincte, reverenter et secreto profert verba consecrationis super Hostiam..." n. 7. "...cubitis super Altare positus, et capite inclinato, profert attente, continue et secreto, ut supra, verba consecrationis Sanguinis..." Dominican Missal, *Modus, et Ritus dicendi Missam, Canon*, "...Secreto, attente, devote, et continue, et cum summa reverentia consecrationis Corporis verba proferat, O. non super altare procumbens, sed aliquantulum corpore inclinans..." "...Stans, inclinato capite, secreto, attente, continue, devote, ac reverenter proferat verba consecrationis Sanguinis..."

²⁴ Roman Missal, *De Defectibus Missarum occurrentibus*, III, nn. 5-7 (Missale S.O.P., nn. 3-5); IV, nn. 3-4; V, n. 2.

²⁵ Cf. e.g., the concelebration in the Mass of Ordination. How near the matter must be to the celebrant to be morally present is left to the judgment of prudent men, the practice of the Church, the position and amount of the matter, etc.

²⁶ Roman Missal, *De defectibus circa Missam occurrentibus*, VII *De defectu intentionis*, n. 1 (Missale, S.O.P., n. 4).

²⁷ Many theologians hold that a minister cannot be presumed to have an intention to consecrate whatever is off the corporal, since such an intention is a grave sin. Thus they would not admit a general or prevailing intention to include matter off the corporal for any reason, and at best the matter would be doubtfully consecrated. In practice, it should be considered that, in lieu of a general or prevailing intention, matter off the corporal for any reason is not consecrated or is doubtfully consecrated.

²⁸ Cf. Missal, *De Ritu celebrandi Missam*, VII, n. 3.

²⁹ c. 817.

³⁰ *Ibid.*

³¹ Cf. Missal, *De defectibus in celebratione Missarum occurrentibus*, III, nn. 5-6 (Missale, S.O.P., nn. 4-5); IV, n. 4.

³² c. 802; Lateran IV, Denz. 430; Trent, Denz. 881; 938; 949-950; cf. c. 2322; *Summa Theol.*, III, q. 82, aa. 1, 3.

³³ c. 845, 1.

³⁴ c. 846, 1. The local Ordinary may for a just cause in a particular case forbid the distribution of Communion in a private oratory (c. 869).

³⁵ c. 846, 2.

³⁶ The blessing is omitted and the Alleluias in paschal time if the priest distributes Communion before or after Mass in black vestments. (S. C. Rit. 27 iun. 1868; 26 nov. 1878; *Rit Rom.*, tit. IV, c. 2 *Ordo administrandi sacram Communionem*, n. 13).

³⁷ cc. 847; 848; cf. 468, 1; 462, 2°.

- ³⁸ *Rit. Rom., loc. cit.*, c. 4 and n. 29; cf. c. 849, 2.
- ³⁹ c. 849, 1. Cf. n. 75 below.
- ⁴⁰ cc. 850; 462. 3^o.
- ⁴¹ c. 514, 1.
- ⁴² *Ibid.*, 2-3; the rector of a seminary has this right (c. 1368).
- ⁴³ c. 845, 2.
- ⁴⁴ S. C. Rit. 23 nov. 1906.
- ⁴⁵ *Rit. Rom.*, tit. IV, c. 2, n. 10.
- ⁴⁶ PCI 13 iul. 1930.
- ⁴⁷ *Rit. Rom.*, tit. IV; cf. no. 36 below.
- ⁴⁸ S. C. Rit. 23 sept. 1842.
- ⁴⁹ S. C. Conc. 12 feb. 1679.
- ⁵⁰ S. C. Rit. 16 mart. 1833.
- ⁵¹ c. 851.
- ⁵² c. 853.
- ⁵³ Cf. *Summa Theol.*, q. 79, a. 7.
- ⁵⁴ Cf. *Rit. Rom.* tit. IV, c. 4, n. 4. The Holy See will grant permission in very exceptional cases to receive Communion under the species of wine only; a special ritual and special precautions must be observed.
- ⁵⁵ c. 855, 1. Included among the unworthy are immodestly dressed women and girls (S. C. Conc. 12 ian. 1930).
- ⁵⁶ *Ibid.*, 2.
- ⁵⁷ c. 857.
- ⁵⁸ Cf. I Cor. 11:28.
- ⁵⁹ c. 856.
- ⁶⁰ S. C. Sac. 8 dec. 1938.
- ⁶¹ Cf. *The Administration of Penance*, nos. 93-95.
- ⁶² Cf. *Summa Theol.*, Suppl., q. 8, a. 4, ad 6.
- ⁶³ c. 807; Trent, Denz. 880.
- ⁶⁴ S. Off. 18 mart. 1666, Denz. 1138-1139.
- ⁶⁵ c.1262, 2; cf. Instruction, S. C. Conc. 12 ian. 1930.
- ⁶⁶ Cf. Cf. n. 55 above.
- ⁶⁷ *Rit. Rom.*, tit. IV, c. 2, n. 4.
- ⁶⁸ *Sacram Communionem*. Alfred Cardinal Ottaviani, Pro-Secretary of the Holy Office, (*Osservatore Romano*, March 23, 1957): "The exhortations made at the end of the Motu Proprio, precisely because they are only exhortations, leave people free to conform to the new law or to observe the full fast, as has been done until now, out of devotion or for spiritual mortification. It is a question of desiring to obtain greater merit, but no longer that of keeping an obligation."
- ⁶⁹ *Sacram Communionem*. Cardinal Ottaviani, *loc. cit.*: "It is sufficient to abstain for three hours from solid foods and alcoholic liquids and for one hour from non-alcoholic liquids. There is no longer any problem of morning or evening, of distances to be travelled to go to

church, nor of strenuous labor or late hours. There is no longer an obligation to consult a confessor to see if one fulfills the conditions to use the permission. It is no longer a matter of concessions which apply to certain categories of persons, but a law which applies to all the faithful everywhere. . . . The formula which confirms that water does not break the eucharistic fast (at first it was said to be *aqua naturalis*) leaves one to understand that it refers to water in general and in the common sense of the word—even mineral water, carbonated or chemically purified water.”

⁷⁰ Cf. c. 33, l. PCI 29 maii 1947: “Q. Whether after one method of computing time has been chosen, this can be changed in virtue of canon 33, l, in formally different actions. R. In the affirmative. Q. Whether the three Masses celebrated on Christmas night are formally distinct actions. R. In the negative.”

⁷¹ The matter taken must come from outside; thus swallowing food which has previously lodged in the teeth or blood coming from the gums, etc., does not break the fast, but swallowing blood or skin from a finger does. There is no violation if things are taken into the mouth or tasted but then spit out again and not swallowed, e.g., to use tooth paste, to taste food in preparation, to chew tobacco (which is at least unbecoming before Communion). Chewing gum which is candy-coated breaks the fast but not ordinary chewing gum as long as the sugar or other element is absorbed into the saliva and then swallowed. There is no true eating if one unintentionally breathes in dust or an insect or snuffs in tobacco particles or nose drops. Smoking (even inhaling) is not a violation. Intravenous feeding does not break the fast nor a small amount of lubrication which may remain after a stomach lotion. The following are not considered as digestible (at least probably) and thus do not violate the fast: hair, sand, dirt, chalk, glass, iron, wood, silk, wool, paper, wax, straw, fingernails, etc.

⁷² Cardinal Ottaviani, *loc. cit.*: “After the promulgation of the Motu Proprio, *Sacram Communionem*, the following questions have been proposed to the Holy Office or to Ordinaries or have been discussed in periodicals: . . . ‘Q. Could one consider as liquid a solid, for example, a sweet, which will dissolve in the mouth before it is swallowed? R. In the negative; it must already be liquid before it is put into the mouth.’” S. Off. 7 sept. 1897: “The mind (of the Congregation) is that when the expression ‘*per modum potus*’ is used, it is understood that the person may take broth, coffee, or other liquid food, in which is mixed some substance such as wheat meal, grated bread, and the like, provided the whole mixture continues to have the nature of liquid food.” The Holy See will grant permission to receive Communion for special reasons with a fast of only one hour from solid food.

⁷³ Cardinal Ottaviani, *loc. cit.*

⁷⁴ Cf. below, no. 43.

⁷⁵ *Sacram Communionem*. S. Off. 21 oct. 1961: "Q. Whether it is permitted to administer Holy Communion in the afternoon hours to the infirm, even though they are not in danger of death nor confined to bed but are unable to leave the house, as often as they have not been able to receive the Holy Eucharist in the morning, either due to the absence of a priest, or for some other reasonable impediment. R. Affirmative, as long as: 1) it is a question of the infirm who now for a week have not been able to leave the house; 2) the time and frequency of Holy Communion are determined by the pastor or another priest to whom the spiritual care of the infirm party is entrusted; 3) the rules already established for the eucharistic fast are observed."

⁷⁶ Cf. c. 858, 1.

⁷⁷ *Ibid.*

⁷⁸ S. Off. 2 dec. 1874: "Q. Whether by reason of scandal or astonishment one can ever celebrate the second Mass after the first when the fast has already been broken. R. In the negative." A priest who celebrates without fasting may be suspended (c. 2321).

⁷⁹ Jn. 6:54; cf. Trent, Denz. 875; 891; 933; 937; cf. also Denz. 1922; 2137.

⁸⁰ c. 859, 1.

⁸¹ c. 861.

⁸² S. C. Conc. 20 dec. 1905.

⁸³ c. 863.

⁸⁴ c. 854, 1.

⁸⁵ *Ibid.*, 2.

⁸⁶ c. 88, 3; PCI 24 feb. 1920 (private): "Q. Is the use of reason mentioned in c. 854, 2, 3, and 5; 859, 1, and 906 that required for the commission of a mortal sin or that sufficient for the commission of only a venial sin. R. The use of reason for Holy Communion is that clearly indicated in c. 854, 2, 3; for the precept of annual confession it is that indicated in c. 906."

⁸⁷ c. 854, 3.

⁸⁸ c. 860.

⁸⁹ c. 854, 4-5.

⁹⁰ c. 859, 1; cf. Lateran IV, Denz. 437; Trent, Denz. 891.

⁹¹ *Ibid.*, 4.

⁹² PCI 3 jan. 1918; this also includes confession.

⁹³ c. 859, 2.

⁹⁴ Pius VIII, 26 sept. 1830; cf. II Baltimore, no. 257.

⁹⁵ c. 859, 1.

⁹⁶ *Ibid.*, 3.

⁹⁷ c. 866, 1-2.

⁹⁸ c. 864, 1. The cause of death may be internal, e.g., disease, or from

without, e.g., those condemned to be beheaded (S. C. Sac. 11 feb. 1915; S.C.P.F. 21 iul. and 10 aug. 1841).

⁹⁹ *Ibid.*, 2.

¹⁰⁰ *Ibid.*, 3.

¹⁰¹ c. 865.

¹⁰² S. C. Sac. 8 aug. 1910. Also penance, confirmation, extreme unction and the last blessing should be given.

¹⁰³ c. 866, 3.

¹⁰⁴ c. 868.

¹⁰⁵ c. 869.

¹⁰⁶ This must be in accordance with c. 822, 4 (S. C. Sac. 5 ian. 1928).

¹⁰⁷ c. 867, 1.

¹⁰⁸ c. 857.

¹⁰⁹ c. 867, 5.

¹¹⁰ *Ibid.*, 4.

¹¹¹ Cf. *Christus Dominus; Sacram Communionem*; S. C. Rit. 21 maii 1957; 21 iun. 1957; Cardinal Ottaviani, *loc. cit.* Cf. n. 75 above.

¹¹² Paul VI, motu proprio, *Pastorale Munus*, I Fac. 4, 30 nov. 1963; cf. S. Off. 21 oct. 1961 (n. 75 above).

¹¹³ John XXIII, motu proprio *Rubricarum instructum*, S. C. Rit. decree, 26 iul. 1960; no. 502, which continues: "On the other hand, it is also permissible for a good reason to distribute Holy Communion immediately before or after Mass, or even outside the time of Mass. In such cases the form prescribed in the Roman Ritual, tit. V, c. 2, nos. 1-10, is used."

¹¹⁴ Cf. *Rit. Rom.*, tit. IV, c. 2. *Practical Handbook of Rites, Blessings and Prayers* (1961), Part One, Section VI, p. 140; *Communion of the Sick*, p. 143; *Priest's Ritual* (1962), p. 69; *Communion of the Sick*, p. 73.

¹¹⁵ S. C. Rit. 11 maii 1878.

¹¹⁶ Cf. Trent, Denz. 889.

¹¹⁷ c. 1265, 1.

¹¹⁸ *Ibid.*, 1^o. Such churches should remain open at some times for the faithful (c. 1266).

¹¹⁹ PCI 20 maii 1923.

¹²⁰ c. 1191, 1.

¹²¹ c. 1265, 1, 2^o; and only in the church or principal oratory. Ecclesiastical colleges are minor and major seminaries, juniorates, scholasticates, religious novitiates. Even clerical exempt religious need permission of the local Ordinary for such reservation in the oratories of their pious or religious houses and ecclesiastical colleges. A pious house is one the spiritual needs of which are provided for by a chaplain and which is devoted, from a supernatural motive and under ecclesiastical control, to the promotion of religion or charity, such as retreat houses, hospitals, asylums, orphanages, sanatoriums, and probably Catholic schools and colleges.

¹²² PCI 3 iun. 1918, e.g., an oratory for seminarians and another for the Sisters in domestic charge; the young religious at a summer villa with the rest of the community at the main foundation.

¹²³ c. 1265, 2.

¹²⁴ *Ibid.*, 3.

¹²⁵ c. 1269, 3; S. C. Sac. 26 maii 1938.

¹²⁶ c. 1268, 1.

¹²⁷ S. C. Rit. 18 maii 1878; 23 nov. 1880.

¹²⁸ c. 1268, 2; S. C. Rit. 26 mart. 1929.

¹²⁹ c. 1268, 3; also in pilgrimage shrines (S. C. Rit. 1 iun. 1957).

¹³⁰ *Ibid.*, 4.

¹³¹ Cf. c. 1269, 1-2.

¹³² Cf. S. C. Rit. 1 iun. 1957 on the tabernacle; S. Off. 30 iun. 1952 on sacred art; S. C. Sac. 26 maii 1938; 10 feb. 1941 on custody of the Bl. Sacrament.

¹³³ S. C. Rit. 10 iul. 1940. If the shape of the tabernacle prevents the use of a canopy, a baldachin may be used (S. C. Rit. 29 iun. 1899; 1 iul. 1904). Curtains within the tabernacle are not prescribed but merely tolerated (S. C. Rit. 7 aug. 1871).

¹³⁴ c. 1270. The ciborium may not be of glass or crystal (S. C. Rit. 1 aug. 1867; 30 iun. 1880) and at least the inside must be gilded.

¹³⁵ c. 1269, 4.

¹³⁶ S. C. Sac. 26 maii 1938; 10 feb. 1941; S. C. Rit. 1 iun. 1957.

¹³⁷ c. 1271.

¹³⁸ S. C. Rit. 2 iun. 1883.

¹³⁹ c. 802; cf. Trent, Denz. 949; 961. The faithful who assist at Mass or who offer the matter for the Sacrifice are said in a sense to offer the Mass inasmuch as they are united with the celebrant (cf. Pius XII, ency. *Mediator Dei*, 20 nov. 1947). Those not priests are excommunicated and are to be penalized if they attempt to celebrate Mass (c. 2322).

¹⁴⁰ c. 803.

¹⁴¹ c. 805; cf. Trent, sess. XXIII, *de reform.*, c. 14.

¹⁴² S. C. Conc. nov. 1696: "A priest who without just cause has not celebrated three or four times in the year, sins mortally and may be punished by the bishop." Some dispute the authenticity of this decree. *Summa Theol.*, III, q. 82, a. 10: "Some have said that a priest may lawfully refrain altogether from consecrating, except that he be bound to do so, and to give the sacraments to the people, by reason of his being entrusted with the care of souls. But this is said quite unreasonably, because everyone is bound to use the grace entrusted to him, when opportunity serves, according to II Cor. 6:1: 'We exhort you that you receive not the grace of God in vain.' But the opportunity of offering sacrifice is con-

sidered not merely in relation to the faithful of Christ to whom the sacraments must be administered, but chiefly with regard to God to whom the sacrifice of this sacrament is offered by consecrating. Hence it is not lawful for the priest, even though he has not the care of souls, to refrain altogether from celebrating."

¹⁴³ c. 804, 1.

¹⁴⁴ *Ibid.*, 2-3; S. C. Conc. 1 iul. 1926; 18 iul. 1931.

¹⁴⁵ Cf. Trent, Denz. 893.

¹⁴⁶ c. 807; cf. no. 23 above. St. Alphonsus holds that he commits a fourfold sacrilege: 1) consecrating unworthily, 2) receiving unworthily, 3) administering unworthily, 4) administering to the unworthy, viz., himself. Others hold that there are two sins, consecrating and receiving in sin; others that there is one sin (although more grave) since all the acts are ordered to the one Sacrifice.

¹⁴⁷ c. 810.

¹⁴⁸ Cf. *Rit Rom.*, tit. IV, c. 1, n. 4; Pius XII, *Mediator Dei*; both these references apply also to the faithful, cf. no. 24 above.

¹⁴⁹ S. Off. 10 ian. 1964.

¹⁵⁰ *Christus Dominus* and the Instruction of the Holy Office, nn. 7-8. This Constitution and Instruction remain in force as they have not been abrogated by the *Motu Proprio Sacram Communionem*. The Holy Office will grant permission under certain circumstances for priests under treatment for alcoholism to use a minimum quantity of wine of low alcoholic content in the offering of Mass and also to use water only in the ritual ablutions after Communion.

¹⁵⁰ a Paul VI, motu proprio, *Pastorale Munus*, I Fac. 3, 30 nov. 1963.

¹⁵¹ Cf. c. 984, 2.

¹⁵² c. 813, 1.

¹⁵³ *Ibid.*, 2.

¹⁵⁴ Pius XII, *Mediator Dei*.

¹⁵⁵ S. C. Sac. Instruction, 1 oct. 1949. This Congregation will grant a bishop the faculty to permit his priests to say Mass without a server or anyone attending, because of the impossibility of finding a server or so that the faithful may attend weekday Mass. A celebrant without a server or with one who cannot respond says all the responses himself. The *Confiteor* is said once as when Office is recited alone (S. C. Rit. 4 sept. 1875).

¹⁵⁶ *Ibid.* It is also urged that not only boys but also adults according to their capacity be instructed to serve and to respond at Mass.

¹⁵⁷ S. C. Rit. Decr. auth. nn. 441, 1131, 2624, 3262. More than one server may be used for the purposes of training.

¹⁵⁸ *Ibid.*, 12 sept. 1837.

¹⁵⁹ c. 822, 1. In private and domestic oratories, cf. cc. 1195-1196.

¹⁶⁰ c. 823, 1.

¹⁶¹ S. Off. 5 iun. 1889.

¹⁶² c. 823, 2.

¹⁶³ Paul VI, motu proprio, *Pastorale Munus*, I Fac. 7-9, 30 nov. 1963.

Cf. c. 822, 2-3. A purely *personal* privilege of a portable altar does not provide the means of fulfilling one's Mass precept, except for the celebrant and the server. Attendance at this Mass in the open (*sub dio*) does satisfy (c. 1249). S. C. Sac. 1 oct. 1949: "The place where a portable altar is set up must be appropriate and decent, or fitting and honorable, lest because of its unworthy and unbecoming character grave injury and irreverence redound to the divine Mysteries. An appropriate place demands security and space, so that the Mass can be offered safely and conveniently without any danger of profanation or of the spilling of the Precious Blood from the chalice; a decent place refers to the quality of the place, that is, it demands that the Mass be not celebrated in a bedroom where someone usually sleeps, nor in any other place unbecoming the dignity of so great a Sacrifice. Decency also concerns the immediate place, that is, the table on which the portable altar is laid, that it be not unclean nor devoted to profane uses. This table must be of sufficient length and breadth to afford safe control of the stone, support for the Missal, and a proper and becoming celebration of the Mass."

¹⁶⁴ *Ibid.*, 4. This power is to be interpreted strictly (PCI 16 oct. 1919), i.e., not extending nor limiting the faculty beyond the obvious sense of the words. PCI 26 mart. 1952: "Q. Whether notwithstanding the prescription of c. 1249, the law on hearing Mass is satisfied by one who assists at Mass in a place mentioned in c. 822, 4? R. In the affirmative."

¹⁶⁵ S. C. Sac. 26 iul. 1924; 3 maii 1926.

¹⁶⁶ c. 820.

¹⁶⁷ c. 821, 1. The Military Ordinariate enjoys more ample faculties. The Holy See will authorize Mass at midnight or 1:00 A.M. for workers on Sundays and holydays.

¹⁶⁸ Paul VI, motu proprio, *Pastorale Munus*, I Fac. 4, 30 nov. 1963. Cf. *Sacram Communionem*. Cardinal Ottaviani, *loc. cit.*: "First of all, there is no longer any limitation on the days on which bishops can permit afternoon Mass: the only condition necessary for making this concession is the *bonum commune*, as was explained in the Monitum of the Holy Office of March 22, 1955. The criterion is given in the phrase *notabilis fidelium pars*, which is the same usage as that of the Code of Canon Law (c. 806, 2) for the exercise of the faculty to permit binate Masses."

¹⁶⁹ The norms of *Christus Dominus* remain in force (S. C. Rit. 21 iun. 1957), except where the local Ordinary exercises his faculties under *Pastorale Munus*.

¹⁷⁰ c. 821, 2-3. The doors may be open and strangers admitted to the Masses (PCI 5 mart. 1954). It is not permitted to begin Mass before midnight (S. C. Rit. 11 maii 1878; cf. PCI 28 maii 1947).

¹⁷¹ John XXIII, *Rubricarum instructum*; S. C. Rit., *loc. cit.*, nn. 285, 287.

¹⁷² c. 33, 1.

¹⁷³ S. C. Rit., *loc. cit.*, nn. 49-50.

¹⁷⁴ *Ibid.*, n. 54.

¹⁷⁵ *Ibid.*, nn. 274-277; 279. For diocesan and religious seminaries, colleges and certain churches and oratories, cf. nn. 280-283.

¹⁷⁶ *Ibid.*, nn. 284, 278.

¹⁷⁷ Paul VI, *motu proprio, Pastorale Munus*, I Fac. 2, 30 nov. 1963. Cf. c. 806, 1-2. A priest who unlawfully celebrates more than once in a day is liable to suspension from the celebration of Mass (c. 2321).

¹⁷⁸ c. 824, 2.

¹⁷⁹ Cf. Trent, Denz. 938-940; 948-950.

¹⁸⁰ *Summa Theol.*, III, q. 79, aa. 5, 7 ad 2. Pius XII, ency. *Mediator Dei*: "Now the Apostle of the Gentiles proclaims the copious plenitude and perfection of the Sacrifice of the Cross, when he says that Christ by one oblation has perfected forever them that are sanctified. For the merits of this Sacrifice, since they are altogether boundless and immeasurable, know no limits; for they are meant for all men of every time and place. This follows from the very fact that in this Sacrifice the God-Man is the Priest and Victim; that His immolation was entirely perfect, as was His obedience to the will of His Eternal Father; and also that He suffered death as the Head of the human race. . . . This purchase, however, does not immediately have its full effect; since Christ after redeeming the world at the lavish cost of His own Blood, still must come into complete possession of the souls of men. Wherefore, that the redemption and salvation of each person and of future generations unto the end of time may be effectively accomplished and be acceptable to God, it is necessary that men should individually come into vital contact with the Sacrifice of the Cross, so that the merits which flow from it might be imparted to them. . . . The cooperation of the faithful is required so that sinners may be individually purified in the Blood of the Lamb. For though, speaking generally, Christ reconciled by His painful death the whole human race with the Father, He wished that all should approach and be drawn to His Cross, especially by means of the sacraments and the Eucharistic Sacrifice, to obtain the salutary fruits produced by Him upon it."

¹⁸¹ Alexander VII, 24 sept. 1665, prop. 8 condemned (Denz. 1108): "A priest can lawfully accept a twofold stipend for the same Mass by applying to the petitioner even the most special part of the fruits appropriated to the celebrant himself, and this after the decree of Urban VIII."

¹⁸² Pius VI, 28 aug. 1794. Denz. 1530.

¹⁸³ It is probable that the intention may be made after the consecration of the bread and before that of the wine. However, in practice, at least for a Mass to be applied under any title of obligation, the priest should in such a case apply another Mass for the intention.

¹⁸⁴ c. 825, 1°. If a priest, hearing that a person has died, knows for certain that someone will shortly request a Mass for the deceased, his application of the Mass will be valid. But after receiving the stipend he is freed from the obligation of applying another Mass only if the donor of the stipend knows what has been done and agrees to it.

¹⁸⁵ Cf. S. C. Conc. 27 feb. 1915; S. Poen. 7 dec. 1892.

¹⁸⁶ Cf. c. 809; Trent, Denz. 940; 950.

¹⁸⁷ c. 2262, 2, 2°.

¹⁸⁸ S. Off. 12 iul. 1865.

¹⁸⁹ c. 1241.

¹⁹⁰ Cf. n. 186 above. *Summa Theol., Suppl.*, q. 71, a. 2, ad 3.

¹⁹¹ Cf. c. 1240.

¹⁹² Cf. c. 1239.

¹⁹³ c. 1241.

¹⁹⁴ *Summa Theol., Suppl.*, q. 71, a. 9, ad 5: "In the office of the Mass there is not only a sacrifice but also prayers. . . . As regards the sacrifice offered the Mass profits equally the departed, no matter in whose honor it be said: and this is the principal thing done in the Mass. But as regards the prayers, that Mass is most profitable in which the prayers are appointed for this purpose. Nevertheless, this defect may be supplied by the greater devotion either of the one who says the Mass or of the one who orders the Mass to be said, or again by the intercession of the saint whose suffrage is besought in the Mass." A Mass of Requiem or in black vestments may be applied for the living as long as the donor of the stipend did not expressly declare otherwise (S. C. Rit. 29 nov. 1856).

¹⁹⁵ c. 826, 3.

¹⁹⁶ c. 1546.

¹⁹⁷ c. 1550.

¹⁹⁸ c. 1544.

¹⁹⁹ Cf. cc. 1547; 1550.

²⁰⁰ Cf. cc. 1545; 1550.

²⁰¹ cc. 1551; 1517, 2. The Apostolic Delegate enjoys certain faculties regarding pious foundations, as do also the local Ordinaries in the U.S.A. by their quinquennial faculties and the motu proprio, *Pastorale Munus*, I Fac. 11.

²⁰² c. 805.

²⁰³ S. C. Rel. 3 maii 1914: "Q. Can religious superiors command their subjects also in virtue of holy obedience to celebrate according to the intention prescribed by the Constitutions or established by these super-

iors, saving the exceptions sanctioned by the Constitutions or by legitimate custom? R. In the affirmative."

²⁰⁴ Trent, sess. XXIII, c. 1 *de reform*; Heb. 5:1.

²⁰⁵ c. 451, 1.

²⁰⁶ c. 473, 1; probably also the senior curate or nearest pastor who by c. 472, 2^o assumes interim administration of the parish but only for this period.

²⁰⁷ c. 466.

²⁰⁸ S.C.P.F. 16 maii 1933; 26 ian. 1954.

²⁰⁹ Military chaplains are subject to special norms.

²¹⁰ Cf. cc. 466, 1; 339, 1;

²¹¹ c. 339, 2.

²¹² *Ibid.*, 4; 466, 3.

²¹³ c. 466, 2; PCI 14 iul. 1922.

²¹⁴ c. 824, 2.

²¹⁵ c. 419, 2.

²¹⁶ c. 466, 3.

²¹⁷ *Ibid.*, 4-5.

²¹⁸ S. C. Conc. 3 dec. 1960.

²¹⁹ Some consider that "stipend" comes from *stips* or a small contribution in money, and *pendere* or to weigh: thus originally a soldier's pay.

²²⁰ c. 824, 1.

²²¹ Cf. I Cor. 9:7, 13-14; *Summa Theol.*, II-II, q. 100, a. 2. To hold that it is a base abuse to receive alms for the celebration of Masses and the administration of the sacraments is condemned as false, temerarious, harmful to ecclesiastical and pastoral rights, and injurious to the Church and her ministers (Pius VI, 28 aug. 1794. Denz. 1554).

²²² Cf. c. 727.

²²³ c. 824, 2. Three stipends are permitted by law on Christmas alone.

²²⁴ The entire stipend must be turned over to the Ordinary, even if it exceeds the diocesan tax (S. C. Conc. 9 maii 1920).

²²⁵ c. 825, 2-4. Violation involves a grave obligation of restitution.

²²⁶ c. 825, 2 forbids the reception of a stipend for a Mass owed under any title, not only in justice but also in obedience, fidelity, etc. Thus there cannot be a twofold application of the primary intention.

²²⁷ Cf. S. C. Conc. 14 sept. 1878; 5 mart. 1887. "Whether a priest, who by the statutes of a sodality, is bound to celebrate Mass for a deceased member, may, to satisfy this obligation, apply the second Mass on a day in which he binates. R. Affirmative."

²²⁸ c. 826, 1-3.

²²⁹ c. 831, 1-3.

²³⁰ c. 832; S. C. Conc. 16 ian. 1649.

²³¹ Cf. c. 918.

²³² c. 832.

²³³ c. 828.

²³⁴ It is certain that there is a grave obligation to satisfy the entire number of stipends; it is commonly taught that in every case there is a grave obligation of restitution no matter how small the stipend. Some hold that the omission of one Mass in a large number (e.g., 100) for the same intention, or when an unsatisfied stipend is extremely low (e.g., ten cents), the obligation of restitution is probably not grave.

²³⁵ c. 829. It is otherwise when the stipends have not been accepted or received.

²³⁶ c. 830. Often in some places, as in large cities, the usual stipend is larger than the diocesan norm; thus a donor in such places is to be considered to give that stipend.

²³⁷ S. C. Conc. 15 iun, 1928.

²³⁸ c. 835.

²³⁹ c. 836.

²⁴⁰ c. 834, 1.

²⁴¹ *Ibid.*, 2, 1°.

²⁴² *Ibid.*, 2°. The Decree "*Ut debita*" of the S. C. Conc. (11 maii 1904) still serves as the norm of reference and recommendation for commentators, although it is no longer preceptive; according to its terms the "*intra modicum tempus*" of the canon is to be understood as one month for one Mass, six months for one hundred Masses, and one year for all the Masses received, with other numbers computed in proportion, and all reckoned morally and not mathematically. This implies that the Masses have been given to the same priest by one and the same donor; if the donors are all different persons, each has its own computation, e.g., thirty stipends, each of which is from a different offerer, should be satisfied in a month (*ibid.*, 27 feb. 1905).

²⁴³ *Ibid.*, 3°, i.e., as long as it is within the year from their reception (c. 835). A delay beyond the "*modicum tempus*" is sinful; it is certainly a grave sin if Masses are delayed beyond the year (prescinding from a circumstance determining their exact time), probably a slight sin if the delay is notably beyond the above norms, except with a just and reasonable cause.

²⁴⁴ c. 833.

²⁴⁵ Cf. S. C. Indulg. 22 feb. 1847; 2 maii 1852; 24 iul. 1885.

²⁴⁶ Cf. *ibid.*, 11 apr. 1840; S. C. Conc. 27 aug. 1895.

²⁴⁷ Cf. S. Off. 1 sept. 1841; S. C. Conc. 27 apr. 1895.

²⁴⁸ Cf. c. 1235.

²⁴⁹ S. C. Indulg. 11 mart. 1884: "The confidence by which the faithful retain the celebration of the gregorian thirty Masses (i.e., lead by the example of St. Gregory the Great) as especially efficacious by the goodwill and acceptance of the divine mercy for the liberation of a soul from

the pains of Purgatory, is pious and reasonable, and the custom of celebrating these Masses is approved by the Church."

²⁵⁰ *Ibid.*, 24 aug. 1888.

²⁵¹ *Ibid.*, 14 ian. 1889.

²⁵² S. Off. 12 dec. 1912.

²⁵³ S. C. Conc. 7 maii 1791.

²⁵⁴ c. 838. S.C.E.O. 7 ian. 1930 requires that all stipends for Oriental priests outside their own territory be sent to the Oriental Congregation or the Apostolic Delegate.

²⁵⁵ c. 837.

²⁵⁶ c. 839.

²⁵⁷ Cf. c. 829.

²⁵⁸ c. 840, 1. Penalties may be incurred for violations of the laws on Mass stipends (c. 2324).

²⁵⁹ S. Off. 24 sept. 1665. Benedict XIV, 3 iun. 1741, stated that it was a detestable abuse for the priest transmitting a stipend to ask the celebrant to let him keep a portion of the stipend.

²⁶⁰ S. C. Conc. 16 apr. 1921.

²⁶¹ Cf. 28 mart., 25 iul., 22 aug. 1874; 10 nov. 1917.

²⁶² c. 840, 2.

²⁶³ c. 841, 1. S. C. Conc. 19 feb. 1921 holds that funded Masses, those *ad instar manualium* and manual Masses given for the benefit of a pious cause are subject to the direction of the Ordinary.

²⁶⁴ c. 843, 1. Religious constitutions may impose this duty on the sacristan or someone else.

²⁶⁵ *Ibid.*, 2.

²⁶⁶ c. 844, 1. Masses are generally to be transferred in their order of reception.

²⁶⁷ *Ibid.*, 2. Those in charge of a church seem to have no obligation to keep the record after the Masses have been said.

²⁶⁸ c. 842. The right and obligation of inspection in parish churches entrusted to exempt religious belong to the religious superior (S. C. Ep. et Reg. 11 maii 1904).

²⁶⁹ c. 827. It is forbidden for publishers to collect stipends and have the Masses celebrated by priests who would then accept books instead of the money and permit the publishers to profit by a commission on the stipends and the books or to receive the usual profit on the books, so that however the operation is accomplished a profit accrues to anyone but the celebrant of the Mass (S. C. Conc. 11 maii 1904). This differs from the priest receiving wine, oil, grain, poultry, etc., as an offering. Religious, for example, may make an agreement to assume the celebration of certain Masses and the stipends for the same to be retained by the other religious in the agreement, in order to defray certain expenses or obligations owed to the other parties, e.g., taxes, liturgical books, etc.

²⁷⁰ S. C. Conc. 27 feb. 1905; 11 ian. 1920.

V

The Administration
of
Penance

THE ADMINISTRATION OF PENANCE

I. NOTION

1.-Penance (*poenitentia*) is derived from expressions indicating a condition of pain or penalty.¹ The term is applied to the moral virtue of penance, to the sacrament of penance, and to satisfaction which is part of the sacrament. The sacrament itself presupposes the moral virtue, and in the New Law the latter must have at least a reference to the sacrament. "The acts which proceed from penance as a virtue constitute the matter, as it were, of Penance as a sacrament, and unless the virtue be rightly understood, the force of the sacrament cannot be appreciated."² In a general sense, penance is a sorrow of soul which one experiences after having done or omitted something that one wishes not to have done or omitted (usually morally evil actions). More properly, it is a moderated grief for past sins, inasmuch as they have offended God, with the intention of removing them,³ or a habit in the will inducing one to repair the injury done to God by sin. The supernatural virtue alone is of practical consideration, since a natural virtue of penance, though possible, of itself is of no avail for salvation.⁴

A. - DEFINITION.

2-1.-*Virtue.* Penance is a supernatural virtue inclining a sinner to detest and to grieve over his own sin, inasmuch as it is an injury and an offense to God, and firmly to resolve correction and satisfaction.⁵ It is commonly considered a special virtue, a potential part of justice, by reason of its special object and motive: the good of the reparation due to God and of the restoration of the possible equality between us and God. Any person guilty of or even capable of sin is an apt subject of this virtue. The essential acts of penance are contrition or hatred and detestation of sin committed inasmuch as it has offended God, grief and sadness, the resolve not to sin again, the firm will to make satisfaction (the confession or accusation of sins, although a special act of penance, is not a necessary act of the virtue). Detestation and sorrow are principal in

penance; presupposed is the operation of the virtues of faith, hope, fear and initial love. Penance is perfect or imperfect as it is motivated by perfect charity or by a lesser supernatural motive.

3. — 2. - *Sacrament*. Penance is a sacrament of the New Law (genus)⁶ in which sins committed after baptism (matter) are forgiven (effect) the rightly disposed faithful (recipient) by the judicial absolution (form) of an authorized minister (minister).⁷ This sacrament is distinctive especially in the fact that it is administered in the manner of a judgment⁸ or by a judicial act, whereas the other sacraments consist in a certain consecration: the sinner is the culprit, witness and accuser, the priest is the judge rendering sentence. Unlike other judgments which tend toward the punishment of the guilty, sacramental judgment is directed to the absolution of the sinner and his reconciliation with God. In this sacrament instituted by Christ all sins committed after baptism are remitted by the conjunction of the absolution of the priest and the precise placing of certain acts by the penitent.

B. - NECESSITY.

1. - *Virtue*.

4. — a) It is of faith that true penance can take away all sins.⁹ This means perfect penance and not imperfect penance or attrition.¹⁰ It is of faith that penance is strictly necessary for salvation at all times,¹¹ and thus it cannot be safely considered other than a necessity of means,¹² for one in a state of mortal sin. It pertains to faith that penance for such a sinner is also necessary by a necessity of precept.¹³ It is an obligation of satisfaction or justice to God, including also that of charity toward God and toward self (even mercy toward one's miserable condition of sinfulness). The virtue of penance acts to justify the sinner *ex opere operantis*.

b) All are agreed that the precept of penance does not oblige immediately after the commission of serious sin, although a sinner is obliged to desist immediately from sin and the actual affection for it. Being an affirmative precept it does not always and at every moment oblige, but only when a special reason urges. Otherwise one would sin every time he averted to the obligation of penance; an ill person is not taking medicine every time he thinks of it, but only when necessary.

c) However, precisely when the precept of penance obliges is a matter of discussion among theologians. It is certain that the obligation of itself urges at the moment of death and in probable danger of death (in warfare, a dangerous journey, difficult childbirth, etc.) or of perpetual loss of reason. Outside of such danger, the opinion as to how often in life this obligation of itself binds, or how long one can refrain from eliciting an act of penance before incurring another sin by delaying this act, varies from one week, one month, one year, to the time of death alone.¹⁴ A

notable delay in repenting is reprobated in Scripture,¹⁵ as it indicates a neglect and contempt of God and a failure in the grave obligation to tend to one's ultimate end.

d) The precept of penance obliges accidentally or because of the fulfilment of some other duty or obligation: a) when a sacrament is administered or received; b) when another precept or virtue, e.g., charity, requires a previous act of penance; c) when an act of penance is necessary to overcome a serious temptation inasmuch as it restores friendship with God; d) when one wishes to evidence penance externally, which otherwise would be simulation. The violation of the precept of penance which obliges only accidentally need not be mentioned in confessing, since it is not a special sin. Of itself there is no special precept of penance for venial sins, as they may even be left for expiation in the next life; an obligation may arise accidentally, e.g., when they are the only matter in the reception of the sacrament of penance.

e) The deliberate will not to do penance or not to repent is a special sin of impenitence. The simple omission of penance is not a special sin unless the obligation binds of itself. Failure in the obligation that binds only accidentally would not be a special sin of impenitence but a transgression of the precept or virtue against which one offends by sinning. Nevertheless, at all times sinners must be warned to sorrow for their sins as soon as they are aware of them, since a protracted enmity with God is an injury to His majesty and most dangerous and destructive for the penitent who must rely on the mercy of God. Confessors will ask about such repentance in order to ascertain the fulfilment of the positive precept of annual confession and to judge the state of conscience so that it might be formed rightly.

2. - Sacrament.

5 - a) The exteriorly manifested acts of the virtue of penance have been raised by Christ to the sacramental level; they have become the matter of an effective sign of grace. It is of faith¹⁶ that, given its institution by Christ, the sacrament of penance must by a necessity of means be received actually (*in re*) or, when that cannot be done, at least in desire (*in voto*), in order to remove mortal sins committed after baptism. It is certain¹⁷ that after the institution of the sacrament perfect contrition is no longer able to destroy sin except through an order or relationship to the sacrament itself which, if not always received actually, is received at least in desire with perfect contrition. An explicit desire is not required but an implicit desire suffices. This is necessarily included in perfect contrition itself, inasmuch as the perfectly contrite will also be prepared to fulfill everything necessary for salvation, even if here and now through inadvertence, forgetfulness or invincible ignorance the penitent does not think of what these necessary things are. (However sin is remitted, the

obligation of receiving absolution remains). The sacrament obliges also by a necessity of precept,¹⁸ operating *ex opere operato* with at least imperfect contrition or attrition.

b) The sacrament of penance is repeatable.¹⁹ The divine precept of itself obliges gravely at the moment of death and in very probable danger of death or of permanent loss of reason. It is also a matter of discussion if and when the obligation binds of itself also sometimes in life, or even after every lapse into mortal sin. The sacrament of penance obliges accidentally, by reason of a natural or positive precept: a) when the Eucharist is to be received and serious sins have not been confessed or indirectly remitted;²⁰ b) when a sacrament must be received or *ex officio* administered and an act of perfect contrition cannot be elicited; c) when a grave temptation or evil habit cannot be overcome without confession. The omission of the sacrament in these cases is not a sin against the divine precept of confessing but a violation of the other obligation which requires confession. The precept does not require immediate confession of sins, lest they be forgotten, but only a confession of those sins of which the penitent is conscious after a diligent examination of conscience. The positive precept of ecclesiastical law (since the IV Lateran Council in 1215) obliges to an annual confession.²¹ This is treated in detail later.²²

C. - EFFECTS.²³

6. — 1. - *Virtue*. By a true repentance (and not merely attrition) all sins, no matter how grievous, can be forgiven and taken away, and grace and supernatural virtues restored in divine friendship.²⁴ Likewise, the eternal debt and punishment of these sins is removed. The remains of sin or the evil inclinations and dispositions are lessened. Not all the temporal punishment is always or necessarily remitted.²⁵ Meritorious works or good works done in charity before the commission of sin revive after the sin has been removed by true repentance.

7. — 2. - *Sacrament*. The sacrament of penance has the power to remit through the infusion of sanctifying grace all sins however grievous and however often repeated, and to restore the state of divine friendship.²⁶ It brings to the well disposed peace and serenity of conscience joined to great consolation of soul.²⁷ As with the virtue, it takes away the eternal debt or punishment,²⁸ diminishes the temporal punishment²⁹ and sometimes but not always takes it away fully,³⁰ revives previous meritorious works,³¹ and lessens evil dispositions. Penance confers a sacramental grace or special supernatural help moving the penitent to an ever growing hatred of sin and more surely preserving him from sin in the future. Many other benefits are gained from this sacrament by well-disposed penitents. "Most holy persons are firmly persuaded that whatever piety,

virtues, religion have been preserved down to our own day in the Church, through God's goodness, must be ascribed in great measure to confession." ³²

II. MATTER

8. - A. - VIRTUE.

Penance or repentance embraces all personal actions which offend God and violate His right and the things pertaining to it. All actual mortal sins fully offend God and render the sinner perfectly turned away from God, and thus they are the proper and principal matter of penance. Proper but secondary matter is all venial sins, since as sins they also in some way offend God. Sins already forgiven are also matter for repentance, since their remission is not infallibly certain, their retraction not always perfect, their satisfaction not always full. Mere imperfections are generally not matter for penance but rather for the zeal of charity.

9. - B. - SACRAMENT.

It is of faith that the remote and necessary matter of the sacrament of penance is all mortal sin committed after baptism and not yet duly submitted to the power of the keys of the Church.³³ It is certain also that venial sins not yet confessed and all actual sins already confessed and remitted are the remote, free and sufficient matter of the sacrament.³⁴ The proximate matter of the sacrament is the three acts of the penitent: contrition, confession and satisfaction.³⁵ The matter of the sacrament and the acts of the penitent will be more fully considered later.³⁶

III. FORM

A. - SACRAMENTAL.

10. - 1. - *Nature.* - The form of this sacrament is the words by which the priest as judge passes sentence or absolution on sins; it signifies the use and effect of the power of the keys in the remission of sins. The form should express the exercise of the judicial power given to the ministers of the Church, to be exercised in the name of God, and the actual effect.³⁷

11. - 2. - *Essential.* - It is certain that the words "*absolvo te*" are required for a valid form.³⁸ For some theologians it is probable that the words "*a peccatis tuis*" also pertain to validity, since the previous words are not sufficiently determined and may be as readily applied to absolution from censures as from sins; thus, in practice, these words must be included, lest the sacrament be exposed to nullity, and where they are omitted the

form is to be repeated conditionally. The words "*in nomine Patris, et Filii, et Spiritus Sancti*" are not required for validity, but their omission is a venial sin. The voluntary omission of an essential word of the form or of one probably required for validity is a grave sin. Whether voluntary or not, the omission invalidates the sacrament or at least exposes it to the danger of nullity and thus deprives the penitent of sacramental grace. Likewise with the case of substantial corruption of the form. Absolution imparted in an equivalent form would be gravely unlawful but valid.

12. — B. - RUBRICAL. The *lawful* form is the integral rubrical form which the Church prescribes to be employed in absolution. Although the prayers added to the form by the Church are not necessary for the absolution itself, in the absence of a justifying cause (number of penitents, frequency and brevity of a confession, etc.) they are not to be omitted.³⁹ The word "*suspensionis*" is included in the rubrical form only in the case of a clerical penitent. When it is certain that the penitent is below the age of puberty, the absolution of censures is omitted.⁴⁰ The minister ought carefully to observe the form of the Latin Church with the accompanying prayers and ceremonies, such as are found in the *Roman Ritual* or in a special approved rite. The prescribed formulas are:⁴¹

13. — *Absolutionis Forma Communis*

Having imposed a salutary penance, the priest says:
Misereatur tui omnipotens Deus, et dimissis peccatis tuis, perducatur te ad vitam aeternam. Amen.

Then he raises his right hand toward the penitent and says:
*Indulgentiam, absolutionem, et remissionem peccatorum tuorum tribuat tibi omnipotens, et misericors Dominus. Amen.*⁴²

*Dominus noster Jesus Christus te absolvat: et ego auctoritate ipsius te absolvo ab omni vinculo excommunicationis, (suspensionis,) et interdicti, in quantum possum, et tu indiges.*⁴³ *Deinde ego te absolvo a peccatis tuis, in nomine Patris, et Filii, ☩ et Spiritus Sancti. Amen.*⁴⁴

*Passio Domini nostri Jesu Christi, merita beatæ Virginis, et omnium Sanctorum, quidquid boni feceris, et mali sustinueris, sint tibi in remissionem peccatorum, augmentum gratiæ, et præmium vitæ aeternæ. Amen.*⁴⁵

For any good reason, the words, "*Misereatur, etc.*," may be omitted, and it is sufficient to say: "*Dominus noster, etc.*," as far as "*Passio Domini, etc.*" When grave need urges in danger of death, the priest can recite the following short form:

*Ego te absolvo ab omnibus censuris, et peccatis, in nomine Patris, et Filii, ☩ et Spiritus Sancti. Amen.*⁴⁶

C. - CEREMONIAL.

14. - 1. - It is not obligatory to give the introductory blessing before the penitent begins his confession, but this custom should be preserved; the *confiteor* is not prescribed.⁴⁷ The penitent usually opens his confession with "Bless me, Father, for I have sinned," and the priest gives his blessing with the words "*Dominus sit in corde tuo et in labiis tuis ut rite confitearis peccata tua, in nomine Patris, et Filii, ☩ et Spiritus Sancti,*" or, "*Dominus te benedicat*" ☩, or similar formulas.

15. - 2. - The confessor imparts his absolution while sitting, after the manner of a judge pronouncing sentence; any just cause will excuse from this. The raising of the hand in absolution and the making of the sign of the cross are not required under pain of sin, but the custom and the rubrics are to be observed in this matter.

16. - 3. - It is no sin at all to omit the absolution from censures when there is no probable suspicion of their existence; otherwise the sin is venial. To absolve sins before censures, which are certainly known to exist and which impede the reception of the sacraments (excommunication and interdict), is a grave sin. The absolution would be valid, unless the censure was reserved and the confessor thus lacked the faculty in the case.⁴⁸ Since suspension does not prevent reception of the sacrament, the omission of the word "*suspensionis*" in the form of absolution of a penitent known to be so censured is a venial sin. A confessor who uses the words "*Ego te absolvo a peccatis tuis*" with the intention of absolving both censures and sins validly absolves in both cases.

D. - GENERAL AND PLURAL FORM.

17. - 1. - *In danger of death.* In time of war soldiers may be absolved in groups as soon as it is judged necessary to absolve them by a general formula or common absolution; likewise groups of citizens may be so absolved in danger of death, when this is necessary. In all cases penitents should, if possible, be warned to confess their mortal sins when they next go to confession, to be presently contrite and resolve not to sin in the future, and to manifest this in some way, at least by striking their breast.⁴⁹ When there is time, this absolution is to be given with the usual and complete formula, in the plural number; otherwise the shorter formula may be used: "*Ego vos absolvo ab omnibus censuris et peccatis. In nomine Patris, et Filii, ☩ et Spiritus Sancti.*"

18. - 2. - *Outside the danger of death.* Unless there is danger of death, it is not lawful to give sacramental absolution to many at the same time, nor to individuals who make only a partial confession, for example, such as may take place on a day of some great feast or indulgence. But it is allowed if some other altogether grave and urgent necessity arises, which

is proportionate to the gravity of the divine precept to make an integral confession, for example, if the penitents otherwise, without any fault of their own, would be deprived for a long time of sacramental grace and Communion. The local Ordinaries, to whom the priests must apply in advance, if possible, in order to impart absolution lawfully in this way, must make the decision whether the crowd of soldiers or prisoners or civilians are actually in such necessity. For priests to impart such absolution on their own authority is reprobated as an abuse.⁵⁰

E. - MODE.

19.— 1. - *Vocal*. By the will and institution of Christ absolution to be *valid* must be oral, even in the greatest necessity,⁵¹ and this is the perpetual practice. Although not of faith, it is theologically certain and in practice all expressions of absolution other than in words must be considered invalid.⁵² The words need not be heard by the penitent (or even by the minister), but they must be of themselves audible. Absolution cannot be given in writing or by a sign or a nod; in this it differs from the form of matrimony.

2. - *Present*.

20. — a) *outside of necessity*.

i. - Sacramental absolution must be imparted to a penitent who is personally present and his accusation of sins must be made to a confessor who is present. The absolution cannot be given vocally nor the sense of the words preserved unless the penitent is present, i.e., one who according to the common and ordinary manner of speaking and acting can hear the words or to whom the confessor can speak. To hold that confession can be made to one who is absent or that absolution can be imparted by letter or messenger to one who is absent has been condemned.⁵³ A grave cause will permit a penitent to write out his sins and even to send them to the confessor, but he must be present to accuse himself of the sins so written and to receive absolution validly. Absolution can be given to the unconscious whose desire for it is testified to by bystanders.

ii. - The penitent must be physically or at least morally present. Since physical presence cannot be always had in human affairs, by divine institution that presence is required and suffices by which a penitent, according to the common manner of judging of men, is considered to be truly present. Moral presence is that within which men still can and are accustomed to speak among themselves, even though in a loud voice. There is no need for the penitent actually to hear or to understand the words, since it is not the penitent whose action the words of the form must indicate but God. Often the words must be said in a low voice lest bystanders hear. The penitent's presence is required so that the words may have a reasonable meaning. It is not necessary that there be no barrier at all between

confessor and penitent, e.g., a nun behind a heavy grille or curtain; however, a confessor and penitent in different non-communicating rooms render the absolution at least doubtful and it may be imparted only in a case of necessity and conditionally.

iii. - It is generally held that within about twenty paces distance sufficient presence is had for the words of absolution to fall upon the penitent. Greater distance, e.g., fifty to one hundred paces may be admitted, if there is a moral union of the men, e.g., in a street, military field, stadium, courtyard, etc. The opinion that absolution can be given in any case at any distance as long as the penitent is seen or sensibly perceived is untenable, since it does not seem to fulfill the nature of a judgment. An absolution beyond about twenty paces or in some dubious presence, e.g., unconnecting rooms, is doubtful.

21. - b) *in case of necessity.*

i. - The penitent can and must be absolved as often as he can be perceived by some sense, at least confusedly, even if for some accidental hindrance he is not perceived. If he is more than twenty to thirty paces away the absolution is conditional. Thus a priest must absolve a person who is seen to fall from a roof, into a river, to drown; also the dying who cannot be approached for some reason, e.g., fire, wreckage, locked door, contagion, time to cover the distance, etc.

ii. - Many persons may be absolved at once, e.g., a whole military unit which is present, even though the members in the rear are more than twenty to thirty paces distant. When because of the great distance these latter cannot be considered to be morally present, they cannot be validly absolved. The group should then be divided and the single parts absolved to insure validity.

iii. - If the penitent, thinking he has been absolved, should leave before receiving absolution:

α) if he is near the confessional, he can be absolved without recalling him, even though he may have mingled with others, as long as it is prudently judged he is still morally present.

ξ) if not, he must be recalled for absolution if this can be conveniently done and he can conveniently return.

γ) if this cannot be done and he is certainly morally present, although not perceived, he must be absolved.

δ) if he is neither present nor will return later, nothing can be done but recommend him to God.

ε) if he later returns to the same confessor for confession, he should be warned to be sorry for all his sins and absolved.

ζ) if the approach is not for confession but for some other reason, he must be warned of the defect of absolution. However, in practice the admonition usually may be omitted, since this is generally a source of

uneasiness to penitents and very difficult for the confessor due to the danger of scandal or of infamy to him. The penitent does not suffer spiritual damage, since these sins are also indirectly remitted in the following confession.

22. – c) *extraordinary presence*. Absolution given over the telephone is certainly unlawful and probably invalid. It is not the human voice but an artificially produced sound and the persons are commonly considered to be absent from each other. This mode of absolving may be used conditionally in extreme necessity. Absolution through a speaking tube is certainly unlawful but probably valid. Although the human voice is heard, the moral presence is doubtful. Absolution by telegraph, radio or television is certainly unlawful and invalid.

23. – 3. - *Unconditional*.

a) All the sacraments are to be conferred absolutely and only conditionally when a peculiar reason or cause demands or permits. A condition does not affect the sense of the form but the will of the minister. The sacraments work their effect when they can and it is not in the power of the minister to suspend it for a future time. Tradition and the practice of the Church has always held that absolution under a future condition is invalid. Absolution under a condition of the present or past is certainly valid and for a just and sufficient grave cause lawful.⁵⁴ Absolution may not be given conditionally unless the reason is well founded and grave necessity urges; thus, it must be imparted as often as, if not given, a notable spiritual damage would threaten the penitent, and if given absolutely, nullity or irreverence of the sacrament is risked. This is exemplified in the following cases of doubt: 1) of the confessor that he absolved the penitent who is in mortal sin; 2) of the disposition of or the matter submitted by a penitent in danger of death, or whether the penitent is alive or has understood the confessor; 3) of the return of the penitent if absolution is not given; 4) of the attainment of the use of reason; 5) of the sufficiency of the matter confessed by a devout person from whom certain matter cannot be prudently obtained.

b) It is not necessary but rather generally inadvisable for the confessor to inform the penitent that he has been absolved conditionally. When the penitent is considered in good faith, his later Communion will not be sacrilegious. When conditional absolution is given in the case of mortal sins, especially in view of the doubtful dispositions of the penitent, the latter must not receive Communion, as this risks the danger of sacrilege. At least, the confessor cannot recommend Communion, but rather, when asked, leave it to the conscience of the penitent.

c) An oral or vocal expression of the condition is not necessary, and it may be merely mentally expressed.⁵⁵

24. - 4. - *Repeatable*. When a penitent has already received absolution but then remembers a forgotten sin or a gravely changing circumstance or a notably diverse number of sins already confessed, the confessor must repeat the absolution. Otherwise, the penitent must confess this as necessary matter in the next confession. The penitent must have contrition for this new matter, unless previously elicited contrition virtually perseveres. In practice, the confessor will ask the penitent if he is sorry for these sins also and confirm the penance given or add to it, as he prudently judges. When only a venial sin is confessed after absolution, a new absolution may be imparted, but it is not required.

IV. MINISTER

25. - A. - **ORDERS**. - The ministry of the sacrament of penance requires both the power of the priesthood and the power of jurisdiction or governance. It is of faith that Christ gave to the priest alone the power of binding and loosing, of forgiving and retaining.⁵⁶ The power of Orders is the efficacious instrument of the conferral of grace. It is a power equally received by all in priestly ordination rendering the recipient capable of sanctifying the people. It bestows the proximate aptitude and disposition to receive jurisdiction over subjects for the purpose of sanctifying them, and in the sacrament of penance of absolving their sins. Orders thus cause the penitential judgment to be radically efficacious.

B. - JURISDICTION IN GENERAL.

26. - 1. - *Nature and necessity*.

a) Jurisdiction is the public power to rule subjects. Ecclesiastical jurisdiction is the public power to rule, to judge, to coerce the baptized with a view to their sanctification and supernatural happiness, which is the end of the Church. This jurisdiction is exercised over all the baptized, as they alone are the subjects of the Church.⁵⁷ Penitential jurisdiction is the judicial power to remit or to retain sins in the sacred tribunal of Penance, the faculty of exercising the power of Orders on certain definite persons as legitimately designated subjects, thus making the penitential judgment of the priest to be valid.

b) It is certain that it is of divine institution that besides Orders the priest must possess jurisdiction.⁵⁸ A judgment can be made only on one who is subject to the authority of the judge; absolution is a judiciary sentence and thus the subjects or penitents must be assigned to the priest, even for the valid remission of venial sins.⁵⁹ Jurisdiction is received by the commission (*missio*) of a competent superior, which commission to certain subjects may be increased or lessened, suspended or limited as to persons, places, times, cases, sins.⁶⁰ Since the other sacra-

ments are not conferred in the manner of a judgment and do not have judicial acts, jurisdiction of itself is not required for them, except for their lawful administration (*licentia*). Thus *a priest may never validly impart absolution unless he possesses penitential jurisdiction in the Church from some valid title.*

2. - *Division.*

27. - a) *by reason of forum.*⁶¹

i. - *external forum.* Jurisdiction in this forum primarily and directly guides the external social relations of the faithful toward the Church as a perfect and independent society with the accompanying juridical and social effects. It thus determines whether the faithful in view of their conduct are worthy of praise or of blame before the visible Church. It is often exercised publicly by the passing of laws, inflicting of penalties, etc.

ii. - *internal forum.* Jurisdiction here guides and directs the internal moral relations of the faithful with God, providing for the private welfare of the faithful in their moral conduct with God. It thus determines whether the faithful in view of their conduct are worthy of praise or blame before God. Exercised secretly in this forum of conscience the jurisdiction is private with effects before God alone and carries no juridical effects in the Church unless specially provided for. When this jurisdiction must be exercised in the confessional, i.e., in the sacrament of Penance or in connection with it⁶² it is called *sacramental forum* and is bound by the sacramental seal. When it is not subject to this limitation, it is called *extra-sacramental forum*. Some dispensations may be given in this latter manner. The jurisdiction may be exercised over one who is absent and by letter or messenger (with the exception of sacramental absolution).

b) *by reason of object.* Jurisdiction exercised with a formal judicial process is called *judicial*, when exercised without the process it is called *voluntary*, as in the case of dispensations or favors.

c) *by reason of extension.* Jurisdiction may be *universal* or *particular* depending on whether or not it embraces all persons, places, matters, etc., or is limited in any of these.

d) *by reason of title.* Jurisdiction is *ordinary* or *delegated*.

C. - ORDINARY JURISDICTION.

1. - *Nature.*

28. - a) Ordinary jurisdiction is that which in virtue of law or of custom the incumbent of an ecclesiastical office⁶³ automatically acquires from the office, not by privilege or any other act of his superior subsequent

to and separated from the acquisition of the office itself, no matter whether his tenure is permanent or temporary.⁶⁴ It is *proper* when the office is principal and the jurisdiction is exercised in one's own name, e.g., a residential bishop; it is *vicarious* when the office is accessory and the jurisdiction, although proper in a sense, is exercised in the name of another, e.g., a vicar general.

b) The ordinary power of hearing confessions is obtained as soon as the office to which the power is attached is lawfully secured. It is personal over the possessor's own subjects and territorial over those not his subjects. Thus, one having ordinary jurisdiction can absolve his own subjects everywhere, but those who belong to another diocese or parish or rite only within the limits of his own territory.⁶⁵ Ordinary power can be delegated wholly or in part to another, unless the law expressly rules otherwise.⁶⁶

29. - 2. - Recipient.

a) *Holy Father*. The Roman Pontiff enjoys ordinary jurisdiction over all the faithful throughout the world.⁶⁷

b) *Cardinals*. By privilege Cardinals enjoy ordinary jurisdiction everywhere over all the faithful, including religious of both sexes, regarding the sacrament of Penance. They cannot absolve from censures reserved *specialissimo modo* to the Holy See nor from those arising from a violation of the secrecy of the Holy Office.⁶⁸ They may not delegate this jurisdiction, except for their own or their household's confessions.⁶⁹

c) *Local ordinaries*. Residential bishops, abbots and prelates *nullius*, etc., and their vicars generals, administrators of an ordinariate, enjoy ordinary jurisdiction within their own territory.⁷⁰

d) *Religious ordinaries*. Major superiors of exempt clerical religious institutes enjoy ordinary jurisdiction over their subjects; other superiors in such institutes enjoy ordinary penitential jurisdiction over their own subjects in accordance with the norms of their constitutions.⁷¹ These subjects are postulants, novices, professed and the laity who live on the premises.⁷² They can delegate this jurisdiction to other priests of the secular and regular clergy,⁷³ in accordance with their constitutions, and no jurisdiction delegated by the local Ordinary is needed.

e) *Pastors*. Pastors and those who have the status equivalent to pastors⁷⁴ enjoy ordinary penitential jurisdiction. The care of souls entrusted to the pastor implies jurisdiction in the internal forum only,⁷⁵ with the ordinary jurisdiction to hear confessions within his own parish of his own subjects and of visitors (*peregrini*) and wanderers (*vagi*) of any rite,⁷⁶ and outside his own parish of his own subjects everywhere.⁷⁷ During paschal time he may absolve from all cases which the local

Ordinary has reserved to himself.⁷⁸ By almost universal practice, the pastor is given delegated jurisdiction for the whole diocese. Pastors by office do not have the right to choose their own confessor, i.e., to delegate another priest to hear their own confession.⁷⁹ Likewise, a pastor is unable by office to delegate another priest jurisdiction to hear the confessions of his subjects.⁸⁰

30. – 3. - *Cessation*. Ordinary jurisdiction comes to an end with the loss of office, with the passing of a condemnatory or declaratory sentence, and by excommunication, suspension from office and interdict.⁸¹

D. - DELEGATED JURISDICTION IN GENERAL.

31. – 1. - *Nature*. Jurisdiction is delegated when it is not attached to an office but is committed to a person.⁸² This delegation may be 1) *by law* inasmuch as the law itself grants jurisdiction in certain circumstances, e.g., in danger of death,⁸³ or 2) *from a competent superior* inasmuch as the special act of the superior expressly grants the jurisdiction whether the person be chosen for his personal qualifications or by reason of the office he holds, e.g., in the case of quinquennial faculties granted by the Holy See to local Ordinaries.⁸⁴

32. – 2. - *Recipient*. Only those who are capable of ecclesiastical jurisdiction for the sacrament of penance may be delegated and it may be exercised only over those who are subjects of the one delegating.⁸⁵ The Ordinary of the place where the confessions are to be heard is the authority competent to grant delegated jurisdiction for the confessions of all persons, both lay and religious, to all priests secular and religious, even exempt religious.⁸⁶ This power to delegate belongs exclusively to the local Ordinary, if there is question of absolving the laity or clergy, non-exempt religious, or the members of another institute. It is enjoyed cumulatively with the superior of an exempt clerical religious institute, if there is question of absolving the subjects of that superior. Thus a confessor who is a Regular can absolve all penitents in virtue of the jurisdiction received from the local Ordinary, but in virtue of the jurisdiction received from his own superior he can absolve only the subjects of that superior.

33. – 3. - *Examination*. Those who are delegated and all who hear confessions should possess the knowledge, prudence and holiness required for this sacred function. The presence of these qualifications ought to be judged by their own proper superiors. Local Ordinaries may not grant jurisdiction nor religious superiors delegate jurisdiction or grant permission to hear confessions except to those priests who have been qualified by an examination or whose theological doctrine is otherwise

known to be satisfactory. If prudent doubt later arises, a confessor may be required to submit to a further examination, even though he is a pastor.⁸⁷ The examination is not necessary for the validity of the grant of jurisdiction, unless particular law so determines.⁸⁸ A local Ordinary in delegating a religious and a religious superior in delegating an outsider can accept as indicative of worthiness the successfully passed examination given by the respective ordinaries of those delegated. In the case of their own subjects it seems that the local Ordinary and the religious superior should examine.

34. - 4. - Use of delegation.

a) Priests who are religious should not use the delegation received from the local Ordinary without the at least presumed permission of their superior.⁸⁹ In practice this permission usually exists, unless it is clear that the superior has positively forbidden the use of the delegation. Local Ordinaries are not habitually to grant confessional jurisdiction to religious not presented by their own superior, nor without serious reason should they refuse it to qualified religious who are so presented.⁹⁰ The validity of the grant or of the use of delegation is not affected in these cases. The local Ordinary may lawfully grant on one or another occasion the delegation and the recipient lawfully exercise it, as presentation is of itself a light obligation from which a just cause excuses, as long as there is no presence of scandal or, on the part of the religious, a serious precept. Revocation or suspension of permission given by the religious superior does not by that fact remove or suspend the jurisdiction granted by the local Ordinary.

b) Delegated jurisdiction and the permission to hear confessions can be granted with certain limitations; but in the absence of a justifying reason local Ordinaries and religious superiors should guard against too extensive limitation.⁹¹ The delegating authority cannot limit the faculties conferred by the common law, as such a limitation would be invalid and unlawful.⁹² However, should a permissible limitation be invoked without reasonable cause the restriction would be valid though unlawful, and the delegated priest could not validly absolve. A priest with confessional jurisdiction from the local Ordinary is lightly obliged to have the pastor's permission to exercise lawfully his faculty when hearing confessions in a church subject to the pastor, and to have the superior's permission in chapels of regulars or of nuns. The prescribed profession of faith and the oath against Modernism must be taken by a priest before entering upon the office of confessor.⁹³

c) One presuming to hear confessions without jurisdiction is *ipso facto* suspended *a divinis*; one presuming to absolve from reserved sins without jurisdiction is automatically suspended *a confessionibus*.⁹⁴

35. — 5. - *Concession.*

a) *expressly.* To hear confessions validly jurisdiction must be granted expressly, either orally or in writing.⁹⁵ Thus a tacit or presumptive concession is excluded, but not one that is implicit; a bishop sending a priest to give a mission or to help out a pastor implicitly delegates jurisdiction. In an urgent case intimation or notice of the grant of jurisdiction is not needed, if the priest is morally certain (e.g., by telephone or telegraph) that it has been granted; he may validly absolve because the rescript or faculty is valid before its acceptance and effective from the moment of its concession.⁹⁶ In every instance the concession must be made and a presumption of the future is inadmissible, i.e., that the faculty would be given if requested.

b) *gratuitously.* No charge can be made for the grant of jurisdiction,⁹⁷ which would be simony.

36. — 6. - *Cessation.* Delegated jurisdiction ceases with regard to the following:

a) *the power itself.* Jurisdiction ceases when the mandate for which it was given is carried out or completed, or when the purpose of the delegation has been realized, e.g., to hear confessions until the chaplain recovers from his illness, or when the specified period of time has expired or the determined number of cases has been reached.⁹⁸ An act placed through inadvertence would not invalidate the absolution.⁹⁹

b) *the one delegating.* He or his successor may directly notify the one delegated that the jurisdiction has been revoked,¹⁰⁰ and thus subsequent absolutions would be invalid; if it were suspended, the absolutions would be only unlawful, unless it were a suspension from office or a sentence.¹⁰¹ Jurisdiction would not be lost with the demise of the one delegating, unless it were conferred *ad beneplacitum*, etc. ¹⁰²

c) *the one delegated.* Jurisdiction ceases if he informs the one delegating of his renunciation of the faculty and it is accepted.¹⁰³ Suspension and censure with sentence effect cessation.¹⁰⁴ Change of domicile of itself does not affect the existence of delegation, since it is made to the person. The condition of domicile, however, may be expressly stated in the concession or implicitly understood. In the U.S.A. it is generally understood that penitential jurisdiction is revoked when the priest no longer retains domicile in the diocese.

37. — 7. - *Subdelegation.* Delegated jurisdiction to hear confessions is of itself personal, so that the faculty of subdelegating is excluded unless expressly granted. It cannot be further subdelegated unless this also was expressly conceded.¹⁰⁵

38. — E. — SPECIAL DELEGATED JURISDICTION. In some instances the common law gives to *all priests* powers to absolve and to dispense, in other circumstances to *all confessors*. With the former, it is not necessary that the priest enjoy habitual ordinary or delegated jurisdiction, i.e., normal powers; in the latter case the special powers presuppose normal jurisdiction. These powers are granted by the common law of the Church to be used in the internal forum and thus the right to use them cannot be denied validly and lawfully.¹⁰⁶ Not every use of these powers, however, will be lawful,¹⁰⁷ although it will be valid because of the supreme interest of the Church in the good of souls.

1. — *Danger of death.*

39. — a) *concession*. When there is danger of death, all priests, even though they are not approved for confessions, can validly and lawfully absolve any penitent whatsoever from any sin or censure, no matter in what manner it is reserved or how notorious it may be, even in the presence of a duly authorized priest, without prejudice, however, to the regulation of cc. 884, 2252.¹⁰⁸

40. — b) *danger*.

i. — A reasonably prudent judgment is to be made from signs and conjectures that the danger of death is present and that it is morally certain that death can follow in a short time. It is not necessary that it be the final moment (*articulus mortis*) or that death is imminent or physically certain. In doubt of the existence of the danger or when an erroneous judgment has been made, the absolution is certainly valid, since the Church supplies jurisdiction for such contingencies;¹⁰⁹ there is no such a faculty when the judgment is deliberately false.

ii. — Death may threaten from an intrinsic cause, e.g., a dangerous illness, very difficult childbirth, extreme old age, wound, etc., or from an extrinsic source, e.g., a sentence of execution, imminent battle, air raid alarm, difficult surgery, a perilous trip, etc. (but not an ordinary air journey). Mobilized soldiers may be considered in danger of death for the purposes of this faculty.¹¹⁰ A person in probable danger of falling into insanity, or who has been captured by pagans with slight hope of release and of ever contacting a priest, or who is suffering under certain forms of religious persecution, may be considered in danger of death.

41. — c) *all priests*. It suffices that the priest be validly ordained, even though he may be irregular, suspended, excommunicated, or a schismatic, heretic or apostate, and even though a priest with normal jurisdiction is present. It is commonly taught that a *penitent* cannot lawfully seek absolution from an heretical or schismatical priest, if it is possible to summon another priest to whom the penitent can confess without

serious difficulty or embarrassment; and even when lawful, precautions must be taken to avoid scandal and to remove the danger of perversion to the penitent.

42. — d) *all sins and censures*. Absolution in these cases is valid and lawful in the internal forum only, having no effect in the external forum.¹¹¹ An excommunication or personal interdict should be removed before the sins are absolved, as they prevent the lawful reception of the sacraments.¹¹² A deliberate inversion of the proper order by the confessor would be gravely unlawful but valid. A suspension may be absolved either before or after the sins, since it does not prevent the lawful reception of the sacraments.¹¹³

43. — e) *restrictions*.

i. - When the dying penitent has been the accomplice *in peccato turpi* of the absolving priest, it is unlawful (but valid) for the priest to absolve, unless there is absolute necessity.¹¹⁴ By the commission of this sin he would incur an excommunication most specially reserved to the Holy See.¹¹⁵ If a priest other than the sacerdotal accomplice can hear the confession of the dying penitent without danger of grave infamy to the accomplices or of scandal to others, and the penitent does not refuse to confess to this other priest, the case of necessity is not present.

ii. - When in danger of death absolution is given from censures reserved *ab homine* or *specialissimo modo*, there must be recourse within a month of convalescence, under pain of reincurrence of the censure, to the Sacred Penitentiary in the latter case, or in the former case to the competent superior who invoked the penalty or to his successor or his delegate.

iii. - Civil marriage is a special case concerning the absolution of (1) priests in danger of death, who, (2) having attempted civil marriage, (3) are prevented by very grave reasons from ceasing to dwell in the same house with their accomplice but promise to observe absolute chastity in the future and wish to be absolved and to receive the sacraments as laymen. The excommunication attached to this crime is simply reserved to the Holy See,¹¹⁶ but in this special combination of circumstances there is an obligation to have recourse to the Holy See as with a most specially reserved censure.¹¹⁷

iv. - When the local Ordinary cannot be reached, a confessor in the course of a sacramental confession in danger of death and for the internal forum only enjoys the power of dispensing, for the purpose of quieting a conscience and in a proper case of effecting the legitimation of offspring, and provided that scandal is avoided, from the formality required in the celebration of marriage and from ecclesiastical impediments, excepting the priesthood and affinity in the direct line arising from a consummated marriage, provided that the usual promises are

given in a disparity of worship or mixed religion dispensation.¹¹⁸ Being restricted to the internal forum, the confessor cannot dispense from public impediments. Dispensation of impediments public by nature but factually occult is doubtful.¹¹⁹

2. - *Maritime and air faculties.*

44. - a) *concession.* All priests who are on a sea voyage, provided they have duly obtained the faculty of hearing confessions from their own Ordinary or from the Ordinary of the port where they embark or from the Ordinary of any intervening port at which they stop in the course of the voyage, can throughout the entire voyage hear aboard ship the confessions of all the faithful who are making the voyage with them, even though the ship should in the course of the voyage pass through or even stop awhile at various places subject to the jurisdiction of several Ordinaries. Moreover, as often as the ship in the course of the voyage puts in at a port, they can hear the confessions both of the faithful who for any reason board the ship and also of those who seek to confess to them when they incidentally go ashore, validly and lawfully absolving them even in cases reserved to the local Ordinary.¹²⁰ Under identical terms the same faculty is enjoyed by all priests making an air journey.¹²¹

45. - b) *use.* - The faculty applies only to an ocean journey as distinguished from river travel.¹²² It must be a true and proper journey and not, e.g., a ride for recreation or a fishing trip. For the purposes of this faculty the Ordinary designated as "own" may be the Ordinary of the place where jurisdiction to hear confessions is enjoyed and not necessarily where the priest has domicile or quasi-domicile. A religious Ordinary is positively excluded.¹²³ The priest enjoys this special faculty as soon as he boards the ship; it terminates when he definitely leaves the ship in the terminal port. He may exercise this faculty for as long as three days, if the ship remains in a port for that length of time, or even if the priest should leave one ship and remain in the place for three days while awaiting another ship. He may not use this faculty for a longer period, if the local Ordinary can be easily reached,¹²⁴ nor in any other city or place morally distinct from the port city or territory. When at sea and outside of their territory the faithful are not bound by the reservation of a sin or censure by their local Ordinary.¹²⁵

46. - 3. - *Paschal precept.* For a reasonable cause the faithful of both sexes may *postpone* for a time the fulfillment of their obligation of annual Communion during the Paschal season, provided they have received this *advice* from a priest who has penitential jurisdiction over them.¹²⁶ Such a counsel may be given, e.g., to a person ill at home where it is not convenient to receive Communion, or to one not yet sufficiently instructed to make First Communion.

47. — 4. - *Irregularities*. Every confessor¹²⁷ may dispense from all irregularities arising from an *occult* delict, excepting the case of voluntary homicide or abortion and all cases up for formal trial, but only in the circumstances of a *more urgent occult* case in which it is impossible for the delinquent in person, by letter or by agent to reach the Ordinary and imminent danger exists of serious harm or infamy; but the confessor can thus permit the penitent only the lawful exercise of orders already received and not the reception of further orders. There is no special formula required but a statement of what is being dispensed suffices. A confessor may exercise this faculty extra-sacramentally regarding those over whom he has penitential jurisdiction. Recourse is not necessary after the dispensation has been granted.

48. — 5. - *Vindictive penalties*. In *occult* cases that are *very urgent*, if the observance of the vindictive penalty imposed by anticipatory sentence (*latae sententiae*) would result in the loss of reputation or scandal, every confessor is authorized, in the sacramental forum, to suspend the obligation of observing it, with the imposed burden of having recourse at least within a month by letter and through the confessor, if this is possible without serious inconvenience, without the use of names, to the Sacred Penitentiary or to a bishop endowed with the requisite faculty, and of abiding by the mandate then imposed. If recourse is impossible in some unusual case, the confessor himself can then dispense in accordance with c. 2254, 3.¹²⁸

49. — 6. - *Vows and oaths*. The common law does *not* empower a confessor to dispense from vows and oaths. However, confessors may be delegated this faculty over non-reserved vows and oaths by the local Ordinary or by a superior of an exempt clerical institute to be exercised in the sacramental forum only on their respective subjects. Commutation is included.¹²⁹

50. — 7. - *Fast and abstinence*. The confessor has *no* faculty to dispense from these obligations. He can be delegated by the local Ordinary for the sacramental forum. This delegation is sometimes contained in diocesan faculties. However, a confessor can always declare, in the case of doubt, whether the penitent has an excusing cause, i.e., a physical or moral inability to observe the law.

51. — 8. - *Reserved cases*. Missionaries having diocesan faculties in the place, during the time they are giving a mission to the people, enjoy the same powers as pastors to absolve from cases which Ordinaries have reserved to themselves in any way.¹³⁰ Some extend this faculty to include those who give novenas or who give retreats to clerics, religious or lay-people whether publicly or privately or individually, and even to those confessors who are delegated to help in the hearing of confessions during such times.

§2-9. - *Indulgences.* Confessors can permit the substitution of other designated works for those prescribed for the gaining of indulgences in the case of those who cannot perform the latter because of some impediment justifying the substitution.¹³¹ Confessors can exercise this faculty over those whose confession they can hear, even though such is not made, and the faculty embraces also the *toties quoties* and Portiuncula indulgences.¹³² Such a commutation is not to affect what is substantially necessary for gaining the indulgence (but only the conditions), e.g., intention, use of a rosary, frequent Communion when that as such is indulgenced.

§3-10. - *Expired delegated jurisdiction.* In the case of power granted for the *internal forum*, an act performed through *inadvertence* after the time limit has elapsed or the number of cases has been exhausted is valid.¹³³ It is here required that the jurisdiction over the cases has been previously possessed. The enumeration of the situations covered by the principle is taxative.

§4-11. - *Common error and doubtful jurisdiction.* In common error or in positive and probable doubt of law or of fact, the Church supplies jurisdiction for both the internal and the external forum.¹³⁴

a) *common error.*

1. - *validity.*

α) Error is a false judgment about an objective reality. Respecting the sacrament of penance, it is a false judgment by which a priest is believed to be in possession of the jurisdiction necessary here and now to hear a confession and to grant absolution, although in reality he does not actually possess it. If the error is commonly held, the Church supplies absolutely the jurisdiction thought to be possessed. In order to safeguard the juridical welfare of the faithful, the needed jurisdiction is momentarily or transiently conferred upon the priest who actually exercises it in order to do validly what otherwise would be done invalidly.

β) Traditionally, error in regard to jurisdiction has been considered common when it was *de facto common*, i.e., when the false judgment has been made by the generality of the people of the place and the cause which would naturally lead them to make this error has been publicly placed and brought to their general notice. For example, a public announcement is made at the opening of a mission that confessions will be heard by the visiting priests. The error of one or even of a few, such as three or four in a town or more in a city, is considered to be private and particular, even though the circumstances founding the error will necessarily lead others to the same judgment. Thus it must be certain, or investigated to become sure, that the majority of the faithful are in error; until that fact is realized, any absolutions of penitents will be invalid due to lack of jurisdiction.

γ) More recent interpretation holds that error is sufficiently common to supply jurisdiction when it is *de iure common*, i.e., a cause is publicly placed which, if they were aware of it, would lead the generality of the people into error, even if it has not generally been actually brought to their attention. In fact the error is not common, yet it is construed in law to be common because the cause and circumstances are such as are adequate to induce error in the minds of almost all prudent persons in a given place. The error is virtually common. For example, if an unannounced priest entered the confessional as though to hear confessions, as sometimes happens with a weekend supply. This interpretation is now common and may be safely followed in practice.

ii. - *lawfulness*. The use of supplied jurisdiction is lawful only when there is present a reason sufficient to counterbalance the disturbance of right order, since it is normally unlawful to deviate from the established rules of the jurisdictional system laid down by the Church. Thus, without cause one would force the Church to supply jurisdiction. Prescinding from a case of contempt of authority or of scandal to the faithful, it is of itself gravely unlawful to use common error outside of proportionate necessity. A serious cause must be present to deliberately provoke common error or to use it when it arises unintentionally.¹³⁵ However, since the jurisdiction is actually supplied, the absolution is valid and the penalty of suspension for presuming to hear confessions without necessary jurisdiction¹³⁶ is not incurred. The privilege of supplied jurisdiction is for the benefit of the faithful, and so it is operative, even if the confessor knows he lacks jurisdiction. Necessity may be present if infamy of the priest or scandal must be avoided or the faithful must be turned away from confession with notable inconvenience because of the lack of an approved priest, especially on days of precept or some special ecclesiastical event.

b) *positive and probable doubt*.

55. — 1. - *validity*. As long as a doubt of law or of fact is positive and probable, jurisdiction is certainly supplied for the valid conferral of absolution. *Doubt* is a state of mind regarding a proposition in which certain judgment is suspended through fear of error. It is *positive* when there are more or less probable reasons commanding the assent of the mind, though with some fear of error; *negative* when there is no reason or solid reason either to affirm or to deny the possession of requisite jurisdiction in a given case. A positive doubt becomes *probable* when at least some reason in favor of possession of jurisdiction is truly solid or truly probable. The doubt is on the part of the priest. *Doubt of law* refers to the existence, extent or the meaning of a law respecting jurisdiction in a given case, e.g., the notion of common error. *Doubt of fact* refers to

the existence of the conditions required by a law for its application, e.g., whether the superior has granted jurisdiction, or whether the jurisdiction covers reserved cases, or whether his jurisdiction has lapsed.

ii. - *lawfulness*. The use of supplied jurisdiction here is not a usurpation of power against the mind of the Church, which is supplying only what is necessary, i.e., conditionally, if not already possessed by the priest. Thus, neither a grave reason nor any reason is required for the lawful use, even outside of necessity. There will always be a light reason in that the penitent wishes to confess.¹³⁷

F. - CONFESSORS OF MEN RELIGIOUS.

56. - 1. - *Clerical religious institute*.

a) In every house of a clerical religious institute there is to be designated, in proportion to the number of subjects, several legitimately approved confessors with power, if it is an exempt institute, to absolve in cases reserved in the institute.¹³⁸ There is no term of office specified for the ordinary confessors of men religious. The religious are free to approach any of the ordinary confessors, when there are more than one. In practice, the ordinary confessors are not meant for the religious who are priests, as these latter usually select their own regular confessor.

b) The designation of confessors in an exempt clerical institute and the conferral of jurisdiction on them belongs to the superiors. Diocesan priests and religious priests of other institutes can be so designated and delegated.¹³⁹ The local Ordinary may also delegate for these confessions, but a religious priest so delegated needs at least the presumed permission of his superior for its lawful exercise, unless he is acting as an occasional confessor.¹⁴⁰ Jurisdiction delegated by the local Ordinary is not suspended but it is validly exercised¹⁴¹ even when a priest is suspended by his religious superior. In a non-exempt clerical institute only the designation of the confessors belongs to the religious superior, whereas the jurisdiction is granted by the local Ordinary.

c) A confessor who has jurisdiction delegated by the local Ordinary can absolve religious from sins and censures reserved in the clerical exempt institute, excepting those reserved by a specific act of the superior (*ab homine*).¹⁴² A confessor whose jurisdiction comes only from the superior of the institute needs specific authorization, in accordance with the constitutions, to enable him to absolve from the reservations in the institute, unless he is the ordinary confessor.¹⁴³

d) Without prejudice to constitutions which prescribe or advise that confessions be made at stated times to designated confessors, any religious (novice and professed), even though exempt, in order to quiet his conscience, may go to confession to a confessor approved by the local

Ordinary, even though not one of the designated confessors, and the confession thus made is valid and lawful in spite of any contrary privilege; and the confessor may absolve the religious even from sins and censures reserved in the institute.¹⁴⁴ Peace of conscience is the sole and sufficient reason permitting the religious to approach an occasional confessor; it affects only the lawfulness of this approach to the non-designated confessor and not the validity of the absolution received. It is generally considered that any confession which is seriously made is done for the sake of obtaining peace of conscience. The confession need not be made in the religious house nor the fact reported to the superior. Although permission is not required to choose the occasional confessor, it is required in order to depart from the regulations of the house or of the superior¹⁴⁵ or to depart from the house itself. For habitual confession to a non-designated confessor, religious need the permission of the superior. The obligation to approach the designated confessors is not considered grave.

e) Without prejudice to the privilege of an occasional confessor, for the novitiates in institutes of men religious there shall be one or more ordinary confessors, according to the number of novices (including lay brother novices), and excluding the master of novices and his assistant.¹⁴⁶ The ordinary confessors for the novitiate of a clerical institute shall reside in the novitiate itself.¹⁴⁷ Besides the ordinary confessors, other confessors are to be designated to whom the novices may freely have recourse in particular cases; and when they do so, the master of novices must show no displeasure.¹⁴⁸ At least four times a year the novices are to be given an extraordinary confessor to whom all are to present themselves, at least for a blessing.¹⁴⁹ The extraordinary may be a different priest on each of the four occasions. If so designated by the superior, a retreat master may fulfill this function during the course of his stay. There is no term of office for the confessors of these novices.

f) In an exempt clerical institute the proper superior, in accordance with the norms of the constitutions, may grant delegation for the hearing of the confessions of those who live day and night in the religious house due to services rendered, education, hospitality, health, etc., such as servants, pupils, guests, patients.¹⁵⁰ Residence for a full day, i.e., overnight, suffices, or even reception into the house with the intention of staying overnight. The residence of the lodgers must be within the religious house, i.e., within the premises of the religious house, or within its walls or its boundaries, even though in another building.

g) Religious superiors having the faculty to hear confessions can, in accordance with the norms of the law, hear the confessions of their subjects who spontaneously and of their own free will approach them for this purpose, but superiors shall not make a habit of this without a

grave justifying reason.¹⁵¹ Superiors must avoid inducing their subjects to confess to them through the employment, personally or through others, of force, fear, importunate recommendation or other means,¹⁵² otherwise the approach of the subjects would not be spontaneous and voluntary, as required. The gravity of the cause which would justify the superior hearing a subject habitually must be judged not only on the circumstances of the petitioner but also of the religious house itself, in order to avoid dissatisfaction, etc. Superiors here are taken in the strict sense of those having juridic authority over subjects in the external forum; nevertheless, all others having real authority over the religious without being strictly superiors, e.g., prefect or magister spiritus, master of clerics or student master, ought to conform to the spirit of the legislation.¹⁵³ The master of novices and his assistant are explicitly forbidden to hear the confessions of novices unless the latter request it of their own accord in a particular case and for a grave and urgent reason. The prohibition here is more stringent than for superiors.

2. - Lay religious institute.

57. - a) In lay institutes of men religious an ordinary and extraordinary confessor should be appointed in accordance with the law; if any religious of these institutes shall ask for a special confessor, the superior must grant the petition, in no way seeking a reason for the petition or showing displeasure because of it.¹⁵⁴ The superior of an exempt institute requests the local Ordinary to grant jurisdiction to a confessor designated by the superior, or the superior designates a confessor who has already received his jurisdiction from the local Ordinary.¹⁵⁵ The local Ordinary both appoints and grants jurisdiction to confessors of non-exempt institutes. There is no specified term of office for the ordinary or extraordinary confessor.

b) Men religious, with the exception of novices, are not obliged to present themselves to the extraordinary confessor, even for a blessing. Both professed and novices enjoy the privilege of the occasional confessor.¹⁵⁶ The confessors for the novitiate house of a lay institute are to visit the novitiate house frequently in order to hear the confessions of the novices,¹⁵⁷ e.g., two or three times a week.

c) The manifestation of conscience to superiors by men religious, clerical and lay, is considered in connection with women religious.¹⁵⁸

G. - CONFESSORS OF WOMEN RELIGIOUS.

1. - General norms.

58. - a) All priests, whether secular or regular, no matter what may be their dignity or office, must have *special* jurisdiction to hear validly and

lawfully the confessions of any women religious and novices, and every contrary law or privilege is revoked.¹⁵⁹ The jurisdiction is conferred by the Ordinary of the place where the house of the religious is located.¹⁶⁰

b) Women religious here may be with solemn or simple vows or with no vows, including novices (but not postulants) and all who live like religious under superiors and proper constitutions. Superiors and subjects alike are expected by the Church to be faithful to the laws concerning confessors of women religious in their integrity, superiors by not interfering or showing themselves displeased in any way, and subjects by using the privilege accorded them with prudence and moderation. Peace and liberty of conscience and in the community harmony and tranquillity will then reign.

c) The superior, who must support the rule and lawful customs, must at the same time insure freedom of conscience to her subjects, whether they are well or ill. If she acts contrary to the law in this matter¹⁶¹ and is found delinquent after being warned by the local Ordinary, she is to be removed from office and reported to the Congregation of Religious.¹⁶² A superior who considers the conduct of either the confessor or the penitent religious imprudent or reprehensible in this matter of confession, must inform the local Ordinary. Of her own authority she may forbid exterior and certain violations of the law or of the rule. The papal cloister of nuns may be entered for the purpose of hearing confessions by the ordinary, extraordinary, special and supplementary confessors and the confessor of a seriously sick religious; the occasional confessor as such is not accorded this privilege.¹⁶³

59. – 2. - *Ordinary confessor.*

a) To every house of women religious there must be assigned one specific ordinary confessor, who shall hear the confessions of the entire community, unless two or more confessors are required by the number of religious to be heard or for some other justifying cause.¹⁶⁴

b) This is the *ordinary* or *habitual* confessor of the *community*; he is instituted to provide unity of direction in the community. There is an obligation on the community to seek an ordinary confessor and on the local Ordinary to provide such. This is true even of a non-formal house in which fewer than six women religious habitually reside, unless a serious reason excuses in a particular case.¹⁶⁵ More than one ordinary confessor may be required by the large number of penitents (e.g., over fifty), by language differences, by separation of departments (e.g., novices, junior professed, etc.) or by occupation (e.g., nurses, teachers, etc.). The intention of the legislation indicates that the same fractional group of the community habitually approach the same confessor, although any of the ordinary confessors of the community may be validly and lawfully approached.

c) The ordinary confessor should hear the confessions of the entire community, going to the religious house at least once a week in order to provide the community with the opportunity to fulfill its obligation of weekly confession.¹⁶⁶ He can insist upon a fair consideration in this matter but he should arrange a time for confessions which will also be convenient for the community. He is to go to the community whenever he is reasonably called for the purpose of hearing confessions. On the other hand, the women religious must receive the confessors appointed for them and confess to them, unless a just cause excuses in accordance with the law. In practice, the ordinary confessor cannot insist upon individual religious coming to him regularly. If the religious are habitually seeking occasional confessors, these latter should warn them of their duty.

d) Greater wisdom, experience and prudence is demanded of the office of confessor of women religious than of lay people. The ordinary and extraordinary confessors should be priests, whether diocesan or religious with the consent of their superiors, who are forty years of age completed, unless the local Ordinary dispenses for a just cause.¹⁶⁷ They must not possess authority over the same women religious in the external forum,¹⁶⁸ e.g., a hospital or school or orphanage director. The pastor or the chaplain are not excluded if they have no external jurisdiction over the religious. The confessors must not interfere in any way with the internal or external government of the community.¹⁶⁹ They may give advice on request but superiors should not make such requests, especially when they involve the transfer or dismissal of religious or matters in council of discipline.

e) The ordinary confessor cannot exercise his office for more than three years. The local Ordinary can confirm him in office for a second and even fifth term of three years, if the scarcity of priests qualified for this office does not permit him to provide otherwise or if the majority of the religious, including also those who in other matters have no right to vote (e.g., lay Sisters, novices—but only if they are to spend more than three years in the same house as the novices or professed), agree by secret ballot to have the same confessor reappointed; for those who disagree other provision must be made, if they so desire.¹⁷⁰ The local Ordinary need not grant the request. For a serious reason¹⁷¹ he can remove both ordinary and extraordinary confessors.¹⁷² The ordinary confessor cannot be subsequently appointed extraordinary confessor for the same community, or even ordinary for a second term before a full year intervenes from his first term, except as provided above.¹⁷³

3. - *Special confessor.*

60. — a) If any particular religious, for the peace of her soul or for greater spiritual advancement requests a special confessor or spiritual director,

the local Ordinary shall readily grant the request. He should be careful that no abuse arises from this concession and that, if they do, they are cautiously and prudently removed without injury to freedom of conscience.¹⁷⁴

b) This is the *ordinary* or *habitual* confessor of an *individual* religious. The just cause for the lawful appointment is the need of peace of conscience or usefulness for greater progress in the spiritual life. There is no time limit to the office beyond the cessation of the need,¹⁷⁵ which is to be estimated by the religious or the confessor. No special qualities are required of the priest, who may also be the extraordinary confessor or the former ordinary.

c) The appointment of a special confessor is justifiable, for example, because of constant difficulty in confessing to the ordinary confessor due to familiarity or aversion, habitual confusion of conscience which he cannot dispel, deep fear of the confessor, his inability to satisfy the penitent's spiritual needs because of unusual graces granted her or unusual temptations resulting from her work or temperament. Human friendship is not sufficient reason to warrant a certain special confessor. Abuses that could arise would be such as extraordinary expense, disturbance of religious observance, bad example, too frequent meetings at less suitable times, multiple requests from others for special confessors. The confessor himself must also eliminate any abuses, saving the sacramental seal. Minor inconveniences to the superior or portress are not considered abuses. The superior may not interfere but rather ought to notify the local Ordinary, should any abuse arise.

d) If the spiritual director of a religious becomes in practice what amounts to the habitual confessor of the religious, the permission of the local Ordinary should be obtained.

61. — 4. - *Extraordinary confessor.*

a) Every community of women religious should be given an extraordinary confessor who shall go to the religious house at least four times a year; all the religious are to present themselves to him, at least for a blessing.¹⁷⁶

b) The extraordinary should not visit the religious house more than four times a year as extraordinary, unless the local Ordinary judges so. It is customary to make the visits during the Ember weeks. Custom may also allow the retreat master to act as extraordinary for that occasion, and the latter then need not present himself for that quarter. Some dioceses forbid the ordinary confessor to hear when the extraordinary is functioning, or during the annual retreat.

c) The religious are obliged to enter the confessional and to ask at least for a blessing. This includes the novices and those who have special

confessors. It seems that the extraordinary should present himself to the sick religious, but the sick do not have to present themselves to him. There is no tenure to the office of extraordinary; he may be immediately appointed the ordinary confessor of the same community.¹⁷⁷

62. - 5. - *Supplementary confessor.*

a) Ordinaries of places in which there are religious communities of women are to designate for every house several priests to whom the religious may have recourse in particular cases for the sacrament of penance, thus obviating the necessity of applying to the local Ordinary for faculties as each occasion arises.¹⁷⁸

b) The purpose of the supplementary confessor is to satisfy a particular need, but he is not to become the special confessor of any particular religious without consent of the local Ordinary. Such need may exist on the part of an individual religious (e.g., a need to confess) or of the community (e.g., the ordinary confessor is ill or absent). The superior could call upon one of the supplementary confessors. A just and reasonable cause suffices. If the supplementary sees that sufficient reason is lacking, he must call attention of the religious to the fact and prudently but courteously refuse his administration. The confession would always be valid.

c) There are no special qualifications or determined term for the office of supplementary. At least two such confessors should be appointed. When any religious requests an extraordinary or supplementary confessor, no superior, either personally or through others, directly or indirectly, may seek to know the reason for the requests or show opposition to it by word or act, or in any way manifest displeasure at it.¹⁷⁹ Should abuses arise, she should inform the local Ordinary.

63. - 6. - *Confessor of a seriously sick religious.*

a) All women religious who are seriously ill, even though not in danger of death, as often as they wish during their serious illness, may summon any priest approved for the confessions of women to hear their confession, even though not designated for the confessions of women religious; and the superior cannot either directly or indirectly prohibit them from doing so.¹⁸⁰

b) The confessor must be approved for the hearing of lay women's confessions, and most probably in the place where the confession of the sick religious is to be heard.¹⁸¹ The priest may also be summoned merely for the spiritual direction of the religious without confession. A prudent judgment of the seriousness of the illness suffices,—that it is a notable illness or notably harmful to health. The mere fact of a religious remaining

in her room due to a sprain, headache, indigestion, etc., does not suffice to invoke the permission. The restrictions regulating the confessional place do not apply here.

64. – 7. - *Occasional confessor.*

a) Besides the above mentioned confessors, a religious, to quiet her conscience, may go to a confessor approved by the local Ordinary for the confessions of women, and this confession, made in a church or an oratory, even semipublic, is valid and lawful, regardless of any contrary privilege; the superior may not forbid this or make inquiries about it, even indirectly; and the religious are not obliged to report the matter to the superior.¹⁸²

b) Peace of conscience is the condition for the lawful use of this privilege. It is to be interpreted widely as any sincere desire to purify one's conscience by a sincere confession seriously made; merely human motivations, such as convenience or availability, should be discouraged and the penitent warned of their insufficiency. The religious may approach an occasional confessor (the same or another) even frequently, but not habitually. The confessor must be the judge of this. The priest chosen must be approved for the hearing of lay women by the Ordinary of the place of confession, even though he is approved only for a particular group, whether religious or secular, e.g., a retreat master at a girl's school.

c) The recourse of the religious to an occasional confessor is to be understood in the sense that she may request the confessor to come to her,¹⁸³ as well as leave the religious house to confess to him. It suffices that she make the first move or request. Thereupon the other members of the community also may lawfully take advantage of the opportunity to go to confession. However, no right is given to the religious to demand that the superior summon an occasional confessor, or to leave the religious house or any exercise or duty without permission. Otherwise, she may take advantage of any legitimate opportunity to approach an occasional confessor, without the obligation to inform the superior, e.g., when she is in town. Neither the superior nor the Ordinary are obliged to provide such opportunity to the religious, much less to make changes in the discipline of the house or the rules. Thus the religious may not violate any rule and she must bear patiently with any lack of opportunity. If she should leave the house unlawfully, the confession itself is lawful and valid.

d) The confession must be heard by the occasional confessor in one of the places provided by the law, namely, a church, public or semipublic oratory,¹⁸⁴ or a place lawfully set aside for the confessions of women (even of women religious) either habitually or *per modum actus*,¹⁸⁵ or a place chosen by the confessor according to the law in a case of illness (not necessarily grave) or of some other real need.¹⁸⁶ Confessions of

religious women made outside these places are *invalid* as well as unlawful.¹⁸⁷ Thus, in practice, a priest having the faculties of the Ordinary of that place may validly and lawfully hear the confession of a woman religious in any place in which he could lawfully hear the confession of a laywoman.

65. - 8. - *Manifestation of conscience.*

a) All religious superiors are strictly forbidden to induce their subjects by any means whatever to manifest their conscience to them. Subjects, however, are not forbidden to open their hearts freely and spontaneously to their superiors; indeed, it is expedient that they should approach their superiors with filial confidence and, if the superiors are priests, they should reveal to them the doubts and anxieties of their conscience.¹⁸⁸

b) All categories of superiors in the strict sense are included in this prohibition, prelates and non-prelates, major and local superiors both clerical and lay, in institutes of both men and women religious. Masters and mistresses of novices or of the professed, prefects of clerics, etc., since they are not strictly superiors, are not directly covered by the restriction of the law but rather by reason of the spirit and end of the law, i.e., indirectly they are bound. Spiritual direction is not ruled out by this law but only the necessity of spiritual direction by superiors, because of the danger of abuses; their right to induce it is entirely removed. They may induce their subjects to manifest their consciences to others, such as their confessors or spiritual directors, but never to the superiors themselves. Thus, all means of influencing the subject in this matter with respect to the superior is forbidden superiors. They may, however, instruct their subjects in the law and their rights, and merely explain the advantages of manifestation of conscience. The superiors, moreover, have the care of the community which comprises the preservation of the order, discipline and regular observance of all members, and the fostering of their religious and spiritual life. Thus they may inquire about things which some external manifestation make the natural object of exterior government, such as negligence, infidelities, passions, aversions, etc. Charity and a discreet reserve and delicacy will direct their inquiry in these matters as they are closely connected with the domain of conscience itself. They will be careful not to press insistently a reluctant subject for motives and causes.

c) Superiors are forbidden to induce only what is in the strict sense a manifestation of conscience, i.e., the secret dispositions, passions, temptations, motives, trials, dislikes, the degree of culpability of hidden faults, hidden acts of virtue or graces received. Spiritual direction by superiors when spontaneously and freely sought by their subjects (novices and professed) is not affected by the restriction of the law, but encouraged.

The manifestation of doubts and anxieties to superiors who are priests is positively recommended by the law; the manifestation to lay superiors is not forbidden but neither is it called expedient. Thus this manifestation of conscience to superiors is entirely the concern of the subjects, who in no way are to be induced or constrained. Masters and mistresses of novices (and others mentioned previously, who are not strictly superiors) likewise may not induce or constrain their subjects. However, their special function is the spiritual formation and instruction of the novices. For this to be properly and successfully accomplished, some manifestation of conscience from the novices is to be expected and required. Avoiding all inducement and constraint, the master may paternally and discreetly suggest such manifestation. Superiors and novice masters who by their observance, evident virtues, zeal, prudence, sympathy and availableness inspire respect and reverence, filial trust and love, will always receive the spontaneous and free confidences of their subjects.

H. - CONFESSORS IN SEMINARIES AND INSTITUTIONS.

66. — 1. - A seminary is a college in which young men are trained for the clerical state.¹⁸⁹ As long as the young men dwell there for formation looking toward the clerical state, it is juridically a seminary.¹⁹⁰ There should be in every seminary a rector for government, at least two ordinary confessors, and a spiritual director (who also may hear the confessions).¹⁹¹ Additional confessors should be provided to whom the seminarians will be free to approach. If they reside in the seminary, the seminarians are free to approach them consonant with the seminary discipline; if they live outside, the rector is to call on them at the seminarian's request, neither inquiring the reason nor showing any displeasure. The vote of these confessors is not to be sought when a seminarian's promotion to orders or dismissal is under consideration.¹⁹² The confessors receive their jurisdiction from the local Ordinary¹⁹³ or from the religious superior, if the seminary is committed to a clerical exempt religious institute.¹⁹⁴ They may hear the confessions of all who live in the seminary, excepting women religious who may be attached to the seminary (unless as occasional confessors). The rector enjoys the ordinary jurisdiction of a pastor¹⁹⁵ and can validly hear the confessions of his subjects but not lawfully, unless spontaneously requested and for a grave and urgent cause.¹⁹⁶

2. - In other colleges or institutions where many habitually reside for the purposes of education, instruction, assistance, etc., a sufficient number of confessors should be provided at stated times and whenever reasonably requested for the hearing of the confessions of the residents, whether male or female. Penitential jurisdiction is granted by the Ordinary of the place where the institution is located,¹⁹⁷ or from the superior, if the institution is governed by an exempt clerical community. In the course of

religious training of (resident) students of any college, the superior of the college is not to hear their confessions, unless spontaneously requested and for a grave and urgent reason in particular cases.¹⁹⁸

67. - I. - CONFESSORS WHO ARE REGULARS.

1. - The Apostolic privileges listed here, bestowed by direct grant to a particular religious institute or by a communication of privileges, are enjoyed by priests who are Regulars or Mendicants when they hear confessions. Since the continued existence of these privileges is at least solidly probable and is affirmed by many reputable authorities, they may with prudence be safely used in practice.

2. - Regular confessors, when they hear confessions within the diocese for which they have been approved by the local Ordinary, may absolve from those automatically incurred (*latae sententiae*) censures which are reserved by the common law to the local Ordinary. This faculty is restricted to the internal forum.

a) A confessor enjoying jurisdiction solely from the regular superior can absolve the latter's subject from a diocesan reservation but not from cases reserved in the religious institute without special faculty to do so from the competent superior or unless he is one of the designated confessors of canon 518, 1.¹⁹⁹ If the local Ordinary reserves to himself *ratione censurae* or even *ratione peccati* sins which are already reserved to him *ratione censurae* in the common law, the Regular confessor may safely employ in practice his privilege and absolve the penitent. In an individual case prudence may counsel the confessor not to use his faculty.

b) To use this or other privileges pertaining to absolution in confession it suffices that the Regular be a member of the institute enjoying the privilege and not necessarily that he possess confessional jurisdiction in his own institute. However, he must have the jurisdiction delegated by the local Ordinary for hearing the confessions of the faithful, and at least the presumed permission of his own superior to use the jurisdiction.

c) Regulars, approved by their superiors, when they absolve the faithful who are subjects of the superior,²⁰⁰ may absolve from sins in any way reserved by the local Ordinary, even though these faithful incurred the reservation before assuming the status of being presently a subject of the superior.

d) Since the privilege of Regulars to absolve pertains only to the reservations of the common law, sins and censures reserved by particular law to local Ordinaries are beyond this faculty. Thus a Regular confessor may not absolve from automatically incurred censure Catholics who have dared to attempt marriage after obtaining a civil divorce.²⁰¹

e) Regulars including novices do not incur reservations imposed by the local Ordinary. Members of Mendicant Orders are immune from episcopal reservations, except if they presume 1) to preach in churches without previous permission of the local Ordinary, 2) to hear confessions of the laity without his approbation, 3) to expose scandalous images for public veneration.²⁰³

f) The confessional privileges of Regulars have been granted, not for their benefit, but for the good of the penitents who come to them. Thus these privileges should be used, unless a greater good of the penitent is to be served by not employing them. In certain individual cases the requirements of the external forum may counsel a delay in absolution, e.g., until reparation has been made for the scandal caused by a crime, or in a public case where reconciliation is needed in the external forum and the mandate of the bishop is awaited and when such a delay would serve the good of the penitent, e.g., a repeated abortionist who is led to consider the crime of minor moment because of the ease of approach to a Regular confessor.

3. - Regular confessors with jurisdiction from the local Ordinary can dispense and commute all private non-reserved vows of the faithful, (even if confirmed by oath), both within and outside the confessional, provided that the acquired rights of interested parties are not injured thereby. Generally a commutation is more salutary and meritorious for the penitent than a dispensation.

4. - Regular confessors having jurisdiction from the local Ordinary can dispense their penitents from irregularities *ex delicto occulto*, except in a case of voluntary homicide or effectively procured abortion, or in a case which is before a judicial court. Restricted to the sacramental forum but not to more urgent cases, this faculty may be used both to permit the penitent to receive Orders and to exercise lawfully Orders already received. When engaged in missions, retreats or some public exercises, Regulars²⁰³ can dispense penitents in the internal forum and in confession only from all occult irregularities, even those otherwise requiring express and individual mention.

5) Members of religious institutes who are Regulars, when on a journey with permission of their superior, may confess to a priest of their own Order suited for hearing confessions, even though not approved by the superior, or in defect of such, to any other priest suited for hearing confessions, even though not approved by the local Ordinary, if the constitutions of the Order do not expressly forbid it. It is sufficiently probable that in granting the legitimate permission to leave the religious house, the superior implicitly grants jurisdiction to delegate.

6. - It is sufficiently probable that a Regular confessor who has obtained and still retains jurisdiction from some local Ordinary may while on a journey validly hear the confessions of the faithful, if he is unable to approach the local Ordinary conveniently for faculties and if the pastor is not opposed to his hearing the confessions.

68. - J. - QUALITIES OF A CONFESSOR.

"There is nothing more excellent, or more useful for the Church of God and the welfare of souls, than the office of confessor."²⁰⁴ "Next to the Holy Sacrifice, the most important and serious act of the priest is the administration of the sacrament of Penance;"²⁰⁵ "if any power be exalted and venerable, it is surely the power of the priest to whom it is granted, as the instrument and minister of God, to make just men of sinners and to open for them the gates of heaven."²⁰⁶ It is also one of the gravest responsibilities of a priest. In order to promote the divine honor and the salvation of souls, the priest must remember that in hearing confessions he enjoys not only the function of a *judge* but also the role of a *physician*, and that he has been appointed by God as a minister both of divine *justice* and also of divine *mercy*.²⁰⁷ The penitential judgment of the confessor, then, is not condemnatory and vindictive, but liberative and curative. It belongs to the nature of this sacrament to pass judicial sentence, but to its end or purpose to heal the wounds of sin. As a minister the priest is obliged by religion to procure most carefully the honor of God and the good of the sacrament through its valid and lawful administration. He is bound in justice and charity to secure the good of the penitent by fostering dispositions for a most fruitful reception of the sacrament now and as a safeguard for the future. He is similarly bound to provide for the common good in the exercise of his office by avoiding whatever is injurious to the public good or to individuals through scandal or other evil. Thus, besides sacred orders and the jurisdiction necessary for the sacrament of penance, the integrity of the confessor's office demands for the spiritual welfare of the souls committed to him certain qualities or characteristics, which can be described as "*goodness, knowledge and prudence*."²⁰⁸ These qualities are only described here; further implications and applications are treated later when the various duties of the confessor toward the penitent are considered.

69. - 1. - Goodness.

a) The probity of life expected of the minister of Christ in the confessional is more than the mere state of grace or freedom from serious sin so that a sacrilegious administration is avoided. In his administration he should be free from all unchristian harshness and severity, impatience and hastiness, human respect and sentimental familiarity, vanity and self-

adulation. The virtues directive of his office are several and interrelated, but a supernatural zeal and love for souls, sinners especially, must be his most obvious and principal imitation of the Master. The confessor's apostolate of souls is to all sinners without distinction or favoritism, and without reluctance to accept the burdens of the ministry, uniting kindness and gentlemanliness with necessary firmness.

b) Patience is a virtue which is never out of demand in the life of a confessor,—patience with all types of sinners, and constancy and long-suffering when the hearing of confessions becomes monotonous, protracted, or a trial.²⁰⁹ Humility gives the confessor a practical sympathy with penitents, because he is aware of his own weakness and sins, and that but for divine grace he might be worse than his penitents. Purity is an indispensable safeguard at all times lest the confessional in any way become a danger to chastity through thought, desire or action. Meditation on the teachings of the Church and of holy and learned writers concerning the apostolate of penance will, together with constant prayer for help and guidance, help to keep alive and to foster the devotion of the priest to this important part of his ministry.

70. — 2. - *Knowledge.*

a) The confessor is gravely bound, outside a case of necessity, to have the knowledge which is required for the proper and competent exercise of his office. He must possess at least the average or ordinary knowledge which is necessary in the circumstances and regarding the penitents of this day and age; such knowledge must vary also with different confessors as their status and particular ministry varies. Every confessor, however, must know what will secure the substance, validity and lawfulness, integrity and effect of the sacrament both on his and the penitent's part, the common and particular obligations of states of penitents, the species and changing circumstances of sins, the manner of discernment of mortal from venial sins both objectively and subjectively and their numerical distinction, the validity and lawfulness of acts, the principles of justice with the obligations of reparation and restitution, reserved sins and censures, matrimonial impediments dispensable in the confessional, sinful occasions, remedies for sins, fitting and salutary penances and obligations to impose, the main teachings of ascetical theology and of spiritual direction.

b) A confessor need not have perfect knowledge whereby he can always and immediately and personally solve all cases. It suffices that he can solve the cases that commonly occur and doubt prudently about the more difficult cases, so as, if necessary, to consult books and those more learned or experienced (in the meantime a penitent may be absolved who is willing to return and to abide by the decisions of the confessor). Otherwise he courts the proximate danger of a bad administration of

the sacrament and injury to the penitent. If a case must be solved without delay, e.g., with the dying, the confessor will invoke the Holy Spirit and make the best judgment he can, later checking on his solution. It is worthwhile in practice, especially for neo-confessors, to review their solutions, repair their defects, and thus be forearmed for the future. A priest sins gravely if he certainly knows he lacks competent knowledge and yet attempts to hear confessions, even out of charity or obedience. The approbation of the bishop or the regular superior does not supply for but rather presupposes requisite knowledge. If a priest *prudently* fears that his lack of knowledge risks nullity of the sacrament, he can absolve only conditionally. However, those who have diligently pursued their seminary studies and have successfully passed the prescribed examinations are presumed to be competent as described (and they ought to exercise their ministry in this conviction), until it becomes otherwise evident and certain.

c) Alumni of seminaries, both secular and religious, are seriously held to maintain a continual study of the sacred sciences, so that they might exercise the office of confessor with fitness, as is required of other professional men.²¹⁰ The natural qualities of good sense and good judgment, most advantageous and necessary in a good confessor, do not substitute for the benefit of theological study and the fruit of the wisdom of others; nor does it provide knowledge of the development of positive legislation in the Church and its interpretation. Experience is no substitute for requisite knowledge, but it is an aid in giving greater insights into human nature, the interior dispositions of penitents, a practical awareness of problems and their solutions, and a facility in the application of principles and laws. Longstanding experience without study and knowledge has been termed nothing but intimacy with error. A regular review of moral and ascetical theology, canon law, an acquaintance with available ecclesiastical literature is strongly recommended for the retention and development of knowledge already acquired. The confessor, moreover, should expound the common teaching of approved authors and not his own peculiar viewpoint.

71. - 3. - *Prudence.*

a) Prudence, the practical wisdom which directs the best means to the end, is exceedingly necessary for the confessor, who must apply principles and precepts, remedies and obligations to the conditions of individual persons and circumstances, avoiding excess and defect, laxity and rigorism. Prudence will direct his ministry in safeguarding the sacrament, leading penitents to the path of Christian living and perfection, and in procuring the common good. Purity of intention, prayer (especially before confessions), docility and earnest industry are means for growing in this prudence.

b) The confessor must try to adapt his remarks to the concise problem, difficulty or need of the penitent, i.e., to what the penitent needs and can use, and to refrain from giving a whole course of instructions or long sermons. He ought not to be too hasty in solving difficult cases but give attentive and mature consideration to all the factors, remembering that after all he hears but one side of a situation. He should not guess at an answer nor shirk an evident responsibility to give a definite answer. He should not, unless necessary, send penitents to another confessor or to the pastor, but try to treat the case as satisfactorily as possible. In perplexing cases he should follow a safe and sane norm, doing what, under God, he believes ought to be done in the case, seeking above all to apply solidly probable teaching that is apt to accomplish what the spiritual good of the penitent here and now demands. He should leave the penitent free to go to another confessor; the penitent also must be allowed to abide by a solidly probable opinion that is legitimately applicable in his case. The confessor should never show penitents that he knows them or recognizes them, ask for a name or address, or accept money for Masses in the confessional.

c) Confidence in other confessors (as well as in parents, teachers, physicians, etc.) must be preserved and not in any way lessened, if this can be avoided. Oftentimes a penitent has misunderstood or misinterpreted the advice or requirements of a previous confessor, or has not explained the case to him in the same way as to the present confessor. Where it is clear or it is suspected that a previous confessor has given wrong advice or made an error, it suffices for the priest to state his lack of understanding of what happened in the previous confession, and that, as the case stands presently before his judgment, his answer is such and such. It is always preferable (and even necessary with an habitual sinner) to find out if the penitent has previously received advice and followed it. He should be encouraged to continue or to renew his efforts, if the previous advice still appears advantageous to the penitent; otherwise new counsel is in order.

72. — 4. - Prudence in the exercise of the duties of the confessor toward the penitent is emphasized in an *Instruction* of the *Holy Office* (May 16, 1943) entitled "Some Norms on the Conduct of Confessors in Dealing with the Sixth Commandment":

"The Church has never ceased to exercise the greatest care, lest the sacrament of Penance bestowed by divine bounty as a refuge after the loss of baptismal innocence, should become a lamentable cause of eternal ruin to unfortunate and shipwrecked sinners, as a result of the wiles of the devil and the malice of men abusing the gifts of God,'²¹¹ and lest this sacrament, which was instituted for the salvation of souls, should in any

way, through the thoughtlessness and inconstancy of men, be turned to the destruction of souls and should prove detrimental to priestly dignity and holiness.

There is especially in this matter no small danger, if the confessor, when he questions and instructs in the area of the sixth commandment, does not act with the prudence and circumspection required by the delicacy of the matter and the dignity of the sacrament, but goes beyond what is called for by the integrity of the confessions and the welfare of the penitent; or if the behavior of the confessor, especially in dealing with women penitents, is wanting in appropriate holiness and gravity. For all this easily brings harm to souls, gives grounds for suspicion and may be the beginning of profanation of the sacrament.

In order to prevent as far as possible so great a danger, this Supreme Sacred Congregation has considered it opportune to recall to mind these norms, which confessors must attend to carefully, and which in seminaries and theological courses should in good time be brought to the notice of future confessors.

I. - The Code of Canon Law very appropriately admonishes the confessor not to detain any penitent with useless or inquisitive questions, above all on the subject of the sixth commandment, and particularly not to interrogate young people rashly on matters of which they are ignorant.²¹² Such questions are useless which are clearly not necessary to complete the penitent's confession or to discern his interior dispositions. For the penitent is bound by divine law to confess only each and every mortal sin committed after baptism and not yet directly remitted by the power of the keys, of which he is aware, after serious examination; he must in addition confess the circumstances which change the species of the sin, provided, however, that he was aware of the specific malice at the time of committing the sin and became therefore effectively guilty of it. These are the only matters about which the confessor is *per se* bound to question the penitent, when he has reasonable grounds for supposing that they have been, in good faith or bad, omitted from the confession. If it ever happens that he must make the entire examination of conscience for some individual penitent, he should not in his questions go beyond the bounds of prudent conjecture, taking account of the condition of the penitent.

He must therefore omit as useless, troublesome and in such a matter even highly dangerous questions about the following: sins of which he has no strong, positive reason for suspecting the penitent; kinds of sins of which the penitent is unlikely to have incurred the specific guilt; material sins, unless the welfare of the penitent or the avoidance of danger to the common good demands or makes it advisable to warn the penitent about them; finally, circumstances which are morally indifferent, especially the manner of committing the sin. Moreover, if because of ignorance, scruples or malice the penitent himself in confessing his sins

or temptations against purity should go into excessive detail or offend against modesty, the confessor should not fail to check him prudently, but promptly and firmly.

"Moreover, the confessor must remember that the divine precept regarding the integrity of confession does not bind if its observance would involve the penitent or the confessor in a grave injury that is extrinsic to the confession. Wherefore, whenever there is prudent reason for fearing that the questioning may be an occasion of scandal for the penitent, or of ruin even for the confessor, it must be omitted. In case of doubt the common admonition of moralists must be constantly borne in mind, that in this matter it is better to err on the side of caution than to expose oneself or another to sin by going too far.

"Finally, the confessor in asking questions should always act with the greatest caution, first putting general questions, then following, where necessary, with more precise questions. These latter should always be short, discreet, becoming, and avoid any manner of expression which could affect the imagination or sensitivity or offend pious ears.

"II. - The need for prudence and gravity is no less when, as physician and teacher, the confessor advises and instructs his penitents. He is to be especially conscious of the fact that it is not the care of bodies but of souls that has been entrusted to him. Consequently, it is *per se* not his business to advise his penitents on medical or hygienic matters, and he must absolutely avoid everything that would occasion astonishment or cause scandal. If advice of this nature is thought to be necessary on occasion, even for the sake of conscience, the penitent must be referred to an upright and prudent expert, who is conversant with moral teaching and who will give this advice.

"Likewise the confessor must never dare to explain to penitents, either on his own initiative or at the request of a penitent, the nature or the manner of the act which transmits life, and he must never allow himself to be led under any pretext into doing so.

"The confessor, however, should give his penitents moral instruction and suitable direction in accordance with the teaching of approved writers, but always with prudence, decency and moderation, and without going beyond the genuine needs of the penitent. It is to be observed that the priest who gives the impression, by his questions and his admonitions in the confessional, of being concerned almost exclusively with sins against the sixth commandment, is acting in a thoughtless manner and is not performing his office properly.

"III. - It must never be forgotten that the whole world about us lies in the power of evil,²¹³ and that 'a priest cannot avoid contact with a corrupt society; frequently, in the very exercise of pastoral charity, he must fear the attacks of the infernal serpent.'²¹⁴

"For this reason the confessor must always act with the greatest prud-

ence. Especially in his dealings with women penitents he must be watchful to avoid anything which would betray familiarity or encourage the formation of a dangerous friendship. Let him not, then, be curious to find out who they are, nor dare to inquire their names, either directly or indirectly. In speaking to them he must avoid absolutely and completely the use of the pronoun 'you' wherever it denotes a familiar relationship; he must not allow their confessions to be prolonged unnecessarily; he must refrain from discussing in confession things which are not matters of conscience; unless it is genuinely necessary, he should not permit the exchange of visits or letters, nor long conversations in the sacristy, parlors or other places, even under the pretext of giving spiritual direction.

"The confessor must be on his guard lest, under the cover of piety, there should gradually develop and grow in his heart, or in the hearts of his penitents, feelings of human affection; he must constantly strive with all his might 'that whatever he does in the discharge of his sacred office will be done according to God, under the impulse and guidance of faith.'²¹⁵

"IV. - In order that they may carry out their charge with greater ease and safety, confessors must be given timely instruction and training for it by their teachers, not merely in the principles, but also by practical exercises, so that they may know exactly how to question penitents on the sixth commandment, whether these be children, adolescents, or adults, especially females; they must be shown the type of question that is necessary and useful, and that which, on the other hand, must not be asked, and also the terms used in the language of the country."

K. - TIME, PLACE AND VESTURE FOR HEARING CONFESSIONS.

73. - 1. - *Time*. Confessions may be heard on any day and at any hour. The prudence of the confessor will direct the more appropriate hours for hearing women, e.g., avoiding the later hours of the evening.

74. - 2. - *Place*.

a) *proper place*.

I. - The proper place for sacramental confession is in a church, a public oratory or a semipublic oratory.²¹⁶ 'Proper' here means the place that is preferred when there is no justifying cause for the confession to be heard elsewhere.

II. - It is lawful to hear the confessions of men even in private houses.²¹⁷ They may be heard in other places as long as scandal is avoided and the rules of prudence and modesty maintained. If they confess in a church or public oratory there should be a screen; in other words, as a general rule, they should confess in a confessional.

b) *for women.*

i. - The confessional (*sedes confessionalis*) for the hearing of the confessions of laywomen is required for the lawfulness and not the validity of the confession. This confessional must always be located in an open and conspicuous place, and generally in a church, a public oratory or a semipublic oratory assigned to the use of women. The confessional should have inserted between the confessor and penitent a fixed and narrowly perforated grating;²¹⁹ a curtain is often fitted over the screen. The confessional may be at least a kneeler with raised grating separating the penitent from the seated confessor. For justifying reasons the local Ordinary may permit the confessions of women to be heard outside the places mentioned but not without the confessional set up in an open and conspicuous place. Habitually to hear women outside the confessional without grave cause is considered a grave sin; to hear them in a confessional but not in an open and conspicuous place is of itself, saving scandal, a venial sin and sometimes no sin.

ii. - The confessions of women shall not be heard outside the confessional unless an exception is required by reason of illness or some similar reason involving real need, and then those safeguards shall be employed which the local Ordinary shall deem adequate.²¹⁹ The precise meaning of "real need" or "true necessity" has not been determined authentically, but it would seem to be present when the hearing of the confession in the regular place would cause the penitent serious embarrassment, e.g., in the case of the deaf. The confessor must make the decision in the particular case, judging the peculiar circumstances and legitimately designating a place for the confession.²²⁰

75. - 3. - *Vesture.* - The law itself makes no provision in this matter. The Roman Ritual directs but does not prescribe the use of surplice or cotta and purple stole.²²¹ Thus, custom in the U.S.A. dispenses from the use of the surplice; in case of necessity the stole also may be omitted. Religious who are dressed more or less as the secular clergy are to follow the Ritual;²²² those having a proper habit need only use the stole. Regulars need wear neither stole nor surplice in the confessional.²²³

V. RECIPIENT OR PENITENT

A. - FREQUENCY OF SACRAMENTAL CONFESSION.

76. - 1. - *General obligation.* The obligation of the sinner to do penance in this life and to receive the sacrament of penance has been explained above.²²⁴

77. – 2. - *Annual obligation.*

a) The positive precept of ecclesiastical law, which further determines the divine precept, gravely binds all the faithful (including those of the Oriental rites) to an annual confession of sins in the sacrament of penance. Thus, each and every member of the faithful of both sexes, on reaching the age of discretion, that is, the use of reason, is obliged to make an exact confession of all his sins at least once a year.²²⁵ This precept is not satisfied by a sacrilegious confession or by one that is deliberately invalid,²²⁶ since the purpose of the precept—reconciliation with God, is not achieved. Every member of the faithful has the right to confess his sins to the confessor whom he chooses, even though the latter belongs to another rite, provided that he is lawfully approved.²²⁷ Thus, the precept of annual confession may be fulfilled in any place where the confessor whom the penitent approaches may hear the confession.

b) All the baptized (laymen, clerics, religious of any state or condition) who are conscious of mortal sin that has not yet been declared in valid confession are bound by this precept. Children are bound even before the age of seven, if they have already reached the age of discretion or the use of reason, i.e., if they can discern between what is morally good and evil and are capable of mortal sin. The practice of not absolving children before their First Communion is not approved.²²⁸ If the confessor doubts whether this age of discretion has been reached, he should prefer to absolve conditionally rather than not at all. However, a child who reaches the age of reason need not confess immediately, but may wait until the next Paschal season, all things being equal.

c) The divine precept obliges only to the confession of mortal sins not yet directly remitted in the sacrament of penance.²²⁹ The ecclesiastical determination obliges no more strictly. Even if venial sins are present and no mortal sins have been committed in the course of the year, the obligation does not bind, since the purpose of the law—reconciliation with God, is factually realized.²³⁰ The precept, however, is satisfied even by the confession of venial sins. Thus, if one has confessed only venial sins and subsequently within the same year has committed a mortal sin, he is not obliged by the precept to confess again that year. This is the understanding and practice of the faithful and a safe norm in practice for the judgment of the confessor.

d) The precept of annual confession may be variously computed (*tempus utile*), e.g., by the civil year from Jan. 1 to Dec. 31, by the liturgical year from one Advent to the next. The common method is from one Easter to another, or as extended by indult in the U.S.A., from one Trinity Sunday to the next. The obligation commences with the beginning of the year and circumstances may add urgency to its fulfillment, e.g., if a person in mortal sin foresees that he will not be able later to go

to confession before the period expires, he is bound to satisfy his obligation presently. If a person in mortal sin has not confessed during the course of the year (or for several years), he should do so as soon as possible, since the period of a year prescribed does not terminate but rather urges the obligation. However, if in this following year he again falls into serious sin, he is not obliged by the precept to confess again, since one and the same confession satisfies the end of the precept of both years—reconciliation with God. The faithful usually associate as one the obligation to confess at least once a year and the precept to receive the Eucharist during the Paschal season. This practice should not be disapproved, as confession may also be necessary by reason of the sacrament of Eucharist itself.²³¹

78. — 3. - *Devout frequent confession.* The practice of frequent confession out of devotion with only venial faults has often been praised as most beneficial to spiritual progress.²³² "It is true indeed that there are many ways, all most praiseworthy, of wiping out these faults. But to advance with increasing fervor on the path of virtue We earnestly recommend the pious practice of frequent confession, introduced by the Church under the inspiration of the Holy Spirit. By it genuine self-knowledge is increased, Christian humility grows, bad habits are corrected, spiritual neglect and tepidity are countered, the conscience is purified, the will strengthened, a salutary self-control attained and grace increased by reason of the sacrament itself."²³³ For those who communicate daily or almost daily, confession once a week suffices to produce these fruits. Such a norm is recommended in order that the confessor may not be greatly burdened or the penitent lose the fervor or even the sufficiency of his dispositions through habituation or familiarity with the sacrament.

B. - REMOTE MATTER. - Remote matter is the matter about which (*materia circa quam*) contrition, confession and absolution are concerned for the purpose of forgiveness, namely, sins committed after baptism. As matter with respect to the form of the sacrament or absolution it is variously divided.

79. — 1. - *Necessary matter.*

a) Necessary matter is those sins which by divine precept necessarily must be subjected to sacramental absolution in order to obtain remission. Thus a person who has committed grave sins after baptism which have not been directly remitted through the keys of the Church (no matter how they may otherwise have been remitted), must, after a careful examination of conscience, confess all of which he is aware and explain the circumstances which make a specific change in the sin.²³⁴ Necessary matter is always sufficient matter for absolution.

b) Sins are said to be directly remitted when they are rightly submitted in species and number to the absolution of a confessor. Sins are only indirectly remitted by absolution when they are removed by the infusion of sanctifying grace in the soul by reason of the absolution immediately of sins directly submitted, since serious sin and sanctifying grace cannot coexist in the soul. Such sins, then, omitted in confession through inculpable forgetfulness or from any legitimate cause are remitted indirectly with the direct remission of the other sins confessed. They, however, (as well as sins already remitted through an act of perfect contrition with the desire of the sacrament) must be explicitly submitted in kind and number to the keys, not in order to be taken away, but in order to satisfy the precept of Christ and the Church.

c) Sins confessed but not absolved because of the unworthiness of the penitent or because of lack of jurisdiction on the part of the confessor must be confessed again. It is not certain whether mortal sin committed in the very reception of baptism is necessary or doubtful matter, but in practice it seems that it should be confessed to insure the full effect of baptism and the spiritual welfare of the faithful. An adult Catholic whose first baptism is called into doubt is rebaptized conditionally; he confesses only the sins he has committed and not directly confessed since his last worthy confession, since the previous confessions or the second baptism remits the others. An adult non-Catholic who is conditionally baptized upon conversion must immediately confess all the sins of his past life and be conditionally absolved.²³⁵

80. — 2. - *Sufficient matter.*

a) It is required and it suffices for the sacrament of Penance that true sins be confessed with sincere sorrow and with a desire of absolution. The sins, as long as they are truly such, may be either necessary or free matter, but they suffice for the valid reception of absolution. Thus, sufficient, but not necessary, matter of the sacrament of Penance are sins committed after baptism, whether they are mortal sins already directly remitted by the power of the keys or venial sins.²³⁶ The confessor cannot absolve a penitent who cannot recall any sins since the last confession. If no sins of the past can be recalled, the penitent should be instructed on the requirements of the sacrament and the proper way to make an examination of conscience.

b) Insufficient matter includes mere imperfections devoid of sinfulness, such as entirely indeliberate acts, involuntary distractions in prayer, the omission of a good or a better thing that is not of precept; also deliberate imperfections or transgressions of a counsel unless they arise from venial sin (e.g., levity, sloth, negligence, vanity, inordinate affection), and doubtful sins. In practice, the confessor must judge that, on account of imperfections alone, sacramental absolution cannot be given and that

some certain and sufficient matter should be evoked from the penitent. The confessor should ask the penitent to express sorrow for some past sin or sins of which he is certain. On the other hand, penitents are not to be discouraged from confessing their imperfections, since venial sin is easily connected with them; likewise from confessing their doubtful sins and daily light sins. The confessor can thus often aid in directing them, especially when they have been encouraged to state the motivations of these imperfect acts.

81. — 3. - *Free matter.*

a) Those sins which can but not necessarily must be submitted in confession to absolution are free matter. Thus free (but sufficient) matter is all venial sins committed after baptism and not yet remitted.²³⁷ Even though a sin has already been remitted, it always remains a sin committed and thus the object of the penitent's renewed sorrow; the absolution increases grace, which is of itself destructive of sin.

b) Since there is no obligation to confess free matter, the confession of the lowest species, the number and any changing circumstance is likewise not of obligation. It suffices to confess these sins in general, as is noted below. Moreover although no obligation exists to confess venial sins, they are rightly and beneficially confessed, since many penitents are not able to judge the lightness or gravity of a sin, and by this confession also virtue is promoted and spiritual guidance is aided. The confession of a certain sin already remitted insures sufficient matter for the sacrament when there is no new matter to confess, and more surely renews true sorrow for them.²³⁸

82. — 4. - *Certain matter.* Sins for which there is certain culpability and for which absolution would be valid, all else being presupposed, are certain matter for the sacrament.

83. — 5. - *Doubtful matter.*

a) Sins for which absolution, all else being presupposed, would be doubtfully valid are doubtfully sufficient matter for the sacrament, and thus unlawful matter in the administration of the sacrament of Penance, except in grave necessity.²³⁹ The doubt may arise from any source, such as doubt as to the commission of the sin, as to full knowledge of consent, as to the sinfulness of an imperfection, etc.

b) A penitent who confesses only doubtful matter must be induced to accuse himself of some certain sin of his past life which is already remitted, in order to be lawfully absolved. Thus he may say, for example, "I accuse myself of all my past sins against chastity, or charity, etc." Or the confessor may ask, for example, "Have you been certainly angry in your past life for which you are sorry?" to which the penitent answers in

the affirmative. If the penitent has committed no certain sins or for some reason cannot recall any, as long as the sins confessed are of themselves grave and the doubt refers only to the consent, he is to be absolved conditionally (*si es capax*) lest he be deprived of absolution to his great spiritual harm, if he has truly committed them. However, if the doubtful sins are only venial, conditional absolution is to be rarely imparted, since in fact the penitent suffers no serious spiritual damage and the sacrament ought not to be exposed to nullity.

c) Sometimes a penitent will confess a sin about which he has a doubt, saying in some form the following: "I wish to accuse myself of this as it stands in the sight of God." This is often the case in matters of chastity. The confessor ought not to absolve, at least absolutely, unless the penitent also confesses some certain matter.

84. — 6. - *General accusation.*

a) *In case of necessity.* A general accusation of sins certainly suffices and is valid in a case of necessity, when a specific accusation is not possible, e.g., "I accuse myself of all my sins." This is clear from the constant practice of the Church, e.g., absolution is imparted absolutely to soldiers when battle is imminent, in the case of shipwreck or other serious accident or danger, when any sign of confession is given by the dying, etc.²⁴⁰ Likewise the deaf and the dumb, and those whose language is unknown to the confessor are absolved validly and lawfully after only a general accusation made in some way. The sacrament is a judgment of reconciliation and not of condemnation, and thus perfect knowledge is not of the essence of the penitential judgment.

b) *Outside of necessity.*

1. - Grave sins not yet directly remitted must, at least by the precept of Christ, be confessed in species and number and changing circumstances. A general accusation against a certain virtue or precept without mentioning the lowest species and number in necessary matter does not suffice. Free matter which is confessed generically in conjunction with other sins (mortal or venial) distinctly and specifically confessed is unquestionably sufficient for absolution. This is laudably done at the end of the confession for greater sorrow and amendment and to extend the absolution to these sins. When free matter is confessed only generically and there are no certain mortal or venial sins since the last confession, the confessor may in practice absolve validly and lawfully, since a general accusation is valid in time of necessity and the positive precept of Christ and of the Church for individual accusation embraces only necessary and not free matter. However, it is desirable (and it is the common practice of the faithful) to confess venial sins or free matter specifically. The confessor must keep in mind that the penitent who makes a general confession need not confess in detail any free matter.

ii. - When sins which are confessed specifically are not certain, the confessor will ask for some certain sin of the past, as noted above. In practice, the confessor should ask the penitent to mention some specific sin of the past whenever there is a generic confession of sins already absolved or of venial sins; otherwise penitents are apt to become perfunctory in confessing and to forfeit the value of a devout and humble confession. Sorrow for specific and individual sins is more easily elicited and more effective than for sins in general. Unless required for sufficiency of the matter, penitents ought not to be greatly disturbed in an effort to elicit a specific accusation of at least one sin in the past.

85. - C. - PROXIMATE MATTER. - It is of faith that the acts of the penitent, namely, contrition, confession and satisfaction, so pertain to the sacrament of Penance that without them there cannot be a perfect and integral remission of sins; and also that these three acts are the quasi matter and parts of this sacrament. Theological discussion has centered on the way in which these three acts pertain to the nature of the sacrament and their necessity for the existence of a valid sacrament. The Thomistic and common teaching holds that it is not permitted to administer Penance without these three acts being present and in some way sensibly expressed, since the matter of the sacraments must be sensible.²⁴² Some reputable moralists teach opinions that require merely internal dispositions of the penitent as pertaining to the essence or validity of the sacrament; the external acts of the penitent are not absolutely necessary but only at best conditions or dispositions. Thus the dispositions of sorrowing for sins and of satisfying for them can be presumed in all the dying, even the unconscious, and absolution can be lawfully imparted to them under a condition (*si es capax*). The sacraments are for men, but the non-Thomistic and not common opinion of some, as well as the practice of absolving the unconscious with no signs of repentance, do not prove the certainty or validity of the absolution.

86. - 1. - *Contrition*.

a) *notion*.

i. - *Perfect contrition* or contrition in the proper sense is sorrow of soul and detestation for sin committed with the purpose of sinning no more.²⁴³ As an act of penance it justifies with the implicit desire of the sacrament. It arises from a motive of charity, of the love of God above all things. (It can remit venial sins even without the sacrament).

ii. - *Imperfect contrition* or *attrition* is sorrow for sins committed which springs, not from the perfect motive of charity, but from some less exalted but supernatural motive, namely, the baseness of sin or the fear of hell and of the eternal and temporal punishments inflicted by God. These two, to which all other inferior motives are reduced, spring from supernatural faith and actual grace, i.e., they are referred to God.

It is of faith that such attrition, although it cannot of itself lead to justification, disposes the sinner to seek the grace of God in the sacrament of Penance.²⁴⁴ It is commonly taught that attrition with the actual reception of the sacrament justifies.

87. — b) *qualities*.

i. - For the valid reception of the sacrament any contrition must be *true* and *internal*, that is, not only expressed in words or signs but embraced principally by the heart and soul. It is an act of the will detesting sin committed. It need not be sensibly "felt," as it can be present together with dryness, tedium, etc. Lack of intensity in the act or of an accompanying sensibility do not necessarily affect the penitent's resolution to abandon sin and to fulfill his obligations. The contrition must precede absolution and not be recalled if the latter is to be valid; normally it should exist before confession begins. In some cases the confessor may need to arouse proper dispositions.

ii. - Contrition should be *supernatural*, that is, elicited under the movement of actual grace and motivated or referred to God, as noted for perfect and imperfect contrition. The act of penitence should be *formal* and *explicit*, or a positive act by which the will truly and explicitly sorrows for and detests a sin committed as an offense against God. In practice most penitents are not to be greatly disturbed, since in their desire for absolution or in eliciting an act of love there is scarcely lacking a formal act of sorrow. Penitents usually terminate the recounting of their sins with a formula such as "I am sorry for these and all my past sins." The confessor should see to it that the penitent makes an explicit act of sorrow at least during the absolution, especially in the case of children. The common formula of the Act of Contrition will satisfy.

iii. - The penitent's contrition must be *universal*, extending to all his mortal sins not yet directly remitted, even those which are forgotten or unknown. Although it is far better, nevertheless it is not necessary to have sorrow for each mortal sin individually and distinctly (although they must be so confessed) but at least implicitly. It is not required to have contrition for all venial sins or even for certain ones. Since they are free matter, one can confess and have sorrow for one and not for another. The frequency of venial sins is itself a deformity subject to contrition. True sorrow for venial sins must be internal, supernatural and appreciatively supreme, although not always universal. The devout penitent will express a sorrow which is universal for all venial sins.

iv. - Contrition should be at least *appreciatively supreme*, i.e., the penitent appreciates that no other evil is as great as sin and he is so displeased over the sin committed that he is generally prepared to forego any good or to risk any harm than to fall into sin again. There is no need for the confessor to compare evils, as the penitent may be disturbed and

confused. It suffices for the latter to be prepared to do what he can in the future with God's help. Likewise the contrition need not be intensively supreme or more vehement or more poignantly felt than any other sorrow. Some expressions of sorrow, such as tears, sighs, striking of the breast, etc., are not necessary, but yet not to be frowned on. No particular degree or duration of sorrow is necessary. Perfunctory acts of contrition should be cautioned against and formulas expressing true motives for sorrow taught and promoted.

v. - Contrition is to be elicited with a view to *sacramental* confession and absolution and renewed every time a new mortal sin is committed. In practice, whenever a penitent immediately after absolution remembers a grave sin he had forgotten and confesses it, he should make another act of contrition; the same penance or preferably a new one should be imposed.

88. - c) *purpose of amendment.*

i. - The contrition necessary for forgiveness, besides sorrow for and detestation of sin committed, must also include the resolution (*propositum*) or fixed and firm determination not to sin again.²⁴⁵ It is explicit and formal, if formulated as a distinct act; implicit and virtual, if included in the act of sorrow (which is the minimum necessary). This resolution is the best indicator of true contrition. It should be *firm*, whereby the penitent here and now seriously and deliberately purposes to sin no more, to amend his life and to endure with God's help any evil or fear rather than to offend God. The penitent may be aware of his own inconstancy and frailty and judge that he will fall again in the same manner. However, in most cases this does not affect his actual resolution of amendment here and now. With children it is often necessary for the confessor to get them to agree to try to do better in the future. When an adult's disposition is doubtful, e.g., in some cases of birth prevention practice, the confessor will seek an explicit purpose of amendment.

ii. - The resolution must be *efficacious*, i.e., the penitent must intend to use the means necessary to avoid sin and its occasions, e.g., prayer and vigilance, to repair as far as he is able any damage done, etc. Such a resolution is efficacious if some serious means are adopted, but if no means are taken when they easily could be, it is suspect. There can be a doubt of the penitent's resolution, if there is a fall immediately after confession. However, relapse into sin is not necessarily a sign of want of true resolution, as habits of sin are not easily nor at once rooted out or frailty quickly overcome.

iii. - The will to exclude all mortal sins in the future should be *universal*, although the sins need not be thought of individually. It is not required for absolution from venial sins that the purpose of amendment be universal; if only venial sins are confessed, there must be a resolve at

least to avoid some definite sin confessed or group of venial sins or the most serious of them or those which are fully deliberate or to lessen the number of them, i.e., a will to improve. Confessors should try to arouse penitents who frequently fall into the same sins through negligence, etc., to a more fervent contrition and a firmer resolve to amend.

89. – 2.- -*Confession.*

a) *notion.* Sacramental confession is the accusation of one's own sins committed after baptism, made to an authorized priest for the purpose of obtaining absolution, which confession is necessary by divine precept.²⁴⁶ Personal actual sins, and not merely imperfections, are to be confessed to a spiritual judge who is authorized to judge them for the purpose of absolution. A confession made for some other reason, such as counsel, consolation or mockery, is not sacramental (and thus not under the seal).

90. – b) *qualities.*

I. - By the ancient custom of the Church confession should be vocal.²⁴⁷ The obligation is grave to confess one's sins orally, unless a just cause in case of necessity requires nods, signs or writing. Such a just cause is present if the penitent is dumb, or because of illness or some other reason is able to speak only with great difficulty, or he cannot make an integral declaration of sins because of extreme embarrassment, anxiety or scruples, or if the confessor is hard of hearing and cannot hear the penitent without bystanders also hearing. The deaf and dumb are obliged to confess in signs and nods according to their ability. Those who do not know the language of the confessor should confess by signs and nods as best they can.²⁴⁸

II. - A *secret* and *auricular* confession has always been recommended and in use in the Church.²⁴⁹ Public confession or manifestation of sins is not obligatory. Moreover, a penitent is not bound to choose an interpreter, but such a person when employed is bound by the law of the seal.²⁵⁰ It can be so arranged that the interpreter does not know the responses of the penitent, e.g., by not facing the penitent who then answers the confessor's questions by nods and by showing a number of fingers.

III. - The penitent should make a confession that is *simple* and *discreet*, being prohibited from narrating what does not pertain to it. He should not list the sins of others nor reveal the name of an accomplice. Sins against the sixth commandment should be told in modest and succinct language, which, however, is sufficiently clear and exact. The penitent should be *humble* in words and gestures and make the confession kneeling, unless just reason excuses. Men should be bare-headed and unarmed; women should wear some head covering. There must be a disposition to accept and to obey the just commands of the confessor as well as to receive humbly his rebukes. The same one who has not been ashamed to commit the sin ought not to be ashamed to confess the sin committed.

iv. - Perfect *truthfulness* and *sincerity* ought to be present in every confession so that the penitent manifests his sins as they are in his conscience, as certain or doubtful, mortal or venial, etc., neither denying, lessening or exaggerating the sins committed. The penitent is bound to reply sincerely to the legitimate questions of the confessor,²⁵¹ e.g., about habits of sin, occasions and circumstances of sin, the dispositions of the penitent, etc., without which information the confessor cannot form a prudent judgment as his office requires. If the questions are manifestly indiscreet, the penitent is not bound to reply and for a just cause he can use a mental restriction in his replies.

v. - To *lie* in confession about a *serious* and necessary matter is a grave pernicious lie and a sacrilege. It perverts the judgment of the confessor; the confession is not integral and the absolution not valid. Of itself it is a grave sin to confess a mortal sin that has not been committed or to exaggerate the number of serious sins or to confess as light a serious sin. However, penitents sometimes do this out of scrupulosity, disturbance of soul, simplicity or ignorance, and they are excused from all or from at least mortal sin. To *lie* about *light* matter or serious free matter is in itself a venial sacrilege, e.g., to confess a light sin that was never committed, to deny one already committed or a mortal sin already properly absolved. This does not render the penitential judgment perverted in serious matter nor invalidate the sacrament or impede its effect. It can be a grave sin if such is the only matter confessed. In making a general confession it is not forbidden of itself to include sins committed since the last confession indistinguishably with past sins already forgiven, but the truth must be told to the confessor who interrogates about recent sins.

vi. - To *lie* about *non-confessional* matter is not for that reason a sacrilege, as it in no way perverts the penitential judgment. It takes on the sinfulness of the lie in question; as a serious sin it renders the penitent indisposed for absolution. Moreover a penitent does not sin because he confesses his venial sins to one confessor (such as his ordinary confessor) and his serious sins to another, as long as he confesses the serious sins first and the procedure is due to an honest motive. If he intends to deceive his ordinary confessor out of vainglory or some other inordinate motive, he sins venially. But the sin is grave if serious danger is present, e.g., if this is done in order to sin more freely or to remain in the proximate occasion of sin, or in order to be admitted to religious profession or clerical orders, which admission would otherwise be restrained because of the type or habit of sin.

91. — c) *integrity or entirety.*

i. - *notion.* Confession must be integral or entire so that to one and the same confessor is subjected at the same time the whole necessary matter which has not yet been duly submitted to the keys. *Material* or objective *integrity* embraces absolutely all the mortal sins which in reality have

been committed since baptism and not yet duly confessed. *Formal* or subjective integrity consists in the accusation of all the mortal sins which all things considered the penitent here and now, according to his capacity and after a careful examination, morally can and must confess according to his conscience, although for a just cause he omits some. All sins must be declared, since the minister is the judge of them all, for this sacrament has been instituted in the form of a special judgment in which at the same time all or none of the sins are remitted. Thus integrity is necessary by divine precept for the validity of the sacrament,²⁵² formal integrity actually and by a necessity of means and precept, material integrity at least *in voto* by a necessity of means, and regularly by precept from which there can be excusing causes. Of itself confession should be materially integral, but formal integrity alone sometimes suffices. It is a serious sin and a sacrilege to omit a sin which one can and must declare here and now in confession.²⁵³

92. — II. - *extent*.

α) Each and every mortal sin committed after baptism and not directly remitted must be confessed in species or kind, in number, and in circumstances which change the species,²⁵⁴ as a generic accusation outside of necessity is insufficient. The *lowest theological species* must be confessed, inasmuch as some sins are more serious than others, and also the lowest moral species, inasmuch as sins are distinguished by their formal malices, e.g., justice is differently violated by theft, detraction, homicide. In the event that the penitent does not confess the lowest species, e.g., due to ignorance or forgetfulness, the confessor and penitent must try to determine it as best possible. The next higher species must be confessed. When later recalled, it should be confessed in its lowest species.

β) The precise and certain *number* of mortal sins should be confessed as far as morally possible. If a careful examination does not yield this, the penitent should confess the approximate number. If this is not possible, he should confess the approximate number of times he has committed such a sin or sins each day or week or month or year, or whether in a certain period he has very often, often or sometimes committed these sins. Some theologians hold that the sins confessed in an approximate number by the penitent according to his knowledge at the time are all directly remitted as being sufficiently contained in the more or less determined number declared; thus there is no obligation to confess later the precise number. This is safe to follow in practice. Others hold that the penitent need not later confess his error made in good faith if he declared a greater number than were actually committed, since the greater includes the lesser, but he must if a notably lesser number were declared. It should be noted that if a very definite and precise number were given and later even one serious sin is recalled, it must be directly declared.

γ) *Circumstances* which *change* the nature, i.e., multiply the species, of sin must be confessed: grave circumstances which are so realized by the sinner, e.g., fornication with a married person. It should be observed that sins are to be confessed in their integrity, not according to the greater knowledge or theological science later acquired by the penitent, but according to the knowledge (and thus the voluntariety) possessed at the time they were committed. Of themselves *circumstances* which *aggravate* or increase the malice of sin need not be confessed, e.g., the amount of grave theft, the number of persons, the dignity of the person, etc. (unless it also multiplies the malice). In practice, however, the faithful are accustomed to confess notably aggravating circumstances (and are so to be encouraged) for greater peace of conscience, greater humility and penitence, and to secure richer graces. Exception is made in the case of the scrupulous and ordinarily in matters of chastity. In cases where reservations or censures are incurred when a sin is committed in this or that circumstance, the latter, even if only aggravating, must be confessed, e.g., the place of solicitation. Both changing and aggravating circumstances are the legitimate object of the confessor's interrogation of the penitent.²⁵³

β) Although the *external act* does not differ specifically from the internal act, it is the ultimate element of integrity of the sin and completes it in its species. It is likewise forbidden by God and should be declared in confession. The confessor judges differently about the state of the penitent with internal and with external sins, e.g., concerning occasions, the obligation of restitution, etc. This is the understanding of the Church and the practice of the faithful.²⁵⁴ *Foreseen consequences* must be confessed as being voluntary in cause and thus sinful, e.g., pollution resulting from obscene reading, to miss Sunday Mass due to drunkenness. Evil effects foreseen but retracted or not foreseen at all need not be confessed as not being voluntary and thus sinful (although damage must be repaired).

ε) *Doubtful sins* may regard any of three situations: 1) doubt as to the *existence* of a grave sin, i.e., that it was committed at all. There is no obligation of itself to confess these sins, since a doubtfully committed sin is not sufficient (and thus not necessary) matter for absolution; we are bound to confess sins which are on our conscience after a careful examination. They may be confessed, and frequently it is recommended that they be made known, in order to form one's conscience, and especially at the hour of death when the confessor's presence is a more secure safeguard than an act of perfect contrition. If a penitent confesses a sin as doubtfully committed, he is not held to confess it as certain if he later recalls it as such. Implicitly the confessor has directly absolved it on the condition that it was committed. 2) doubt as to the *gravity* of a certainly committed sin. There is no certain obligation to confess these sins, as there is no consciousness of their gravity. In doubt as to full consent or perfect

advertence, the favor or presumption is to follow the condition of the penitent: a penitent of tender conscience and unaccustomed to sinning gravely would not be held to confess them, whereas the lax and frequent sinner is to confess them. It is the practice for those who are neither lax nor scrupulous to confess a doubtfully grave sin. The uninstructed should declare them, as it is very difficult for the penitent alone to form rightly his conscience. 3) doubt as to the *confession* of a certainly committed grave sin. If the doubt is merely negative, such sins should be confessed, since there is a certain obligation to confess certainly committed grave sins, and this obligation cannot be satisfied by a doubtful fulfilment. If there are positive indications that the sins have already been confessed, e.g., in the case of one who frequently goes to confession and regularly makes a careful examination, the confession need not be made.

93. — III. - *excusing causes.*

α) *general norms.*

1. - No precept can or is intended to oblige to what is *physically* impossible, since no one is obliged to the impossible; therefore, in such a case not to material integrity. For *moral* inability to excuse from material integrity these conditions must be present at the same time: 1) another confessor cannot be found to whom without inconvenience the sins can be integrally confessed; 2) the confession is here and now necessary, e.g., before paschal Communion, before celebrating or communicating the Eucharist, because otherwise scandal or infamy is risked, because the sinner would have to remain in mortal sin in danger of death and loss of salvation for some time (beyond three days or even one day); 3) only those sins and circumstances are omitted which cannot be declared without grave inconvenience. This moral inability must be extrinsic to the confession itself and only accidentally connected with it here and now. Great repugnance, shame, fear of reprimand by or loss of reputation with the confessor, etc., are intrinsic to confession and insufficient causes for excusing. It must be impossible for the penitent to make a materially integral confession without grave spiritual or temporal damage to himself, the confessor or to another. Prudent fear of this suffices.

2. - The sins thus not directly accused and forgiven must be confessed in the next confession after the cessation of the excusing causes. These causes suspend but do not remove the obligation of material integrity. The penitent, moreover, should confess as clearly and distinctly as he can. He must repeat if he perceives that the confessor has not heard or understood, e.g., because the latter is hard of hearing or sleepy, or because of singing or organ playing in the place. If he intentionally tries to confess so that he will not be understood, he commits a sacrilege and must repeat the confession. A known incomplete confession must be completed in the next confession to be integral.²⁵⁷ If the confession is known to be invalid for any reason or sacrilegious, it must be repeated.

94. — ε) *physical inability.*

1. - *Lack of strength* or power suffices to excuse, e.g., the penitent is so infirm or near to death that it is very difficult or impossible for him to think or speak or go on with the confession. The confessor must be more concerned to elicit an act of true contrition from the penitent. A similar case exists when the confessor himself probably may die before hearing the full confession.

2. - *Defect of speech* excuses, i.e., a mute is excused if he cannot confess integrally by sign language. He should manifest his sins to the confessor at least by nods. Writing is recommendable but not obligatory and the confessor should see to it that a written confession is destroyed immediately. A penitent who is ignorant of the language of the confessor is excused when no confessor who understands him is available and the obligation to confess urges. He should express his sins and his sorrow in the best way he can; ²⁵⁸ he is free to employ an interpreter.²⁵⁹

3. - *Lack of time* sometimes excuses. This applies only to imminent danger of death, e.g., at the time of shipwreck, battle, fire, accident, disastrous and contagious disease, etc. It does not apply to the delay involved in hearing a large number of penitents, since devotion and ecclesiastical precept must yield to the divine law of material integrity.²⁶⁰

4. - *Ignorance or forgetfulness* suffice to excuse. The penitent is obliged to make a serious examination of conscience. If as a matter of fact he, culpably or not, cannot remember a sin or inadvertently omits it, he is validly and lawfully absolved. If a grave sin is recalled before Communion, it is better to confess it if convenient; but there is no obligation, and it suffices to declare it in the next confession. Neither is there an obligation to write down one's sins to avoid forgetting them.

95. — γ) *moral inability.*

1. - *Great scrupulosity* in confessing and explaining his sins suffices to excuse a penitent who finds considerable difficulty with confession and the confessor fears that it will become odious. When the confessor prudently judges it to be necessary, he may terminate the confession for the good of the penitent and absolve.

2. - *Danger to one's life* will excuse from integrity, e.g., the confessor prudently fears infection at the time of plague or contagious disease; if the penitent fears spies, etc., during a persecution. In such cases the confessor may hear one or another sin and absolve.

3. - *The risk of giving scandal or of lapsing into sin* which is feared will arise for the penitent, the confessor or both from the confession is an excusing cause. The penitent because of his own known and experienced weakness strongly fears that he will consent again to carnal sins if he makes a careful examination and confession of them. The penitent has a grave fear that, if he or she confesses certain carnal sins, solicitation to

commit them will be made by the confessor (this must not be a presumption but a well-grounded fear, e.g., based on previous incidence of this regarding the penitent or others). The penitent seriously and with sure foundation fears that by an integral confession the confessor of whose weakness he has knowledge will be induced to sin, e.g., by a confession of evil desires of sinning with him. Also the rare instance when the confessor fears that very probably he will scandalize himself or the penitent by a diligent questioning, due to his own or to the penitent's weakness.

4. - *Danger of breaking the seal* is an adequate excuse. The priest judges he cannot make an integral confession without manifesting the sins already confessed to him by a penitent and the latter's identity becoming known or surmised. The penitent seriously and reasonably fears that the confessor will violate the seal either directly (which is most rare) or indirectly, e.g., by raising his voice at mortal sins in the hearing of others. There is not sufficient excuse if the penitent fears that the confessor will oblige him to manifest his sins to another outside of confession, e.g., to avoid damage to a third party.

5. - *Danger of infamy of the penitent or a third party:*

a) The infamy or loss of reputation is not before the confessor but before others, e.g., a patient in a ward cannot make an integral confession without others close by hearing, such as doctors, nurses, patients. Penitents who are deaf or hard of hearing should use any hearing aids provided in the confessional box. If their condition is learned during the confession, they should be taken to the sacristy, if this can be done without causing suspicion. They should be required to use the sacristy at least in subsequent confessions. In the confessional box it may be necessary to impose only a light penance so that the bystanders will not know that a serious sin has been confessed. In the case where, from the length of time required to make an integral confession, the bystanders very probably will necessarily conclude that the penitent has many grave sins, the penitent may be excused from material integrity. However, the length of a confession is not normally or necessarily a sign of the gravity of sin; even a vague suspicion of this will not excuse from integrity.

b) The obligation of integrity sometimes involves confessing a sin which cannot be explained without danger of defaming a third party or of revealing an accomplice in sin. Divine law requires an integral confession, whereas the natural law forbids injury to another's reputation without grave cause. A confessor must prohibit a penitent from naming an accomplice or a third party when unnecessary. The penitent must conceal the crime of another insofar as he can and go to another confessor who does not know the accomplice or the third party, if this is possible without serious inconvenience and no just and proportionate cause excuses. Otherwise, the penitent can, and most probably must, confess integrally, even

with the grave risk of revealing another's sin. It is lawful to reveal the crime of another for a just and proportionate reason, especially as no harm results; due to the sacramental seal there is no danger of further divulgence. An accomplice by sinning implicitly permits this revelation, knowing that the other party must confess the sin. This is the practice of the faithful in confessing, e.g., husband and wife. Those, however, who hold differently cannot be refused absolution for that reason.

c) Since the confessor can never oblige the penitent under penalty of denial of absolution to reveal to him as confessor the name of an accomplice,²⁶¹ neither can he ordinarily directly inquire about him. It would be a serious sin which renders the sacrament odious and induces the penitent to defame another without cause. For a proportionate cause the confessor can make indirect inquiries, e.g., by asking if the accomplice is married, a relative, a cleric or religious, a proximate occasion of sin, lives in the same house, etc., in other words, by inquiring about the qualities of the accomplice necessary for the confessional integrity and for detecting the nature of the proximate occasion, even if indirectly the accomplice becomes known.

d) For only the *gravest* cause and for the sake of the *common good*, the confessor can, under penalty of denial of absolution, oblige the penitent to denounce his accomplice outside of confession to a competent authority (even to the confessor himself, if he is also the superior), e.g., to reveal the promotor of heresy or homosexuality in an institution. This is more an obligation in charity than of confessional integrity. The revelation should always be made to one who is not the confessor. However, if the penitent will make the denunciation only through the confessor, the name of the accomplice must be declared; this should be done very rarely and the name should be given outside of confession.

e) Some theologians cautiously admit as a probable excuse from material integrity (or even from the obligation of confessing here and now) the case of a penitent who experiences extraordinary shame and insuperable difficulty or repugnance in declaring certain sins to a particular confessor. They hold that, although this arises by reason of confession, it strictly and absolutely is not intrinsic to confession, e.g., an especially disgraceful sin to be confessed by a parent to son, sister to brother, venerable old pastor to young curate, religious superior to subject. The excuse is held to be allowable in certain individual cases but not in all cases, as though a general moral principle would apply.

96. — d) *examination of conscience.*

I. - The precept of integrity necessitates some examination of conscience.²⁶² The obligation is grave for those who are in mortal sin and can make the examination. The degree of diligence required will depend upon the length of time since the last worthy confession and the condition of the penitent. Those who are not prepared because they have made no

examination or made it remissly should be admonished and, if expedient, requested to retire for a time to make a proper examination and then to return to confession. Devout penitents should be urged to make an examination especially of their more frequent deliberate venial sins for the sake of their spiritual improvement. The scrupulous should make a very brief examination or none at all, as the confessor directs.

ii. - A method of examination is not prescribed; daily examination of faults is most profitable. A formula of examination is often helpful. The penitent, invoking the guidance of the Holy Spirit, should review his more notable and more frequent sins, the precepts of God and the Church, the duties of his state of life, his thoughts, words, deeds and omissions against the virtues. Sometimes the confessor will have to help the penitent examine his conscience when there has been a history of neglect of the sacraments.

97. - e) *general confession.*

i. - A general confession will be *necessary* for a penitent who must repeat some or all of his past confessions when it is morally certain that they were invalid or sacrilegious. It will be *harmful*, when new anxieties, scruples, etc., will probably arise or new temptations fostered by a general or an accurate accusation of past sins of impurity. In such cases a general confession should not be allowed. For proper motives it may be *useful*, e.g., before embracing a new state in life, during a serious illness, at the hour of death, for more fervent contrition and amendment, humility, etc.

ii. - A general confession is regularly not to be imposed on any one. It should not be used as a standard practice with new penitents. On the other hand, it should not be permitted until the penitent's motives are judged worthy, prudent and profitable. The confessor must be patient and kind, discreet in his questions and cautious about interrupting. When requested for help, he should not harry the penitent with useless or involved questions. The penitent must be given sufficient time to prepare and to confess. Unless the confession is necessary he need not confess every sin in lowest species and number. The penitent who makes a careful examination and sincere confession according to his ability should not thenceforth be disturbed about the past; the only matter that should be confessed in any subsequent confession is a certain sin not yet directly remitted.

98. - 3. - *Satisfaction or penance.*

a) *notion.* Satisfaction is the compensation for the temporal punishment due to sins through the good works and the penalties imposed by the confessor and voluntarily accepted by the penitent.²⁶³ Sacramental satisfaction *in voto* is absolutely necessary and essential for the validity

of the sacrament.²⁶⁴ Its actual fulfilment is necessary for sacramental integrity or completeness. It produces *ex opere operato* the remission of temporal punishment.

99. – b) *imposition*.

i. - The confessor not only can but he must impose a penance or satisfaction on the penitent.²⁶⁵ He should impose a salutary and suitable penance based on the kind and number of sins and on the character or condition of the penitent; which penance the penitent must be willing to accept and perform in person.²⁶⁶ He as the minister of Christ's power of binding and loosing should act in accordance with the ways of God who inflicts temporal punishment not only as acts of vindication but as medicinal remedies. To impose other than remedial penalties (except in certain cases) would be against the divine intention and to deprive the penitent of great benefits.

ii. - It is of itself a grave obligation to impose a penance and certainly a mortal sin not to impose a penance for necessary matter in confession, but a light sin regarding free matter. The penance must be regularly given before absolution, since it must be voluntarily accepted by the penitent. It can and must be given after absolution, if the confessor has forgotten to impose it. (The penitent should request the penance in this case). Causes which excuse from imposing a penance are: 1) physical or moral inability on the part of the penitent, e.g., he is near to death, unconscious, too weak, etc.; 2) it is divinely revealed that the penitent's temporal punishment has been remitted; 3) if immediately after the absolution the penitent confesses a forgotten sin, at least if it does not change substantially the confession. The confessor may confirm the previous penance, but it is better to impose a new one, even though it is light. The first case is the only certain and proper occasion when the confessor is not held to impose a penance. Even here he often can have the penitent speak the Name of God, kiss a crucifix, strike his breast, or something similar.

100. – c) *quantity*.

i. - The penance imposed must be in keeping with the number and nature of the sins confessed. A grave penance is to be given for grave sins; it would be sinful to give a very light penance for such sins without just cause. It seems that a confessor may give a light penance for a mortal sin inculpably omitted in one confession and confessed later in another. The more numerous and the more grave the sins, the heavier should be the penance, but not in a mathematical proportion and increase. It is better to impose a lighter penance that will be fulfilled than a heavier one that will be neglected or only partially satisfied. However, the confessor should not permit penitents to take a light view of mortal sin, even though he has an obvious reason for giving a light penance for it.

ii. - It is left to the prudent judgment of the confessor in the confessional to consider what is a grave or a light penance in an individual case. The general norm for a grave penance is that which, if otherwise it were prescribed by the Church, would bind gravely,—something that is or can be so imposed by the Church. Penance which are commonly considered as grave are: to hear a Mass, to fast or abstain for a day, to recite a third part of the Rosary, to recite the Little Office, the seven penitential psalms, the litany of the Saints with the prayers, the Way of the Cross, a quarter hour meditation or spiritual reading, at least six times the Our Father and Hail Mary, etc. A penance which is light in itself may become grave if it is to be repeated several times or because of some added action, e.g., to be said with arms extended, before the Blessed Sacrament, daily for a week, etc. Penance commonly considered to be light are: the Miserere, the litany of the Blessed Virgin or the Sacred Heart or the Holy Name, acts of faith and hope and charity, five times the Our Father and Hail Mary, etc.

iii. - The lessening of the amount of penance imposed is to be judged not only by the gravity of the sins confessed but also by the ability of the penitent, since the confessor is not only judge but physician as well, the minister of the divine mercy as well as justice.²⁶⁷ The penance imposed will be suited first to the physical ability of the penitent. In some cases it may be incumbent upon the confessor to help him to make satisfaction by reciting some prayers with him or by encouraging him to bear with his sufferings as a penance. Secondly, it should be suited to his spiritual capacity, e.g., the confessor may impose together with a light penance something that is already of precept, as Sunday Mass, or habitually done by the penitent, as saying the Rosary. Thirdly it must be suited to the intensity of contrition of the penitent. At times it is evident to the confessor that the sinner has suffered much from the realization of his sins or as a result of these sins; this may be accepted by the confessor as part of the suitable satisfaction. Yet, with such souls there is a willingness to accept grave penances. Indulged prayers and works can be given as a penance.²⁶⁸ The confessor himself may with the penitent's permission assume and satisfy some of the penance imposed. The confessor is not to request or to accept any money from the penitent.²⁶⁹

101. — d) *quality*.

i. - The penance should be suited to the condition and ability of the penitent.²⁷⁰ It can consist of some internal act, such as meditation, examination of conscience, acts of faith or hope or charity, the cessation or omission out of obedience and humility of some non-necessary acts, etc. In practice these are often inexpedient; vocal prayers and external acts are more suited to ordinary penitents and a universal remedy today. Penance may consist of good works in the various categories of religion, charity, mortification, prayer, almsgiving, fasting, etc. For a just cause a work

already of precept may be imposed; however, unless the confessor states otherwise, the giving as a penance of attendance at Mass on a day of precept implies two Masses that day. There should be no public penances as such, except when necessary to repair public scandal. Penances which are long drawn out or involved or useless or naturally repugnant or too difficult are normally inexpedient. Since contraries cure contraries, works of the opposite virtues are usually more apt remedies for vices, e.g., to impose attendance at Mass on one who frequently neglects this duty, mortification upon the unchaste, etc.

ii. - The confessor should try to strike a balance between too great a severity and too great a laxity, so that a light penance is not regularly imposed or a grave penance easily omitted. He should be more concerned over the sinner than the sin, adhering more to mercy than severity, the good of the penitent than the exaction or the vindication of divine justice (which can continue in Purgatory). In doubt as to the necessity or opportuneness of a graver penance he should favor the more benign judgment. But, never or rarely to impose a heavy penance is a type of laxity that does not sufficiently draw the penitent away from sin and such indiscreet kindness may serve to confirm a bad habit. Penitents are to be so disposed that they are ready and willing to accept moderately grave penances, which at times can be made more acceptable by specifying an object of impetration in addition to the satisfaction itself, e.g., to pray for deceased relatives or friends, for peace and welfare at home, to certain saints, for the persecuted, etc. The confessor should not habituate himself to the same or stereotyped formulas of prayers, e.g., three times the Our Father and Hail Mary, nor should he impose the same penance on all who come to him.

102. - e) *acceptance*. It is certain teaching that the penitent is bound to accept the reasonable penance imposed by the confessor.²⁷¹ The obligation is grave when the penance given is grave, the matter of the confession necessary, and the confessor intends to oblige seriously (which is presumed in such circumstances). The penitent can refuse an unreasonable penance or ask for another from the same or from a different confessor. The confessor should normally acquiesce in the reasonable request of a penitent.

103. - f) *fulfilment*.

i. - The penitent has a serious obligation to fulfil a penance imposed (under the conditions mentioned for acceptance) for grave and necessary matter, a light obligation with respect to light or free matter (even if the penance given is grave). Culpably to omit the whole or a notable part of a grave penance is itself a serious sin. If the penitent has forgotten his penance, he should ask the confessor what it was; if this is not possible or if the confessor cannot recall it, a new penance can be given on an indication of the penitent's state of soul in the previous confession.

Failing this, the penitent can say what he believes the penance was. Unless the confessor makes it otherwise clear, the penance he imposes is to be understood according to the practice in the Church. A penance is satisfied when the same work done out of devotion is performed, e.g., congregational recitation of the rosary. The penitent need have only an habitual intention of satisfying his obligation.

ii. - The penance should be fulfilled immediately after confession or when it is morally possible; it need not be performed before Communion or before the next confession.²⁷² The penitent may sin seriously if he foresees that he will not satisfy a grave penance later. A penance to be fulfilled at a stated time must be performed even outside the time, since being accessory to the obligation, time does not terminate but urges the obligation. If a penance is too difficult the penitent can request an easier one, or (without having received absolution) approach another confessor.

104. - g) *commutation*. For a reasonable cause a penance may be commuted, e.g., for the spiritual good of the penitent. Before absolution the commutation is easily made because the sacrament is not perfected. After absolution the commutation can come only from the same confessor (immediately after absolution or even outside of confession) or another (but only in a confession made to him). The penitent need manifest his former confession only generically. Commutation in a reserved case must come solely from one enjoying proper jurisdiction.

VI. RELATION OF MINISTER TO PENITENT

A. - DUTIES.

1. - *To hear confessions.*

105. - a) *Those having the care of souls.*

i. - Pastors and others to whom in virtue of their office the care of souls has been entrusted are bound by a serious obligation *in justice* to hear, either in person or through another, the confessions of those entrusted to them whenever the latter reasonably request it.²⁷³ This obligation in justice derives from the tacit contract with their subjects from whom they receive sustenance and honor under the condition that they administer the sacraments, and with their ecclesiastical superior who appoints them with the understanding that they faithfully discharge their office, of which the administration of penance is a part.

ii. - In a penitent's *extreme* spiritual *necessity*, i.e., in his extremely great difficulty of escaping the danger of eternal loss, a priest must hear his confession, even at the risk of his own life and although the penitent has not made the request, e.g., a dying sinner who cannot elicit an act

of perfect contrition for his serious sins. The priest is likewise bound when the penitent is in probable danger of loss of salvation, e.g., when a dying sinner in mortal sin could elicit an act of perfect contrition but only with great difficulty.

iii. - In a penitent's *grave* spiritual *necessity*, i.e., in a serious danger which the penitent strictly can overcome himself, the priest must hear his confession, even at great inconvenience but without risking his life, e.g., if a sinner has a serious disease which is not endangering his life, or if he has serious temptations which he can overcome only with difficulty without the sacrament. The priest need not risk his own life, since such sinners can sufficiently provide for themselves.

iv. - A priest is gravely bound to hear the confession of a penitent in *common* spiritual *necessity*, i.e., when the sacrament is reasonably requested. It would be no sin for the confessor to put off the confession for a short time because of a legitimate impediment or because the penitent was merely vexatious or wished to confess too frequently without special reason. A pastor would sin gravely if he would hear confessions only rarely or only on assigned days, or if he made the sacrament distasteful or discouraged the faithful by his attitude. The pastor's own obligation is less strict when he has assistants, unless he is requested personally or the penitent's need requires the pastor's administration. Nevertheless, the pastor should lead by his example as a good confessor.

106. - b) *Those without the care of souls.*

i. - All confessors in a case of urgent necessity are bound by an obligation *in charity* to hear the confessions of the faithful, and in danger of death, all priests are bound by this obligation.²⁷⁴ *Every priest* has a serious obligation to provide for the *extreme* spiritual *necessity* of his neighbor, even with great inconvenience extending to risking his own life. Such a risk requires that the spiritual need of the penitent is morally certain, there is probable hope of absolving, no other confessor is available, and greater evils will not result from the death of the priest, e.g., many others will perish for lack of a priest.

ii. - When a sinner is in *grave necessity* whereby he can free himself from serious sin or from the danger of lapsing into such only with great difficulty, every *confessor* has a serious duty to hear his confession. This obliges with great inconvenience if there is a general lack of confessors, but not to the extent of endangering life. The common obligation of the priesthood and of the office of confessor obliges in the *common necessity* of the penitent, i.e., when he reasonably requests the sacrament, as long as there is no inconvenience and no other confessor is opportunely available. Even light inconvenience excuses the confessor from obligation and sin, especially grave sin.

2. - *To act as spiritual judge, physician, father, doctor.*

107. - a) *Judge.* - The sacrament of Penance was instituted after the manner of a judgment and thus the absolution or retention of sins is a judicial sentence.²⁷⁵ By the nature, then, of this sacrament the minister is a spiritual judge.

I. - *duty to question.*

α) As a judge the minister must know the penitent's case and thus he has an obligation to question about these things concerning the penitent necessary to form a prudent judgment. These are primarily to insure the integrity of the confession and less frequently to discover the penitent's dispositions.²⁷⁶ A penitent may fail, culpably or not, to make a complete confession, e.g., because of lack of examination, shame, ignorance of the obligation, etc.; if he has a reasonable doubt, the confessor must interrogate. Clerics, religious, devout persons usually need no questioning, as they habitually make integral and complete confessions. The primary obligation of integrity is on the penitent, but when necessary to procure the validity and reverence of the sacrament it may even gravely bind the confessor. In a long session of hearing confessions, for the confessor to omit to question one or another on the species and number of sins is a slight sin or none at all.

β) The confessor must keep in mind the Instruction of the Holy Office²⁷⁷ on the interrogation of penitents, especially regarding the sixth commandment. Ordinarily he should not interrupt the penitent until the confession is completed; in lengthy confessions this may be expedient in order not to forget necessary matter. Questions should be clear and understandable to the penitent; ordinarily they should not be negative (e.g., you didn't consent, did you? but rather: did you give consent?) or disjunctive (e.g., did you sin with yourself or with another? but rather: did you commit the sin with yourself?). The confessor should be gentle, benign and gentlemanly in his questions, aiding and encouraging penitents who are timid or embarrassed.

II. - *duty to judge sins and dispositions.*

α) The confessor, who as judge is bound by office to form his prudent judgment on the sins committed and the penitent's dispositions, must believe a penitent when he accuses, affirms or denies his sinfulness, unless it is certain he has been lying.²⁷⁸ If he doubts the penitent's sincerity and despite his efforts for more candor the penitent persists in his confession, the confessor must absolve. If the confessor certainly knows by personal knowledge outside the confessional that the penitent is in serious sin, which he denies, he should not absolve, unless he can assume that the penitent has forgotten it, already confessed it, or has sufficient reason for omitting it. If this knowledge comes from others outside the confessional, the confessor may refuse absolution only if he is morally certain

of the truth of their assertion even though the penitent denies it, because the penitent is to be believed over others. If the knowledge comes from the confession of another the seal must be kept and confessional knowledge not used; the confessor can question the penitent only in general terms as customary with other penitents, and absolve at least conditionally.

ε) It suffices that the confessor make a *prudent* and *probable* judgment regarding the penitent's confession and dispositions; complete certitude is not always possible nor required in dealing with internal dispositions. The confessor must employ ordinary diligence; if because of noise, distraction, singing, etc., he does not hear certain sins, he must question the penitent when there is probably grave matter present. He is not bound to recall distinctly at the moment of absolution every sin confessed, but at least generally the state of the penitent. The penitent should not be permitted to gloss over his grave sins, especially in matters of justice and marital relations. The confessor will positively doubt about the penitent's dispositions for absolution if, e.g., he is reluctant or very remiss in confessing all his sins or in admitting guilt, or if he as a recidivist does not evidence genuine sorrow or preparedness to accept remedies and penances, etc.

III.- *duty to bind and to loose.*

α) *To absolve* a certainly well-disposed penitent guilty of serious sin obliges the confessor gravely in justice. If the confessor can have no doubt regarding the dispositions of the penitent and if the latter seeks absolution, absolution cannot be denied or deferred.²⁷⁹ The general rule is to impart absolution. Trustworthy signs of sufficient dispositions are: a spontaneous, sincere and humble confession and contrition; a confession made despite great difficulties; a positive reversal of former sinful practices; a sincere resolution to follow the confessor's counsel; great sorrow clearly shown in a habitual sinner; etc.

β) The confessor must impart absolution even though the penitent holds a different opinion, as long as he is otherwise properly disposed. The opinion insisted upon by the penitent must be truly probable, either intrinsically or extrinsically, and not a non-probable or false opinion. The confessor is the judge of the penitent's dispositions and not of his moral opinions which are reputable and safe.

γ) *To deny* absolution to those who are judged incapable or unworthy is likewise a grave duty.²⁸⁰ Otherwise the absolution would be invalid or at least fruitless, and a sacrilege if administered knowingly and willingly. The confessor should do his best to dispose the penitent for absolution.²⁸¹ Absolution should be denied, e.g., to those who give no signs of sorrow; to those who are unwilling to reform their lives by abandoning the proximate occasions of sin or removing hatreds or enmities or restoring what is possible to rightful owners, etc.²⁸² The confessor must be firm in

his denial of absolution, especially with priests and those aspiring to orders or religious profession. He should inform the penitent of the reason in a kind and fatherly manner, urging him to search his soul again and pointing out that the penitent himself is the cause of the confessor's unfortunate inability to impart the divine graces of this sacrament.

3) *To defer* absolution is a duty of the confessor, if the disposition of the penitent is clearly doubtful and there is no urgent and proportionately grave cause for absolving conditionally. In practice this is rarely advised today, except for a brief time for the obvious good of the penitent, e.g., to step back into the church for further examination and prayer and then to return to confession, or if the confessor prudently judges a delay useful and the rightly disposed penitent consents. At times it is very difficult in practice to judge the sufficiency of the penitent's dispositions. If both danger of nullity to the sacrament and of notable detriment to the penitent cannot at the same time be avoided, the latter danger should be avoided and the absolution given conditionally. The doubtfully disposed are to be conditionally absolved, e.g., in danger of death, when marriage is about to be celebrated or confirmation received, when there is no other opportunity to confess, in danger of grave scandal or infamy to the penitent, etc.

108. – b) *Physician*. The confessor receives his role as spiritual physician from the end of the sacrament; it pertains to its integrity. Penance not only binds up the wounds and infirmities of sin but also fosters the health and strength of the soul for the future. The confessor therefore will investigate the causes and occasions of sins and the dispositions of the penitent and indicate apt remedies. These consist in the general remedies of love of God, prayer, mortification, frequentation of the sacraments, awareness of the presence of God, frequent examination, etc., and also in particular remedies suited to eradicate and to ward off sinful habits in the future in respect to the individual penitent. The confessor should make clear what is of obligation and what is of counsel. He will employ with caution those things which can be profitably used from psychology and psychiatry by an expert confessor.

109. – c) *Father*. The confessor as spiritual father is held in charity more or less, depending on the spiritual state of the penitent and the confessor's possibilities, to propose motives for contrition to those less disposed and thus to prepare them for absolution, e.g., the deformity of sin, the danger of damnation, the shortness and vanity of life, the goodness of God and the gifts of Christ, etc. All penitents, and notably the more needy, should be treated with fatherly love; this love should be signalized by patience, perseverance and kindness, especially with difficult cases and disturbing penitents. Corrections and exhortations must be in the same spirit, avoiding whatever would terrify or exasperate the penitent. The confessor should not spend time with the devout and permit useless conversations.

His paternal concern for the penitent should be tempered with caution in the case of women, lest a natural and dangerous affection be aroused on either side.

110. — d) *Doctor or instructor.*

I. - The confessor as spiritual doctor is bound as far as possible to instruct the penitent, in a simple and not prolix but sufficient manner, in those things necessary for a valid and fruitful reception of the sacrament and in the Christian truths and precepts he ought to know, whether the ignorance is culpable or not. By his office the confessor is obliged only to instruct in what is necessary for the administration of the sacrament; by charity he is held to other things.

II. - If a penitent is in bad faith or in gravely culpable vincible ignorance, the confessor must always instruct him, even though no correction is anticipated, as he is in sin and can be harmful to others. Also if the ignorance is invincible and the confessor foresees that the instruction will be profitable now or later. If the penitent is in good faith or inculpably ignorant, even though vincibly, he is to be instructed in the necessary truths, as long as at least future benefit is anticipated. A penitent should not be left in material sin, harmful to individuals and detrimental to the common good. Penitents with an erroneous conscience must be instructed, especially when they cannot long remain in ignorance of the sinful character of the action, e.g., voluntary pollution, contraception, etc. Often when a penitent asks questions it is an indication that he is no longer in good faith. However, he may be in good faith in asking a question due merely to a scruple or because he considers some action venially sinful. The confessor should not appear to approve error because of his silence. Sometimes the confessor should answer only precisely what he has been asked, e.g., that the marital debt may be lawfully *given* by one with a private vow, saying nothing about the unlawfulness of *requesting* it.

III. - If no harm will result to the penitent or the common good, instruction may be omitted due to the penitent's invincible ignorance and when no benefit from an instruction is expected, e.g., it is foreseen that a material sin would then become a formal sin whereas it is also seen that the present good faith will perdure. Thus the confessor may omit to instruct if the harm resulting would outweigh the benefit, e.g., if the penitent were informed of the altogether unsuspected invalidity of his marriage, the children would suffer greatly. In doubt whether the instruction would be more harmful than beneficial it is ordinarily not given, as the penitent is in good faith and formal sin is certainly avoided. If the good anticipated is greater than the harm feared, or it is very probable, the instruction can be given even in doubt. If the public welfare would suffer by the confessor's silence or if scandal could not be avoided, the public good is to be favored over the penitent and the instruction given. Thus the practice of conjugal onanism cannot be tolerated, since others

would think that what is not corrected is lawful; also the commonly known invalidity of a marriage must be made known to a penitent heretofore in good faith and even if it is foreseen he will not heed the information.

111. — 3. - *To correct defects and errors in administration.*

a) *validity.*

i. - A confessor is seriously bound in justice to rectify his error, culpable or not, affecting the validity of the sacrament, even though he agreed to hear the confession only out of charity. The confessor must repair his own culpable defect even at great inconvenience, if otherwise the penitent would suffer serious damage and it is not known if the penitent will confess again soon, e.g., with the dying. He need not remedy an inculpable defect at great inconvenience, e.g., at the risk of infamy to himself, unless there is danger of the penitent dying in mortal sin. The confessor does not have this obligation if only free matter was confessed or if it is prudently judged that the penitent has already confessed again to another priest.

ii. - The confessor should correct his own error as soon as possible, even without permission of the penitent; if the latter must be informed, it would not be using knowledge gained from the penitent. If the invalidity is due to the penitent, the confessor must request his permission to speak of the matter. It may be necessary to give absolution again, requiring another confession; this may be summary if the confessor remembers the previous confession and there is no new sin committed.

b) *integrity.* - If the confessor has made an error, culpable or not, affecting the integrity of the confession, he is bound to correct it. If he positively misleads a penitent, e.g., by saying that the species or number of sins need not be confessed, he must correct the mistake when the penitent confesses again, or outside the confessional with the penitent's express permission. Serious inconvenience would usually excuse, if there is no damage to a third party, since such a procedure is usually quite disagreeable to penitent or confessor. If the confessor merely negatively misleads the penitent, e.g., by not inquiring about number and species when he could have done so, he need not correct the mistake outside confession, but in the penitent's next confession. The obligation of integrity belongs principally to the penitent and only indirectly to the confessor.

c) *advice.*

i. - The confessor is bound to rectify his mistake, when he has positively erred with grave culpability in his advice concerning the penitent's obligations in justice. He must withdraw his wrong advice and repair the damage done to the penitent or to a third party. This must be done even outside confession, saving the seal, as he is the unjust and efficacious cause of damage to another and thus obliged to restitution, e.g., if fearing to displease the penitent, he dispenses the obligation of restitution to

which the penitent is obliged in strict justice; or if he obliges the penitent to restitution to which he is not bound. This also applies when a confessor's silence can be reasonably construed by a penitent as positive approval.

ii. - If the confessor has negatively erred by failing to instruct when he should have, his obligation of restitution is only one of charity. Restitution obliges in justice when the damage done another is not impeded when *ex officio* one is bound to do so. Confession of itself is not directed to avoiding damage to or procuring the welfare of a third party but to the spiritual welfare of the penitent. If the confessor has inculpably made a mistake, e.g., by declaring in good faith that the penitent is not bound to restitution when he is or bound when he is not, he is not himself obliged to restitution, being free from true sin. If he discovers his mistake after confession, he is obliged to rectify it in charity but not at great inconvenience. If the confession is not over, he is bound in justice to correct his advice if it involves damage to the penitent, and probably only in charity if it involves only a third party.

iii. - Wrong advice given the penitent concerning his obligations in matters other than justice must be corrected by the confessor as best he can, lest a material sin or violation of a law, e.g., fast or abstinence, be permitted without sufficient cause. This should be done in the confessional. The confessor is easily excused from repairing this defect, especially if he is not gravely at fault.

4. - *To preserve the sacramental seal.*

112. - a) *Nature.*

i. - The seal of sacramental confession is the most strict obligation of observing secrecy about those things which have been declared by the penitent in sacramental confession or for the purpose of sacramental absolution, and whose revelation would in some way identify the sin and the sinner. Every and only a sacramental confession, made for the purpose of confessing to a minister of the Church as such and of obtaining absolution, is the root of the obligation of the seal. This is true whether the confession was valid or invalid, merely begun or completed or sacrilegious, whether absolution was deferred or denied. The sacramental seal is inviolable; therefore the confessor shall take scrupulous care lest by word or sign or in any way or for any reason he betray the sinner.²⁸³

ii. - There is no graver obligation of secrecy than that of the sacramental seal. It allows of no exception whatsoever, no dispensation, no use of *epicheia*.²⁸⁴ It does not permit the use of probabilism, i.e., that a confessor adopt a line of action on the ground that in doing so he will probably not violate the seal or give offense to penitents. This is true both when there is a probability of law, i.e., a division among theologians on a given point whether it is or not a matter of the seal or an offense to penitents, or a probability of fact, i.e., a doubt that this or that fact was con-

fessional matter or known only from confession. The confessor cannot use a probable opinion to the detriment of a certain right of another; the penitent has a right to be free from all injury, burden and grievance on the occasion of his confessing his sins. Thus the confessor is bound to the seal even if he doubts whether something said by the penitent is directed to confession or absolution, because he must judge on the safer side, i.e., on the side of the obligation of the seal. Even under oath the confessor must state that he knows nothing or has heard nothing,—which means that he has no *communicable* knowledge.

III. - The sacramental seal is implicit in the institution of Penance by Christ and in the end for which He established the sacrament. The obligation arises from the natural law of secrecy and of a quasi contract, from the divine law of reverence for the sacrament which should be made as easy of approach as possible and free from injury to the recipient, and from ecclesiastical law. The obligation binds even after the death of the penitent. Every direct violation of the seal, no matter how slight, is a grievous sin and admits of no lightness of matter. It is a most serious injury to the sacrament and the faithful are deterred from approaching it when they do not feel they have full security. An indirect violation is a serious sin, but it allows of lightness of matter.

113. - b) *Subject.*

I. - The confessor (who is truly such or even an imposter) is primarily bound by the seal of confession, both in the confessional and outside when there is question of speaking of things told to him in the confessional. Secondly, the obligation of preserving the sacramental seal is binding also on an interpreter and on all others to whom knowledge of the confession shall have come in any way,²⁸⁵ whether by chance or design, lawfully or otherwise, immediately or mediately. The following are thus bound by the seal: a superior requested by a confessor or a penitent for the faculty to absolve in a reserved case, or when approached by an already absolved penitent for his mandate; one who reads a letter to or from a competent authority in a reserved case; a consultor whose advice is sought by a confessor even with permission of the penitent; a priest requested before confession how to make a confession to him, which is subsequently made; all who accidentally or deliberately overhear a penitent confessing or to whom confessional matter is communicated in any way; all who read the written confession of another when it serves as the actual confession or as a means of actually confessing or which has been left in the confessional or been lost by the confessor, but not if the penitent has lost it or is in possession of it outside the confessional; if there is doubt whether the penitent or the confessor left the script in the confessional, it must be considered as under the seal.

II. - The penitent is not bound by the seal but rather by the obligation of a natural and committed secret concerning the things spoken of or done

by the confessor in confession, if their revelation would harm the confessor or bring injury or contempt to the sacrament. It is sometimes necessary for a penitent to speak about a confessor, e.g., when he wishes to have his penance commuted by another confessor, or when he is justified in complaining about a confessor. Confessors on their part should employ great discretion in the confessional, since they cannot defend themselves from the tongues of their penitents.

III. - Outside the confessional even the priest may not lawfully speak to the penitent about a confessional matter without receiving first the free, express and certain consent of the penitent. The priest should be very slow to request this permission and then only rarely and for serious reasons. In the confession itself the confessor can speak even of the sins confessed in previous confessions, since the past confessions constitute one and the same judgment and tribunal with the present confession. When the penitent of his own initiative speaks of his sins outside of confession, implicitly he is giving the confessor permission to speak of these sins alone and not of previously declared sins. The penitent then can give a more or less ample permission. In any case the confessor is always bound by a natural and committed secret and must avoid scandal and the suspicion of violating the seal. The confessor may not speak of any sins as long as he knows of them only from confession, even though he is convinced that they are commonly known. He may speak of sins of which he is aware from sources outside of confession but cautiously; he must beware of representing something as certain which previous to the confession he knew only as probable, and refrain from later correcting inaccuracies in view of his confessional knowledge.

114. - c) *Matter.*

1. - Within the matter of the seal fall *per se* and *directly* all and only those things which have been revealed for the purpose of sacramental confession and not exclusively for another end, e.g., for derision, deception, solicitation to sin of the confessor. In this way are contained under the seal:

α) all sins which are confessed, however light, and even material sins; sins even though only thought of or proposed but not accomplished or fulfilled; internal or external sins, whether of the past or those to take place in the future; all mortal sins whether generically or specifically confessed; all venial sins specifically or numerically confessed; secret sins and also public sins insofar as they have been confessed.

β) the objects of sins inasmuch as these are the sins of another, e.g., to confess sinful speech about the sinful pregnancy of a certain girl, to confess hatred of one's father because of his adultery, etc.; the circumstances of sins as such which are thought to be or are necessary or useful

in clarifying the case, e.g., certain specific books that have been read, the amount of a theft, the accomplices in a sin whether lawfully or imprudently confessed.

ii. - *Per se* and *indirectly* under the seal are all those things which of themselves can lead to a knowledge of the sin as declared by the sinner or to an identification of the penitent. Included in this way are: the deferral or denial of absolution; a sacrilegious confession, since the sacramental confession is present in the penitential judgment and not merely in the sacramental absolution; ²⁸⁶ the lack of dispositions of the penitent; the penance imposed, unless it was very light; the confessional advice requested or given.

iii. - Sometimes things may *accidentally* fall under the seal which in themselves are *per se in no way* matter of the obligation. Such things are:

α) sins known to the confessor otherwise than from confessional knowledge; venial sins generically confessed, since there is no confession made without at least free and sufficient matter (however, penitents are usually unwilling that they be revealed); a very light penance inasmuch as this is at least necessary in every confession; sins committed by the penitent in confession, e.g., impatience, attempted theft from the confessor, etc., unless a suspicion may arise that something serious incited them; the confession itself or the bestowal of absolution, although this is ordinarily not to be revealed and may become a matter of the seal, e.g., a confession secretly made or made under unusual conditions. If a person tells a priest something outside of confession for the sake of direction or seeking advice and does so "under the seal," as they say, this does not fall under the sacramental seal if it is in no way referred to confession, but it is a natural and committed secret.

ξ) the virtues, gifts and good works of the penitent, although they are often under a natural secret and there may be danger of an indirect violation if the penitent revealed them in order to manifest some sins; merely natural defects of soul or body, although the penitent is usually unwilling that they be made known, e.g., age, hardness of hearing, stubbornness, illegitimacy, scrupulosity (the scruples themselves confessed as sins fall under the seal), poverty; etc.

115. - d) *Violation*.

1. - *direct*.

α) For a direct violation of this obligation there must be an express revelation of the matter under the seal and at the same time a sufficient identification of the sinner or penitent. It is the identification of a particular and specific sin with a particular penitent, or of generically stated grave sins with a designated individual who can be known with certainty by the hearer, even in other ways than by name, e.g., by circumstances. It is not necessary that the hearer be or ever has been acquainted with

the penitent in any way or know that confessional matter is being revealed. Since a direct violation does not admit of lightness of matter, the revelation even of a venial sin alone is a serious sin.

ε) The seal must be preserved no matter what effect or harm may befall any individual or the common good;²⁸⁷ it excuses the priest from material integrity in his own confession. Civil laws in the U.S.A. more or less explicitly protect confessional knowledge from judicial inquiry. Anyone to whom confessional knowledge has come may reply on the witness stand and under oath that he knows nothing of the matters involved in such a source of information.

π. - *indirect.*

α) For an indirect violation there must be a revelation or other use of confessional knowledge from which there arises the proximate danger of betraying the penitent who has confessed such and such a sin or of revealing the sin as confessed by this penitent, even if this occurs unintentionally. Thus it is the proximate danger of betrayal of the penitent because of what the confessor says or does or omits inasmuch as it can lead to the knowledge of or the probable and prudent (and not merely possible) suspicion of the matter of the seal and the party involved. An indirect violation is a serious sin, which sometimes admits of lightness of matter.

ε) The sacramental seal may be indirectly broken in several ways, e.g.: by mentioning the sin of a penitent in such circumstances that he can probably be identified; by stating that a certain penitent by name was not absolved until after some probing; by warning the parents or superiors of a penitent to heed certain occasions or places; by reprimanding a penitent in a loud voice and thus indicating grave matter to the bystanders; by singling out one penitent above others for praise in matters of chastity; by announcing that a certain vice known only from confession, e.g., sodomy, is prevalent in a certain institution or in a parish (unless the latter is larger than 3,000 souls); by speaking to another confessor about a certain sin which the penitent has confessed to both; by showing a change of attitude toward the penitent or others, e.g., accomplices, after confession; by using confessional knowledge in external government; by refusing to hear a penitent because of lack of dispositions known from previous confessions; by avoiding a place where the confessor knows only from confession he will suffer harm; etc.

γ) It is a custom in some places to give a penitent a card or certificate (*schedula confessionis*) after confession as evidence that the confession has been made. If the penitent makes the request it must be acceded to, even though he did not receive absolution. If the card expressly mentions that absolution has been given these words may not be deleted. The card should be given if a refusal would betray the penitent in any way or entail a violation of the seal or cause scandal. It suffices in any case for

the confessor to state that so-and-so came to him for confession and mention nothing of absolution. Where the practice still exists, it should be promptly discontinued.²⁸⁸

116. – e) *Penalties.*

I. - A *confessor* (priest) who *presumes* to violate *directly* the sacramental seal incurs automatically (*latae sententiae*) an excommunication reserved in a most special way to the Holy See.²⁸⁹ There must be truly a matter of the seal, which is directly revealed, and with full advertence and will, i.e., with deliberation. Therefore, ignorance (even if crass or supine), slight fear, imperfect advertence, not fully deliberate consent, slightly culpable imprudence, will excuse from this penalty.²⁹⁰

II. - A *confessor* (priest) who *rashly* violates the seal *indirectly* is subject to the following penalties which may be imposed (*ferendae sententiae*): suspension from celebrating Mass and from hearing confessions (if the offense is serious, the incapacity to hear confessions ever again); deprivation of all benefices, dignities, of active and passive voice (even the incapacity of ever possessing either); degradation in graver offenses.²⁹¹ An indirect violation must be interpreted strictly; it does not include the unlawful use of confessional knowledge without a violation of the seal. *Others* besides the confessor who *rashly* violate the seal are to be punished by salutary penalties (*ferendae sententiae*) according to the gravity of their offense, even including excommunication.²⁹²

5. - *To use properly confessional knowledge.*

117. – a) *Notion.* It is entirely forbidden to confessors to use, to the detriment of the penitent, knowledge acquired from confession, even though there is no danger that the penitent, and his sin will be known.²⁹³ It is a question of the free use of knowledge which the confessor has gained through confession, as long as there is no danger of direct or indirect revelation. No penalties are specified in the law for a violation of this canon.

118. – b) *Unlawful use.*

I. - The use of sacramental knowledge is always unlawful when it entails a direct or indirect revelation of confession. Apart from all danger of revelation the confessor is not free to use such knowledge where there may be detriment to the penitent or to penitents in general (even outside the advertence of the latter) or where the faithful generally would be aggrieved or offended, confidence in the sacrament lessened and its frequentation rendered more difficult, or scandal given. Without the penitent's permission such use is unlawful²⁹⁴ and a serious sin, although admitting of lightness of matter. Moreover, both those who are superiors at the time of confession, and confessors who later become superiors, cannot in any way, for the exterior government of the institute, make use of knowledge which they have had of sins revealed in confessions.²⁹⁵

II. - An *Instruction of the Holy Office* has laid down norms for confessors in these matters.²⁹⁶ "That the natural and divine law of the sacramental seal has always and everywhere in the Church of Christ been most faithfully observed, not even the bitterest enemies of sacramental confession have ever been able seriously to question. And beyond a doubt this is to be attributed to the most provident design of the Almighty who, in merciful offering sacramental confession to men as a 'second plank of salvation after shipwreck of the loss of grace,' has deigned to keep far from it every ground of offense.

"Yet there are sometimes found ministers of this salutary sacrament who, though they keep silence about anything that might in any way betray the person of the penitent, yet are not ashamed to speak rashly in private conversation or in public sermons, for the edification of their hearers, as they say, of matters which have been submitted to the power of the keys in sacramental confession. Now, since in a matter of such gravity and importance we must studiously avoid not only open wrong but even the very appearance or suspicion of injury, everyone must see how thoroughly such a practice is to be condemned. For even though it is done without substantial violation of the sacramental secret, it cannot fail to offend the ears of pious listeners and to produce in their hearts uneasiness and diminished confidence—something surely entirely foreign to the nature of this sacrament, through which the most merciful Lord, by the pardon of His loving mercy, wipes away entirely and quite forgets the sins which we have committed through human weakness.

"In consideration of these facts this Supreme Sacred Congregation of the Holy Office deems it its duty to give to all Ordinaries of places and Superiors of regular Orders and of all religious institutes a command in the Lord, gravely binding in conscience, that if they find such abuses anywhere, they take prompt and efficacious measures to repress them; and that in the future, not only in classes of theology but also in conferences on moral 'cases' as they are called, and in public and private talks and exhortations to the clergy they carefully see to it that the priests subject to them be taught never to dare mention anything which pertains to the matter of sacramental confession in any form or under any pretext, especially on the occasion of sacred missions or spiritual exercises, nor even by direct or indirect insinuations, in public or private conversation (except when they must ask for advice, which may be done according to the rules laid down by approved authors); and that they give orders that their subjects be examined especially on this point in the tests which are given them to determine their ability to hear confessions.

"The Sacred Congregation is confident that no confessor will transgress these prescriptions. If the event should prove otherwise, the above mentioned Ordinaries and Superiors must seriously warn the transgres-

sors and in case of repetition impose suitable punishment, and in especially serious violations refer the matter as soon as possible to this Sacred Tribunal."

119. - c) *Lawful use.*

i. - The use of sacramental knowledge can be lawful if there can result no danger of revelation of confessional matter or detriment to the penitent or to others. Thus by knowledge gained from confession the confessor can better his own spiritual life, avoid the occasions of sin, improve his manner of questioning and of instructing penitents and his general administration of the sacrament, study his problems and consult lawfully with others, pray for his penitents, act more benignly toward them, etc. Preachers may speak of those things which would not have occurred to them if they had not heard confessions, but they must be careful not to speak in a way to render the sacrament disagreeable or to indicate that confessional knowledge is being used, or to mention particular sins in a small community of people.

ii. - Parents, teachers, etc., should not question confessors about their children's confessions; superiors should not inquire of confessors whether their subjects are worthy, for example, of profession or Orders. If a sacristan or Sister in charge of patients, etc., asks the confessor if a penitent is going to Communion, he should reply only with permission of the penitent or refer the inquirer to the penitent. Great discretion is required in the case of a person indisposed to receive Viaticum. Preliminary conversation with a public sinner will sometimes demonstrate his disposition, e.g., if he is prepared to repair public scandal. If the penitent's indisposition is discovered only in confession he should be dissuaded from communicating; with his consent the fact can be dissimulated from others, e.g., by stating that everything necessary has been done. If the penitent insists on receiving the Eucharist, he must be given It. If he explains that he has called for the priest only for the sake of respectability or some such reason, there is no sacramental confession and thus no obligation of the seal. However, the natural law obliges the priest to observe all possible secrecy in such matters.

iii. - The confessor must solve his confessional problems with all his diligence by applying good judgment to the knowledge he has acquired, by personal study, prayer and reflection. Consultation with others on confessional matters must be an extraordinary procedure; it should be looked upon as generally unwise to request the penitent's permission for this. However, even an experienced and sufficiently learned confessor at times needs to seek the advice of another. He should first try to contact a competent consultant who does not know the penitent at all. If there should be any danger of violation of the seal, permission should be first requested of the penitent to seek such counsel. If the request is not granted or if it is judged unwise to make it, the confessor should propose

his problem to the consultant as a hypothetical case, revealing only what is necessary in the case and changing the case in other ways so that the penitent cannot be identified and yet the substance of the problem is not changed. In an unusual or complicated case the confessor may request the penitent's consent to handle it outside of confession, e.g., in certain marriage cases or problems of justice.

B. - ABUSES.

1. - *Crime of solicitation.*

120. - a) *crime.*

i. - In accordance with the norms of law a penitent is obliged to report within a month to the local Ordinary or to the Sacred Congregation of the Holy Office a priest who has been guilty of the crime of solicitation in confession; and the confessor is bound by a grave obligation in conscience to warn the penitent of this duty.²⁹⁷ The sin of solicitation is committed when a priest in connection with confession attempts to seduce a penitent to some grave sin against chastity, or holds unlawful or unchaste conversation with the penitent, or arranges to commit such a sin. Since a penalty is involved, a restrictive view must be taken of the terms of the crime and the penalty.

ii. - There must be a sin against the sixth commandment (*peccatum turpe*). It makes no difference whether the confessor solicited a male or a female penitent (either before or after the latter's attainment of puberty) to sin with him or with another or solitarily, or whether he solicited the penitent immediately or a third party by means of the penitent. It does not matter who the person is or what type of sin against chastity is involved. The solicitation may be made by words, gestures, signs, touches, looks, deeds, or by a letter or note to be read at the time or later. The crime is likewise committed if the confessor gives indecent advice to the penitent or confirms the latter in an impure practice, e.g., that the wife can directly procure an orgasm as long as it is referred to her absent husband, or that conjugal onanism is not a grave sin in difficult family conditions, etc.²⁹⁸ Unchaste talk or appointments made constitute solicitation insofar as the confessor thereby wishes to gratify his evil inclinations.

iii. - The crime must be *grave* both objectively and subjectively. Thus the act must be of itself libidinous or provocative of the same, or it must of itself or from the circumstances demonstrate a libidinous affection or evil intention. The confessor must be himself conscious of grave sin or of being the grave cause of it. Unless otherwise evident, the specific malice of the sin is presumed, if the external act is performed by the confessor.²⁹⁹ Acts which are lightly sinful, or the inducement to them, are not by themselves to be denounced, unless from the circumstances it is certain that

there is an evil intention to proceed to or to solicit grave sins.³⁰⁰ This intention is presumed if the confessor is known to be prone to such evil passion. If the confessor does or says something unbecoming out of innocent simplicity and not from malice, there is no obligation to denounce.

iv. - It must be *certain* that there has been an act of solicitation to impurity which was grave and related to confession.³⁰¹ Any doubt of law or of fact will excuse from the penalty. Some things which occur in confession may be good or indifferent, e.g., to inquire about the penitent's place of residence or to make an appointment to meet there. If no other plausible reason can be given for the confessor's action, e.g., he really had some important matters to discuss, he is to be denounced.

v. - The solicitation must be *connected with confession*, either:

a) *in the very act of confession*, i.e., from the preliminary blessing until the absolution, even if the latter is not imparted. It may become evident only later that the action of the confessor was prompted by a gravely sinful motive, e.g., the penitent is given a letter to read later, which letter is of a solicitous nature.

ℓ) *or immediately before or after confession*, i.e., as long as no interval of time or no action intervenes which is not referred as a means to the solicitation, e.g., to hear someone else's confession. Merely to be among the bystanders around the confessional is not sufficient.

γ) *or on the occasion of confession*, i.e., when the confessor invites the penitent to make a true confession here and now, or when the penitent comes to confession and the confessor uses the opportunity to solicit, even though the confession does not follow, e.g., the penitent indignantly leaves. This is not the case if confession is requested by the penitent for a later date and the solicitation is made on the occasion of the request. An opinion held by many is that there is no obligation to denounce if the confessor uses his confessional knowledge of the penitent's weakness to solicit the penitent later, in no way revealing his evil intention in confession. This is not the practice of the Sacred Penitentiary.

δ) *or under the pretext of confession*, i.e., for the confessor falsely to allege confession or to give the appearance of confession, at least in order to deceive the penitent (and even if only to deceive others, according to the opinion of some). Thus, for example, if a confessor calls a boy to his room for confession which he does not intend to hear and solicits him, or if he visits a sick person on the plea of hearing her confession and solicits her. This is not the case, however, if the sick person should summon the priest under a pretext of confession as a means of seeking to seduce him, or should allege confession as a reason for the priest's visit as a means of shielding him in the eyes of others. Likewise, if both confessor and penitent agree to pretend confession in order to hide their sin from others.

ε) or, *outside the occasion of confession, in the confessional or in a place permanently designated for hearing confessions or where confessions are heard temporarily, provided that in all three instances both participants act as though confession was being made, e.g., to place positive acts of simulation, such as to give a blessing as at the beginning of a confession, or to incline the head as though hearing a penitent, etc.* It is sufficient that witnesses could be present.

121. – b) *obligation to denounce.*

i. - Only the person solicited is obliged by law to make a denunciation, even if below the age of puberty. Anyone else who knows definitely of the solicitation is bound to report it, though not under penalty, unless the information comes from unreliable sources,³⁰² or it is known that the one solicited has already denounced.

ii. - The denunciation is to be made of every *priest*, and only such, who solicits as a confessor, even if he lacked jurisdiction.³⁰³ It makes no difference whether the confessor solicited a long time ago and his crime is occult or he has gone away; or whether the initiative to sin came from the penitent, or whether the penitent resisted or consented, was aware that solicitation was attempted or realized the malice of the sin or became aware only later that it was true solicitation,³⁰⁴ or whether the impure action was delayed or the confessor remained passive in the action, as long as truly and positively he manifested consent,³⁰⁵ or whether a third person was solicited through the penitent as an agent.

122. – c) *manner of denunciation.*

i. - There is a grave obligation to make the denunciation within one month reckoned from the time one becomes conscious of the obligation; failing this, as soon as possible. The denunciation is made to the Holy Office or more usually to the local Ordinary of the place of solicitation,³⁰⁶ or if this is impossible, to that of the penitent or of the soliciting confessor.

ii. - The denunciation is made ordinarily by the person solicited (or others who know the fact), in person and by word of mouth, before the bishop or his delegate, in the presence of a notary and under signed oath. The secrecy of the Holy Office binds all parties.³⁰⁷ The one solicited may first orally or in writing informally report to the superior the facts of the case, giving the name of the soliciting confessor and signing the penitent's own name and address. The penitent then awaits the further action of the Ordinary, even if the time goes beyond thirty days, without falling under penalty.³⁰⁸

123. – d) *excusing causes and cessation.* Very great hardship, great danger to life or health or livelihood, the fact that the priest is a close relative or close friend of the victim, will excuse from this obligation (but not remove it), unless at the same time public scandal or damage to the common good outweighs the excuse. The obligation to denounce does not

cease with the spontaneous confession of the soliciting priest, nor by his removal, promotion, condemnation, presumed change of life and morals or for any such causes.³⁰⁹ Only the death of the soliciting priest removes the obligation.³¹⁰ The Holy See will not regularly dispense from the obligation.

124. - e) *obligation to impose denunciation.*

I. - A confessor is gravely obliged to warn a penitent who confesses having been solicited of the duty of making a denunciation.³¹¹ He must never ask a penitent about solicitation, unless the latter confesses sins of impurity committed with a confessor or that he knows of such a case. The penitent's good faith does not excuse the confessor from warning him, even if he foresees the denunciation will be refused.³¹² The warning may be deferred if the penitent confessing is in even remote danger of death and it is thought he may not agree to the denunciation. The confessor is not obliged to instruct the solicited penitent on the malice of the crime of which he is clearly ignorant. Nor does he incur the penalty of excommunication if he fails to warn the penitent as prescribed by the law.

II. - The confessor must be certain that it is a true case of solicitation and that the party is bound to denounce by ecclesiastical precept or, lacking any of the conditions for this, by charity. If he cannot form a judgment at the time, he should warn the penitent to return to him at some definite time, and if opportune, request permission of the penitent to consult someone else. He must be wary of female penitents who accuse their confessors of solicitation, guarding against both malice and exaggeration. Penitents who are quite prepared to make a denunciation can be prudently suspected, since the ordinary penitent finds the obligation difficult to observe.

III. - The confessor must be prudent with those in danger of death, lest their passing from life in the state of grace be endangered by an insistence upon denunciation. Outside of this danger of death, if no legitimate excuses can be found, the penitent who persists in refusing to denounce must be dismissed as one indisposed for absolution. The fear of a penitent that the one denounced will then know who the penitent is can be refuted by its unlikelihood or impossibility, and the argument that the one denounced will suffer great harm by the greater harm done to souls and by the abuse and profanation of a sacred thing.

125. - f) *penalties.*

I. - A confessor guilty of solicitation is to be punished by being suspended from saying Mass and hearing confessions, and also according to the seriousness of the offence declared incapable of hearing confessions, deprived of all benefices, dignities, active and passive voice, declared incapable of these, and in more serious cases degraded.³¹³ These

penalties are to be imposed (*ferendae sententiae*). A soliciting priest who is truly contrite can be absolved immediately by any confessor, since his crime is reserved neither by censure nor by sin in the common law. He must be warned not to hear in the future the confession of any solicited party, even though not his own victim.

ii. - If the person solicited disregards the law of denunciation within a month, he incurs an excommunication, which is not reserved, and he cannot be absolved until he has done so or made a serious promise to do so.³¹⁴ If the promise is not kept, the obligation still remains. Those under the age of puberty do not incur the penalty for failure to report,³¹⁵ but they are obliged within thirty days after coming to an understanding that solicitation actually took place. All others, besides the one solicited, who are bound to denounce, do not incur this censure.

iii. - Anyone who falsely denounces a confessor of solicitation incurs an automatic excommunication reserved in a special manner to the Holy See.³¹⁶ False denunciation is also the only sin reserved as sin to the Holy See.³¹⁷

2. - Absolution of an accomplice in sin.

126. - a) crime.

i. - The absolution of one who has been an accomplice in a sin of impurity is invalid, except in danger of death; and even in danger of death, it is unlawful on the part of the confessor, in accordance with the norms of law.³¹⁸ Complicity is present when there is the perpetration with another of the same sin of impurity. Complicity must be immediate in the impure act itself³¹⁹ and external, i.e., with external consent mutually manifested on both sides to the same sin. One who does not externally resist is considered to consent externally. It is not necessary that the sin committed was on the occasion of or connected with confession,—which would be also solicitation.

ii. - The crime embraces any sin against the sixth commandment which is on the part of *both* parties certain, external and grave by reason of both internal and external act.³²⁰ A sin is grave by reason of external act when it is of itself libidinous, i.e., of its nature tends to excite veneral motion and is placed without proportionate cause, e.g., touches in the private parts. Likewise an act not in itself libidinous but placed with the evident intention of exciting this motion and as a means of provoking such excitement, e.g., touches and kisses in decent parts placed with the evil intention made clear (although it is not easy in such cases to recognize mutual participation). Obscene language and looks are included;³²¹ in such cases there should be a slowness to judge complicity and in case of doubt the language, etc., should be seen as thoroughly obscene and no motive present to explain it otherwise.

III. - The accomplice of the confessor in the sin of impurity can be any person, whether man or woman, before or after the age of puberty, as well as a person with whom the priest sinned in this manner before assuming the priesthood.³²²

127. - b) *absolution of the sin.*

I. - *Outside the danger of death.*

α) Absolution in this case is invalid, even if the priest accomplice in good faith absolves from the sin of complicity, e.g., he did not advert to the fact that this was his accomplice, or he was ignorant of his lack of jurisdiction.³²³ Although it is a matter of disagreement, it may be safely held that the privation of jurisdiction in a sin of complicity is not perpetual but only until such time as this sin is directly remitted by another confessor, when it then becomes not necessary but free matter. As free matter it can thus be confessed to the accomplice priest and absolved. But in practice this should never be done. Thus, when the Sacred Penitentiary gives faculties to absolve a priest under censure for this sin, it customarily demands that he abstain from hearing the confessions of his accomplice whenever this can be done without scandal.³²⁴

β) It seems that in an extraordinary situation, e.g., in some mission places, where another priest cannot be found and there is little hope of another becoming available, the accomplice priest may lawfully and even directly absolve the sin of complicity outside of danger of death. Moreover, if a penitent needs to go to Communion or to celebrate Mass and there is no priest available except the accomplice priest, it is better in practice to elicit an act of perfect contrition and communicate or celebrate than to approach the accomplice priest.

II. - *In danger of death.* Absolution in danger of death is valid but unlawful on the part of the confessor, unless it is a case of necessity. The law itself³²⁵ indicates what necessity is meant: 1) if no other priest, even one not approved for hearing confessions, is present or can be summoned; 2) if one is present but he refuses to hear the confession; 3) if one cannot be summoned without grave scandal or infamy to the priest accomplice, but the latter is seriously bound to do what he can to avoid this danger, e.g., by leaving under some pretext, by forewarning the penitent to summon spontaneously another priest, etc.; if he fails to do this he validly but unlawfully absolves and thus incurs the censure; 4) if the dying accomplice refuses to confess to another priest.

128. - c) *penalty.*

I. - A confessor who absolves, or who pretends to absolve his accomplice, incurs an automatic excommunication reserved in a most special way to the Apostolic See, even if he does so in a danger of death of his accomplice, if another priest even not approved for hearing confessions can hear the confession of the said accomplice, without serious defama-

tion ensuing or scandal arising, unless the accomplice refuses to confess to another than the accomplice confessor.³²⁶ To incur the penalty the confessor must be conscious of a grave formal sin, i.e., conscious of the grave prohibition forbidding him to absolve here and now.³²⁷ The confessor can validly and lawfully absolve, e.g., if the penitent will die before another confessor arrives, or if he is bound *ex officio* to hear confessions and he cannot call in another confessor, especially a non-approved one, without causing great wonder or even scandal. A schismatic or heretical priest is not to be preferred to the accomplice priest. If a confession has been *lawfully* begun by an accomplice priest, it can be completed by him, even if another priest becomes available in the meantime.

ii. - The excommunication is also incurred if the accomplice confessor absolves or pretends to absolve his accomplice, when the latter omits to confess the sin of complicity, which has not yet been absolved, induced thereto, whether directly or indirectly, by the said confessor.³²⁸ Thus the confessor who persuades his accomplice that the sin they are about to commit together is not a sin at all, or not a grave sin (whereas it is grave), and so absolves or pretends to absolve the accomplice who confessed other sins but not the mutual sin committed, incurs the excommunication.³²⁹ Pretending to absolve is to simulate the sacrament. Directly to induce the penitent is to forewarn him positively and explicitly not to mention the sin, since the confessor knows it and thus it would be useless. Indirectly to induce the penitent is to persuade him that the shameful act already committed is not a sin or not a grave sin, and thus the penitent concludes that it cannot be mentioned and is not mentioned.³³⁰ When a confessor is inculpably ignorant of the identity of the penitent and absolves a sin of complicity confessed as necessary matter, he does not commit a crime (he is not formally guilty of imparting a forbidden absolution) and thus incurs no censure.³³¹

129. - d) *absolution of the penalty*. The Sacred Penitentiary absolves for the internal forum. In danger of death³³² and in a more urgent case,³³³ a confessor may absolve and at the same time impose the obligation of recourse to the Holy See within a month. Moral impossibility of recourse within the time does not dispense from the obligation.³³⁴ If present circumstances prevent the penitent from making the recourse, the confessor may allow the penitent to defer the obligation of recourse for a period. When the obstacle ceases he will then have a month in which to make recourse. In an exceptional case, e.g., the penitent priest has an incurable disease, is unable to write and will not see the confessor again, the confessor can absolve from the censure and terminate the obligation of recourse. Besides the sacramental penance, he must impose the mandates usually given by the Sacred Penitentiary, namely, never to hear the accomplice again and to require the latter to seek another confessor, if the accomplice confessor is again approached; to give up hearing con-

fessions for not more than three months, if a simple confessor, and not more than six, if a pastor, if he has absolved an accomplice (the same or different ones) three or more times; to mention the previous absolution when there is a relapse.

C. - VARIOUS TYPES OF PENITENTS.

130. - 1. - *The dying.*

a) *Catholics.*

i. - A dying person *must* be absolved as often as this is *certainly* permissible. He *must* be absolved *absolutely* when he is certainly disposed and has manifested this in some way himself or by the testimony of those about him, at least before becoming unconscious. He *must* be absolved *conditionally* if he gives no sign of contrition or has given none before becoming unconscious, as long as he has lived a Christian life. It is reasonably presumed that such a person wished to die a Christian. Catholic objects, such as medals, rosaries, etc., are probable evidence of this desire.

ii. - Absolution *may* be given, but there is no obligation to do so, in the case where it is probably lawful and probably not. Thus a dying person *may* be absolved *conditionally* (*si es capax*) even though he has lead an evil life before becoming unconscious, or even if death overtakes him in the act of sinning. It is considered probable that such a Catholic wishes at least to die with the sacraments.

iii. - As often as it is *certainly* evident that a dying person is incapable or unworthy of absolution, it *may not* be given. Thus a confessor must not absolve a person who refuses his ministrations up to the very last moment of consciousness. According to some it is possible that such an unrepentant sinner may during unconsciousness receive the grace to change his attitude and to acquire dispositions sufficient for the sacrament, and thus he can be absolved conditionally.³³⁵ Because of the extrinsic authority of those favoring this position a confessor would not sin in absolving in such a case, but he has no obligation and he must always guard against irreverence and scandal. A person who knowingly refuses at least to promise seriously to fulfill the grave obligations incumbent upon him as a penitent, after admonition by the confessor, e.g., to restore another's goods, to retract errors, to give up the occasions of sin or an evil practice as birth prevention, etc., must be refused absolution.³³⁶

iv. - In positive doubt whether a dying person is Catholic or not, absolution may be given conditionally. The priest should try to speak to the unconscious, in case the condition is only apparent or not total, and to mention the sacraments he is about to minister, suggesting to him acts of faith, hope, love, contrition. Absolution must not be given to those who are certainly dead. The naturally certain sign of death is the beginning of corruption or putrefaction, and to a lesser extent rigor mortis. Other-

wise, in the absence of certain evidence or of medical certification, it must be judged a case of *apparent death*, since it is not known at what moment life itself ceases to exist. In the case of sudden death the person can as a rule be absolved conditionally up to two or three hours after apparent demise; if death ensues after a long illness, absolution may be given conditionally up to a half hour. A conscious dying person may be absolved frequently, even on the same day, as long as the confessor cannot doubt about his sufficient dispositions. Absolution may be given to the unconscious conditionally as often as there is probable reason of more certain disposition or of new necessity.

b) *non-Catholics*.

i. - It is forbidden to administer the sacraments of the Church to heretics or schismatics, even though they are in good faith and request the sacraments, unless they have previously renounced their errors and obtained reconciliation with the Church.³³⁷ The prohibition is not precisely because these people are unworthy (since in their individual lives they may be more worthy than some Catholics), but because they are not members of the body of the Church. Scandal could be given and religious indifferentism fostered. Even when they are in danger of death these non-Catholics must at least implicitly reject their errors, as far as this can be done considering the circumstances and persons, and make a profession of faith.³³⁸ The priest in such cases of non-Catholics should try to awaken or to assist in them acts of faith, hope, love and contrition and to desire at least that the will of God be fulfilled in their behalf. An act of perfect contrition is always in order for the penitent, since it is not certain that the absolution is valid. In probable doubt of the validity of the baptism of a non-Catholic, he should be secretly baptized conditionally before being absolved.

ii. - Unconscious schismatics in danger of death *may* be conditionally absolved (and anointed), especially if there is ground for supposing that they had renounced at least implicitly their errors, but providing that scandal is avoided, and even the suspicion of inter-confessionalism, by an explanation to the bystanders that the Church acts on the supposition that at the last moment the dying person has returned to unity.³³⁹

iii. - Unconscious heretics present a different case because of their attitude towards the sacraments. Some hold that in their case, since although in good faith, they do not admit the sacrament of penance, they are lacking the proper intention for reception and thus the absolution would be invalid. They will to be saved but not by this means; they would wish to confess if they knew it to be a necessary means, but here and now they do not. Others hold that unconscious heretics *may* be administered to as provided in the case of unconscious schismatics. In practice this may be followed and conditional absolution imparted.

131. - 2. - *Those in the occasion of sin.*a) *condition.*

I. - A circumstance of person, place or thing may offer an opportunity and an inducement to sin. A person who is influenced by such a circumstance is said to be living in the occasion of sin (*occasionarius*). This differs from merely a danger of sin, which may be from an internal source such as the natural inclinations to sin, and from inordinate passion or frailty. Thus there must be the object which from without affords the opportunity and enticement to sin and the internal inclination to sin. Very often an occasion of sin is associated with a habit of action on the part of the penitent.

II. - Because of its influence upon the person an occasion is *remote* or *proximate* in the measure in which it exposes him to slight or grave danger of committing sin, if not very often at least frequently. How serious the danger is must be estimated by the personal experience of the penitent, i.e., the frequency of his lapses into sin in the same circumstance or condition, e.g., too much to drink two or three times a week in the same favorite bar; by the common experience of other people, since what is generally an occasion of sin to others under the same circumstances is assumed to be such for everyone, until the contrary is evident, e.g., pornographic literature for adolescents; by the circumstances and character of the penitent, whose particular strong passions or evident frailty are affected in certain conditions or circumstances, and which is a very personal element in judging a case.

III. - An *absolute* occasion is a circumstance that of itself commonly induces men to sin, e.g., an obscene representation of a nude woman; a *relative* occasion attracts only this individual, e.g., this boy for this girl. A proximate occasion is *present* or continuous when it is always or habitually at hand and does not need to be sought out, e.g., the possession of foul pictures or living with a mistress; it is non-present or interrupted when it is not at hand but can be easily sought out, e.g., a bar or a prostitute. The occasion is *free* or voluntary when it can be avoided or removed with slight difficulty, e.g., forbidden embraces between young people; it is *necessary* or involuntary when the difficulty is great, either physically, e.g., a prisoner in the same cell with a pervert, or morally, i.e., grave spiritual damage or great detriment to life, fortune or reputation, e.g., wife with an onanist husband, mutual sins of youngsters in the same family, great sacrifice in loss of employment, etc. A penitent alleging serious difficulty of damage in removing a proximate occasion of sin must be prudently questioned by the confessor before confirming the judgment.

b) *absolution.*

I. - Absolution must be given to one living in the remote occasion of sin, since this is the condition of human existence. Any reasonable cause

justifies. Absolution must be given if there is doubt whether a given circumstance is a proximate occasion, although the penitent should be warned to take all steps to avoid such danger. The warning to abandon a proximate occasion can at times be omitted if the penitent is ignorant of such an obligation and it is foreseen that the warning would be harmful, as he would commit lesser sins in good faith than if warned. This presupposes first that good faith prudently appears to exist, e.g., the retention of a mistress would belie such a presumption, and secondly that irreparable perversion would not result, e.g., as in the reading of obscene literature, and finally that there is no scandal.

ii. - Absolution may not regularly be imparted to a penitent in the proximate, free and present occasion of sin, unless there is first a serious resolve to remove the occasion, and in some cases before it is actually removed, e.g., living with a mistress. Otherwise it reveals a will to remain in sin.³⁴⁰ Mere prayer for the removal of the occasion is not enough. If the penitent gives clear signs of contrition, amendment and resolve to make the occasion remote, he should be absolved; also if there exists a grave urgency, such as danger of death, lack of further opportunity to confess, etc. The penitent should be warned that failure to stand by his resolve risks denial of absolution in a subsequent confession.

iii. - A penitent affected by a proximate, free and non-continuous or interrupted occasion of sin is usually absolved when there is a firm purpose to desist from seeking the occasion, e.g., bad company, obscene movies, etc. He is thus regularly considered disposed, unless there are signs to the contrary. Repeated failure to keep his resolve may make him a recidivist. One who almost always, for example, steals or gets drunk or fornicates with a certain person or persons cannot be absolved unless he at least promises seriously not to see the person or persons again. Because of the person's frailty or strong attachments and in order to strengthen his dispositions, the confessor may have to preface his insistence upon this break by strong persuasion. In some cases one further meeting may be reluctantly allowed when there is solid reason to judge that sin will not likely result in the instance and when special precautions are taken by the penitent; it cannot be allowed when there are special elements involved, such as vow, marriage bond, scandal, etc.

iv. - A sinner in a proximate and necessary occasion of sin can be absolved as a rule, as long as he is truly disposed to render the occasion as remote as possible by opportune and effective means, e.g., prayer, frequent reception of the sacraments, consideration of eternal values, vigilance at all times, avoidance of familiarity with dangerous persons or of being alone with them. The occasion itself is not a sin and does not necessarily lead to sin; with divine help the difficulty can be overcome, as no one is bound to the impossible. If, however, the occasion is evil in itself,

e.g., active participation in non-Catholic religious services, prostitution, and it is not avoided, or if there is no improvement or probable hope of the same after repeated warning, absolution must be denied.

v. - A confessor should not be quick to judge an occasion to be proximate. If the sin would probably be eliminated or greatly reduced by the penitent's removal of the circumstance, it can be judged to be truly an occasion. On the other hand, he should not readily excuse the penitent when the occasion can be easily avoided. He must judge in each case the difficulty in abandoning a proximate occasion. It need not be a moral impossibility, but should be more than a grave difficulty that would excuse from observing a merely ecclesiastical precept.

132. - 3. - *Habitual sinners.*

a) *condition.*

i. - An habitual sinner (*consuetudinarius*) is one who by frequent repetition of acts of a particular vice has contracted an habitual inclination to commit the *same* sin. The habit is something internal and deliberately acquired; it differs from passion, occasion of sin, and habitual affection which can remain involuntarily after sin has been renounced, although they are not mutually exclusive conditions. How many acts are required before a sinful habit is acquired will depend on the weakness of the will of the individual in failing to resist the sin, on the nature of the sin committed and the manner of its commission, and on the interval between the individual sins. Some sins are of a more alluring type, e.g., insobriety, impurity, etc.; some are more or less easy to commit and thus the easier it is to commit the sins, the more acts are needed to form a habit, e.g., internal sins over external, sins of the tongue over those of deed, etc.; some are committed more than once in a day but then not for a long time and thus do not constitute a habit, whereas a constant frequency will habituate a sinner in his sin.

ii. - The source of failure for some habitual sinners is frailty or a passing surge of a passion, seemingly from outside their will. This is often the case with those who consent to carnal passion (especially pollution), intemperance and forms of expression of anger. Such penitents have a general desire to be rid of the habit, albeit hazy, faltering and inefficacious. Their will is generally set against sin, which they abhor when once committed, and they are almost immediately contrite and desire to be freed from the bad habit. With other habitual sinners the condition has been very deliberately achieved and the habit acquired through malice of will and deep affection for the forbidden object, e.g., in cases of illicit love, of compromise with religious obligations out of human respect or ambition, conjugal onanism, theft, hatred, etc. Such sinners do not easily move away from sin and toward penitence.

b) *absolution.*

I. - A bad habit is not in itself a sin but a bent toward sinful action; it can exist with a present good disposition of repentance. Habitual sinners are thus as a rule to be absolved, as long as they are truly contrite and sincerely prepared to amend their ways (i.e., when they are not also recidivists). It is left to the confessor's prudent judgment to estimate the dispositions of the penitent in the individual case in the normal way. One sign of proper disposition for absolution is correction of sinful acts or strenuous efforts to do so. Extraordinary signs of contrition are not necessary; emotional outbursts do not always indicate contrition. Absolution may not be denied an habitual sinner simply because he will not make more than his annual confession.

II. - The habitual sinner cannot restore himself to a life of habitual grace and charity unless he has a will to help himself, is convinced that the habit must be rooted out and that it can be done by him. He must avoid dangerous occasions of his sin and employ the indispensable means of prayer, the sacraments, self-discipline by mortification in other areas as well, and avoid idleness. Natural and especially supernatural motivations must be positive so as to carry through the times of temptation when the will tends to "drag its feet." A counter-balance must be developed through the promotion of good habits and practices. With some bad habits, especially impurity (notably self-abuse), frequent confession and even daily Communion are principal aids in conquering the problem. When the penitent refuses to employ the only means of success, absolution must be denied. Habitual sinners often require considerable patience on the part of the confessor, who may experience a feeling of frustration in his efforts to aid them even to reduce the number and frequency of these lapses.

133. — 4. - *Recidivists.*a) *condition.*

I. - A recidivist in the strict and formal theological meaning is one who, after repeated confessions (on three or four occasions) of certain sins, often relapses into the same sins without making any deliberate effort towards improvement. He is a relapsed sinner, a backslider. In practice a recidivist is most often an habitual sinner, but not necessarily so.³⁴¹

II. - A formal recidivist is one whose relapse is due to bad will or depraved affection with the result that he makes no earnest effort to amend or improve. This condition requires frequent relapses into the same sins after repeated confessions and warnings by the confessor of the gravity of the sins and the means necessary to avoid them, and an entire lack of amendment, even attempted, so that after confession in about the same

way and with the same ease the relapses occur. There is no serious attempt to repel the temptations or to employ means of improvement,—an incorrigible sinner.

iii. - A material recidivist relapses into the same sins after warnings by the confessor but more from vehemence of passion, inconstancy or frailty of will. He is generally opposed to sinning, resists temptation and detests his sin shortly after committing it, even to being disgusted with himself (as often in cases of self-abuse). Moreover a material recidivist may be one who was not seriously admonished by a confessor, or if admonished relapsed not into the same but different sins, or if warned and yet having fallen has shown amendment or reduction of sin.

b) *absolution.*

i. - Material recidivists are always to be absolved, as long as they give the ordinary signs of sincere contrition and purpose of amendment. The confessor may estimate the extent of the habit of sin by inquiring how often the penitent has given way to temptation and how often he has overcome it. The penitent should be encouraged in his efforts to remove the habit, and in a case of impurity, advised to seek out a regular confessor,—which is a means of great value in conquering impure habits.

ii. - Formal recidivists are regularly not to be absolved unless they show more evident signs of proper dispositions for absolution. The presumption of sincerity ordinarily favoring the penitent does not normally prevail in their case, as their condition leads their dispositions here and now to be suspect. In practice it is difficult to form a judgment of their dispositions for absolution. The confessor must use the greatest prudence to avoid both laxism and rigorism, trying patiently to incite satisfactory dispositions.

iii. - More evident signs of contrition usually sought from a formal recidivist do not necessarily mean extraordinary dispositions, since simple attrition suffices for the sacrament, but signs which are to the confessor more demonstrative of sufficiency of dispositions relative to the character of the penitent, the nature of the temptations or habit, and other circumstances. They vary with penitents and cannot be predetermined in particular, but principal signs are tears in a strong man, a spontaneous confession sought out of accustomed time, the penitent's spontaneous removal of occasions, the attendance at a weekend retreat, etc. Deferral of absolution is seldom advantageous in present-day conditions; in a case of necessity a doubtfully disposed recidivist should be conditionally absolved (*si es capax*).

134. — 5. - *The scrupulous.*

a) *condition.*

i. - Scruple, from the word "*scrupulus*" or little stone which when it gets into a shoe tortures the foot of the wearer, is taken to stand for a dis-

turbance of the soul which vexes man and hinders his steps to God. In the moral sense scrupulosity is a fear of sinning where there is no sin or of grave sin where there is slight sin, all arising from unreasonable motives. Scrupulous persons are usually categorized as types of psychasthenics or individuals unable to cope with problems which are truly those of the soul,—a lack of psychic energy. Thus scrupulosity is commonly considered psychosomatic. Some severe cases may also be accompanied by manifestations of hysteria.

ii. - The inordinate preoccupation of the scrupulous person with the moral and religious order, his special type of worry, may center on his entire moral life or on only one sphere, such as matters of faith or of purity, interior actions or external manifestations. The condition may be temporary as at a time of great stress or upset, or constitutional where physical dispositions for most of life incline the individual to scrupulosity. Various symptoms appear in this condition. There is the inability to decide, irresoluteness; decision when made is with great difficulty or under the duress of necessity, with subsequent doubt about the decision or action. A basic insufficiency in the ability to judge and to act is felt. This is usually accompanied by an inordinate fear, even fear of failure itself, with undue anxiety or worry and a sadness because of a realization of the inability to cope with the situation. Involved also may be various obsessions, phobias and compulsions.

iii. - The causes of scruples are difficult to discern, particularly in the individual. Outside of supernatural causes which may intervene in some cases, e.g., God allowing a soul to be thus purified and grow in merit, or the devil disturbing the lower faculties and especially the imagination, many natural and moral causes are assigned and may be present in varied combinations. Some of these are: bodily constitution, temperament, illness and misfortune, nervous ailment and overwrought imagination, excessive work or strain and lack of adequate rest or recreation, religious practices which weaken the body and lower the strength of the spirit, a morbid and self-centered introspection and an inversion or self-centeredness which is characteristic of the scrupulous, deficient moral and religious education, over-rigorous home training, difficulties at the stage of puberty, exaggerated fear of divine justice to the detriment of divine mercy, hidden pride through tenacity of personal judgment, and a spiritual egoism which places more trust ultimately in self rather than in God and His representatives.

b) *treatment.*

i. - The confessor must first distinguish scrupulosity from the delicate conscience. The latter tries to avoid all sin, even the slightest imperfection, which is not in fullest accord with the divine will in behalf of the devout soul and with the perfection of virtue. This concern is always consonant with the rules of prudence and with realization of the true nature of sins.

Moreover the confessor must be prepared to face the problem of deciding how much help he can give and how much outside assistance the penitent needs from medical and psychiatric sources. It is evident that a confessor can help a scrupulous penitent only for the purposes of present absolution if he is not the penitent's regular confessor or spiritual director. Oftentimes a scrupulous person is aware of his condition but tries to hide it from confessors, consulting different ones without informing them of his state. The confessor must be very prudent in his advice and questioning lest he aggravate the condition.

ii. - The confessor must do his best to discern the area of scrupulosity and to fathom its causes, to suggest opportune natural and supernatural remedies. The penitent should be urged to recognize his affliction and to pray for the grace to bear it patiently. He should not judge anything to be a sin unless it is evidently clear to him or to be an obligation which is not certain to him. Avoidance of idleness, of the company of other scrupulous persons or of the reading of literature on the subject should be the rule. Only the briefest examination of conscience should be made, doubtful sins should not be confessed nor anything repeated from past confessions unless the penitent knows for certain that it is mortal and has certainly not been confessed. A general confession must not be allowed, unless perhaps only once, if it has never been made before. A scrupulous person must not be allowed to enter a religious institute or a seminary before the scrupulous condition is adequately remedied.

iii. - Kindness, patience and perseverance will be required of the confessor in handling scrupulous cases. He must try to enkindle in the penitent confidence in self, in God and in the confessor himself. The confessor must play the dominant role at all times, while trying to restore initiative to the penitent so accustomed to depend upon others. He must gradually assert his authority and require strict obedience to his directives, but this will be difficult, since the penitent usually has sought out many confessors. At times the confessor must be stern in his requirements and also propose the sterner truths of religion. He must not vacillate in his advice or responses, being brief and positive, giving no reasons; otherwise the penitent will be confirmed in his anxiety by the authority or hesitation of the confessor and any reasons given may become the cause of further scruples. The penitent should be reminded that sin is not in the bad thought or feeling but in consent, and so such thoughts about faith, chastity, right intentions, etc., may be confessed only if the penitent can swear to having consented to them, which for the most part will not be the case unless external sin has been committed. The penitent should not undertake to correct others; it is seldom that he would have a certain obligation to do so. Prudence will direct the confessor in giving the sacramental penance, lest the penitent think that his sins have been grave because of the type of penance imposed.

135. — 6. - *Children.*

i. - The confessor must always be paternal and kind with children, lest they become frightened and scared away from the sacrament. At times they will need to be instructed or drawn out if they are reticent. The confessor should wait until they have stated their sins in their own way, as usually this has been prepared from memory. Sometimes children include under bad actions disobedience, immodesty or impoliteness, and thus the confessor must ask what they mean and not presume that impurity is being confessed. The confessor must be very discreet in his questions and instructions, lest he suggest sins or incite curiosity. He must, however, correct false notions, especially when what is only venial is considered to be mortal (sometimes due to great stress put on certain matters at home or in school). The obligation of restitution is usually not urged, unless the object is still in the youngster's possession, but he should be counselled regarding the dangers in even such small thefts.

ii. - It may be necessary for the confessor to prompt the youngster in the act of contrition or to recite it with him. Usually a light penance is given to children, at least one lighter than for adults. Youngsters, however, who are steeped in serious sin are treated as adults. Those who appear to be doubtfully contrite or to have only doubtful sins may be absolved conditionally. The childish actions of young penitents around the confessional do not necessarily indicate lack of proper dispositions for the sacrament. The confessor must give sound advice in the circumstances to young people who ask about choosing a state in life or a particular position, but he must not determine their decision for them. He should not allow private vows, especially of perpetual virginity by girls, without adequate proof of the penitent's realization of the obligation and ability to observe the vow.

136. — 7. - *Religious and clerics.*

i. - It frequently falls to the role of the confessor to advise or to judge an individual regarding entrance into the religious life or to continuance in it. He must judge the penitent's physical and moral equipment or lack thereof in accordance with the law and the mind of the Church and of a particular institute, as well as the circumstances of the individual. Under ordinary circumstances the vice of impurity is generally known only to the confessor and cannot be divulged; in fact, with those discussing their aspirations to the religious life, he should inquire about chastity so that the unworthy may be deterred from a life which demands a pursuit of sanctity and an excellence in the matter of chastity far beyond any lay state. An addiction to drink or to drugs is to be treated with regard to the religious life in a manner similar to unchastity.

ii. - An aspirant to the religious life who has a habit of impurity, even though there are periods of desistance, should be firmly deterred from

entering the novitiate. Great prudence, moreover, must be exercised in judging those who have fallen and still retain the inclination to such sins, as well as those who have not fallen but possess a soft and sensual nature given to emotional and particular friendships, since they generally are considered to offer no guarantee for the future. A period of probation of at least several months should be required to demonstrate the effort and the success of the aspirant in developing the virtue of chastity and remaining free from sin. No novice should be permitted to make profession who has any habit of impurity. At least two or three months probation are commonly expected, even though the sin is committed only once or twice a month. If the novice, in the atmosphere of the aids to grace and protection from sin of the religious novitiate, cannot maintain purity, there is great reason to fear that the condition will not improve in the subsequent years of training or of the apostolate. A confessor who is convinced of the novice's unworthiness or of his unlikelihood of keeping the vow of chastity as befits the dedication to a more excellent purity, must inform the penitent and even refuse absolution if this would be the only deterrent.

iii. - With regard to admission to perpetual or to solemn vows the confessor will judge a religious by the norms of receiving major orders. The term of probation may be shorter than that required of a candidate for major orders. The confessor will also follow the norms of judgment affecting clerical candidates, if the penitent pertains to a clerical religious institute. Where there is a case of consummated sin with another person, especially of the same sex, or of sinful familiarity, a much stricter judgment than in the above instances must be made, whether it is an aspirant, novice or professed.³⁴²

iv. - The confessor should not delay a religious in confession or allow the penitent to prolong it. He should be brief and concise in his advice, encourage the religious to greater intensification of motivation, especially of charity, and never attempt to interfere in the affairs of the community. On the other hand, he must not be too hasty or discourage the religious from securing all available benefit from the sacramental forum; female religious in particular frequently have no other opportunity to present their queries to a priest or to discuss with him their problems relating to their interior and religious life. The confessor should warn religious penitents especially to guard against lukewarmness and habits of venial sin.

v. - The relationship of the confessor to penitents who are clerics is considered under the sacrament of Holy Orders.³⁴³

APPENDIX I
RESERVED CASES

I. ECCLESIASTICAL CENSURES.

137. - A. - NOTION.

1. - A censure is a penalty by which a baptized person, who has committed a delict and is contumacious or obstinate, is deprived of certain spiritual goods, or of goods connected with the spiritual, until he gives up his obstinacy and is absolved.³⁴⁴ A censure, which is one form of ecclesiastical penalty, is by its nature a medicinal punishment; thus it is intended primarily to prohibit the crime and to correct the erring ways of the sinner or withdraw him from his contumacy, and indirectly to repair the public order that has been violated. There must be a delict or crime i.e., an external and morally imputable violation of a law to which a canonical sanction, which is at least indeterminate, is attached.³⁴⁵ A censure can be inflicted upon or incurred by only an offender who is contumacious. It can be removed only by absolution, but once the guilty individual has abandoned his obstinacy or contumacy, the absolution cannot be denied him.³⁴⁶

2. - As with other penalties, censures are subject to benign interpretation.³⁴⁷ Unless the terminology of the law and the sanction is literally fulfilled according to a fair meaning of the words contained, the delict is not committed or the censure incurred. Thus, no matter how analogous or parallel cases may seem or how guilty the individuals involved may appear to be, the censure is incurred only when the particular case and the particular individual or individuals fall under the exact wording of the law containing the sanction.³⁴⁸

3. - A censure, being an ecclesiastical punishment, deprives the delinquent only of those goods which have been committed to the Church as the Body of Christ and over which she has jurisdiction. These are spiritual goods, e.g., the sacraments, sacrifices, divine offices, indulgences, public suffrages and satisfactions, the external communion of the saints; and goods connected with the spiritual, e.g., admission into the Church,

ecclesiastical burial, the fruits or revenues of benefices, honors, jurisdiction. All these effects or deprivations need not be incurred at one time, as will be noted later. Censures are of three types: excommunication, suspension and interdict.

138. — B. - MANNER OF ESTABLISHMENT. - Censures can be established only by those ecclesiastical prelates who enjoy unimpeded jurisdiction in the external forum, i.e., the power to make laws or impose (jurisdictional) precepts.³⁴⁹

1. - *a iure*. - A censure is called *a iure* when it is established or laid down in the law itself or in a general precept, whether *latae* or *ferendae sententiae*.³⁵⁰

2. - *ab homine*. - A censure is termed *ab homine* when it is inflicted or established in the manner of a particular or personal precept, or by a judicial condemnatory sentence, even if stated or specified in the law. A *ferendae sententiae* censure attached to a law is a penalty *a iure* only before a condemnatory sentence; it is both *a iure* and *ab homine* after sentence, but it is considered as *ab homine*.³⁵¹ Thus every *latae sententiae* censure is *a iure* and every *ferendae sententiae* censure after infliction becomes *ab homine*.

139. — C. - MANNER OF INCURRENCE.

1. - *Latae sententiae*. - Censures which are incurred *ipso facto* or automatically upon commission of the delict or crime are called *latae sententiae*. In other words, sentence upon the delinquent has already been passed by the terms of the law or precept itself without any sentence of ecclesiastical authority being expressed; it is an anticipatory sentence. This censure can sometimes be confirmed by a declaratory sentence (*sententia declaratoria*) of ecclesiastical authority³⁵² declaring that the crime has been committed and thus indirectly that the censure has been incurred. Although a censure binds in both the internal and external fora, the Church does not intend to urge *all* its effects in the external forum, even retroactively, unless she has made a declaratory sentence.³⁵³ Such a declaratory sentence, however, does not make the censure to be *ab homine*.

2. - *Ferendae sententiae*. - Censures which are to be inflicted upon a delinquent by a judge or a superior are called *ferendae sententiae*. The penalties have no effect until the sentence of the superior is passed; it is a sentence subsequent to the crime and is not automatic. The sentence that is subsequently passed or imposed is called condemnatory (*sententia condemnatoria*); the penalty and its effects are binding from the moment the condemnation is rendered and it thus becomes an *ab homine*

censure. Unless a law or a precept expressly states that a censure is *latae sententiae*, or *ipso facto* or *ipso iure* contracted, or uses other similar words, a censure must always be considered as *ferendae sententiae*.³⁵⁴

140. — D. - MANNER OF RESERVATION.

1. - *notion*. - Reservation is the restriction of jurisdiction to absolve in cases of special gravity, thus adding an element of severity to the penalty imposed for the delict or crime.³⁵⁵ The power to absolve from censures is limited to certain persons or classes of persons. A reservation must be strictly interpreted.³⁵⁶ Some censures are reserved and others are not reserved.³⁵⁷ A *latae sententiae* censure is not reserved, unless that is expressly stated in the law or precept; should there be a doubt in this respect either of the law or of a fact under the law, the reservation does not bind.³⁵⁸

2. - *reserved*.

a) *ab homine censures*. Their absolution is always reserved to the one who has inflicted the censure or imposed the sentence, or to his competent superior, successors or delegate.³⁵⁹

b) *a iure censures*. Some of these are reserved to the Ordinary (local or religious); others are reserved to the Apostolic See either simply (*simpliciter*) or specially (*speciali modo*) or most specially (*specialissimo modo*).³⁶⁰ The difference in the reservations to the Apostolic See consists in this, that anyone who has received general faculties to absolve from censures reserved to the Apostolic See can absolve from those simply reserved, whereas to absolve from the other two classes special or most special faculties need to be obtained.

3. - *not reserved*. - These censures are called reserved to no one (*nemini reservata*). Any confessor can absolve from them in the internal forum; anyone enjoying jurisdiction in the external forum can absolve in the extra-sacramental forum.

141. — E. - SUBJECT OF CENSURES.

1. - Only a living and validly baptized person who has the use of reason and the capability of committing a crime and who is subject to the jurisdiction of the one imposing the penalty is liable to censure. Those who have not completed their seventh year (*infantes*) and the insane are considered to be incapable of sufficient deliberation and freedom to be legally responsible for transgressions liable to ecclesiastical penalties.³⁶¹ Those who have not yet attained puberty (*impuberes*) are excused from *latae sententiae* censures and are rather subject to correction by educative measures.³⁶² Minors (*minores*) are less imputable for crime in proportion as their minority approaches infancy, unless the contrary is evident.³⁶³

2. - The Holy Father and pontifical law, such as the Code, enjoy jurisdiction over all the baptized everywhere, a local Ordinary in his own territory, a Regular prelate over his own subjects everywhere. Wanderers (*vagi*) are bound by all the penalties of the common law and also of the particular place where they are staying.³⁶⁴ Visitors (*peregrini*) are bound by the penalties of the common law, unless they do not bind in the place where they are staying; committing a crime outside the territory of their domicile or quasi domicile, they cannot be punished by the *latae sententiae* censures of the latter, unless the transgression causes harm in their territory or the laws are personal or the censure is *ab homine*.³⁶⁵ They can be punished by the particular precept of the Ordinary in whose territory they commit a crime, since they become his subjects by reason of the crime,³⁶⁶ or because the laws transgressed affect the public order or determine the solemnity of acts.³⁶⁷

3. - Exempt religious are subject to the censures of the local Ordinary only in those things in which they are expressly subject to his jurisdiction. Jesuits and generally all Mendicants by special privilege can be censured by the local Ordinary only in three cases: 1) if they presume to preach in their own churches or those of others without the local Ordinary's permission,³⁶⁸ 2) if they presume to hear the confessions of seculars without his approbation,³⁶⁹ 3) if they expose for public veneration images depicted in an unusual or scandalous manner.³⁷⁰

142. — F. - MATTER OF CENSURES.

1. - Only a crime or delict which is external, grave, consummated, and joined with contumacy is punished by censure; however a censure may be imposed on delinquents whose identity is unknown.³⁷¹ The action must be *external*; thus the notion of sin is of wider application than that of delict or crime, which must be an external and morally imputable violation of a law to which some canonical sanction is attached.

2. - The delict committed must be *grave*, since only moral imputability that involves grave sin is punishable. Thus, whatever excuses from grave sin also excuses from the grave penalty, which is a censure; this includes both *latae* and *ferendae sententiae* censures, even in the external forum, provided the excusing circumstances can be proved in the external forum.³⁷² The crime also must be *certain*, i.e., certainly committed, certainly reserved (no doubt of law or of fact in the individual case).

3. - The crime must be *consummated* or complete, i.e., perfect in its kind according to the precise meaning of the words of the law.³⁷³ Consummation of the crime should not be confused with its effect.

4. — Joined to the crime must be *contumacy* or obstinacy, i.e., a certain contempt of the penalty. The contumacy is formal when the person

violates the law precisely in contempt of authority, virtual when knowing a thing is in some way forbidden under censure he still violates the law, without intending direct contempt, i.e., the contempt is contained in the violation of the law which he knows has an attached penalty. In the case of *ferendae sententiae* censures contumacy is considered to be present when the offender, notwithstanding the warnings specified in c. 2233, 2, fails to desist from the crime or refuses to do penance for it and make proper amends for the injury and the scandal; in regard to *latae sententiae* censures, it suffices to transgress the law or precept to which the censure is attached, unless the offender is excused from it by some legitimate reason, which must be adequately established.³⁷⁵ Contumacy is regarded as terminated when the offender has sincerely repented of the crime committed and has also given satisfaction for the injury and the scandal or has at least seriously promised to do so; the judgment of the sincerity of the repentance, the adequacy of the satisfaction and the seriousness of the promise is left to the one from whom the absolution is sought.³⁷⁶

5. - Associates or cooperators in a crime are liable to censure, i.e., those who have so induced or concurred or cooperated in a crime that otherwise it would not have been perpetrated, and all formal and positive cooperators.³⁷⁷ For such cooperation, in the juridic sense, the crime must be objectively one, e.g., the murder of one man, and subjectively multiple, i.e., imputable in its integrity to many individuals as accomplices or authors, without dividing or fractioning the responsibility among them.

143. - G. - BINDING FORCE AND MULTIPLICATION.

1. - One is excused from observing a censure in the external forum before a declaratory or a condemnatory sentence, or if the crime is not notorious, or if the offender cannot observe the censure without infamy or scandal.³⁷⁸ Given the sentence or the notoriety, the danger of infamy or of scandal cannot be verified.

2. - Not only different censures but also the same censure can be multiplied by the same or different actions which transgress several laws carrying censures, or by distinctly repeating the same crime, or by committing once or repeatedly a crime punished with different censures by different superiors. *Ab homine* censures are multiplied if many precepts or many sentences or their several distinct parts each inflicts its own censure.³⁷⁹ Absolution from one censure does not include the others.³⁸⁰

144. - H. - CAUSES EXCUSING FROM INCURRENCE.

1. - Fear.

a) *Grave fear* excuses from incurring *latae sententiae* censures, except when the crime involves contempt of the faith or of ecclesiastical authority

or involves public harm to souls,³⁸¹ even though the act in question is intrinsically evil and gravely culpable.³⁸² The exceptions do not excuse but do lessen the imputability.³⁸³

b) Light fear excuses from incurring censures, if the law contains the words: *praesumpserit, ausus fuerit, scienter, studiose, temerarie, consulto egerit*, or others requiring full knowledge and deliberation.³⁸⁴ In other cases it does not excuse but lessens imputability.

2. - Ignorance.

a) Ignorance is the lack of due knowledge of something, an habitual and negative state of mind. Ignorance of the *law* exists when the existence, extent or the meaning of the law is not known; of *fact* when the conditions or circumstances under which the law is applicable or whether a certain action or fact comes under the law are not known; of *penalty* when the existence of a sanction attached to a law or its reservation is not known. Inadvertence, forgetfulness and error are to be considered equivalent to ignorance in reckoning imputability.³⁸⁵ In the external forum regarding a law or penalty they are not presumed to exist but must be proved.³⁸⁶ In law, related to imputability, culpable and inculpable ignorance are the same as vincible and invincible; but for greater clarity they are separately defined here before stating the influence of ignorance in the penitent or delinquent upon the incurrance of a censure.

b) Ignorance is *invincible* when it cannot be cured or overcome, either at all (physically) or with the moral diligence due in the circumstances (morally); it is *vincible* when it can be removed by means suitable and adequate in the circumstances. Ignorance is *affected* (vincible) when one deliberately maintains the state of knowledge insufficient to act of which he is aware, because he wishes to remain ignorant with the idea of avoiding or extenuating responsibility; this adds up to malice (*dolus*). *Inculpable* ignorance exists when there is no obligation to know a thing or when, despite the use of required diligence, it is not known. When there is insufficient and blameworthy effort to know what is required, the ignorance is *culpable*; it implies guilt (*culpa*) because voluntary at least in cause. Ignorance is *light* or lightly culpable when the negligence in removing the lack of due knowledge is slight; it is *grave* or (simply) gravely culpable when the failure to use sufficient means to acquire requisite knowledge is due to grave negligence, although some effort was made; crassly culpable, or *crass* or supine ignorance exists when one, although he seriously suspects the existence of something or realizes the need to acquire knowledge of it, makes absolutely no effort or little effort to find out the facts, due to particularly serious negligence or indifference. It is a more culpable degree of ignorance than (simply) gravely culpable.

c) *Invincible* or *inculpable* ignorance of the law (or the fact) or the penalty excuses from censure, since there is no cause or reason for in-

flicting a medicinal punishment. *Affected* ignorance of the law (or the fact) or the penalty attached to it does not excuse from *latae sententiae* censures, even those containing the words *praesumpserit, ausus fuerit, scienter, studiose, temerarie, consulto egerit*, or others requiring full knowledge and deliberation.³⁸⁷ *Lightly culpable* ignorance excuses even in the external forum if it can be proved.³⁸⁸ *Gravely culpable* ignorance of the law (or fact) or penalty, although not excusing from vindictive penalties, always excuses from *latae sententiae* censures.³⁸⁹ *Crass* ignorance of law (or fact) or penalty excuses only from *latae sententiae* censures which demand full knowledge and deliberation.³⁹⁰

3. - *Other causes.* Intoxication, omission of due care, mental weakness, or the impetus of passion do not excuse from *latae sententiae* censures, if the crime remains gravely culpable, notwithstanding lessening of imputability.³⁹¹

145. - I. - MANNER OF ABSOLVING CENSURES.

1. - A censure once contracted is removed only by legitimate absolution.³⁹² A censure must be first absolved before absolution from sins is imparted, unless it is a censure that does not impede the reception of the sacraments, e.g., suspension.³⁹³ The form of absolution in the sacramental forum is that contained in the usual form of sacramental absolution of sins.³⁹⁴ In the non-sacramental internal and external fora absolution from censure is regularly given according to the form in the Roman Ritual or prescribed by competent superiors.³⁹⁵ If a confessor *presumes* to absolve without faculty from an excommunication *latae sententiae* reserved to the Apostolic See *specialissimo* or *speciali modo*, he incurs *ipso facto* an excommunication reserved *simpliciter* to the Apostolic See.³⁹⁶

2. - Absolution from censure in the general external forum removes the effects of the censure in both fora (yet, there must be absolution of the sin in the sacrament of penance). A delinquent who is absolved in the internal forum only may conduct himself as absolved in his acts of the external forum, as long as there is no scandal. Yet, superiors of the external forum may demand observance of the censure in this forum until absolution is given in this forum, or until there is proof or the legitimate presumption of absolution in the internal forum, e.g., witnesses for the internal non-sacramental forum or the testimony of those who saw the delinquent going to confession, or the delinquent has made public reparation for his crime. If he wishes, he may obtain a written certificate from his confessor that he has been absolved.³⁹⁷

3. - If a confessor, ignorant of a reservation, absolves a penitent from a censure and a sin, the absolution of the censure is valid, provided it is not a censure *ab homine* or *specialissimo modo* reserved to the Apostolic See.³⁹⁸ The absolution is only in the internal forum. The two censures

are excepted, the first lest the authority of the one imposing it be belittled, the second since special penances and instructions are given. In these two exceptions, although the censure is not removed, the sin itself is removed directly.³⁹⁹ Since the law does not specify, the ignorance of the confessor embraces even crass or supine ignorance. Moreover, forgetfulness, inadvertence, error are equivalent to ignorance.⁴⁰⁰ Absolution is invalid, if there is confessed only the sin reserved by censure and the confessor absolves in bad faith, knowing of the reservation and his lack of jurisdiction in the case. If other matter is confessed, absolution is valid directly for the non-reserved matter and indirectly for the sin with reserved censure; the latter must be submitted subsequently to a confessor with necessary jurisdiction.

146. — J. - JURISDICTION TO ABSOLVE.

1. - *In danger of death.*

a) When there is danger of death, every priest, even though he is not approved for the hearing of confessions, can validly and lawfully absolve any penitent whatever from all sins and censures no matter how reserved or notorious, even though an approved priest is present, without prejudice to the regulations on the absolution of an accomplice and the obligation of recourse.⁴⁰¹ The danger may be from an internal or external cause, including mobilization.⁴⁰² A prudent judgment suffices that at least a probable danger of death exists, even though positive doubt is present.⁴⁰³

b) Penitents, absolved in danger of death from an *ab homine* or a *specialissimo modo* censure or in the case of a priest who has attempted marriage and is unable to separate from his partner, are bound, within a month after their complete recovery from the danger, at least by letter and through the confessor, if this can be done without grave inconvenience, to have recourse to the one who imposed the *ab homine* censure, or to the Sacred Penitentiary or to a bishop or other person having the faculty if it is *a iure*, and to abide by their mandates or orders.⁴⁰⁴ The recourse must be made under penalty of falling back into the censure. Unless stated in the mandate, failure to comply with the mandate does not seem as such to reimpose the penalty. The confessor is not always obliged to warn the penitent of the duty of recourse; he can do so and generally should, if he hopes it will be successful and beneficial. If the penitent is *in extremis* or if it is prudently feared that the warning will be harmful, it is omitted.

147. — 2. - *Outside the danger of death.*

a) *non-reserved cases.* Every confessor can absolve from such cases in the sacramental forum only; outside the sacramental forum only one who has jurisdiction in the external forum.⁴⁰⁵

b) *reserved cases*. *Ab homine* censures can be absolved only by the one who inflicted them or pronounced sentence, or his superior, successor or delegate, even though the delinquent has transferred his domicile or quasi-domicile elsewhere (but not the superiors of the place of transferred residence).⁴⁰⁶ *A iure* censures are absolved by those who imposed them or those to whom they are reserved, their successors or competent superiors or delegates; local Ordinaries may grant to confessors well-known for their knowledge and prudence the faculty to absolve any of the faithful in the act of sacramental confession from all censures, even those reserved, but with the exception of a) *ab homine* censures, b) *specialissimo modo* reserved censures, c) those connected with a revelation of the secret of the Holy Office, d) the excommunication affecting priests in sacred orders and all presuming to contract even a civil marriage with them and who actually are living together.⁴⁰⁷

c) *prelates*. Cardinals can absolve in the sacramental forum anyone in any place from all reserved censures, excepting those reserved *specialissimo modo* and those incurred by revealing the secrets of the Holy Office.⁴⁰⁸ Local Ordinaries and major exempt clerical religious superiors in occult cases can personally or through another remit all *latae sententiae* penalties established by the common law, excepting censures *speciali* or *specialissimo modo* reserved.⁴⁰⁹

d) *regulars as confessors*. A Regular confessor can absolve by privilege from the *latae sententiae* censures reserved in the common law to the local Ordinary.⁴¹⁰

148. — e) *more urgent cases*.

1. - *conditions*.

a) In more urgent cases, namely, when *latae sententiae* censures cannot be observed externally without danger of grave scandal or of infamy, or when it is a hardship for the penitent to remain in the state of grave sin for such time as may be necessary in order that the competent superior may provide, then any confessor can, in the *sacramental forum*, absolve from the same no matter how they are reserved, imposing under penalty of falling back into the censure the obligation of having recourse within a month, at least by letter and (or) through the confessor, when it can be done without grave inconvenience, without mentioning the name, to the Sacred Penitentiary or to a bishop or other superior who has the faculty, and of abiding by his mandates.⁴¹¹ Nothing prevents the penitent, even after he has received absolution as above, or even after he has had recourse to the superior, from going to another confessor who has the special faculty needed for his case, and of obtaining absolution from him, repeating the confession at least of the crime with the censure; and when he has received absolution he is to receive the mandates from the same confessor, without being bound afterward to observe the other mandates which may come from the superior.⁴¹²

ε) It suffices and is required that the priest can act as the confessor of the penitent here and now in this place and that the penitent is in a more urgent need. The confessor himself must carefully judge whether all elements necessary for incurring a censure are present or excusing causes apply, and whether he has the faculty to absolve validly and lawfully. He must judge the existence of the requisite urgency; if the estimation is wrong the absolution is valid and licit, provided the judgment was reasonable and with foundation, at least subjectively.

γ) The danger of scandal or of infamy must be at least probable. It will usually be a situation of a censure which is occult at least in the place where its external observance would be an occasion of scandal or of infamy. The danger must be imminent, that is, it will probably be verified before the proper faculties can be obtained, e.g., when another sacrament, such as the Eucharist or Matrimony, must be received immediately or soon after confession, or Mass must be celebrated. On the other hand, the hardship of remaining in grave sin for the time necessary to petition and to receive faculties to absolve must be felt by the penitent. It is not the objective evil of being or remaining in sin but the present actual subjective dispositions of the penitent in this respect that measure the urgency. The confessor should do what he can to bring about such an attitude in the penitent. To be compelled to remain in serious sin for a single day without absolution may be a hardship, or even for a few hours in the case of some penitents. The element of hardship will not apply to the censure of suspension, as urgency in this case can arise only from the danger of scandal or of infamy.

ii. - *extent*. The conditions of the more urgent case are applicable to all *latae sententiae* censures of both general and particular law or precept,⁴¹³ as well as censures brought to formal trial or declared by a declaratory sentence (as hardship could be felt here). It is a safe although probable opinion that the more urgent case will apply also to *ab homine* and *ferendae sententiae* censures with the obligation of recourse. The only censure certainly excluded from becoming a more urgent case is that of a priest who has attempted marriage and is unable to cease living with his partner; except in danger of death absolution cannot be imparted.⁴¹⁴ Absolution can be given from the *latae sententiae* censure of false denunciation⁴¹⁵ only after the delinquent has made an actual formal retraction of the false accusation and as best a reparation of damages as possible (a mere promise does not suffice); a grave and long penance must be enjoined.

iii. - *recourse*.

α) The confessor is bound to impose the obligation of recourse to the proper authority in each case; if he fails to do so his absolution will be valid but he will sin seriously. The obligation of recourse falls directly and immediately upon the penitent, who must comply within a month of his becoming aware of the obligation.⁴¹⁶ The least he can do is to make recourse by letter or through the confessor. In practice, in most cases the

obligation of recourse will be undertaken by the confessor out of charity, unless he is prevented by some just cause. The confessor in his letter to the proper authority should state briefly the crime committed, the censure incurred, the fact that absolution was given in virtue of c. 2254, and that the penitent is prepared to observe any mandates or commands the superior may give. The mandates are the things enjoined by the superior along with the penance and satisfaction, entailing a serious obligation to abide by the mandates if the penitent is to be in the state of grace. The penitent's name must never be given, but a fictitious one used, and the letter (in double envelope and sent by registered mail) should be signed by the confessor who includes an address to which the reply may be sent. It is always preferable to write in Latin. Formulas for presenting such petitions to the bishop or the Sacred Penitentiary are noted in the standard textbooks.

ε) If in some extraordinary case this recourse is morally impossible, then the confessor himself, except in the case of absolution of the censure for absolving an accomplice, can give absolution without the obligation described above, but he must prescribe what should be prescribed in such a case and impose a suitable penance and satisfaction for the censure, so that if the penitent does not perform the penance and make the satisfaction within a suitable time which shall be prescribed by the confessor, he shall fall back into the censure.⁴¹⁷ Moral impossibility exists if neither the penitent nor the confessor can make the recourse by letter, or if the penitent cannot return to the confessor or is unable to make the recourse himself and finds it a hardship to go to another confessor, or if the confessor is merely temporary and does not live nearby and may not return. The confessor's obligation to prescribe what ought to be prescribed in the case refers to the rectification of the condition responsible for the sanction, e.g., an attempted marriage before a non-Catholic minister should be convalidated. Besides the sacramental penance for the crime the confessor must impose a distinct and usually grave penance for the censure.⁴¹⁸ The satisfaction required consists of reparation of any harm (e.g., restitution) or scandal (e.g., convalidation of a marriage in a manner to offset the scandal given). The time within which the penance is to be performed and the satisfaction given is to be precisely determined by the confessor; the time prescribed for the satisfaction should not exceed six months. If there is culpable omission of what is enjoined by law, or of the penance or of the satisfaction, a new crime is committed and a censure specifically the same as before is incurred.

iv. - *notanda*. The following differences ought to be noted between cases of danger of death and more urgent cases:

α) in danger of death:

- any *priest* can absolve from all censures;
- the confessor is not held always to enjoin the obligation of recourse;
- recourse binds with only certain few censures;
- in such cases the recourse is to be within a month of complete recovery.

6) in a more urgent case:

- any confessor can absolve from almost all censures;
- the confessor is bound always to impose recourse where possible;
- recourse binds with all reserved censures;
- it must be made within a month of the penitent's awareness of the duty.

K. - EXCOMMUNICATION.

149. — 1. - *Notion.* - Excommunication is a censure by which a person is excluded from the communion of the faithful, with effects specified in the law and which are inseparable one from another.⁴¹⁹ An excommunicate is tolerated (*toleratus*), with whom the faithful may freely communicate, even in sacred functions. He is to be avoided (*vitandus*), with whom the faithful must not associate, especially in divine things; such an excommunicate must be named by the Holy See, publicly denounced, and an express declaration made that he is to be avoided.⁴²⁰

150. — 2. - *Effects.* - The common, ordinary and immediate effects of excommunication⁴²¹ are that every and all excommunicates are forbidden:

- a) to receive the sacraments.⁴²² To do so is unlawful but valid.
- b) to confect or to administer the sacraments or sacramentals.⁴²³ To do so is unlawful, unless requested by the faithful for any just cause; unlawful after a sentence, except in danger of death.
- c) to assist by right at divine offices, except preaching.⁴²⁴ These are functions belonging to the power of orders.⁴²⁵
- d) to place legitimate ecclesiastical acts.⁴²⁶ To do so, e.g., to be a baptismal or confirmation sponsor, or to vote in an election, is unlawful but valid.
- f) to enjoy privileges.⁴²⁸ To do so is unlawful but valid.
- g) to elect, nominate, present.⁴²⁹ To do so is unlawful, but after a sentence it is invalid.
- h) to acquire dignities, offices, benefices, pensions, etc.⁴³⁰ To do so is unlawful but valid.
- i) To exercise jurisdiction in either forum.⁴³¹ To do so is unlawful but valid, unless requested by the faithful; it is invalid after a sentence, except in danger of death.
- j) to share in indulgences, suffrages, public prayers of the Church.⁴³³
- k) to receive ecclesiastical burial.⁴³³ This refers to those who are notorious or public and manifest sinners.

151. — 3. - *Specialissimo modo.* - Excommunications which are most specially reserved to the Apostolic See⁴³⁴ and from which faculties to absolve may be obtained only from the Cardinal Major Penitentiary are:

a) *Maltreatment of the sacred species*,⁴³⁵ or to throw away, take away or retain for evil purposes.

b) *Violent attack on the person of the pope*.⁴³⁶

c) *Absolution attempted or fictitious of an accomplice*.⁴³⁷ The confessor is always bound to impose the obligation of recourse.

d) *Direct violation of the seal of confession*.⁴³⁸ The violation must be direct and done with full advertence and consent, since "*praesumpserit*" is used.

e) *Unlawful episcopal consecration, even if under grave fear*.⁴³⁹

152. – 4. - *Speciali modo*. - Those specially reserved to the Apostolic See and from which faculties to absolve may be obtained as noted in each case (having regard to the faculty of the local Ordinary mentioned above in 147, 2b) are:

a) *Apostasy, heresy, schism*.⁴⁴⁰ In the forum of conscience this absolution is reserved specially to the Holy See. If the crime has been brought in any way into the external forum of the Ordinary of the place, even by voluntary confession or act (as usually with converts), the same Ordinary can by his ordinary authority in the external forum (which he can delegate) absolve the penitent after the latter has made an abjuration (before the Ordinary or his delegate and two witnesses), observing the other requirements of law; and the persons so absolved can then be absolved from the sin by any confessor in the forum of conscience. This censure also includes adherence to an atheistic sect.⁴⁴¹ Those who profess belief in the materialistic and anti-Christian doctrine of Communism, and especially those who defend or propagate it, incur this automatic censure;⁴⁴² likewise, parents and those holding their place who teach boys and girls what is contrary to the faith and Christian morals.⁴⁴³ Faculties to absolve may be delegated by the *local Ordinary* by his quinquennials.

b) *Suspicion of heresy*.⁴⁴⁴ This crime is present after juridical warning has been given to remove the cause for the suspicion and no correction has been made after the lapse of six months. The following are suspect: those marrying with an explicit agreement to educate their children as non-Catholics, or deliberately presuming to offer them for non-Catholic baptism, or deliberately handing over their children to be educated or instructed in a non-Catholic religion;⁴⁴⁵ those who maltreat the sacred species;⁴⁴⁶ those who appeal from pope to General Council;⁴⁴⁷ those who administer or receive the sacraments simoniacy;⁴⁴⁸ those who obstinately remain under censure for a year or who spontaneously and deliberately assist the spread of heresy or take active part in non-Catholic religious functions;⁴⁴⁹ parents or close survivors who call in a non-Catholic minister to conduct funeral rites over the body of the deceased before cremation.⁴⁵⁰ The *local Ordinary* by his quinquennials can delegate faculties to absolve.

c) *Publishing, defending, reading, retaining books condemned by Apostolic letter.*⁴⁵¹ Under this censure as such fall only books of apostates, heretics or schismatics which propound apostasy, heresy or schism, and books prohibited by name by Apostolic letter (not by the Holy Office or other dicastery). They are censured who publish, defend or knowingly and without permission read or retain such books. Faculties to absolve may be delegated by the *Apostolic Delegate* in the case of editors and by the *local Ordinary* by his quinquennials in the case of others.

d) *Simulating Mass or hearing confessions by one not ordained.*⁴⁵² Faculties to absolve may be delegated by the *Apostolic Delegate*.

e) *Appeal from Pope to General Council.*⁴⁵³ Faculties to absolve may be delegated by the *Apostolic Delegate*.

f) *Publishing laws against the rights of the Church or having recourse to lay authority.*⁴⁵⁴ Faculties to absolve may be delegated by the *Apostolic Delegate* or the *local Ordinary* by his quinquennials.

g) *Impeding Apostolic letters or acts.*⁴⁵⁵ Faculties to absolve may be delegated by the *Apostolic Delegate*.

h) *Citing before a lay tribunal Cardinals, etc.*⁴⁵⁶ The censure contains the words "*ausus fuerit.*" Faculties to absolve may be delegated by the *Apostolic Delegate*.

i) *Laying violent hands on Cardinals, etc.*⁴⁵⁷ Faculties to absolve may be delegated by the *Apostolic Delegate*.

j) *Usurping property rights of the Church of Rome.*⁴⁵⁸ Faculties to absolve may be delegated by the *Apostolic Delegate*.

k) *Fabrication or forgery of papal decrees or use of the same.*⁴⁵⁹ Faculties to absolve may be delegated by the *Apostolic Delegate*.

l) *False charge of solicitation against a confessor.*⁴⁶⁰ If anyone personally or through others falsely makes to superiors a *juridical* accusation of solicitation against a *confessor*, he (or she) automatically incurs this censure from which he may *in no case* be absolved unless he shall have formally retracted the false accusation and repaired as far as possible the damage which may have resulted; and moreover a grave and long penance is to be imposed. It is also a reserved sin.⁴⁶¹ In danger of death and in a more urgent case absolution is possible, with recourse necessary.⁴⁶² Faculties to absolve may be delegated by the *Apostolic Delegate*.

m) *Clerics who engage in forbidden trade or business.*⁴⁶³ Faculties to absolve may be delegated by the *Apostolic Delegate*.

n) *Opponents of legitimate ecclesiastical authority, those unlawfully assuming offices, etc., or allowing the same, and all participants.*⁴⁶⁴ Faculties to absolve may be delegated by the *Apostolic Delegate*.

153. – 5. - *Simpliciter*. Those simply reserved to the Apostolic See, from which in occult cases the Ordinary can absolve personally or by delegation,⁴⁶⁵ and from which faculties to absolve may be obtained as noted in each case (with regard given to the faculty of the local Ordinary in non-occult cases as mentioned above in 147, 2b) are:

a) *Trafficking in indulgences.*⁴⁶⁶ Faculties to absolve may be delegated by the *Apostolic Delegate*.

b) *Joining a Masonic sect or similar societies.*⁴⁶⁷ The censure is incurred if the society is one which plots against the Church or legitimate civil authority. It is disputed whether such societies must be secret; those which are secret certainly fall under censure. Likewise disputed is the case of those who formally adhere to the Communist party. The Knights of Pythias, Odd Fellows, Sons of Temperance are forbidden as intrinsically wrong but not under censure. The conditions for absolution from this censure are total withdrawal from the society, abjuration of the sect before the confessor with the promise to have nothing to do with it in the future or to pay dues, to repair any scandal as far as possible, to denounce all ecclesiastics and religious known as members, to promise to turn over all books, mss., emblems and insignia pertaining to the sect to be sent to the Holy Office, or if grave reason prevents, at least to destroy them and take his name off the rolls as soon as possible without grave loss. Faculties to absolve may be delegated by the *local Ordinary* by his quinquennials.

c) *Presuming to absolve without faculty from most specially or specially reserved censures.*⁴⁶⁸ Faculties to absolve may be delegated by the *Apostolic Delegate*.

d) *Aiding or knowingly abetting a vitandus.*⁴⁶⁹ Faculties to absolve may be delegated by the *Apostolic Delegate*.

e) *Daring to cite before a lay tribunal a bishop, prelate or certain religious superiors.*⁴⁷⁰ Faculties to absolve may be delegated by the *Apostolic Delegate*.

f) *Violation of papal enclosure.*⁴⁷¹ Those who enter or who introduce or admit others unlawfully into the papal enclosure of *nuns*, as well as *nuns* unlawfully leaving the cloister, and women of any age or condition entering the cloister of men and those who introduce or admit them fall under this censure. The censure includes the major papal cloister and the form of minor papal cloister for *nuns* which embraces the sections where they live and carry out their monastic exercises exclusively.⁴⁷² Faculties to absolve may be delegated by the *Apostolic Delegate* in the case of *nuns* leaving the cloister, by the *local Ordinary* by his quinquennials in other cases, if it is not a criminal case or one in the external forum.

g) *Presuming to usurp ecclesiastical property.*⁴⁷³ Faculties to absolve may be delegated by the *Apostolic Delegate*.

h) *Dueling or abetting the same.*⁴⁷⁴ The censure includes also those who challenge or who accept a challenge, unless it is certain they did not have the intention of dueling.⁴⁷⁵ Faculties to absolve, outside a case which is in the external forum, may be delegated by the *local Ordinary* by his quinquennials, otherwise by the *Apostolic Delegate*.

i) *Attempted marriage by or with clerics in Sacred Orders or religious of solemn vows.*⁴⁷⁶ The censure includes clerics from sub-deaconate onward and all religious with a solemn vow of chastity (thus excluding postulants, novices, simply professed and Jesuits whose simple vow nevertheless invalidates marriage); likewise all who presume to contract marriage with them. Mere concubinage does not suffice, but there must be an appearance of marriage, either canonical or civil, whether consummated or not. All parties embraced by the censure must presume (*"praesumentes"*) to attempt marriage. Absolution of a priest in these circumstances, who for very grave reasons cannot separate from his partner is reserved exclusively to the Sacred Penitentiary.⁴⁷⁷ Faculties to absolve from this censure may be delegated by the *Apostolic Delegate*.

j) *Simony in offices, benefices, dignities.*⁴⁷⁸ Faculties to absolve may be delegated by the *Apostolic Delegate*.

k) *Falsifying, etc., documents of the episcopal curia.*⁴⁷⁹ Faculties to absolve may be delegated by the *Apostolic Delegate*.

154. — 6. - *Reserved to the Ordinary.*

a) *Catholics who marry before a non-Catholic minister.*⁴⁸⁰

i. - The words *"contra praescriptum canonis 1063, 1"* have been expunged from this canon;⁴⁸¹ consequently, all Catholics individually are liable to this penalty, i.e., any Catholic entering or attempting marriage before a non-Catholic minister, whether the marriage is one in which both parties or only one is a Catholic. There is required an approach to a non-Catholic minister as such (not a civil officer) in order to give or to renew consent, whether the approach is made personally or through a proxy, before or after a Catholic ceremony (if there is one), and whether the approach was made in church or not. If the minister acted simultaneously as both civil and religious official, the censure is incurred.

ii. - The present wording of the canon is considered to have retired the particular sanction of Baltimore covering the same case,⁴⁸² and thus a Regular confessor may absolve by privilege. The automatic excommunication of Baltimore⁴⁸³ inflicted upon Catholics who have dared (*"ausi fuerunt"*) to attempt marriage after having obtained a civil divorce is still in effect; it includes not only the one who obtained a divorce but also one who merely marries a divorced person, since this is positive and necessary cooperation.⁴⁸⁴ A Regular confessor cannot absolve by privilege from this particular penalty. It may be absolved in an urgent case.

b) *Agreement by Catholics to educate their offspring outside the Catholic Church.*⁴⁸⁵ This must be a serious agreement, explicit or implicit, made before or at least accompanying the celebration of *true* marriage. The censure binds two Catholics as well as a Catholic with a non-Catholic.

c) *Catholics knowingly presuming to request baptism of their offspring from a non-Catholic minister.*⁴⁸⁶ It must be the parents (validly married or not) offering their own children (legitimate or not) to be baptized (validly or invalidly, solemnly or privately) by a non-Catholic as minister.

d) *Catholics knowingly to educate their offspring outside the Church.*⁴⁸⁷ The censure affects any Catholic parent or parents, as well as those who take their place. It forbids the non-Catholic religious education of the children and not necessarily the education given by non-Catholics in other branches of learning. The sending of children to public schools in the U.S.A. is not prohibited by this censure but by c. 1374.⁴⁸⁸

e) *Violent attacks on clerics or religious.*⁴⁸⁹ Real (as opposed to verbal) injury must be inflicted on the person of clerics of rank inferior to bishops (including first tonsure) or on the person of religious of either sex, excluding those who do not take public vows in a religious institute, e.g., novices or members of a religious society without vows. Lawful self-defense, accidental injury, blows in jesting, and whatever is lacking for an externally manifest mortal sin does not incur the penalty. The object of the injury can be the body, liberty or dignity of the offended, but the act must be of its nature malicious and it must be known that the person attacked is a cleric or a religious. If the Ordinary of the injuring party is the local Ordinary, the Regular confessor may absolve, but not if it is the major religious superior in an exempt clerical institute.

f) *Procuring abortion.*⁴⁹⁰ The censure is incurred by those procuring an effective abortion, including the mother among them. Abortion here signifies the ejection of a living and immature or nonviable fetus from the womb of the mother (and not craniotomy, embryotomy, etc.). All those cooperators whose help or counsel is necessary for the commission of the crime also incur the censure.⁴⁹¹ The abortion must be a serious sin subjectively and objectively, directly intended as an end in itself or as a means to another end. It must actually take place and result directly from any of the means used and not from some other cause. Grave fear on the part of the woman of losing her good name if the child is born may excuse from the penalty for the sin.

g) *Making false relics, knowingly selling, distributing or publicly exposing them.*⁴⁹²

h) *Religious of a simple perpetual vow of chastity presuming to marry or to attempt marriage, and their partners.*⁴⁹³ The vow must be taken in

a religious Order or Congregation. Even a civil marriage is included. A religious who runs off with a person of the other sex, or who attempts or contracts even civil marriage is *ipso facto* dismissed from the institute; whether the religious is also released from vows or not depends on the constitutions of the particular institute.⁴⁹⁴ If released from the vows at the time of the automatic dismissal, the person incurs no censure at the time of a subsequent marriage.

i) *Apostate religious*.⁴⁹⁵ An apostate from the religious life is a religious in perpetual vows, whether solemn or simple, who leaves the religious house unlawfully and with the intention of not returning, or who leaves the house lawfully but does not return because he intends to withdraw himself from religious obedience; this intention is presumed in law if the religious does not return within a month and has not at least notified his superior within that time of his intention to return.⁴⁹⁶ This censure is reserved to the major superior if it is a clerical exempt institute (the Regular confessor cannot then absolve) and in all other cases to the local Ordinary of the place where the apostate actually is.

155. — 7. - *Reserved to no one.*

a) *Authors and publishers who have books of Holy Scripture or annotations or commentaries therein printed without due permission.*⁴⁹⁷

b) *Daring to force the unlawful Christian burial of the unworthy.*⁴⁹⁸

c) *Knowingly to alienate Church property.*⁴⁹⁹

d) *Compelling another to enter the clerical or the religious state.*⁵⁰⁰

e) *Failure to denounce solicitation.*⁵⁰¹

L. - SUSPENSION.

156. — 1. - *Notion.* Suspension is a censure by which a cleric is excluded from his office or benefice or both.⁵⁰² It prohibits the use or exercise of office, which will be unlawful, and after sentence in certain respects invalid. It likewise prohibits taking the revenues or fruits of a benefice, but it does not take away the office or benefice itself.⁵⁰³ When it is inflicted for a definite time independently of the delinquent's withdrawal from contumacy, it may be a vindictive penalty.⁵⁰⁴

157. — 2. - *Division.*

a) *a iure, ab homine, latae sententiae, ferendae sententiae*, reserved, non-reserved; as with excommunications above.

b) *General* or total suspension embraces both office and benefice with all their effects.⁵⁰⁵ *Particular* or partial suspension implies only one species, either wholly or in part.

c) Suspension *ex informata conscientia*⁵⁰⁶ is an extraordinary remedy which is applied only when there is a grave inconvenience in following the norms of law.

158. – 3. - *Effects of particular suspensions:*

a) *ab officio*. If it is an unqualified suspension, it forbids every act of orders and of jurisdiction and of even mere administration coming from office (except the administration of one's own benefice).⁵⁰⁷ Thus it does not prohibit the use of delegated jurisdiction.

b) *a beneficio*. It deprives one of the fruits of a benefice.⁵⁰⁸

c) *a iurisdictione*. Every act of both ordinary and delegated jurisdiction as such is forbidden in both fora.⁵⁰⁹

d) *a divinis* It forbids every act of the power received through sacred ordination or privilege (but not preaching).⁵¹⁰

e) *ab ordinibus* (from all Orders); *a sacris ordinibus* (from major Orders); *a certo et definito ordine exercendo, conferendo*; *a certo et definito ministerio*; *ab ordine pontificali*; *a pontificalibus*.⁵¹¹ An irregularity *ex delicto* is incurred by a cleric who exercises a sacred Order from which he is barred by canonical penalty.⁵¹²

f) A suspension *ab ordine* binds everywhere, *a iurisdictione* binds only in the territory of the one imposing it. One suspended generally, or *ab officio*, *a divinis*, *ab ordinibus*, cannot lawfully administer the sacraments and sacramentals. For any just cause the faithful can request these of the one suspended, especially if other ministers are lacking, and the administration is then lawful. In the case of one under sentence, the faithful can request absolution only in danger of death, and lacking other ministers, the other sacraments and sacramentals. If the suspension forbids the act of jurisdiction in the internal or external forum, the act is invalid after a sentence or if the superior expressly revokes the jurisdiction; otherwise it is unlawful only, unless requested by the faithful.⁵¹³ Other effects of *general* suspension are as in the case of excommunication.⁵¹⁴ Suspension as a censure is removed only by absolution.

159. – 4. - *Reserved to the Apostolic See.*

a) *Episcopal consecration without Apostolic mandate*.⁵¹⁵

b) *Clerics knowingly simoniacal*.⁵¹⁶

c) *Presuming to receive Orders from a specially unworthy minister*.⁵¹⁷

d) *Dismissed cleric of perpetual vows*.⁵¹⁸

e) *Conferring Orders without required documents, title, permissions*.⁵¹⁹

f) *Religious in major Orders admitting a deceitful and invalid profession*.⁵²⁰

g) *Unlawful admission to office, benefice, dignity.*⁵²¹

160. — 5. - *Reserved to the Ordinary.*

a) *Cleric daring to cite before a lay judge an ecclesiastic inferior to a bishop.*⁵²²

b) *Fugitive religious.*⁵²³ Flight from religion is the withdrawing of a religious from the religious house without the permission of the superiors with the intention of returning to the institute, but meanwhile of withdrawing from religious obedience. Such a religious *ipso facto* incurs privation of any office he may have held in his institute, and if he is in sacred orders, suspension reserved to his own major superior; and when he returns he is to be punished according to the constitutions, and if these make no provision for such punishment, the major superior shall inflict penalties according to the gravity of the case. In the case where the major superior is the Ordinary of the place where the fugitive resides, a Regular as confessor can absolve him in the internal forum.

161. — 6. - *Reserved to no one.*

a) *A priest presuming to hear sacramental confessions without required jurisdiction is ipso facto suspended a divinis.*⁵²⁴

b) *A priest presuming to absolve from reserved sins is ipso facto suspended from hearing confessions.*⁵²⁵ This probably refers to sins reserved without censure.

c) *Those maliciously and unlawfully ordained.*⁵²⁶

d) *Clerics presuming to resign unlawfully into lay hands office, benefice or dignity.*⁵²⁷

e) *Omission of blessing of an abbot or prelate nullius.*⁵²⁸

f) *Vicar capitular unlawfully granting dimissorials.*⁵²⁹

g) *Religious superiors presuming unlawfully to grant dimissorials.*⁵³⁰

162. — M. - INTERDICT. - An interdict is a censure by which the faithful, while remaining in communion with the Church, are forbidden certain sacred things.⁵³¹

II. RESERVED SINS.

163. — A. - NOTION. - The reservation of a sin is the withdrawal of a sin to the judgment of the one making the reservation, so that no one can validly grant absolution in the case, except the superior or his delegate.⁵³² The sin is said to be reserved as sin (*ratione sui* or *ratione peccati*) and not merely reserved by reason of a reserved censure attached to it (*ratione censurae*).

164. — B. - MANNER OF ESTABLISHMENT.

1. - *Holy See*. The Holy See can establish reservations everywhere and for everyone. Actually, only one sin is reserved *ratione sui* by the Code to the Holy See, namely, the sin of false denunciation of a confessor, made before ecclesiastical judges or superiors, of the crime of solicitation.⁵³³ Even though a censure may not have been incurred because of some excusing cause, the sin can be incurred and the reservation remain.

2. - *Ordinary*. The Ordinary of a diocese can reserve to himself not more than four more heinous sins, external and specifically determined, which have not already been reserved *ratione sui* or *ratione censurae* (even to no one) by the general law of the Church. Only the superior general in an exempt clerical religious institute or the abbot of an independent monastery can do the same for their own subjects.⁵³⁴ Visitors and strangers (*peregrini, vagi*) are bound by the reservations in the place where they confess.⁵³⁵ The reservation is the withdrawal or limitation of the jurisdiction of the confessor of the place.

165. — C. - EXCUSING CAUSE. - Unless the bishop explicitly or implicitly determines otherwise, ignorance of a reserved sin does not excuse from its incurrance. The same is also true of the one sin reserved to the Holy See. If a confessor, ignorant (or in error) of the reservation of a sin *ratione sui*, absolves a penitent, the absolution is invalid, unless the contrary is stated by the one reserving.⁵³⁶

D. - JURISDICTION TO ABSOLVE.

1. - *Danger of death*. Any priest can absolve from any reserved sin in danger of death.⁵³⁷

2. - *Outside the danger of death*.

a) *Cardinals*. They can absolve anyone anywhere from reserved sins.⁵³⁸

b) *Pastors*. During the time in which the Easter duty can be fulfilled, pastors and those who come under the category of pastors in the law have the faculty to absolve from episcopal reserved cases.⁵³⁹

c) *Rural deans*. Vicars forane are usually to receive this faculty from the bishop, which they may subdelegate in an urgent case.⁵⁴⁰

d) *Missionaries*. Those who give missions to the people (and other priests when assisting them in confessions) enjoy the same faculty as the pastors above during the time of the missions (and probably also during novenas, retreats, and all such spiritual exercises).⁵⁴¹

e) *Regulars as confessors*. They cannot absolve in virtue of their papal privilege from a sin reserved *ratione sui* by the bishop to himself, unless

the same sin is already reserved *ratione censurae* to the local Ordinary in the common law.

166. — E. - CESSATION OF RESERVATION. - Any confessor enjoys faculties to hear confessions in the place can absolve from reserved sins (but not censures), whether episcopal or papal, no recourse being required, in the following cases,⁵⁴² because in these cases the sins are not reserved nor his jurisdiction restricted:

1. - In the case of the sick who cannot leave the house. This includes the aged and all those impeded by infirmity from going out of their residence, whether it is a home, college, religious house, hospital, etc.

2. - In the case of those about to get married. It makes no difference if the marriage is to be convalidated, or subsequently does not take place, or if the confession takes place a few days before the event.

3. - Whenever the legitimate superior has refused the faculty requested in a particular case.

4. - Whenever the confessor reasonably judges that the faculty to absolve cannot be requested from the proper superior without danger of violating the sacramental seal, or without grave inconvenience to the penitent. Thus, e.g., if there is serious difficulty in returning to the confessor, if the penitent cannot stay away from Communion or refrain from celebrating Mass without injury to his good name, or if it is difficult for him to remain in mortal sin until faculties to absolve are granted (or even for a short time). The estimate of the danger or inconvenience is left to the judgment of a prudent confessor; in doubt of either the confessor can absolve.⁵⁴³

5. - Whenever the penitent who has incurred a sin reserved to his bishop goes outside the diocese, even if for no other purpose than to obtain absolution. However, if the same case is reserved also in that other diocese, the confessor there cannot absolve the penitent.

APPENDIX II
ON SINS OF UNCHASTITY

CHASTITY

167. – I. - *Definition.*

A. - The name of chastity comes from chastise (*castitas-castigare*). Children are corrected by being chastised, since by being given their own will they become more unruly. In like manner the various concupiscences of man seeking their own satisfaction need to be chastised by reason, especially the most vehement concupiscence or drive for venereal pleasure. Chastity therefore is antonomastically linked with this concupiscence.⁵⁴⁴

B. - Chastity is a special virtue, a subjective part of the cardinal virtue of temperance, which moderates the sexual appetite and acts by which the human race is propagated as well as the venereal pleasure normally joined to such acts and especially attracting man. Chastity exercises its control according to the demands of right reason enlightened and directed by supernatural faith in the context of the state, condition and situation of each one.

C. - Although terms are often used interchangeably, chastity in the strict sense differs from:

1. - *continency*, (*continentia*) which is an habitual disposition or inclination of the will to resist evil concupiscences of touch, especially the venereal. It habitually resists and does not consent to these movements, but at the same time does not dominate them, as does the perfect virtue of chastity.⁵⁴⁵

2. - *virginity*, which is the holy and firm will to abstain perpetually from every voluntary venereal act in one who has never been a partner to a sexual action. It consists materially in bodily integrity free from every voluntary corruption whether by solitary action or with another, and formally in the firm purpose of perpetual abstinence from every venereal act, even from those allowed in legitimate marriage, because of the goodness of virtue and the desire for absorption in God and divine things.

Perfect chastity, on the other hand, can be possessed by those who have had previous carnal experience or who simply have the intention of entering marriage.⁵⁴⁶

3. - *modesty*, (*pudicitia*) or purity, is not a virtue distinct from chastity but rather expressive of a circumstance of chastity in general. It is concerned mainly with the signs of unchastity or things which not being venereal in themselves are more or less influential in arousing such pleasure, e.g., looks, touches, kisses, words, undress and exposure, etc.⁵⁴⁷ The guardian of modesty, as of all innocence and chastity, is the natural endowment of a sense of shame (*verecundia*). Modesty strictly differs from decency which relates to the less becoming acts connected with the meaner vegetative functions of the body and its organs offensive to the customs of civilized and cultured peoples. Such actions may concern the genital organs in their less typical generative functions not necessarily connected with impure or venereal experience. The distinction is practical in judging the confessions of youngsters confessing having done "bad things."

168. - II. - *Division*. - Chastity is: *perfect*, which abstains from all carnal pleasure including what is lawful in marriage; *imperfect*, which abstains only from the unlawful pleasures of the flesh outside the married state; *virginal*, which has never experienced carnal pleasure whether in or outside marriage; *conjugal*, which is observed by spouses abstaining from what is forbidden to the married; *vidual*, which abstains from any further carnal pleasure upon the dissolution of a marriage; *common*, which is observed by all the unmarried, even if not virgins, and is called chaste celibacy.

169. - III. - *Morality*. - Common chastity is commanded by the Sixth and Ninth Commandments for all men.⁵⁴⁸ These precepts forbid all sins of unchastity both internal and external; positively they prescribe the preservation of the chastity which corresponds to one's state.

170. - IV. - *Pleasures*.

A. - *Pleasure* (*delectatio*) is the rest or sedation, the complacency or satisfaction of the appetite in the presence or possession of its object. Pleasures are usually distinguished by reason of the powers and objects from which they arise.

1. - *purely spiritual*. - This pleasure follows reason and is contained in the higher faculties of man and usually has no effect upon his sensible part, being morally good or evil as the object itself which pleases, e.g., to discover a truth or an answer after much mental effort or investigation, to consider the beauty of virtue or a new way of injuring another, etc.⁵⁴⁹

2. - *spiritual-sensible*. - The representation of or the presence of an object which is loved spiritually mainly because of its spiritual qualities gives rise to a pleasure or delight with the effect that, beside the spiritual delight, by a overflow from the higher affection the lower faculties also experience a certain pleasant sensible motion such as the stepping up the movement of the heart and blood, e.g., the delight accompanying the love between parent and child, husband and wife, friend and friend. In itself it is distinguishable from carnal pleasure and is morally indifferent, although properly handled it is good and commendable.⁵⁵⁰

3. - *merely sensible*. - Called also organic pleasure or delight, it arises from the sense being affected by its own object and without it normally being apt to stimulate venereal activity, e.g., to smell a field of lavender, to view a beautiful sunset. Such pleasure is in itself indifferent morally; inordinate use usually does not exceed a venial sin, such as to take undue delight in the pleasures of the table.⁵⁵¹

4. - *sensual* or *sensible-carnal*. - This pleasure responds to a merely sensible object, but, given human nature as it is, it is apt also to arouse venereal pleasure,⁵⁵² e.g., certain looks, touches, kisses, conversation with a person for whom there is a strong sensible attraction, etc. This is the dangerous area involved in company-keeping, petting, etc. The entire delight resides in the sensitive appetite and when its vehemence increases, the stimulation more easily than the above-mentioned pleasures excites carnal motion and venereal passion. If there is a proximate danger of consenting to the venereal disturbance by the one experiencing the sensual pleasure, there is in itself grave sin. If this danger is not proximate and if there is sufficient reason to justify the indulgence in the pleasure, e.g., custom among prudent people in the place, lawful friendship, etc., there is no sin or at the most a venial sin.

5. - *venereal* or *carnal*. - This is a sense pleasure which arises from the motion or activity of the organs and the fluids which pertain to generation, in a man the pleasurable erection of the penis and its agitation which causes seed to flow, in a woman the pleasurable erection of the clitoris and the contraction of the vagina with a distillation. Chastity properly is concerned only with venereal pleasure, which is proper to the genital organs and can be experienced only in them. As the cause of this sexual stimulation is deliberate and outside of wedlock, the pleasure is gravely sinful.⁵⁵³

B. - Pleasure is said to be *complete* when the action proceeds to its ultimate natural term, satisfies the sexual drive and quiets the faculty; otherwise it is *incomplete*. It is called *voluntary* when there is a participation or intervention of the will in the sexual process or motion; the pleasure is then either *sought* or *procured*, i.e., deliberately intended and brought about, e.g., to initiate self-abuse, or *accepted* or *admitted*, i.e.,

deliberately consented to or embraced after the pleasure has arisen through no personal effort, e.g., consciously to complete an orgasm by self-abuse when the erection has previously during sleep been brought about by natural causes. Mere agreeableness (*placentia*) experienced in the venereal parts due to physical or physiological causes is neither good nor bad in itself; a complacency (*complacentia*), however, is seriously sinful, i.e., if the pleasure is consented to or willed inasmuch as it is approved, desired, accepted or even procured.

UNCHASTITY

171. — I. - *Definition.* - Unchastity or lust (*luxuria*) is the inordinate desire for and use of venereal pleasure which normally accompanies the sexual activity. The physical or venereal pleasure which normally accompanies the sexual function is a sign that sexual activity is going on; it is strictly accessory and is designed to incite, facilitate and insure the achievement of the divine purpose. Its inordinate desire and use of itself and by intention excludes the primary purpose of the Creator, the procreation and education of offspring in lawful wedlock.

172. — II. - *Division.*

A. - *INTERNAL.* - Unchastity which is merely internal consists in the affection alone for venereal objects and pleasures. These are comprised under morose delectation, sinful desire and sinful pleasure, all of which are forbidden by the Ninth Commandment.

B. - *EXTERNAL.* - The Sixth Commandment forbids the use of venereal things and the voluntary disturbance of the sexual organs. Such external unchastity may be:

1. - *completed* or *consummated*, when the external act reaches its natural term or orgasm with the normal accompaniment of the satiation of carnal pleasure and sedation of the sexual impulse. This may be in *conformity with nature*, inasmuch as the act is apt to achieve generation, as in the case of fornication, incest, adultery, or *contrary to nature*, whereby the acts are unnatural or generation is impossible of achievement, as in the case of pollution, onanism, sodomy.

2. - *uncompleted* or *inchoate*, when the external act falls short of achieving its term or orgasm. Included here are actions which are provocative of venereal motions although not venereal in themselves.

C. - *DIRECTLY WILLED.* - Unchastity is willed directly and in itself when venereal motions and pleasures are intended and sought or procured for

themselves, e.g., to desire to, to intend to, or actually to look at an obscene picture; to deliberately stimulate the sex organs.

D. - **INDIRECTLY WILLED.** - When one does not intend nor seek venereal pleasure but does not hinder it, when it involuntarily arises, in the manner and degree he ought to and could do, unchastity is said to be indirectly willed. The forbidden activity of pleasure in this negative way is accepted, admitted, approved, e.g., to fail to put down a book at the time when, quite accidentally and not by design of the book itself, it happens to arouse venereal disturbance.

E. - **WILLED IN CAUSE.** - A further effect is said to be willed in cause when one willingly places a cause which bears some influence upon the further effect that takes place, although the latter is not necessarily intended in itself (there must be a culpable relationship, of course, for sin), e.g., one who is responsible for his state of intoxication could have or should have foreseen or actually foresaw the impure actions that would result in the case.

III. - Norms.

173. - A. - *All directly willed venereal action outside of marriage is of its entire nature gravely sinful and does not admit of any slightness of matter.*

1. - The works of the flesh are clearly forbidden in Scripture and condemned by the Church.⁵³⁴ The more necessary and important a thing is in the preservation of the order of reason, the more serious is the failure. The venereal function, the activity of the generative faculty has been instilled by the Creator for the benefit and continuance of the human race; unchastity is opposed to this either by excluding the possibility of procreation or by rendering befitting education uncertain and insecure.

2. - Complete unchastity, i.e., completed and consummated venereal actions deliberately and directly willed outside of marriage, as well as uncompleted unchastity, i.e., uncompleted and unconsummated activity of a venereal nature, whether internal or external, are always of themselves intrinsically and gravely evil and sinful. No intention or purpose can justify them regarding what is willed. Physiologically the uncompleted or inchoate actions are of the same nature as the completed or fulfilled actions, e.g., the evil desire, the passionate kissing and petting, the fornication itself. To place and to will the beginning is implicitly to desire and will the fulfilment. Regardless of the intention of the agent the inchoate venereal actions are intrinsically connected with and directed to their complete realization, although they do not in every case necessarily or always lead to consummated acts. Because of the vehemence of concupiscence and the common frailty of man, it is morally impossible to contain sexual concupiscence within certain limits.⁵⁵⁵

3. - No matter how slight the action or how brief or insignificant the pleasure, all such actions are deprived of their proper ordination or direction as established by nature; thus in all directly willed venereal action outside of marriage there is no slightness or parvity of matter. (Within marriage, as long as the ends of marriage are not positively excluded, there is no sin or at most venial sin.) There can be light sin only from the imperfection of the human act itself, i.e., if there is not complete advertence or sufficient reflection, or if there is not proper and full consent. Even though some people may erroneously or out of a form of ignorance think that there is light and not grave sin in taking pleasure in certain impure thoughts or uncompleted actions, the fact of their essential ordination remains and is not changed by the will of man.⁵⁵⁶ In those who are innately highly sexed or suffer abnormal mental aberrations, there may be a diminution of imputability; in some exceptional cases responsibility and imputability may have disappeared. The diminution or lack of control, however, must be established and not assumed in the particular case.

174. - B. - *Indirectly voluntary action is of itself venially sinful, but sometimes it is gravely sinful due to the danger of consent.*

1. - A man cannot be indifferent to the movement of the lower appetite; he shirks his duty when he does not direct and repress or positively resist such inordinate movement when he can and should. Thus, when an unchaste motion or presentation arises which he has not sought out or procured or intended, he does not sin grievously if he does not give positive consent, but he sins venially by not resisting it positively and by taking only a negative stand through failure to repress it when he can and should. If there is a proximate danger in such a case of giving positive consent, there is serious sin. Indirect methods of repression or removal are more practical and profitable in these matters, such as to change the direction of one's thoughts or desires, to distract one's attention by praying or stopping what one is presently doing or to take up some other business or activity. Direct methods often tend to keep the unchaste object in the forefront of consciousness and make it more difficult to avoid or remove the temptation, e.g., by chastising the body through squeezing the members, by trying to suppress the image itself, by trying to talk over the dangerous intimacy with the very party involved.

2. - At times, especially with the scrupulous, the concern to avoid or repress temptations rather excites the imagination and continues or increases the motions. This is just cause for showing opposition by simple displeasure and contempt of the motions, and going about one's duty. In such a case positive resistance is implicit. Experience in other situations may also show that this attitude is sufficient, e.g., when the activity engaged in is necessary or useful, such as exercise or daily work in which both sexes are present, or when the motions or temptations are slight and quickly passing, although frequent.

175. – C. - *Unchastity which is voluntary in cause is of its nature a grave sin but admits of slightness of matter, and at times even of no sin at all.*

1. - The consent of the will to venereal pleasure which is voluntary or willed in cause is as sinful as the cause placed which provokes this pleasure. In judging whether such an action is sinful or not, besides estimating the influence of the cause on the result, the action must be also justified by a proportionate reason. In matters of chastity it is often difficult in practice to judge when the conditions justifying an action are verified, namely, that the action or cause placed is morally good or indifferent; that the venereal effect, if such follows, is not intended; that there is sufficient and proportionate reason for the action in the first place. Judgment must be made on what is done or about to be done, why it was done or is about to be done, how it has affected or will affect the individual or others, since each one differs in inclination and disposition and dangers affect different people diversely; finally there is the sufficiency and adequacy of the justifying reasons. Charity itself obliges one not to lead or help others to sin and moreover to take prudent steps to prevent others from sin when possible.

2. - Some actions by their nature are apt to arouse carnal motion and excite venereal pleasure as proximate and more or less vehement occasions of sin. Such things or actions which commonly and practically are proximate incitements to unchastity are truly called obscene, e.g., frequent or prolonged gazes or touches upon the forbidden parts of the opposite sex (or, with some individuals, of the same sex), looking at pictures or movies or reading printed matter or attending theatrical presentations when their theme or content is of an unchaste or sexually exciting nature and at the same time their manner of presentation tends to throw an attractive emphasis on the unchaste element. Some actions of themselves only remotely or slightly incite an unchaste result, e.g., to touch one's own genital parts, a passing glance at the female breast or a slight and passing touch of the same, etc. Countless other things and activities have no relationship to venereal matters or generation and serve quite other purposes. Yet incidentally at times venereal excitement or pleasure may be aroused as a by-product in this or that individual because of some weakness, habit, perversion or some other factor connected with the particular person. Such incidental influences or causes may be: the study or practice of medicine, the study of physiology or moral theology, decent dancing, a modest kiss or embrace as accepted in the place as a sign of friendship or relationship, bathing, horseback riding, immoderate eating or drinking, a movie or play or book with an occasional suggestive scene or description, etc.

3. - It is a serious sin, without proportionate reason, to place a cause which arouses strong carnal motion and great venereal pleasure which is a proximate occasion for sin, even if the disturbance did not take place,

i.e., out of curiosity to look at certain magazines which are obscene. Only if by experience it is known that the individual is not so disturbed is it safe or permissible to place such an action. It is a venial sin to place a cause without just reason which only slightly or remotely or accidentally results in even a strong disturbance, as long as there is no proximate danger of consent. Any reasonable and proportionate cause of necessity, usefulness or convenience would suffice to act lawfully and without any sin, e.g., a physician who must look at or handle the less decent parts of his patients, a priest who must study about sins of unchastity and hear confessions of the unchaste, to exercise, etc.

IV. - *Sins of unchastity completed in a manner apt to achieve natural generation.*

176. - A. - FORNICATION.

1. - *Notion.* - Fornication is the completed use of the generative faculty by mutual consent between an unmarried man and an unmarried woman. The presence or absence of bodily virginity does not affect the nature of the sin. It is simple fornication if there is no added species of malice in the act, e.g., marriage bond.⁵⁵⁷

2. - *Morality.*

a) Fornication is intrinsically and gravely evil, evidently condemned in Scripture,⁵⁵⁸ and by the Church.⁵⁵⁹ It cannot be justified for any reason whatsoever, despite the specious physical or psychic health benefits sometimes advanced and recommended by particular physicians or counselors. Fornication is forbidden by the natural law as of its nature opposed to the substantial order in carnal intercourse whereby the generation and especially the education of offspring is provided for and demands the actual as well as the juridic lasting association of the parents. The evil nature of the act is not changed by the fact that in certain individual cases (which do not commonly happen) the intercourse remains sterile, e.g., the woman lacks ovaries, or the man can (or even binds himself to) support and educate the child and provide for the mother. If fornication were for any reason justifiable, society would certainly suffer, as it presently does from widespread violators.⁵⁶⁰ In cases of fornication the confessor should keep in mind the occasionist, the habitual and the relapsed sinner. Discreet interrogation may be in order as to resulting pregnancy or its prevention, obligations to mother and child, possible abortion, etc.

b) Prostitution (*meretricium*) is the practice of a woman, for the sake of gain or pleasure, engaging in fornication with several or all comers, whether this is public (a civilly registered prostitute) or hidden (carried on behind some front of respectability or accepted position). This practice does not differ specifically from fornication, although the malice

is greater because of the readiness to sin and implied willingness to remain in sin, the preparedness to commit adultery, etc., and the frequent effect of becoming sterile. Although of itself not strictly necessary, the penitent, especially if interrogated by the confessor, for the sake of better judgment and advice, should mention the fact of approaching a prostitute or of being a prostitute.

c) Concubinage (*concupinatus*) is habitual sinning with the same woman, whether the fornicator keeps her at home or not. It is called concubinary fornication since the partners live in a sort of marital manner, in at least a tacit relationship. For this reason it is a form of permanent condition and will to remain in sin, more grave than prostitution or simple fornication, but not specifically distinct from the latter. The circumstance of concubinage should be mentioned in confession, for the better judgment and advice of the confessor and because of the scandal or occasion of sin to be removed and the penalty possibly incurred.⁵⁶¹ A penitent confessing concubinage is not to be absolved, however contrite, until the occasion has been removed, e.g., removal of the woman from the house; a serious promise usually suffices only in danger of death when absolution cannot be delayed.

d) Fornication that is onanistic, i.e., begun in the usual manner but completed in an unnatural fashion, such as withdrawal or condomistic, i.e., with the employment of an artificial device to prevent insemination, is an external sin of pollution and an internal sin of fornication. It is objectively more sinful than simple fornication, but often subjectively less gravely sinful if the fuller sexual satisfaction is foregone in order to spare the woman and society, but not if only for the sake of pleasure without its attendant burdens and responsibilities. The confessor must insist upon the actual confiscation or destruction of the artificial devices before giving absolution, or at least a serious promise that appears will be efficacious.

177. — B. - ADULTERY.

1. - *Notion.* - Adultery is a carnal act between a man and a woman at least one of which is married. It is simple or multiple as only one or both parties are married; in the latter case there is double malice against both fidelity and justice as well as mutual unchastity.

2. - *Morality.* - Scripture most severely condemns adultery.⁵⁶² Consent to the adultery of one's partner does not change the nature of the sin,⁵⁶³ since besides unchastity injustice is still committed against the indissoluble contract established by divine law and against the right of the sacrament. The offspring of an adulterous union may bring temporal injury to the innocent spouse and the rights of the legitimate children.⁵⁶⁴ Under adultery is also included an unnatural act by a married person with himself or with his own partner, since this is also against justice.

178. — C. - RAPE.

1. - *Notion.* - Rape (*stuprum*) is the oppression of a woman who is unwilling or the deflowering of a virgin who is unwilling.⁵⁶⁵ The woman may be a virgin or not, married or not; the virgin is taken in the physical sense. The violence which the rapist employs against the unwilling victim may be physical or moral, e.g., by threats, fear, deceit, fraud, force, during sleep, while inebriated, etc.

2. - *Morality.*

a) Besides chastity, rape is a serious sin against justice, since it violates a grave right of a woman over her own body. Although in certain circumstances justice may be distinctly sinned against by violating the carnal integrity of a virgin, the circumstance of virginity need not be confessed, unless in consenting to the act perhaps also the venial sin of prodigality is also committed by the maiden in rashly renouncing carnal integrity. An oppressed woman who consents may also offend against piety toward her parents. The rapist may also sin against charity in the effect the violent action may have on the one raped, her family, or on her prospects of marriage.⁵⁶⁶

b) An oppressed woman is gravely bound without qualification to resist internally any venereal pleasure lest there be formal sin. She is bound to resist externally at least to the extent proportionate to her powers and the circumstances of her situation.⁵⁶⁷ She may defend her chastity even to the death, as long as death is not intended, although she need not resist to this extent. The lawfulness of the use of a vaginal lotion after rape is controverted. However, in practice the seed may be expelled from the vagina (and even from the uterus) before conception takes place, which is variously estimated, e.g., from one hour to one hour and a half after the attack. The lawful use of anovulants by a woman as a defense against threatened rape is currently discussed by theologians without common agreement yet achieved on the issue. Consequently, the solution favoring their prudent use may be followed both by the faithful and by the confessor.

179. — D. - ABDUCTION.

1. - *Notion.* - Abduction (*raptus*) is the forceful seizing of a person or the injurious privation of another's liberty which is inflicted for the purpose of committing a sin against chastity with that person. The force used may be physical or moral and directed against the person kidnapped (male or female, married or unmarried, a virgin or not) or against those under whose authority the person lives.

2. - *Morality.* - Besides the grave sin against chastity (at least internal, if no external act takes place), there is always a grave sin against justice

either towards the person abducted or the parents or guardians. Abduction is also a diriment impediment to marriage when the woman is kidnapped for this purpose.⁵⁶⁸

180. — E. - INCEST.

1. - *Notion.* - Incest is sexual intercourse between those who are related by blood or by marriage within the forbidden degrees, and between those legally or spiritually related, i.e., based upon legal adoption or baptism. Spiritual and legal incest differ specifically from each other and from incest between blood relatives and are at least of graver malice than between in-laws, if not specifically distinct.

2. - *Morality.* - Incest is strongly reprobated in Scripture⁵⁶⁹ and penalized by the Church (as well as in civil law).⁵⁷⁰ It is a grave sin against chastity and against the piety that is due to those close to us. Venereal union among relatives is especially repugnant (unless dispensed by the power of the Church for proportionate cause) because of the special honor to be mutually shown relatives, the prevention of carnal union among those who must live together and the fittingness of multiplying friends through marriage.⁵⁷¹

181. — F. - CARNAL SACRILEGE.

1. - *Notion.* - Carnal sacrilege is the violation by a carnal act of some sacred person, place or thing. In the strict sense it is a personal sacrilege since the very object is the carnal violation of a sacred person, whereas in a local or real sacrilege the thing or place violated is accessory and a circumstance changing the nature of the sin. The three sacrileges are specifically distinct.

2. - *Morality.* - Carnal sacrilege is always a grave sin against chastity; it is also a grave sin against religion, but admits of slightness of matter.⁵⁷² A personal carnal sacrilege is committed when a person in sacred orders or with a public vow of chastity is involved. It may be committed by a sacred person alone, either internally or externally, or by a non-sacred person with a sacred person (even when unwilling), or by a sacred person with a non-sacred person (at least cooperating in the sacrilege by voluntarily bearing it). When both persons in an unchaste act are sacred the sacrilege is doubled. A person in sacred orders and public vow commits only one sacrilege, being obligated by one and the same formal motive, but more gravely. A sacred person who without seeking pleasure for himself induces another to commit unchastity with a third party does not commit a sacrilege.

182. — G. - OBLIGATIONS IN JUSTICE.

1. - A fornicator is not bound in justice to restitution toward the woman who willingly fornicates with him unless this is imposed by a

judge, or unless the fornicator has damaged her reputation by revealing the crime. Both parents are bound *in solidum et pro rata parte* to provide for the sustenance and education of any offspring, i.e., if either party fails to or cannot contribute a proportionate share of what is needed, then the other party is bound to provide in full.⁵⁷³ Marriage is not recommended unless all things are prudently judged by the pastor to be present to indicate that the union will be successful and lasting, especially when one party is non-Catholic, and even though a civil marriage has already been contracted or most likely will be. The priest should also be satisfied that the woman has not "framed" the man or is not deceiving him as to her condition. Since the bond of a true marriage, especially when it is sacramental, is indissoluble, no priest will be hasty to witness or "fix up" a marriage; if elements of incompatibility or of breakup, whether from the parties themselves or from other factors, are prudently judged to be present, delay at least will be in order until there is more to judge upon.

2. - If a woman has been lead into sin through force or fraud, the man alone must repair any damage to the woman, her parents or to any offspring, being required to bear all the expenses attendant upon the offspring. All things being equal, he has an obligation to marry the woman (which is not grave unless he had promised marriage), or to make it easy for her to marry another. If the crime is occult and the woman has suffered no damage or has condoned it or has married, died, etc., he has no further obligation.

3. - If a man, whether sincerely or deceitfully, promised marriage in order to achieve intercourse, he is bound in justice to marry the woman as the normal adequate reparation, unless the woman refused or had deceived him also, or the parents are reasonably opposed in the case of a minor, or there is an indispensable impediment, or some other such serious obstacle. Although relieved of the obligation of marriage, he is still bound to repair any damage resulting from the sin, but not out of strict justice to legitimate the offspring. If a promise of marriage was given in order to engage in impure actions short of intercourse, the man is bound at least in fidelity to the marriage, and in justice if the woman should suffer irreparable damage to her reputation.

4. - If a woman has sinned with two men so that the father of the offspring is uncertain and the woman has concealed her dual sin, neither man has any obligation and the whole obligation toward the offspring rests on the mother. However, if both men were aware of the situation, both are bound, as formal cooperators, to provide along with the mother. The civil law obliges even though it imposes the duty on only one of the men, since its purpose is to provide for the offspring.

5. - If no offspring issues from an act of adultery, the adulterer is not bound in justice to anything beyond seeking pardon of the lawful spouse,

when this can be done with a prospect of success. If there is offspring and both parties to the adultery are guilty, both are strictly bound *in solidum* to repair any damage to the innocent spouse or the legitimate children, otherwise only the one who extorted consent to the adultery by force, fear or fraud. The adulterous woman in every case (and sometimes even the adulterer) is excused from repairing any damage if this can be done only by revealing her crime; the revelation usually results in worse evil than the absence of reparation. In practice in occult cases it is most difficult to urge reparation or restitution without raising greater problems.

6. - Great caution and prudence is required of a pastor and a confessor lest he jeopardize the measure of good faith still actually present in a case by too early an insistence upon restitution or reparation. Before recommending any overt action in any case the pastor or confessor must be morally certain of the obligation in the factual situation in view of all the factors involved. When expedient, advice should be sought from one more expert or experienced, or recourse to such a person is to be recommended. If a woman is unable in practice to make amends, she can always compensate by a more zealous application to her role in the family.

V. - *Sins of unchastity completed in a manner precluding the achievement of nature's purpose.*

183. - A. - SINFUL NATURE. - Unnatural sins of unchastity are those which are completed in a manner which is opposed to or which frustrate the natural ordination or destination laid down by nature for these acts (*contra naturam*), since they render generation impossible by reason of the ineptness of the acts. Nature itself has established the primary end of the use of the genital apparatus, thus to frustrate or preclude this end is, of itself and other things being equal, the gravest type of unchastity. In other sins of unchastity, i.e., completed in a way which does not impede generation, the purposes of nature as perceived by reason are frustrated, but the natural physical fulfilment of the function of the organs is achieved. The relative gravity of unnatural sins arises from the greater abuse involved than merely from the undue use. In concrete circumstances it sometimes happens that a sin consummated in the natural manner may be more grave than an unnatural sin. This may be due to the fact of many sinful species being involved in one act, or another species than unchastity being incurred (such as injustice in adultery), or the greater malice or boldness of the sinner in sinning, or the future consequences of the action.

184. - B. - POLLUTION OR MASTURBATION.

1. - *Notion.*

a) This sin consists in the separate and complete venereal satisfaction or use of the generative faculty without carnal intercourse. It may be accomplished either alone or with an accomplice, and differs from impure

acts and uncompleted acts. Pollution is principally specified by the separate unlawful use of the genital faculty.⁵⁷⁴ It is provoked by stimulation of the genital nerves either from physical causes (touches, friction, pressure) or psychical causes (obscene reading or sights, vivid imagination). Pollution differs from distillation which is a subtle, sticky, colorless, non-prolific, urethral and prostratic fluid produced with little or no disturbance or pleasure. Distillation is no sin when there is no sexual satisfaction and no obligation to avoid its cause; when accompanied by venereal pleasure it is judged in gravity and species of unchastity as pollution.

b) Pollution is *voluntary* when it is freely and deliberately aroused, or when it is freely and deliberately accepted and approved or admitted if it is naturally aroused. It is directly provoked when it is sought for itself, as in self-abuse, or for something else, as producing seed for artificial insemination or medical analysis; it is provoked indirectly or in cause by doing something from which it is foreseen a pollution will result, but without precisely intending the latter. Pollution is *involuntary* when it follows from natural causes without the intervention of the will provoking or approving it, e.g., from a physical debility or abnormality, or from natural nocturnal emission, without actual advertence and consent.

2. - *Morality.*

a) The intrinsic and grave malice of direct and perfectly voluntary pollution or masturbation is clearly stated in Scripture⁵⁷⁵ and by the Church.⁵⁷⁶ Every directly procured or directly consented to pollution is gravely forbidden by the natural law as a serious deordination in the grave matter of the propagation of the race and as frustrative of the natural end for which the generative faculty functions and for which the accompanying pleasure is given. Thus, for no reason, not even to save one's life, can this be allowed. There is no specifically different malice between male or female pollution or masturbation.

b) The various ways of procuring pollution or of masturbating do not change the formal and specific nature of the sin. There may be an added and specifically different malice involved in one and the same action. Thus, there may be also a sin against justice, e.g., if a married person commits self-abuse or masturbates another or causes pollution in another who is unwilling; against religion, e.g., if the person or place is sacred; against charity, e.g., to masturbate another or cause pollution in another who is willing (which may also easily excite thoughts and desires of fornication, adultery, sodomy, etc.). When only pollution has taken place, but the desire or intent was for fornication, adultery, sodomy, etc., the latter must be specifically confessed as well as the masturbation itself.

c) An indirectly voluntary pollution is gravely or slightly sinful or no sin at all according to the application of the principle of the two-fold effect. It is lawful to do things which are customary in one's condition

in life, even though it is foreseen that a pollution will likely follow because of one's excitability, e.g., to wash or bathe, to make a necessary examination of the genital parts, to relieve itching in the area (as long as this is not the result of passion and there is no consent to any venereal pleasure), to greet another with a handshake or a kiss, to study anatomy, to assist the pregnant, etc. However, when there is proximate danger of consent to a pollution following, although the thing in itself is in no way or only slightly stimulating, it is gravely forbidden.

d) Passive pollution which takes place in a person involuntarily, either from external causes which cannot or need not be avoided, or from an internal malfunction or ailment, or from a natural excess which the body throws off almost exclusively during a period of sleep, is not sinful at all, even though a dream should spontaneously occur which gives pleasure. For passive pollution occurring during sleep to be voluntary in cause with a grave responsibility or culpability the sources of stimulation, e.g., thoughts, images, reading, etc., must proximately and gravely influence the effect or be fostered for this purpose. If venereal excitement has naturally arisen but then voluntarily sustained or promoted, e.g., by movements, touches, position, etc., it is gravely sinful. There is no serious obligation to restrain by positive methods a pollution which has involuntarily arisen, as long as there is no proximate danger of consent; however, indirect methods are recommended such as prayer, distraction of the mind, change of position or of location, etc. When one averts to the onslaught or to the instant of orgasm and can do something about it easily and without hardship, there is a slight obligation to resist at least indirectly, lest knowingly and willingly one permit the rebellion of concupiscence and risk some consent. It is not sinful to have an inefficacious desire for or rejoice in the fact of a merely natural pollution which occurs in the normal manner of nature's functioning to relieve itself and to quiet disturbance, as long as the will through aid, approval or consent is absent. For medical reasons medicines may be taken to regulate natural pollutions, but medicine may not be taken for the purpose of producing a pollution, since this would be to intend it for its own sake.

3. - *Pastoral concern.*

a) Masturbation is the most widespread sin of impurity, especially among the youth of both sexes. It is a sin extremely easy to commit, the habit or practice is swiftly acquired. On the other hand, it is a temptation that is difficult to overcome and a habit that disappears only slowly and, as it were, grudgingly, by persevering efforts despite failures and setbacks. Pastoral efforts both in and out of the confessional with regard to victims of this sin demand on the part of the priest or confessor great patience, kindness and understanding, and even a constant struggle against discouragement, if these efforts are to achieve any success. Each individual case must be considered on its own merits and in the context

of its own problems, history and present attitude, understanding and resistance applied. Mutual masturbation or exhibitionistic masturbation does not usually or necessarily imply homosexual or lesbian affection or desire. There are no hard and fast rules of thumb to be applied to every concrete case. The priest in the busy confessional can at least give his advice on the basis of the commonly recommended supernatural and natural remedies and aids and the more personal attention to the individual he can give in the limited time and circumstances. The habitual sinner and those whose masturbatory difficulties are more than transitory should return frequently to the same confessor. The priest will always offer encouragement, as well as help to overcome guilt anxiety or discouragement. It is recommended that wherever possible and prudently expedient both for penitent and priest the confessor's help should be given at least from time to time outside of the confessional (even though the victim may wish it to be under the seal) in order to provide time and even less formal atmosphere for fuller discussion and help. Goodwill and the desire to struggle for victory despite difficulties and failures are indispensable in the repentant sinner or victim of this habit.

b) The remedies of the supernatural order that are always to be urged upon every sinner are prayer which is persevering and an unwavering confidence in the grace of God who allows no one to be tempted beyond his strength to resist and overcome.⁷⁷ Frequent confession, especially after a fall, cannot be too highly recommended; also frequent Holy Communion, even daily reception; a spirit of mortification of the senses and the imagination in order to control the lower appetites and holiness in a state of grace; the fostering of a generous will to cultivate chastity and to resist even the remoter stimuli to sin; an appreciation of sex and purity in the plan of salvation, in the context of true love; devotion to one's guardian angel and daily petition for the intercession of the Virgin Mary; and supernatural motivations. In the natural order a better realization of the occasions of temptation and the circumstances which make temptation more influential and acceptable can aid in bringing about the removal of the causes of relapse, based especially on the sinner's history or experience. Various suggestions that may be made depend upon the personality and condition of the sinner in the particular case and his peculiar problem, e.g., avoidance of idleness and of daydreaming, at least of a dangerous type, as well as the tendency or temptation to melancholy; better regulation of one's day and activities; cessation of overdelay in rising from bed or in taking care of the necessities of nature; not retiring before being sufficiently tired to go to sleep reasonably promptly; sufficient physical exercise, fresh air and rest; adequate emotional and intellectual recreation to avoid or lessen tensions; physical cleanliness, especially genital hygiene; care in the selection and use of protective devices during the menstrual period; greater moderation in eating and

drinking, especially alcohol; choice of companions of either sex; diversion of attention to other non-sexual things of interest, or walking away; clothing that is not too binding or covering that is not too warm; etc.

c) The sin of masturbation must be first judged objectively on the basis of the norms given above. Difficulty often arises in judging the subjective guilt. It must not be assumed that an individual has not committed serious sin; investigation in this complex matter must be made of the sufficient advertence or reflection and understanding and a full consent of the will. With some youths and adolescents there can be a lack of understanding or deliberation of the serious nature of the impure action, although if they confess it, they realize that something is morally wrong. The more deeply engrained the habit or the more vehement the passion the less free will be the consent and responsibility and culpability in the individual act may be lessened. When it is prudently judged that a particular act in the circumstances is not gravely sinful, it is not recommended that the sinner be informed, unless he directly asks (and then the priest explains what grave guilt requires and lets the individual draw the conclusion), but rather he is to be encouraged and exhorted to greater efforts toward rehabilitation in the future. The normal person should be assured that his problem is not an abnormal one and is soluble; the truly abnormal person may be judged (not too readily but with the cautious conclusion of prudence) to be in need also of medical or psychiatric advice and help, but even here the priest may be the only person in practice to whom the sinner can or will turn, and thus he must do what he can to help as a theologian and spiritual counselor and not as a medical or psychiatric practitioner or amateur.

185. — C. - SODOMY AND HOMOSEXUALITY.

1. - *Notion.*

a) This sin, so-called from the vice of the citizens of ancient Sodom, in the strict sense is unnatural carnal copulation with a person of the same sex, and in the wider sense it is rectal intercourse with a person of the opposite sex. Carnal union or copulation differs specifically from an impure touch when some member of one person touches the genitals (or body in general) of another and in turn is usually so touched, e.g., mutual masturbation, etc. Carnal copulation, however, includes an affection for or inclination toward a person of the same sex and in its overt expression includes an application of the genitals of one party to the body of another in the manner of intercourse, although this is unnatural. With persons of the same sex the species of the sin is not changed by the circumstance of age, agent (*pygista*) or patient (*mollis*), etc.

b) The condition of an affection for persons of the same sex and for intercourse with the same is homosexuality in the strict sense and is called

perfect sodomy. Although usually anal, the simulated intercourse may take place in any part of the body of the accomplice⁵⁷⁸ and does not specifically distinguish the sin. Female sodomy or homosexuality is also termed lesbianism, sapphism, tribadism; it is accomplished by one party with an unusually large clitoris assuming the role of a man, or by the employment of an artificial penis (*phallus*), or in the common manner of mutual application of the labia genitalia (*fricatio*). Imperfect sodomy is carnal union between two persons of opposite sexes but unnaturally accomplished, i.e., anally. Coition between man and woman which is not anal is not presumed to be sodomy but rather fornication in intent or affection and pollution in effect or fact.

2. - *Morality.*

a) Sodomy, more grave because more unnatural than pollution, is reprobated by Scripture⁵⁷⁹ and penalized by the Church.⁵⁸⁰ In addition to the malice of pollution it adds the malice of affection for the same sex and/or for the *vas indebitum*, i.e., for a part of the body not destined or apt for copulation and generation.⁵⁸¹ Charity is violated because of cooperation in one another's sin, and other malices may be added inasmuch as there is involved the circumstance of marital bond, consanguinity, etc.

b) Since affection for the same sex is more repugnant to nature than for the *vas indebitum*, perfect sodomy is specifically distinct from and graver than imperfect sodomy. Also, consummated or completed and unconsummated or inchoate sodomy differ specifically.

3. - *Pastoral concern.*

a) Homosexuality (or uranism) in its various forms and degrees is widespread in modern cities; it is frequently found in military forces, prisons, ships, etc. Among a certain percentage of homosexuals (also called inverts or perverts or sexual deviates) the vice is organized. The priest is called upon to deal with this type of sin in the confessional for the most part. Those who are inveterate homosexuals, even professionals, seldom contact the priest. However, even hardened cases can be helped and at least brought to a stage of cessation of overt acts and to the constant striving to maintain chastity, although a heterosexual condition or inclination may be impossible of realization in the particular individual. Some, particularly adolescents, engage in some homosexual activity, but it is transitory, i.e., a phase of weakness which they can work out with help; they are not in the condition of a homosexual, i.e., they are not homosexual at heart. Others are in the condition of homosexuals but manage to maintain chastity and refrain from overt actions (or have overcome the vice). It is important for the priest to try to discover the actual situation of the sinner, as far as he discreetly can in this difficult and delicate matter, in order better to assist the sinner to regain grace

and confidence. The same qualities of kindness, understanding, patience and perseverance, as with the masturbators, is demanded of the priest with the care of homosexual sinners.

b) Here also the absence of moral responsibility or of grave subjective culpability must not be presumed. The deeper the habit is rooted in the individual the less the moral guilt may be in an individual action, as noted above in the case of masturbators. However, the removal of all responsibility would be the more advanced or extreme case. The homosexual is capable of controlling his sexual desires and impulses as the heterosexual must. Although he may be responsible for the origin of his habit, if he has good will and effort he can set his will against the habit and with help under grace can improve and succeed. The sympathetic priest will treat this type of sinner in a manner similar to those with masturbatory or other sexual problems. The occasions of this sin must be vigorously avoided and care taken not to substitute other vices in its stead. The victim must be docile in rectifying an erroneous conscience.

186. - D. - BESTIALITY.

1. - *Notion.* - Bestiality is copulation of a human being with an animal, regardless of its sex or of the manner by which it is accomplished. The touching of an animal, even with venereal satisfaction or pleasure, is not bestiality if there is no immoral affection for it.

2. - *Morality.* - This sin is condemned in Scripture⁵⁸² and penalized by the Church as with sodomy. It is the worst of the sins of unchastity in itself, since it is the extreme deviation from the natural order and most degrading of human dignity, not preserving even the human species. Completed and uncompleted sins differ specifically.

187. - E. - OTHER SEXUAL PERVERSIONS OR ANOMALIES.

1. - *Anaesthesia:* - an inability to arouse the sexual appetite by any means; more commonly found among women as frigidity.

2. - *Hypothesia:* - a languid and weak sexual appetite often found in women of devout purity and dedication to family life and sometimes in men of the sexually peripheric type who are content in their job and leading a good life.

3. - *Hyperaesthesia:* - a morbidly intense sexual excitability more acute in women in whom sex features strongly in their lives and at times connected with an abnormal inclination to venereal things or with sexual paresthesia; the insatiable carnal ardor in men is *satyriasis*, the unbridled libido in women is *nymphomania*.

4. - *Paradoxism:* - a form of hyperaesthesia, sexual paradoxia describes the condition of abnormal sexual disturbances before the usual age of

puberty or before the seventh or eighth year and in advanced senility, and often accompanied by self-abuse.

5. - *Religious paranoia*: - a manifestation of hyperaesthesia mostly found in women, especially the unmarried, who find libidinous satisfaction in a religious fanaticism directed toward confessors, images of saints, etc. Such hidden mixture of religiosity and sexuality offers great danger for confessor and priest who must always be on guard against such people, as they have not infrequently been the source of great grief and disasters. Although morbid egoism, abnormal inconstancy and mendacity are pointed out, the signs and symbols of this abnormality escape easy categorization, and, as is usually stated, in hysteria nothing is constant besides its inconstancy.

6. - *Paraesthesia*: - a condition existing when the sex life is not affected by venereal matters but by objects quite foreign to them. It takes many forms of which some six are noted here.

7. - *Symbolism*: - the use of the symbols of persons themselves in order to satisfy the sexual drive, e.g., underclothes, a shoe.

8. - *Fetichism*: - the excitement of the sexual passion by things which in themselves have no relation to sex nor imagined in connection with any person, e.g., the imagination or sight or touch of a hand, hair, garment, shoe, etc., without any further desire. Sometimes this is connected with transvestism.

9. - *Exhibitionism*: - an impulse to show off the private parts to a member of the opposite sex, even with long delays suffered in order to seize the most rewarding occasion. It is more frequent with men.

10. - *Sadism*: - venereal pleasure which is aroused by real or imaginary actions that are actively and poignantly cruel and which inflict pain, e.g., striking, whipping, cutting, stabbing, strangling. It is found more in men and was named after the Marquis de Sade, an eighteenth century aristocrat, who described his own perversions.

11. - *Masochism*: - sexual pleasure derived from the real or imaginary suffering of pain, e.g., being struck, kicked, whipped, cut. It is less frequent in men than in women and is named after the novelist, L. von Sacher-Masoch, who described this perversion in several of his works.

12. - *Erotic mysticism*: - a union or mixture of typically sexual affections and actions with religious worship, such as occurred among ancient pagan religions and practices. True mystics, on the other hand (as well as Scripture itself), sometimes employ terms taken from sexual life to express desires and experiences which cannot be otherwise made intelligible regarding the heights of spiritual intimacy they enjoy in supernatural love.

13. - *Narcisism*: - delight in one's own body and an indifference to that of others; an autoeroticism or autism, even to the kissing of one's own image in a mirror. It is more frequent in women than in men.

14. - *Transformism*: - also called transvestism or the inclination to be transformed into the person of the opposite sex or the desire to be treated as one by accommodating or conditioning one's senses and actions to this tendency, e.g., wearing the clothes of the opposite sex, by promoting bodily changes such as the development of breasts in a man or by surgery.

15. - *Necrophilia*: - a rare and perverted affection for dead bodies. A similar perversion is *statuophilia* or a perverted affection for statues. This is probably pollution with the desire for the type of person whom the corpse represents or substitutes for.

16. - *Voyeurs* have a tendency to peep at objects of sexual interest ("peeping Toms"); *renifleurs* and the *coprophilous* are attracted to excrement.

17. - *Pastoral concern*.

a) The influence of sex upon the lives of individuals differs greatly (in addition to the difference of sexual tendency between man and woman), both by reason of temperament and environmental influences and by reason of deliberate attitude. Some people are very little aroused by spontaneous sexual tendencies or stimuli, others are so disturbed that sex seems to be the main focus of their life, while still others are positively and vividly disturbed by sexual drives and stimuli from time to time but not so as to absorb their whole attention. Similarly the deliberate attitude of some toward sex matters is libidinous or fully engaged, others are ascetic in outlook with their thoughts and affections above the considerations of sex, while still others seek sexual interests now and again but without being habitually or wholly absorbed.

b) The priest and confessor is bound to be most cautious in treating matters of sexual deviation. Mental diseases and pathological conditions can diminish and even destroy responsibility. Although the sinner may be at fault for the origin or acquisition of his vice, in long-term and advanced cases at least, responsibility will be lessened in individual acts by reason of insufficient reflection or full and free consent. In some cases of hypersexuality the slight and trivial things which cause sexual excitement may be allowed inasmuch as these things of themselves have little or no influence on sexual concupiscence and there is no proximate danger of consent. Sexual sinners should be encouraged in their struggle and helped from falling into discouragement and depression; where they return to the same confessor they should be able to show evidences of their sincerity and purpose of amendment.

VI. - *Internal sins of unchastity.*

188. — A. - MOROSE DELECTATION.

1. - *Notion.* Morose delectation is the deliberate complacency taken in an unchaste action as such thought of as present but without any purpose of carrying it into execution. It is not merely the fact that bad thoughts, obscene imaginations or representations of unchaste things, are in the mind, but rather the complacency or enjoyment of the will in them. Thus deliberate pleasure is called morose (from *mora*) even if protracted for only the briefest space of time.⁵⁸³

2. - *Morality.*

a) To think over or to analyze things which are unchaste (or merely the technique or skillful manner of accomplishment) on a merely theoretical level for the sake of knowledge, study, etc., is not sinful or only venially sinful if there is not sufficient reason and this is done out of mere curiosity or levity. Care, however, must be taken in such matters, since given the concupiscence of fallen man, the jump is not too difficult between delight in a knowledge of such things and pleasure in the things themselves with attendant danger of carnal disturbance and consent.⁵⁸⁴

b) Morose delectation in venereal satisfaction itself with full advertence and consent is gravely sinful, being sinful affection. Often full deliberate action is not verified and at most the sin is one of negligence in not repressing such thoughts or images. In doubt of consent presumption of lack of consent or of full consent can be given to one who tries to combat such temptations and is displeased with any failure, whereas the opposite presumption is given to one who easily falls into or is given to libidinous things. To provoke such thoughts and images out of levity or curiosity or to entertain or retain them out of neglect or idleness is gravely or slightly sinful in the measure of the influence they have in exciting the passions and the proximity of danger of consent.

189. — B. - SINFUL DESIRE.

1. - *Notion.* - Sinful desire is the deliberate act of the will to do something unchaste, or complacency in an unchaste act unlawfully to be performed in the future. The desire is efficacious if there is a genuine intent to do it, inefficacious if the purpose is to do it except that the action is seen to be impeded and cannot be fulfilled or the intention depends upon a condition to be verified.

2. - *Morality.*

a) An absolute or efficacious desire is gravely sinful in the same species as the unchaste object desired e.g., to commit adultery, even if it does not take place. An inefficacious desire that is hindered of fulfillment is similarly sinful, e.g., to fornicate with a particular woman desired by a man in prison for life; to be saddened over having missed a particular

opportunity to commit an unchaste sin. A conditioned desire is not sinful if the condition removes the malice of unchastity from the object, e.g., to marry a certain person if she were not already married, but not if only part of the malice is removed, e.g., a desire to commit an unchaste sin if there were only no hell, to commit fornication if the person were not in religion.

b) Whereas morose delectation generally is not concerned with circumstances changing the nature of a sin, sinful desire can take this into consideration, e.g., to entertain unchaste desires toward a single or a married person. Confessors may judge it prudent not to question about the ultimate species especially where it would be fruitless for the particular penitents.

190. — C. - SINFUL JOY.

1. - *Notion.* - Sinful joy is the pleasure taken in a previously committed sin of unchastity, a complacency in an unchaste act unlawfully performed in the past (but not in a past lawful act in marriage).

2. - *Morality.* - Sinful joy is of the same species and gravity as the past recalled sin, as a sort of deliberate continuation. The object and circumstances affecting the malice should be confessed, but often a sinner has abstracted from the circumstance and enjoyed recalling merely the act itself. A confessor may question a sinner confessing "bad thoughts" (by which term people generally mean all internal sins) to ascertain if the thought was of a past sin and also about the object, e.g., adultery, fornication, sodomy, or if it was not a past sin but morose delectation, whether any desire was also present.⁵⁸⁵

VIII. - *External uncompleted sins of unchastity.*

191. — A. - CARNAL DISTURBANCE.

1. - Carnal disturbances or venereal motions of the sexual organs are those which are in some degree deliberately caused or approved for the venereal pleasure which they afford. Thus they differ from the carnal movements which arise from natural physical or mechanical causes without pleasure. Carnal disturbances which are directly willed or willed indirectly or in cause are judged by the principles explained above.⁵⁸⁶

2. - Resistance to involuntary sexual disturbance is of obligation insofar as there is danger of consent present, and a grave duty if the danger is proximate. Normally, slight and quickly passing carnal disturbances should not be bothered about lest the imagination be aroused or the association of ideas stimulated and the disturbance aggravated. Often an internal act of displeasure will suffice. In more vehement disturbance more positive or active resistance is necessary, although usually of an indirect type and especially if experience has shown that direct attack

tends to aggravate the problem. When there is proportionate cause and no proximate danger of consent, in necessary or useful activities simple displeasure will suffice.

192. — B. - IMPURE ACTIONS.

1. - *Notion.* - Impure or immodest actions are those which of their nature are apt to excite venereal pleasure, although not venereal in themselves. They are morally indifferent and become sinful through an intention to excite or because of their grave or slight influence in exciting venereal pleasure. In judging the lawfulness or the degree of sinfulness in concrete cases consideration must be given to the character and circumstance of the action, the temperament and condition of the agent, and previous experience he has had and the sufficiency of the reason for acting. Thus judgment will vary by reason of the action in question and the person affected. The parts of the body are divided in their influence upon sexual pleasure into non-stimulating or decent (*honestae*) parts which normally offer no danger of unchastity (face, hands, feet), lightly stimulating or less decent (*minus honestae*) which are commonly covered at least partially (breast, back, arms, legs), gravely stimulating or indecent (*turpes*) (sex organs and adjacent parts).

2. - *Touches.*

a) It is a grave sin to touch any part of one's own or another's body with an impure desire or intent; it is a venial sin to do so out of sensuality, unless done passingly. A proportionately reasonable cause of necessity or true usefulness permits the handling even of one's own very stimulating parts, even if incidentally orgasm should take place, keeping the danger of consent remote e.g., to bathe, relieve irritation, use medication. If done from a less adequate reason, from curiosity or levity and not prolonged, the sin is usually not more than venial.

b) Regardless of sex, it is gravely sinful to touch the indecent parts of others even over the clothing, unless with sufficient reason, e.g., a physician; if done passingly or from levity or jest without evil intent, it is usually a venial sin. To touch the less decent parts of the same sex is usually a venial sin but a grave sin regarding the opposite sex, unless done passingly from levity or jest without evil intent.

3. - *Kissing and embracing.*

a) Decent kissing and embracing as accepted custom among honorable people as a sign of friendship, politeness, relationship or noble love is lawful between persons even of opposite sexes, barring any evil intent or desire. Consent must be withheld from any incidental venereal satisfaction that might result. These actions which may occur in honest recreation or games are not necessarily to be judged grave. Ardent, prolonged and repeated kissing and embracing is frequently a serious sin (excluding

parents and children). In company-keeping with a view to marriage ordinary kissing and embracing within the bounds of moderation and motivated by a pure affection is permissible, even if some incidental sexual excitement should result which is resisted and not consented to. Even the slightest degree of venereal pleasure may not be intended or consented to.

b) Kisses and embraces which are not in themselves indecent but evidence a sensual or sexual motivation by the other party are to be resisted; they may be in some measure tolerated to avoid embarrassment or defamation of either party, as long as they are disapproved and scandal is avoided. They must be avoided and actively resisted if they are indecent and also because of the duty to avoid scandal. Kissing with the tongues is usually gravely sinful as gravely stimulating and dangerous; kissing the genitals is absolutely forbidden.

4. - Looks.

a) For any reasonable cause it is lawful to look at one's own indecent parts. To do so out of curiosity or levity is usually not more than a slight sin. Unless done intentionally for some time or with evil intent, to glance at the indecent parts of another of the same sex out of curiosity or levity is usually not more than a venial sin. Unless for a reason of necessity or great usefulness, e.g., in the case of a physician, to gaze at the indecent parts (naked or thinly veiled) of the opposite sex is usually a grave sin, unless done unexpectedly by chance or hastily or at a distance or regarding little children (also prolonged gazes on female breasts or thighs are usually provocative to men). If there is no sexual affection, gazes upon the less decent parts of one's own body or of that of another of the same sex is usually no sin or at most a light sin. The same may be said regarding the opposite sex, although a more strict judgment regarding circumstances and intent must be made here. To observe animal mating out of curiosity or without reasonable cause is venially sinful barring venereal intent or disturbance, but it is a grave sin to gaze at human coition except perhaps passingly and from a distance.

b) It is lawful to look upon nude or lightly covered statues or pictures which are artistic and not lascivious in intent or representation and which distract from the venereal, at least for the majority of viewers with prudence and right intention who are accustomed to view these representations. To view the truly lascivious or obscene representation is generally a serious sin, unless done passingly or without venereal desire or by those who from experience are not disturbed. Sensual curiosity in these matters would be a venial sin.

5. - *Conversation and songs*: - Unchaste speech and songs are gravely or slightly sinful in the degree of influence they exert in arousing carnal pleasure. This very often depends upon the people involved, e.g., among

older people or adolescents, in mixed age or sex groups, and upon the intent and circumstances, e.g., evil intention, scandal, sinful joy or levity. It is probable that the number of listeners need not be mentioned when confessing the sin of scandal, but it is at least recommended for the good of the penitent and the judgment of the confessor. It is not a sin to overhear obscenities when this is not voluntary or not a positive encouragement to the speaker or singer and no scandal is given. Voluntary listening is judged by the degree of influence in arousing sexual pleasure, or the curiosity or human respect involved. It is not necessary for one to change his occupation in the presence of the foul-mouthed but rather to do what is possible and prudent in order to discourage such language, etc. Merely vulgar talk concerning the needs of nature, etc., is not unchaste but rather uncharitable insofar as it wounds sensibilities. Certain words of endearment may be sinful among particular persons.

6. - *Reading*: - The reading of books which excite passion or sexual pleasure is sinful in the degree of influence of the book or passages in it. That which is slightly indecent and read from curiosity, etc., is at most venially sinful, unless grave temptations are frequently aroused. Some excitable literature may be read for proportionate cause by those who must acquire necessary knowledge, such as physicians, censors, teachers, etc. The reason must be proportionate also to the danger of consent.

7. - *Company keeping*. - Company keeping with the intention of early marriage can be considered as a necessary occasion of sin, since in our society at least people do not marry strangers. However, those keeping company and especially the engaged are not allowed any sexual liberties, since these are forbidden to all outside the married state. They must use the ordinary supernatural and natural means whereby the proximate occasion of falling into sin (especially after unfortunate experience) is made remote, notably in regard to circumstances of being alone together. Juvenile steady dating or "going steady" should be discouraged, since it can be dangerous. There is no intention or possibility of early marriage. In the confessional or in counselling the individuals and circumstances, their past experience, etc., must be considered proportionate to the dangers involved, as grave sin or proximate occasion is not necessarily verified for all cases.

PENANCE

¹ *poenam tenere, poenire, poenae tenentia*, etc.; it may also be called repentance or penitence.

² *Catechism of the Council of Trent.*

³ Cf. *Summa Theol.*, III, q. 85, aa. 1, 3.

⁴ Trent, Denz. 813.

⁵ Cf. *Summa Theol.*, *loc. cit.*; *Suppl.*, q. 16, aa. 1-3.

⁶ Florence, Denz. 699; Trent, Denz. 911.

⁷ c. 870.

⁸ Trent, Denz. 919.

⁹ *Ibid.*, Denz. 894.

¹⁰ *Ibid.*, Denz. 898.

¹¹ *Ibid.*, Denz. 894; 897.

¹² *Ibid.*, Denz. 798; 897; cf. *General Norms of Sacramental Administration*, no. 2, necessity of means and precept.

¹³ Eccles. 2:22; Matt. 4:17; Lk. 13:3.

¹⁴ Cf. *Summa Theol.*, II-II, q. 14, a. 2; *Suppl.*, q. 6, a. 5; *IV Sent.* d. 17, q. 3, a. 1, qcla. 4.

¹⁵ Eccles. 5:8-9; Rom. 2:4-5.

¹⁶ Trent, Denz. 896; 916.

¹⁷ *Ibid.*, Denz. 898.

¹⁸ *Ibid.*, Denz. 916. Interior penance or sorrow for sin committed must last a lifetime, as sin must always be displeasing. The external signs of this sorrow will last for a determined time in proportion to the sin. Penance must be habitually continual (the act must necessarily be interrupted), by doing nothing contrary to penance and resolving to maintain displeasure of past sins.

¹⁹ Trent, Denz. 911.

²⁰ c. 856.

²¹ c. 906.

²² Cf. no. 77 below.

²³ Cf. also *Catechism of the Council of Trent.*

²⁴ Ezech. 18:21, 30; Lk. 13:5; Trent, Denz. 894; 807.

²⁵ Trent, Denz. 922.

²⁶ *Ibid.*, Denz. 911; cf. c. 870.

²⁷ Trent, Denz. 896.

²⁸ *Ibid.*, Denz. 807.

²⁹ *Ibid.*, Denz. 896.

³⁰ *Ibid.*, Denz. 895; 922; 840; 807.

³¹ Pius XI, Denz. 2193.

³² *Catechism of the Council of Trent.*

³³ Trent, Denz. 899; 917.

³⁴ *Ibid.*

³⁵ Florence, Denz. 699; Trent, Denz. 895; 896.

³⁶ nos. 79-104 below.

³⁷ Cf. Florence, Denz. 699; Trent, Denz. 896; *Summa Theol.*, III, q. 84, a. 3; *Catechism of the Council of Trent.*

³⁸ *Ibid.*

³⁹ c. 885. This canon does not seem to express a strict precept. The word "Deinde" pertains to the form.

⁴⁰ c. 2230.

⁴¹ *Rit. Rom.*, Tit. III, c. 2. *Practical Handbook of Rites, Blessings and Prayers*, Part One, Section V, p. 138; *Priest's Ritual* (1962), p. 67. The Dominican rite contains three formulas of absolution (*Breviarium S. O. P.*):

Forma communius observanda in Confessione Sacramentali:

Si teneris aliquo vinculo excommunicationis, (suspensionis) et interdicti, a quo possim te absolvere: ego absolvo te, et restituo te sanctis sacramentis Ecclesiae, communioni et unitati fidelium. In nomine Patris ✠, et Filii, et Spiritus Sancti. Amen.

Misereatur tui omnipotens Deus, et dimittat tibi omnia peccata tua, liberet te ab omni malo, salvet, et confirmet in omni opere bono, et perducatur te ad vitam aeternam. Amen.

Dominus noster Jesus Christus, Filius Dei vivi, per suam piissimam misericordiam te absolvat: et auctoritate ipsius, qua fungor, ego absolvo te ab omnibus peccatis tuis, ut sis absolutus hic, et ante tribunal ejusdem Domini nostri Jesu Christi, habeasque vitam aeternam, et vivas in saecula saeculorum. In nomine Patris ✠, et Filii ✠, et Spiritus ✠ Sancti. Amen. Passio Domini nostri Jesu Christi, et merita beatae Mariae semper Virginis, et beati Dominici Patris nostri et omnium Sanctorum, et quidquid boni feceris et intendis facere, aut mala quae sustines et sustinebis, sint tibi in remissionem peccatorum, in augmentum gratiae et praemium vitae aeternae. In nomine Patris ✠, et Filii, et Spiritus Sancti. Amen.

Forma brevior observanda in Reconcliatione seu in confessionibus frequentioribus et brevioribus: °

Si teneris aliquo vinculo excommunicationis, (suspensionis) et interdicti, a quo possim te absolvere: ego absolvo te. In nomine Patris ✠, et Filii, et Spiritus Sancti. Amen.

Item ego absolvo te ab omnibus peccatis tuis. In nomine Patris ✠, et Filii, et Spiritus Sancti. Amen.

Forma brevissima observanda urgente necessitate in mortis periculo:

Ego absolvo te ab omnibus censuris et peccatis. In nomine Patris ✠, et Filii, et Spiritus Sancti. Amen.

* This shorter form may be used without sin, as the long form seems to be counselled and not commanded. The "more frequent and briefer" are to be taken together; "more frequent" indicates more or less monthly confession and "briefer" only light sins or already remitted mortal sins.

⁴² ceremonial and deprecativ e absolution.

⁴³ canonical absolution.

⁴⁴ sacramental absolution.

⁴⁵ ceremonial, deprecativ e and perhaps also satisfactory.

⁴⁶ *Practical Handbook, loc. cit.*, p. 139; *Priest's Ritual* (1962) p. 68.

It is not more than a venial sin to use this formula without necessity.

⁴⁷ Cf. *Rit. Rom.*, Tit. III, c. 1, n. 15.

⁴⁸ cc. 2250; 2247, 3.

⁴⁹ S. Poen. 10 dec. 1940; 25 mart. 1944.

⁵⁰ *Ibid.*

⁵¹ Cf. Florence, Denz. 699; Trent, Denz. 896.

⁵² Clement VIII, S. Off. 20 iun. 1602; 7 iun. 1603; Paul V, S. Off. 14 iul. 1605. Cf. St. Thomas, *Opusc.* 22, c. 2.

⁵³ Clement VIII; Paul V, *loc. cit.*

⁵⁴ Cf. *General Norms of Sacramental Administration. nos.* 19-21.

⁵⁵ *Ibid.*

⁵⁶ c. 871; Trent, Denz. 903; 920 *Summa Theol., Suppl.*, q. 8, a. 1; q. 19, a. 4.

⁵⁷ c. 87.

⁵⁸ c. 872; Trent, Denz. 903; *Summa Theol., Suppl.*, q. 8, a. 4.

⁵⁹ Cf. c. 872; S.C.C. 12 feb. 1679.

⁶⁰ c. 878.

⁶¹ Cf. c. 196.

⁶² Cf. cc. 1044; 2250; 2254; 2290.

⁶³ c. 145, 2.

⁶⁴ c. 197, 1..

⁶⁵ c. 881.

⁶⁶ c. 199.

⁶⁷ c. 873, 1.

⁶⁸ *Ibid.*; c. 239, 1, 1°.

⁶⁹ c. 239, 1, 2°. The same power of delegation is also enjoyed by residential and titular bishops. (c. 349, 1, 1°)

⁷⁰ cc. 873, 1; 198; likewise the canon penitentiary (c. 401, 1). Bishops have penitential jurisdiction everywhere as provided in the *motu proprio, Pastorale Munus*, II Priv. 2-4, of Paul VI, 30 nov. 1963.

⁷¹ c. 873, 2. Dominican local superiors enjoy this power. (*Const. S. O. P.*, nn. 773; 421, 5)

⁷² c. 514, 1.

⁷³ c. 875, 1; cf. *Const. S. O. P., loc. cit.*

⁷⁴ Cf. *The Administration of Baptism*, nos. 15-17. The jurisdiction of military chaplains depends upon the faculties provided by the military ordinariate; they may also be delegated by the local Ordinary.

⁷⁵ The pastor enjoys only limited jurisdiction in the external forum (cf. cc. 1044; 1045; 1094; 1245, 1)

⁷⁶ cc. 873, 1; 881, 1.

⁷⁷ c. 881, 2.

⁷⁸ c. 899, 3.

⁷⁹ Alexander VII, 24 sept. 1665, Denz. 1116.

⁸⁰ PCI 16 oct. 1919.

⁸¹ cc. 183; 873, 3; cf. cc. 208; 2261; 2275; 2279, 1; 2284. Some hold that for the sacrament of Penance suspension from divine functions (*a divinis*) or from jurisdiction (*a jurisdictione*) has the effect of suspension from office (*ab officio*).

⁸² c. 197, 1.

⁸³ c. 882.

⁸⁴ The superior delegating may act only within his competency to delegate; thus, e.g., a Dominican superior cannot delegate another Dominican to hear confessions within the Order, since such general jurisdiction comes from the Order itself through approbation in the examinations for confessions. (cf. 18 *Analecta O. P.*, 492)

⁸⁵ c. 201, 1.

⁸⁶ cc. 874, 1; 881, 1.

⁸⁷ c. 877.

⁸⁸ Religious constitutions may further determine the qualifications and the examinations for hearing confessions. (cf. *Const. S. O. P.*, nn. 766-772)

⁸⁹ c. 874, 1.

⁹⁰ cc. 874, 2; 880.

⁹¹ c. 878. Religious constitutions may place further limitations. (cf. *Const. S. O. P.*, n. 778, 1)

⁹² e.g., to forbid a confessor of laywomen to hear the confessions of religious women who freely approach him. (cf. c. 522)

⁹³ c. 1406, 7^o; S.C.C. 25 oct. 1910; 20 iun. 1913.

⁹⁴ c. 2366.

⁹⁵ c. 879, 1.

⁹⁶ Cf. cc. 37; 38.

⁹⁷ c. 879, 2.

⁹⁸ c. 207, 1.

⁹⁹ *Ibid.*, 2.

¹⁰⁰ *Ibid.*, 1; cf. c. 880.

¹⁰¹ cc. 2264; 2275, 2^o; 2284.

¹⁰² cc. 183, 2; 61.

¹⁰³ c. 207, 1.

¹⁰⁴ Cf. n. 100 above.

¹⁰⁵ c. 199, 4-5.

¹⁰⁶ Cf. no. 34 above.

¹⁰⁷ Cf. c. 884 on the absolution of an accomplice.

¹⁰⁸ c. 882.

¹⁰⁹ c. 209.

¹¹⁰ S. Poen. 18 mart. 1912; 29 maii 1915.

¹¹¹ PCI 28 dec. 1927.

¹¹² cc. 2246, 3; 2250, 2; 2260, 1; 2275, 2^o.

¹¹³ cc. 2250, 1; 2278, 1.

¹¹⁴ c. 884.

¹¹⁵ c. 2367, 1.

¹¹⁶ c. 2388, 1.

¹¹⁷ S. Poen. 18 apr. 1936.

¹¹⁸ c. 1044.

¹¹⁹ Cf. PCI 28 dec. 1927.

¹²⁰ c. 883.

¹²¹ Pius XII, *motu proprio*, 16 dec. 1947.

¹²² A voyage on a great river, e.g., the Mississippi, or an immense lake, e.g., the Great Lakes, seems to be included.

¹²³ PCI 30 iul. 1934. Religious women, however, are not excluded from the "faithful" embraced by this faculty.

¹²⁴ PCI 20 maii 1923. The estimation regarding the approach is to be made by the priest himself.

¹²⁵ Cf. cc. 900; 2247, 2.

¹²⁶ c. 859, 1.

¹²⁷ c. 990, 2. For the privilege of regulars, cf. no. 67 below.

¹²⁸ c. 2290.

¹²⁹ cc. 1313; 1314; 1320.

¹³⁰ c. 899, 3.

¹³¹ c. 935.

¹³² PCI 19 ian. 1940.

¹³³ c. 207, 2.

¹³⁴ c. 209.

¹³⁵ Some theologians hold that it would be only an abuse of something lawful rather than doing something unlawful, and therefore not more than a venial sin; others hold that a just cause excuses from fault.

¹³⁶ c. 2366.

¹³⁷ Some theologians allow conditional absolution in a case of merely negative doubt but only when grave necessity demands, e.g., the fulfillment of the urgent obligation of annual confession, or the obligation to celebrate Mass or to receive Communion. Unless common error will supply jurisdiction, the priest is bound, all things being equal, to warn the penitent to confess as soon as possible to a certainly approved confessor or at least to elicit an act of perfect contrition.

¹³⁸ c. 518, 1. For purposes of confession are also included the societies of common life without public vows, approved by the Church, (c. 673) but not secular institutes.

¹⁴⁰ c. 874, 1.

¹³⁹ c. 875, 1.

¹⁴¹ It is also lawfully exercised when he is acting as an occasional confessor (c. 519).

¹⁴² c. 519. Excluded also are reservations stated in the Code or common law.

¹⁴³ c. 518, 1.

¹⁴⁴ c. 519. For further explanation, cf. no. 64 below.

¹⁴⁵ For example, to be excused from an exercise or a duty, or to enter the confessor's quarters, when they are a distinct department of the house.

¹⁴⁶ c. 566, 2, 1°.

¹⁴⁷ *Ibid.*, 2°.

¹⁴⁸ *Ibid.*, 3°.

¹⁴⁹ *Ibid.*, 4°.

¹⁵⁰ cc. 875, 1; 514, 1.

¹⁵¹ c. 518, 2. For example, a language difficulty would be a sufficient cause.

¹⁵² *Ibid.*, 3.

¹⁵³ This may be made explicit in particular constitutions or law, e.g., regarding the Dominican Master of Students and his assistant (cf. *Acta Cap. Gen.*, Romae, 1955, n. 179).

¹⁵⁴ c. 528. For a just cause more than one ordinary confessor may be appointed.

¹⁵⁵ c. 875, 2.

¹⁵⁶ c. 519.

¹⁵⁷ c. 566, 2, 2°.

¹⁵⁸ Cf. no. 65 below.

¹⁵⁹ c. 876. This canon excepts cardinals (who can hear the confessions of anyone anywhere, c. 239, 1, 1°), the occasional confessor (c. 522), and the confessor of the seriously ill religious (c. 523).

¹⁶⁰ c. 525.

¹⁶¹ cc. 521, 3; 522; 523.

¹⁶² c. 2414.

¹⁶³ S. C. Rel. 6 feb. 1924.

¹⁶⁴ c. 520, 1.

¹⁶⁵ c. 488, 5; S. C. Rel. 10 ian. 1920; PCI 16 ian. 1921.

¹⁶⁶ c. 595, 1, 3°.

¹⁶⁷ c. 524, 1.

¹⁶⁸ *Ibid.*

¹⁶⁹ *Ibid.*, 3.

¹⁷⁰ c. 527; Paul VI, motu proprio, *Pastorale Munus*, I Fac. 33, 30 nov. 1963.

¹⁷¹ For lawfulness on the part of the Ordinary; the confessions subsequently heard by the removed confessor would be invalid.

¹⁷² c. 527.

¹⁷³ cc. 527; 526.

¹⁷⁴ c. 520, 2.

¹⁷⁵ S. C. Rel. 22 apr. 1917.

¹⁷⁶ c. 521, 1.

¹⁷⁷ c. 524, 2; cf. also cc. 524, 1, 3; 527.

¹⁷⁸ c. 521, 2.

¹⁷⁹ *Ibid.*, 3.

¹⁸⁰ c. 523.

¹⁸¹ Cf. c. 874, 1.

¹⁸² c. 522.

¹⁸³ PCI 28 dec. 1927. Thus she may request a priest who is present in the convent for the purpose of a visit, to say Mass, to give a conference, etc.

¹⁸⁴ cc. 522; 909. The oratories of women religious are at least semi-public (cf. c. 1188, 2, 2°).

¹⁸⁵ PCI 24 nov. 1920; 12 feb. 1935.

¹⁸⁶ c. 901, 1; PCI 12 feb. 1935. Real need would be, e.g., hardness of hearing, great embarrassment in going to the confessional at this time before the assembled community or the parishioners in the Church, inability to get out to an occasional confessor. Any decent place selected, even without a confessional or grating, is lawful, observing such regulations as the local Ordinary may have laid down, or at least properly discreet precautions.

¹⁸⁷ PCI 28 dec. 1927.

¹⁸⁸ c. 530.

¹⁸⁹ Cf. c. 1354, 1.

¹⁹⁰ Even though designated a *collegium*, *academia*, *convictus*, etc., and regardless of the rank of the seminary.

¹⁹¹ c. 1358.

¹⁹² c. 1361. Seminarians also enjoy the usual freedom to approach any approved confessor.

¹⁹³ Cf. c. 1357.

¹⁹⁴ Cf. cc. 875, 2; 514, 1.

¹⁹⁵ c. 1368.

¹⁹⁶ cc. 881; 891.

¹⁹⁷ Special jurisdiction is not required to hear the confessions of girls, even if they reside in an institute of women religious, unless the local Ordinary has expressly arranged otherwise (S. C. Ep. et Rel. 12 dec. 1906).

¹⁹⁸ c. 1383.

¹⁹⁹ The occasional confessor of c. 519, 1 can absolve from cases reserved in the religious institute. If, however, the same sin is reserved both to the local Ordinary and in the religious institute, a confessor cannot absolve even though enjoying both diocesan and religious penitential jurisdiction.

²⁰⁰ c. 514, 1.

²⁰¹ III Plenary Council of Baltimore, n. 124. Because of the deletion in c. 2319, 1, 1^o made by Pius XII (*motu proprio* 25 dec. 1935), it is safe in practice for the Regular confessor to absolve any Catholic who attempts marriage before a non-Catholic minister (cf. III Baltimore, n. 127).

²⁰² When a Regular penitent has not incurred an episcopal reservation, a diocesan confessor may absolve his sin, and probably also in the case of the faithful of c. 514, 1, when the sin was committed within the religious house.

²⁰³ Those communicating with the Passionists. Pius VI, 27 maii 1789.

²⁰⁴ II Plenary Council of Baltimore, n. 278.

²⁰⁵ Pius XII, *Discourse to the Parish Priests and Lenten Preachers of Rome*, 6 feb. 1940: "... Take your place in that divine tribunal of self-accusation, sorrow and forgiveness, as judges in whose breasts beat the hearts of fathers and friends, of physicians and teachers. And while the primary purpose of this sacrament is to reconcile men to God, do not lose sight of the fact that this exalted purpose is splendidly served by spiritual direction. For souls are here brought nearer to the paternal voice of the priest than ever; they bring their pains and troubles and doubts to him, and accept with confidence his advice and his warnings. The people feel keenly the need of confessors who are men of virtue and are skilled in theology and ascetics; men, who, because of their experience and knowledge, will be able to interpret tactfully and kindly for them, and in a clear and dependable manner, the rules which will enable them to travel safely on the road to a good life."

²⁰⁶ Pius XII, *Discourse to the Parish Priests and Lenten Preachers of Rome*, 17 feb. 1942.

²⁰⁷ c. 888, 1; cf. *Catechism of the Council of Trent*.

²⁰⁸ *Rit. Rom.*, Tit. III, c. 1, c. 1. "The faithful want good confessors, who have a sound and mature grasp of doctrine, who will show to them clearly and accurately what is lawful and unlawful, who will impose no unnecessary burdens or obligations and who will come to their aid when justice or charity require it; they want prudent confessors in whom, as penitents, they can fully confide, without the risk of spiritual harm; confessors full of the spirit of God, who know how to lead them to the perfection which corresponds with their state. Show yourselves, beloved sons, worthy of such a noble ministry." Pius XII, *loc. cit.*, 17 feb. 1942.

²⁰⁹ Pius XII, *Discourse to the Parish Priests and Lenten Preachers of Rome*, 23 mart. 1949; "And, in speaking of the care of souls, we have in

mind particularly the sacrament of Penance, which demands in the priest an absolutely exemplary life, combined with a sense of responsibility, judgment that is clear and sure, self-control, prudence and tact. . . . All this is the ordinary ministry. It is less ostentatious than extraordinary acts and great displays; it is everyday work; it is performed in silence and frequently passes unnoticed. But even so, it should at all times be carried out in the most perfect manner possible, and particularly at the present time, because all the souls whom extraordinary activities win for Christ, or who are lead to Him by formidable happenings, must ultimately, like others, come within that ordinary care of souls which is continuous and deep. The ordinary care of souls should give to all the assurance of being taken to the bosom of the Church; it is through it principally that the Church fulfils her duty of proclaiming Christ and of teaching and guiding every man, in order to bring all to perfection in Christ Jesus."

²¹⁰ Pius XI, Encyclical *Ad Catholici Sacerdotii*; Pius XII, *Discourse to the Seminarians of the Roman Colleges*, 24 junii 1939: "But it is no less true that zealous priests, intimately convinced of the truths of faith and full of the Spirit of God, are today winning greater and more wonderful success in the conquest of souls for Christ than perhaps ever before. If you are to become priests such as these, with the help and after the example of St. Paul, nothing must come before the study of theology, biblical and positive as well as speculative. Let the conviction be stamped deeply on your minds that today the faithful are seeking earnestly for good pastors of souls and learned confessors. Devote yourselves then with pious enthusiasm to the study of moral theology and canon law. Even canon law is directed to the salvation of souls, and by means of all its regulations, and through its laws, it tends primarily to that one purpose, that men may live and die sanctified by the grace of God." Cf. also *Rit. Rom.*, Tit. III, c. 1, n. 3.

²¹¹ Benedict XIV, Const. *Sacramentum Poenitentiae*, 1 junii 1741.

²¹² c. 888, 2.

²¹³ I John 5:19.

²¹⁴ Pius X, Exhortation *Haerent Animo*, 4 aug. 1908.

²¹⁵ *Ibid.*

²¹⁶ c. 908.

²¹⁷ c. 910, 2.

²¹⁸ c. 909.

²¹⁹ c. 910, 1.

²²⁰ Cf. PCI 12 feb. 1935.

²²¹ *Rit. Rom.*, Tit. I, n. 7; Tit. III, c. 1, n. 10 "as time and custom shall direct."

²²² S. C. Rit. 7 iul. 1877.

²²³ S. C. Ep. et Reg. 8 nov. 1588. The *Caeremoniale S. O. P.* (nn. 571, 1861) indicates a custom of wearing the stole in the church for confessions, even where it is also the custom to wear the cappa.

²²⁴ Cf. nos. 1-5 above.

²²⁵ c. 906. Cf. Trent, Denz. 918.

²²⁶ c. 907.

²²⁷ c. 905.

²²⁸ S. C. Sac. 8 aug. 1910; cf. PCI 3 jan. 1918.

²²⁹ Trent, sess. 14, c. 5. Denz. 899; 900; 916; 917. Cf. c. 901.

²³⁰ The confession of venial sins is most expedient and to be encouraged. The practice of the faithful is not to be disturbed by emphasis on the obligation of confession only in the case of the presence of serious sin.

²³¹ Cf. c. 856.

²³² Religious and seminarians ought to make a sacramental confession at least once a week (cc. 595, 1; 1367, 2°): clerics should confess frequently, (c. 125, 1) at least every two weeks.

²³³ Pius XII, Encyclical *Mystici Corporis*.

²³⁴ c. 901. Cf. Trent, Denz. 916; 917.

²³⁵ Cf. *The Administration of Baptism*, no. 65.

²³⁶ c. 902. Cf. Trent, Denz. 899; 917.

²³⁷ c. 902; Trent, Denz. 899; 917; Benedict XI, *Inter cunctas sollicitudines*, Denz. 470.

²³⁸ *Summa Theol., Suppl.*, q. 18, a. 2, ad 4: "when absolution is given a second time grace is increased, and the greater the grace received, the less there remains of the blemish of the previous sin, and the less punishment is required to remove that blemish."

²³⁹ Cf. *General Norms of Sacramental Administration*, no. 18.

²⁴⁰ Cf. S. Poenit. 25 mart. 1944 Cf. also no. 17 above.

²⁴¹ Trent, Denz. 914; 919. Cf. *Summa Theol.*, q. 84, a. 1, ad 1; a. 2; q. 86, a. 6; q. 90, a. 1; a. 2, ad 2. *Catechism of the Council of Trent*: "These three parts, then, are so intimately connected with one another, that contrition includes the intention and resolution of confessing and making satisfaction: contrition and the resolution of making satisfaction imply confession; while the other two precede satisfaction."

²⁴² Cf. *General Norms of Sacramental Administration*, nos. 53-55.

²⁴³ Trent, Denz. 897.

²⁴⁴ *Ibid.*, Denz. 898; 915.

²⁴⁵ *Ibid.*, Denz. 897.

²⁴⁶ *Ibid.*, Denz. 899; 903; 916; 917.

²⁴⁷ Cf. Benedict XI, Bull *Inter cunctas*.

²⁴⁸ Missionaries should exhort penitents whose language they do not know to confess at least one slight sin through an interpreter. Cf. S. Off. 28 feb. 1633; S. C. P. F. 6 sept. 1630.

²⁴⁹ Trent, Denz. 901.

²⁵⁰ c. 903.

²⁵¹ Cf. proposition 58 condemned by Innocent XI, 4 mart. 1679: "We are not bound to confess to a confessor who asks us about the habit of some sin." Denz. 1208.

²⁵² Trent, Denz. 899.

²⁵³ A confessor cannot excuse from the integrity of confession because of the great number of penitents. Cf. prop. 59 condemned by Innocent XI: "It is permitted to absolve sacramentally those who have only half confessed, by reason of a great crowd of penitents, such as for example can happen on a day of a great festival of indulgence." Denz. 1209.

²⁵⁴ Trent, Denz. 899; 917.

²⁵⁵ Cf. n. 251 above.

²⁵⁶ Cf. Alexander VII, proposition 25 condemned 24 sept. 1665; "He who has had intercourse with an unmarried woman satisfies the precept of confessing by saying: I committed a grievous sin against chastity with an unmarried woman, without mentioning the intercourse." Denz. 1125.

²⁵⁷ "We are not bound to express in a subsequent confession sins omitted in confession or forgotten because of the imminent danger of death or for some other reason." Proposition 11 condemned by Alexander VII, 24 sept. 1665, Denz. 1111.

²⁵⁸ Cf. S. Off. 28 feb. 1633.

²⁵⁹ c. 903.

²⁶⁰ Cf. n. 253 above.

²⁶¹ c. 888, 2.

²⁶² c. 901.

²⁶³ Trent, Denz. 904; 906; 922-925.

²⁶⁴ Some theologians hold it to be a mere disposition or necessary condition.

²⁶⁵ Trent, Denz. 925; 904-905. "In imposing penance priests should do nothing arbitrarily, but should be guided solely by justice, prudence and piety." *Catechism of the Council of Trent*.

²⁶⁶ c. 887.

²⁶⁷ c. 888, 1. *Rit. Rom.*, Tit. III, c. 1, nn. 19, 26.

²⁶⁸ c. 932. On the occasion of a Jubilee not all the sacramental penance is to be omitted; cf. S. Poen. 31 iul. 1924.

²⁶⁹ *Rit. Rom.*, *loc. cit.*, n. 21.

²⁷⁰ *Ibid.*, nn. 19-20.

²⁷¹ Cf. c. 887.

²⁷² "They are to be judged sacrilegious who claim the right to receive Communion before they have done worthy penance for their sins." Proposition 22 condemned by Alexander VIII, S. Off. 24 aug. 1690. Denz. 1312.

²⁷³ c. 892, 1. Cf. *General Norms of Sacramental Administration*, nos. 33-36. This includes the bishop, assistants (*vicarii cooperatores*), religious superiors in clerical institutes.

²⁷⁴ c. 892, 2.

²⁷³ c. 870.

²⁷⁶ *Rit. Rom.*, Tit. III, c. 1, n. 16.

²⁷⁷ Cf. no. 72 above.

²⁷⁸ Cf. *Rit. Rom.*, *loc. cit.*, n. 23. "Many of the faithful to whom, as a rule, no time seems to pass so slowly as that which is appointed by the laws of the Church for the duty of confession, are so removed from Christian perfection that, far from bestowing attention on those other matters which are obviously most efficacious in conciliating the favor and friendship of God, they do not even try to remember the sins that are to be confessed to the priest. Since, then, nothing is to be omitted which can assist the faithful in the important work of salvation, the priest should be careful to observe if the penitent be truly contrite for his sins, and deliberately and firmly resolved to avoid sin in the future." *Catechism of the Council of Trent*.

²⁷⁹ c. 886.

²⁸⁰ "60. The penitent who has the habit of sinning against the law of God, of nature, or of the Church, even if there appears no hope of amendment, is not to be denied absolution or to be put off, provided he professes orally that he is sorry and proposes amendment." "61. He can sometimes be absolved, who remains in a proximate occasion of sinning, which he can and does not wish to omit, but rather directly and professedly seeks or enters into." Propositions condemned by Innocent XI, S. Off. 4 mart. 1679. Denz. 1210-1211.

²⁸¹ "The confessor is to beware lest anyone leave this sacrament of reconciliation offended. Wherefore, if there is a just cause why absolution should be deferred, it is necessary that those who have confessed be persuaded in the most kind words possible that both duty and office and their salvation demand this; and they are most persuadingly to be enticed to return as quickly as possible, so that having faithfully accomplished what has been profitably prescribed, and released from the bonds of sin, they may be refreshed with the sweetness of divine grace." Leo XII, const. *Caritate Christi*, 25 dec. 1825.

²⁸² *Rit. Rom.*, Tit. III, c. 1, n. 23.

²⁸³ c. 889, 1; Lateran IV, 1215, c. 21, Denz. 438; cf. Clement VIII, 26 maii 1593; Innocent XI, 18 nov. 1682.

²⁸⁴ It thus differs from a purely natural secret. The violation of a natural secret, unlike the seal, is not a sacrilege and it admits of lightness of matter; the obligation even of a committed secret can cease in certain instances but the seal allows of no exception whatsoever; the obligation of the seal, unlike that of the secret, binds even toward the penitent or person who committed the sin.

²⁸⁵ c. 889, 2.

²⁸⁶ Lateran IV, *loc. cit.*

²⁸⁷ "2. It is not lawful for Regular Superiors to hear the confessions of their subjects, except when they have to admit some reserved sin or when the subjects themselves spontaneously and of their own initiative seek it of them. 4. Both superiors presently in office and confessors who shall be promoted to the rank of superiorship must exercise extreme care that they do not employ in their external government that knowledge which they had of the sins of others in confession." Clement VIII, *Decretum Sanctissimus Dominus*, 26 maii 1593. "After mature consultation of the consultors the following proposition was discussed: it is lawful to use knowledge obtained in confession, provided it is done without any direct or indirect revelation, and without burden upon the penitent, unless some much greater evil follows from its nonuse, in comparison with which the first would be rightly held of little account, an explanation or limitation then being added, that it is to be understood concerning the use of the knowledge obtained from confession with burden to the penitent, any revelation whatsoever being excluded, and in the case in which a much greater burden to the same penitent would follow from its nonuse. And they have decided that the stated proposition, even with the aforesaid explanation or limitation, must be altogether prohibited inasmuch as it admits the use of said knowledge with burden upon the penitent. And by the present decree they prohibit that anyone further dare to teach or to defend in public or in private such doctrine under penalties to be inflicted according to the judgment of this Sacred Congregation: commanding also all ministers of the sacrament of Penance that they straightway abstain from putting it into practice." Innocent XI, S. Off. 18 nov. 1682.

²⁸⁸ "The practice is to be reprobated of giving in the tribunal of Penance a signed card to those faithful to whom Communion is permitted, with which on the following day they may be permitted to the sacred table." S. C. P. F. 14 ian. 1806. Cf. also S. C. P. F. to the Vicar Apostolic of Nanking, 1836, reproving the practice of missionaries counting the penitents to be admitted to Holy Communion in the confessional and consecrating as many hosts as there were penitents. Cf. also S. C. Sac. 8 dec. 1938.

²⁸⁹ c. 2369, 1. The sanctions of this canon apply to the Oriental Church, S. Off. 21 iul. 1934. A violator will also be suspended from hearing confessions "*ad nutum S. Officii*."

²⁹⁰ c. 2229, 2.

²⁹¹ cc. 2369, 1; 2368, 1.

²⁹² cc. 2369, 2; 2233, 2.

²⁹³ c. 890, 1.

²⁹⁴ Cf. n. 287 above. S. Poenit. 1 feb. 1935: "Although natural prudence itself demands that occult cases which pertain to the forum of conscience be proposed directly to the Sacred Penitentiary or to His Eminence, the Cardinal Major Penitentiary, in sealed letters and without giving the

names of the parties concerned, yet there are some confessors who have the hardihood to present such cases by open letters to be handed to procurators or so-called agents. In order entirely to put an end to so gravely unbecoming a practice, the Sacred Penitentiary desires to give express warning to all persons concerned never again to dare do anything of this kind, but to send such letters and all others which may later need to be added to them for the purpose of giving opportune notices of supplementary information directly to the Sacred Penitentiary itself or to His Eminence, the Cardinal Major Penitentiary, either through the public mail or, if they wish to make use of the services of an agent, through the agent in a special envelope securely sealed.²⁹⁵

²⁹⁵ c. 890, 2.

²⁹⁶ S. Off. 9 iun. 1915. Although this Instruction was not officially published in the AAS, it is agreed that in practice it is an interpretation of the divine law.

²⁹⁷ c. 904.

²⁹⁸ Cf. S. Poenit. 2 sept. 1904.

²⁹⁹ c. 2200, 2.

³⁰⁰ S. Off. 20 feb. 1867.

³⁰¹ A similar offense related to sacraments other than Penance is not subject to the penalties of solicitation. (S. Off. 11 feb. 1661 ad 10.)

³⁰² S. Off. 11 feb. 1661; 20 feb. 1867. The soliciting priest is not bound to denounce himself, but if he does so, he will be treated more leniently. (*ibid.*, 17 nov. 1626; 20 feb. 1867)

³⁰³ Excluded is a priest who is acting as an interpreter in a confession, (S. Off. 11 feb. 1661 ad 16) and a priest who commands, persuades or counsels a confessor to solicit a penitent. (*ibid.*, ad 6-7)

³⁰⁴ S. Off. 11 iun. 1707.

³⁰⁵ Cf. *ibid.*, 9 iun. 1922. It may be made to the delegate of the local Ordinary but not to the Vicar General without special mandate. (*ibid.*, 14 iul. 1753) The religious Ordinary is also excluded.

³⁰⁷ *Ibid.*, 20 feb. 1886. Only in an extraordinary case will a priest alone or a confessor be delegated to receive the denunciation.

³⁰⁸ Cf. *ibid.*, 20 feb. 1886 ad 7.

³⁰⁹ *Ibid.*, 9 iun. 1922.

³¹⁰ S. Poenit., 24 apr. 1884.

³¹¹ c. 904.

³¹² S. Off. 20 feb. 1867.

³¹³ c. 2368, 1.

³¹⁴ *Ibid.*, 2. Even if the solicitation has been mutual, the penitent is bound to denounce, without mentioning his own consent or sin.

³¹⁵ *Ibid.*; c. 2230.

³¹⁶ c. 2363. Cf. Appendix I, *Reserved Cases*, no. 152.

³¹⁷ c. 894. Cf. Appendix I, no. 164.

³¹⁸ c. 884.

³¹⁹ Thus excluded is a connection with another to sin with a third party. However, where cooperation is in effect complicity, the precise sin is present, e.g., the priest conspires with another man for their mutual effort to seduce a certain woman. Even if the seduction does not result, the complicity in a sin of impurity is present.

³²⁰ There is no formal complicity within the sense of the law if the other party is asleep, drunk, insane, etc., and thus the absolution is valid.

³²¹ S. Off. 28 maii 1873.

³²² S. Poenit. 22 maii 1879.

³²³ c. 16, 1. According to some the invalidity is at least with respect to the sin of complicity alone. It should be noted that if a penitent is in good faith and inculpably has failed to confess a sin of complicity, the confessor validly absolves from the sins confessed. The sin of complicity, however, which has been removed by the infusion of sanctifying grace rather than precisely by the absolution, remains as necessary matter for confession.

³²⁴ S. Poenit. 29 feb. 1904.

³²⁵ c. 2367, 1.

³²⁶ *Ibid.* Cf. Appendix I *Reserved Cases*, no. 151.

³²⁷ Cf. cc. 2218, 2; 2242, 1.

³²⁸ c. 2367, 2. The penalty of this canon applies also to the Oriental Church. (S. Off. 21 iul. 1934) In the internal forum absolution is reserved to the Sacred Penitentiary, in the external forum to the Holy Office.

³²⁹ S. Off. 16 nov. 1934. It should also be ascertained if there has been the crime of solicitation by the confessor.

³³⁰ S. Poenit. 19 feb. 1896.

³³¹ Cf. cc. 2195, 1; 2242, 1.

³³² c. 2252.

³³³ c. 2254, 1.

³³⁴ *Ibid.*, 3.

³³⁵ Cf. no. 85 above; also *General Norms of Sacramental Administration*, nos. 43, 55; *The Administration of Extreme Unction*, no. 12.

³³⁶ The sacraments cannot be given to those who join or favor the Communist party, who publish, propagate or read books, periodicals, daily papers or sheets which promote the doctrine or action of Communists, or who allow their children to be trained by Communist-influenced associations, and the young people themselves, as long as they have part in these associations. (S. Off. 1 iul. 1949; 28 iul. 1950)

³³⁷ c. 731, 2.

³³⁸ Cf. S. Off. 15 nov. 1941 to the Apostolic Visitor for the Ukrainians in Germany.

³³⁹ *Ibid.*; also 17 maii 1916 to various local Ordinaries. Denz. 2181a.

³⁴⁰ "He can sometimes be absolved who remains in a proximate occasion of sin which he can and does not wish to omit, but rather directly and professedly seeks or enters into." Proposition condemned by Innocent XI, S. Off. 4 mart. 1679. Denz. 1211.

³⁴¹ There can be an habitual sinner who has not confessed his sinful actions before, and also a recidivist who is not an habitual sinner, since he falls into sin after confession only once in a while and thus not from habit.

³⁴² "Since, then, the state of religious persons is so excellent, it is no wonder that the enemy of our salvation leaves nothing undone to throw them down from that sublime height, by evil suggestion, by the allurements of worldly pleasures, and finally by the excitement of the passions. . . . But in the first place Superiors must use the greatest care, even from the first entrance of the candidates, to see that the youths be not admitted in crowds or hastily, but that those only be received who show signs of a divine vocation and give reason to hope that they may be permanently employed with fruit in the ecclesiastical ministry. . . . Certainly in candidates who are destined for the priesthood the ordinary signs of a religious vocation are by no means sufficient, but the special signs of fitness for the clerical state are also required. . . . Superiors must be watchful and must consider whether in the interval between the conferral of one sacred order and the next, anything new has occurred which raises a doubt as to the candidate's vocation to the priesthood, or shows that he has none." S. C. Rel. 1 dec. 1931, *Instruction to the Supreme Moderators of religious and clerical societies*. *Ibid.* (2 feb. 1961), *Instruction to the Superiors of Religious Communities, Societies without Vows and Secular Institutes on the Careful Selection and Training of Candidates for the States of Perfection and Sacred Orders*. "14. . . . We can say, and all Superiors should repeat: Let us seek out quality first of all, because then, if we may use such an expression, quantity will automatically follow." "17. . . . All the individuals [Superiors, Spiritual Directors, Confessors] accept a burden in conscience in the choice of priests and religious and in their admission to profession and preparation for ordination, and through their ignorance or negligence they may have a share in the sins of others." "18. Confessors have the grave duty of warning, urging, and ordering unfit subjects, privately and in conscience, with no regard for human respect, to withdraw from the religious and clerical life. Although they may appear to have all the dispositions required for sacramental absolution, they are nevertheless not for that reason to be regarded as worthy of profession or ordination. The principles governing the sacramental forum are different from the criteria whereby, according to the mind of the Church, judgment is formed on fitness for the priesthood and the religious life. Consequently, penitents who are certainly unworthy of

profession and ordination can be absolved if they show proof of true sorrow for their sins and seriously promise to drop the idea of going on to the religious or clerical state, but they are to be effectively barred from profession and ordination. Likewise Spiritual Directors are under obligation, in the non-sacramental internal forum, to judge of the divine vocation of those entrusted to them and the obligation of warning, and privately urging, those who are unfit, to withdraw voluntarily from the life they have embraced." S. C. Rel., *Instr. cit.* (2 feb. 1961: "29. Among the proofs and signs of a divine vocation the virtue of chastity is regarded as absolutely necessary, 'because it is largely for this reason that candidates for the ranks of the clergy choose this type of life for themselves and persevere in it.'" For detailed directives for judging and acting in matters of chastity and in psychopathic cases, cf. nos. 30-31 of this Instruction.

APPENDIX I

³⁴³ The Administration of Holy Orders, no. 24.

³⁴⁴ c. 2241, 1.

³⁴⁵ c. 2195, 1.

³⁴⁶ c. 2248, 2.

³⁴⁷ c. 2219, 1. A strict or narrow interpretation is given to laws which entail a penalty (cf. c. 19)

³⁴⁸ Cf. cc. 2219, 3; 2231.

³⁴⁹ c. 2220, 1. Thus those holding only dominative power over subjects, cannot impose canonical penalties.

³⁵⁰ c. 2217, 1, 3°.

³⁵¹ *Ibid.*

³⁵² cc. 2223, 4; 2225.

³⁵³ c. 2232.

³⁵⁴ cc. 2217; 2225.

³⁵⁵ c. 2246, 1.

³⁵⁶ *Ibid.*, 2.

³⁵⁷ c. 2245, 1.

³⁵⁸ *Ibid.*, 4.

³⁵⁹ *Ibid.*, 2.

³⁶⁰ *Ibid.*, 2, 3.

³⁶¹ cc. 2201, 1, 2; 88, 3.

³⁶² cc. 2230; 88, 2. Puberty is considered as not attained before the completion of their 14th year in males and of their 12th year in females. However, in practice it is safe to consider the age of puberty as 14 for both sexes.

³⁶³ cc. 2204; 88, 1. Minority as regards penalties lasts from infancy to the completion of the 21st year.

³⁶⁴ c. 14, 2.

³⁶⁵ *Ibid.*, 1, 1^o, 3^o.

³⁶⁶ c. 1566, 1.

³⁶⁷ c. 14, 1, 2^o.

³⁶⁸ Gregory XV, Const. *Inscrutabili*, 5 feb. 1662.

³⁶⁹ Innocent X, Const. *Cum sicut accepimus*, 14 maii 1653.

³⁷⁰ Urban VIII, Const. *Sacrosancta Tridentina*, 15 mart. 1643.

³⁷¹ cc. 2242, 1; 2195.

³⁷¹ cc. 2242, 1; 2195.

³⁷² cc. 2218, 2; 2199. The imputability of a crime depends on its malice (*dolus*) or its guilt (*culpa*), the latter arising from culpable ignorance or lack of due care.

³⁷³ c. 2213, 3.

³⁷⁴ Cf. cc. 2212; 2213; 2235; 2351.

³⁷⁵ cc. 2242, 2; 2218, 2.

³⁷⁶ c. 2242, 3.

³⁷⁷ Cf. c. 2209.

³⁷⁸ c. 2232, 1.

³⁷⁹ c. 2224.

³⁸⁰ c. 2249, 1.

³⁸¹ c. 2229, 3, 3^o. It can be judged in practice that even fear which is intrinsic will excuse, e.g., fear of infamy. Fear itself is a disturbance of mind arising from present or future danger. It is light when the evil threatening is not serious or the danger is remote and easy to avoid; it is grave when the evil threatening is serious and the danger imminent.

³⁸² PCI 30 dec. 1937.

³⁸³ c. 2205, 3. Examples of the exceptions: contempt of faith—public apostasy (c. 2314), of ecclesiastical authority—to sue one's own bishop in court (c. 2341), public harm to souls—to publish heretical books (c. 2318).

³⁸⁴ c. 2229, 2.

³⁸⁵ c. 2202, 3.

³⁸⁶ Cf. cc. 16, 2; 1825.

³⁸⁷ c. 2229, 1.

³⁸⁸ Cf. c. 2218, 2.

³⁸⁹ cc. 2229, 3, 1^o; 2218, 2. Some few hold that a penitent, knowing that he incurred a censure but not knowing that it was reserved, probably may be absolved by any confessor, since ignorance of the reservation only excuses from it.

³⁹⁰ c. 2229, 2, 3, 1^o.

³⁹¹ *Ibid.*, 2^o.

³⁹² c. 2248, 1, 3.

³⁹³ Cf. c. 2250, 1, 2.

³⁹⁴ cf. no. 13 above.

³⁹⁵ Cf. c. 2250, 3; *Rit. Rom.*, Tit. III, c. 3; 5.

³⁹⁶ c. 2338, 1.

³⁹⁷ Cf. c. 2251; S. Poenit. *monita* 31 iul. 1924.

³⁹⁸ c. 2247, 3.

³⁹⁹ S. Off. 10 sept. 1556. However, some commentators hold that only in the case when the penitent accuses himself also of other sins besides the one under censure is the absolution valid, directly for the other sins, indirectly for the censured sin.

⁴⁰⁰ c. 2202, 3.

⁴⁰¹ c. 882.

⁴⁰² S. Poenit. 18 mart. 1912; 29 maii 1915.

⁴⁰³ Cf. c. 209.

⁴⁰⁴ c. 2252; cf. S. Poenit. 18 apr. 1936; 4 maii 1937.

⁴⁰⁵ c. 2253, 1°.

⁴⁰⁶ *Ibid.*, 2°.

⁴⁰⁷ *Ibid.*, 3°; Paul VI, motu proprio, *Pastorale Munus*, I Fac. 14, 30 nov. 1963.

⁴⁰⁸ c. 239, 1, 1°.

⁴⁰⁹ c. 2237, 2.

⁴¹⁰ Cf. no. 67 above.

⁴¹¹ c. 2254, 1.

⁴¹² *Ibid.*, 2.

⁴¹³ S. Poenit. 21 apr. 1921. It is disputed whether *latae sententiae* censures reserved to the Holy Father in person are included.

⁴¹⁴ c. 2388, 1; S. Poenit. 18 apr. 1936; 4 maii 1937.

⁴¹⁵ c. 2363. The sin itself is reserved *ratione sui* to the Apostolic See (c. 894).

⁴¹⁶ The term of one month is to urge but not to terminate the obligation. The excusing causes of ignorance, fear, etc., apply to the recurrence of the censure for failure to have recourse.

⁴¹⁷ c. 2254, 3.

⁴¹⁸ S. Poenit. 10 dec. 1880.

⁴¹⁹ c. 2257, 1.

⁴²⁰ Cf. c. 2258.

⁴²¹ For further effects, when there is a declaratory or condemnatory sentence, cf. cc. 2264; 2261, 3; 2265, 2; 2260, 1; 1240, 1, 2°; 1095, 1, 2°; 765, 2°; 795, 2°; for *vitandi* cf. cc. 2262, 2, 2°; 2259, 2; 2266; 2267.

⁴²² c. 2260, 1.

⁴²³ c. 2261.

⁴²⁴ c. 2259, 1.

⁴²⁵ c. 2256, 1°.

⁴²⁶ cc. 2263; 2256, 2°.

⁴²⁷ c. 2263.

⁴²⁸ *Ibid.*

⁴²⁹ c. 2265, 1, 1°.

⁴³⁰ *Ibid.*, 2°.

⁴³¹ c. 2264.

⁴³² c. 2262.

⁴³³ c. 1240, 1, 2^o, 6^o.

⁴³⁴ Those which are reserved to the Holy Father in person are censures attached to the revelation of the secrets of the Holy Office or of forbidden matter of other Congregations, and to the Apostolic Constitution of Pius XII *Vacantis Apostolicae Sedis*, 8 dec. 1945; cf. also *motu proprio* of John XXIII *Summi Pontificis Electio*, 5 sept. 1962.

⁴³⁵ c. 2320.

⁴³⁶ c. 2343.

⁴³⁷ c. 2367; cf. no. 126 above.

⁴³⁸ c. 2369, 1; cf. no. 115 above.

⁴³⁹ S. Off. 9 apr. 1951.

⁴⁴⁰ c. 2314.

⁴⁴¹ PCI 30 iul. 1934.

⁴⁴² S. Off. 1 iul. 1949.

⁴⁴³ *Ibid.*, 28 iul. 1950.

⁴⁴⁴ c. 2315.

⁴⁴⁵ c. 2319, 2. They also incur an automatic censure reserved to the local Ordinary (*ibid.*, 1).

⁴⁴⁶ c. 2320.

⁴⁴⁷ c. 2332.

⁴⁴⁸ c. 2371.

⁴⁴⁹ cc. 2316; 2340, 1.

⁴⁵⁰ S. Off. 23 feb. 1926.

⁴⁵¹ c. 2318. A book in the terms of this penalty is considered to be a printed work with a unity of theme or argument and of notable size, i.e., about 160-250 pages in 8^o. Other forbidden matter, not under penalty, falls under the prohibition of c. 1399.

⁴⁵² c. 2322.

⁴⁵³ c. 2332.

⁴⁵⁴ c. 2334.

⁴⁵⁵ c. 2333.

⁴⁵⁶ c. 2341.

⁴⁵⁷ c. 2343, 2, 3.

⁴⁵⁸ c. 2345.

⁴⁵⁹ c. 2360.

⁴⁶⁰ c. 2363.

⁴⁶¹ c. 894.

⁴⁶² Cf. nos. 146, 148 above.

⁴⁶³ S. C. Conc. 22 mart. 1950; cf. c. 2380.

⁴⁶⁴ S. C. Conc. 29 iun. 1950; cf. cc. 2331, 2; 2334, 1^o, 2^o; 147, 1, 2; 332, 1; 2394.

⁴⁶⁵ c. 2237, 2.

⁴⁶⁶ c. 2327.

⁴⁶⁷ c. 2335. Under certain conditions the Apostolic Delegate may permit passive membership or retention of adscription for purposes of particular financial benefits, etc.

⁴⁶⁸ c. 2338, 1.

⁴⁶⁹ *Ibid.*, 2.

⁴⁷⁰ c. 2341.

⁴⁷¹ c. 2342.

⁴⁷² Cf. Const. Pius XII "*Sponsa Christi*," 21 nov. 1950 and Instruction of S. C. Rel. 23 nov. 1950. The local Ordinary may permit entrance to the papal cloister for just and serious cause in the monasteries situated in his diocese and permit the nuns to leave the same in true necessity (Paul VI, motu proprio, *Pastorale Munus*, I Fac. 34, 30 nov. 1963).

⁴⁷³ c. 2346.

⁴⁷⁴ c. 2351.

⁴⁷⁵ PCI 26 iun. 1947.

⁴⁷⁶ c. 2388.

⁴⁷⁷ S. Poenit. 18 apr. 1936; 4 maii 1937; cf. nos. 146, 148 above.

⁴⁷⁸ c. 2392.

⁴⁷⁹ c. 2405.

⁴⁸⁰ c. 2319, 1, 1°.

⁴⁸¹ Pius XII, motu proprio "*Ecclesiae bonum*," 25 dec. 1953.

⁴⁸² III Plenary Council of Baltimore, n. 127.

⁴⁸³ *Ibid.*, n. 124.

⁴⁸⁴ Cf. cc. 2231; 2209, 3.

⁴⁸⁵ c. 2319, 1, 2°.

⁴⁸⁶ *Ibid.*, 3°.

⁴⁸⁷ *Ibid.*, 4°. Delinquents under c. 2319, 1, 2°, 3°, 4° are also suspected of heresy (c. 2319, 2).

⁴⁸⁸ The III Plenary Council of Baltimore, nn. 198, 199, IV, left it to the local Ordinaries to determine what penalty may be inflicted on parents who do not send their children to Catholic schools.

⁴⁸⁹ c. 2343, 4.

⁴⁹⁰ c. 2350, 1.

⁴⁹¹ Cf. cc. 2209, 1-3; 2231.

⁴⁹² c. 2326.

⁴⁹³ c. 2388, 2.

⁴⁹⁴ Cf. cc. 646; 669, 1.

⁴⁹⁵ c. 2385.

⁴⁹⁶ Cf. cc. 644; 645.

⁴⁹⁷ c. 2318, 2.

⁴⁹⁸ c. 2339.

⁴⁹⁹ c. 2347, 3°.

⁵⁰⁰ c. 2352.

⁵⁰¹ c. 2368, 2; cf. nos. 121-125 above.

⁵⁰² c. 2278, 1.

⁵⁰³ c. 2280.

- ⁵⁰⁴ Cf. c. 2298, 2.
⁵⁰⁵ Cf. cc. 2278-2285.
⁵⁰⁶ Cf. cc. 2186-2194.
⁵⁰⁷ c. 2279, 1; cf. c. 1095, 1, 1^o.
⁵⁰⁸ cc. 2280-2281; cf. cc. 1410; 1412; 2278, 2.
⁵⁰⁹ c. 2279, 2, 1^o.
⁵¹⁰ *Ibid.*, 2^o.
⁵¹¹ *Ibid.*, 3^o-9^o.
⁵¹² Cf. cc. 985, 7^o; 986; 968, 1; 2232, 1.
⁵¹³ c. 2284.
⁵¹⁴ c. 2265.
⁵¹⁵ c. 2370; cf. also no. 151 above.
⁵¹⁶ c. 2371.
⁵¹⁷ c. 2372. In most cases the Holy Office will consider the delinquent as a layperson, and thus marriage is possible, all things being equal.
⁵¹⁸ c. 671, 1^o.
⁵¹⁹ c. 2373.
⁵²⁰ c. 2387.
⁵²¹ c. 2394, 3.
⁵²² c. 2341.
⁵²³ cc. 2386; 644, 3.
⁵²⁴ c. 2366.
⁵²⁵ *Ibid.*, cf. also c. 2338, 1.
⁵²⁶ c. 2374.
⁵²⁷ c. 2400.
⁵²⁸ c. 2402.
⁵²⁹ c. 2409.
⁵³⁰ c. 2410.
⁵³¹ Cf. cc. 2268-2277.
⁵³² c. 893, 1-3.
⁵³³ c. 894. It is also a specially reserved censure (c. 2363). The duty to restore the good name of the falsely accused priest still remains (PCI 10 nov. 1925).
⁵³⁴ cc. 895-898. Cf. also c. 519 for absolution of religious by a diocesan confessor.
⁵³⁵ PCI 24 nov. 1921, c. 14, 2.
⁵³⁶ Suspension is incurred (c. 2366) for a deliberate violation. A few commentators admit the applicability of an urgent case.
⁵³⁷ c. 882.
⁵³⁸ c. 239, 1, 1^o.
⁵³⁹ c. 899, 3.
⁵⁴⁰ *Ibid.*, 2.
⁵⁴¹ *Ibid.*, 3.
⁵⁴² c. 900; PCI 10 nov. 1925.
⁵⁴³ c. 84, 2.

APPENDIX II

⁵⁴⁴ Cf. *Summa Theol.*, II-II, q. 151, aa. 1-2. The pleasure experienced in the genital organ and of itself ordered to generation is called venereal after the pagan goddess, Venus, who presided over this pleasure or love.

⁵⁴⁵ *Ibid.*, q. 155.

⁵⁴⁶ *Ibid.*, q. 152, aa. 3-4; *Suppl.*, q. 96, a. 5; cf. Apoc. 14:4.

⁵⁴⁷ *Summa Theol.*, II-II, q. 151, a. 4.

⁵⁴⁸ Exodus 20:14, 17.

⁵⁴⁹ This pleasure is called by St. Thomas (I-II, q. 31, a. 5 et ad 3) "*delectatio intelligibilis*," "*delectatio rationis*," "*delectatio quae consequitur rationem*."

⁵⁵⁰ Referred to by St. Thomas (*ibid.*) as "*delectatio spiritualis cum redundantia in appetitum inferiorem*."

⁵⁵¹ St. Thomas (*ibid.*, aa. 5-6) calls this "*delectatio sensibilis*," "*delectatio animalis secundum cognitionem*."

⁵⁵² Some authors call pleasure sensual with respect to touch and sensible with regard to the other senses.

⁵⁵³ Merely sensible pleasure or agreeableness may arise in the genital organs from causes other than sexual stimuli; thus certain physical or physiological changes or disturbances take place occasionally, such as early morning abundance of blood in the area or the pressures coming from the urinary deposit in the bladder, etc.

⁵⁵⁴ Cf. Gen. 13:13; Ex. 22:19; Lev. 18:22; 20: 15-16; Rom. 1:26-27; I Cor. 5:1-5; 6:9; 7:9; Gal. 5:19-21; Eph. 5:5 Cf. Denz. 453; 477; 717 g; 1124-1125; 1198-1199; 1200; 1261-1262; 1267-1268; 1272; 2201; 2230; 2240. Cf. Pius XII, Address to the Italian Catholic Union of Midwives (29 oct. 1951).

⁵⁵⁵ Cf. *Summa Theol.*, II-II, q. 153, aa. 2-3; q. 154, a. 4; I-II, q. 1, a. 6: "because the beginning of a thing is always ordered to its consummation." *de Malo*, q. 15, a. 2, ad 16 et ad 18; *de Verit.*, q. 15, a. 4.

⁵⁵⁶ Alexander VII (18 mart. 1666) condemned as at least scandalous the proposition: "It is a probable opinion which states that a kiss is only venial when performed for the sake of the carnal and sensible delight which arises from the kiss, if danger of further consent and pollution is excluded." S. Off. 4 feb. 1611: "Since in venereal matters there is not parity of matter. . . ."

⁵⁵⁷ The word "fornication" comes from the Latin term for brothel, "*fornex*," or narrow arched cells in which the Roman whores under distinct trade-marks were accustomed to carry on their business.

⁵⁵⁸ Deut. 23:17; I Cor. 6:9-10, 15-20; Gal. 5:19-21; Eph. 5:5-6.

⁵⁵⁹ Cf. Denz. 1125; 1198; 2230; also cc. 133, 3; 2176-2181; 2357; 2359.

⁵⁶⁰ Cf. *Summa Theol.*, II-II, q. 154, aa. 1-2.

⁵⁶¹ cc. 2357, 2; 2358; 2359, 1.

⁵⁶² Lev. 18:20; 20:10; Deut. 22:22; Prov. 6:29; Eccli. 23:25-30; I Cor. 7:4.

⁵⁶³ Innocent XI, Denz. 1200.

⁵⁶⁴ Cf. *Summa Theol.*, *loc. cit.*, aa. 1, 8.

⁵⁶⁵ St. Thomas strictly terms the oppression of a woman abduction or *raptus*, whereas others call it *stuprum*.

⁵⁶⁶ Cf. *Summa Theol.*, *loc. cit.*, aa. 1, 6.

⁵⁶⁷ Penalties may be imposed for rape, cf. cc. 2357, 1-2; 2358; 2359, 2.

⁵⁶⁸ Cf. *Summa Theol.*, *loc. cit.*, aa. 1, 7. Cf. c. 1074.

⁵⁶⁹ Lev. 18:6-18; 20:11-17; I Cor. 5:1-5.

⁵⁷⁰ Cf. cc. 2357, 1; 2358; 2359, 1.

⁵⁷¹ Cf. *Summa Theol.*, *loc. cit.*, aa. 1, 9.

⁵⁷² Cf. *ibid.*, aa. 1, 10.

⁵⁷³ A prostitute is not bound in justice to restore the price received in plying her trade (cf. *Summa Theol.*, II-II, q. 32, a. 7; q. 62, a. 5, ad 2). S. Poen. 23 aug. 1822: "The woman penitent is not to be forced but to be exhorted to turn over to pious uses the price of her prostitution, according to the judgment of a prudent confessor."

⁵⁷⁴ Pollution is usually accompanied by the effusion of male seed or of the female vulvovaginal fluid and without intercourse. If it takes place deliberately in the course of natural or unnatural sins of unchastity, it is reduced to these sins. It is called: *pollution*, since it as it were stains the subject with this secretion; *softness*, (*mollities*) since it reveals a weakness of spirit; *masturbation* (*quasi manu-stupratio*, *manu-turbatio*), since the manual method is the more frequent manner of accomplishing it; *solitary sin* or *self-abuse*, since it is perfectly accomplished by oneself. In a less strict sense it is sometimes called *onanism*.

⁵⁷⁵ Rom. 1:24; I Cor. 6:9-10 (*molles* means masturbators); Gal. 5:19; Eph. 5:3.

⁵⁷⁶ Alexander VII, 24 sept. 1665, condemned the proposition: "Masturbation (*mollities*), sodomy and bestiality are sins of the same ultimate species; and thus it is enough to say in confession that one has procured a pollution." Denz. 1124. Innocent XI, 4 mart. 1679, condemned the proposition: "Masturbation (*mollities*) is not prohibited by the natural law. Wherefore, if God has not forbidden it, it would often be good, and sometimes obligatory under pain of mortal sin." Denz. 1199. S. Off. 2 aug. 1929: "Q. Whether directly procured masturbation is allowed in order to obtain sperm by which the contagious disease *blenorragia* (gonorrhoea) may be detected and, insofar as it can be done, cured? R. In the negative." Denz. 2201.

⁵⁷⁷ I Cor. 10:13.

⁵⁷⁸ Oral insertion is called *irrumatio*, anal is *pedicatio*. *Uranistae* are adults involved with each other, *paederastae* are adults with youths, *gerontophilia* is toward old men.

⁵⁷⁹ Gen. 13:13; 18:20; 19:1-19; Lev. 18:22; 20:13; Deut. 29:23; Rom. 1:26-28.

⁵⁸⁰ Cf. cc. 2357-2359; also n. 576 above.

⁵⁸¹ Cf. *Summa Theol.*, II-II, q. 154, aa. 11-12.

⁵⁸² Lev. 20:15-16; Exod. 22:19.

⁵⁸³ Cf. *Summa Theol.*, I-II, q. 74, a. 6.

⁵⁸⁴ *Ibid.*, aa. 7-8.

⁵⁸⁵ Innocent XI (4 mart. 1679) condemned the proposition: "It is lawful for a son to rejoice over the patricide of his parent which he perpetrated when drunk, because of the immense wealth that resulted from it by inheritance."

⁵⁸⁶ Nos. 173-175.

VI

The Administration
of
Extreme Unction

(OR THE ANOINTING OF THE SICK)

THE ADMINISTRATION OF EXTREME UNCTION OR THE ANOINTING OF THE SICK

I. NATURE

1. - A. - NOTION.

1. - Extreme Unction is a sacrament of the New Law (genus) by which is conferred through the anointings with duly blessed olive oil (matter) and the prayer of the priest (form), health of soul, and even bodily health when this is expedient for the salvation of the soul (effects), on a person who is dangerously ill. (recipient) It is called *extreme* unction, because it is the last of the holy anointings to be administered in life.¹ This sacrament "was considered by the Fathers as the completion not only of penance but also of the whole Christian life, which ought to be a continual penance. . . . Our most benevolent Redeemer, who wished to have His servants at all times provided with salutary remedies against all the weapons of all enemies, as in the other sacraments He provided the greatest aids by means of which Christians may during life keep themselves free from every graver spiritual evil, . . . fortified the end of life by the sacrament of extreme unction as with the strongest defense. For though our adversary seeks and seizes occasions throughout our whole life to devour our souls in any manner, yet there is no time when he strains more vehemently all the powers of his cunning to ruin us utterly, and if possible to make us even lose faith in the divine mercy, than when he perceives that the end of our life is near."²

2. - It is of faith that the sacrament of Extreme Unction was instituted by Christ³ for the remission of sins and the comforting of the sick.⁴ It has three effects: the principal effect is to strengthen the soul to overcome the remains of sin or the weakness in the soul due to a proneness to evil and a languor in the pursuit of good, anxieties, fear, torpor and all such debilities left behind in the soul from original sin and accentuated by personal sins, and to withstand the final assaults of the devil; secondary effects following upon the grace of strength are the remission of sins and bodily health. As a sacrament of the living Extreme Unction presupposes divine friendship and grace in the soul, but accidentally, if sins are present, they are remitted, with at least attrition, both as to guilt and punishment.

This is most important in the case of the dying who are unconscious and unable to confess or receive Viaticum. When in the disposition of divine providence it is expedient for the welfare of the soul, sometimes bodily health is restored by aiding and sustaining the natural forces in combating the dangerous sickness.⁵

3. - Extreme Unction, "although administered with many anointings, each given with a peculiar prayer, and under a peculiar form, . . . constitutes not many but one sacrament. It is one, however, not in the sense that it is composed of inseparable parts, but because each of the parts contributes to its perfection, as is the case with every object composed of many parts. As a house which consists of a great variety of parts derives its perfection from unity of plan, so is this sacrament, although composed of many different things and words, but one sign, and it effects only that one thing of which it is the sign."⁶

2. - B. - NECESSITY - Although Extreme Unction is not a necessary means of salvation, no one is allowed to neglect it.⁷ It is commonly taught that there is of itself a light obligation to receive this sacrament, as there is no grave divine or ecclesiastical precept of receiving it. However, failure to receive the sacrament due to contempt or grave negligence when it is most needed or with resultant scandal would be a serious sin.

3. - C. - MATTER.

1. - The *valid* matter of Extreme Unction is olive oil duly blessed for this purpose by a bishop or by a priest who has obtained the faculty to do so from the Apostolic See.⁸ Even in a case of necessity this blessed oil must be used.⁹ Although for lawfulness it must be pure, an admixture of extraneous matter renders it invalid, if it is no longer olive oil. If the supply of blessed oil (O.I.) becomes too diminished, other olive oil may be added, even repeatedly, but in a lesser quantity.¹⁰ Although it is not certain that the oil of the infirm alone renders the administration of Extreme Unction valid, in practice and outside of necessity the proper oil of this sacrament is to be used. In a case of necessity and in the absence of the proper oil (O.I.), another sacred oil (O.S. or S.C.) may be employed under a condition (*si haec est materia valida*), but the sacrament must be later conditionally repeated with the proper oil.

2. - To be *lawful* matter the oil must be blessed on the Holy Thursday of the same year by the bishop of the diocese, from whom it must be obtained even by exempt religious.¹¹ If the see is vacant the oil may be obtained from the neighboring see or from a titular bishop. New oils should be obtained promptly by the pastor either personally or through another, even a trustworthy layman, if there is a good cause.¹² Old oil is burned

in the sanctuary lamp; oil that is soaked in cotton is to be burned and the ashes placed in the sacrarium. In an urgent case of need the oil of the infirm of the previous year may be used.¹⁸

3. - Although the minimum of a drop of oil is valid matter, the thumb of the minister should be dipped into the holy oil for each single anointing in order better to secure a sufficient amount for each unction. It must be spread on each sense (usually in the form of a cross) and not merely dropped on or touched to the sense. Where the sense is doubled, both organs are anointed while the one form is being pronounced.¹⁴ Even when a sense is lacking or has always been missing, e.g., in blindness or deafness, it is anointed, because the powers are at least radically there and interior sins with respect to them are possible. If a member is mutilated, e.g., a hand is cut off, the anointing is made on the nearest portion of the body; if one member is amputated, the anointing of the remainder of the pair suffices. If in the anointing of the five senses outside of a case of necessity one of the senses (not one of a double sense) was certainly not anointed, there is a grave obligation arising from at least ecclesiastical precept to repeat it; if the omission is doubtful, the repetition is conditional.

4. - D. - FORM.

1. - The prescribed form of Extreme Unction¹⁵ is: *Per istam sanctam unctionem et suam piissimam misericordiam indulgeat tibi Dominus quidquid per visum (auditum, odoratum, gustum et locutionem, tactum, gressum) deliquisti. Amen.*¹⁶ If through inadvertence "*dereliquisti*" is said for "*deliquisti*," the form will be doubtfully valid; if done with deliberate intent to change the meaning, the form will be invalid. It is not certainly a grave sin to omit the expression of the individual senses in the form. To omit the words "*sanctam*," "*piissimam*," "*amen*" is a light sin outside of contempt; probably also the phrase "*per suam piissimam misericordiam*."

2. - In a case of necessity when a single anointing is made¹⁷ the shorter form may be used: "*Per istam sanctam unctionem indulgeat tibi Dominus quidquid deliquisti. Amen.*"¹⁸ The essential words of the form for validity are: "*indulgeat tibi Dominus quidquid deliquisti.*" Where there exists a formula of a lawfully approved rite of Extreme Unction, e.g., in the Order of Preachers,¹⁹ this must be used.

II. MINISTER

The sacrament of Extreme Unction is *validly* administered only by a priest and by every priest,²⁰ even those censured or degraded. The *lawful* minister, however, is either ordinary or extraordinary.

A. - ORDINARY.

5. - 1. - *Subjects.*

a) The ordinary minister of Extreme Unction is the pastor of the place where the sick person lies seriously ill, and not the proper pastor²¹ (this includes those mentioned in b. below). This is a parochial function, the exclusive competence of the pastor,²² and those enjoying parochial rights.²³

b) In every *clerical institute* the superiors have the right and duty to administer personally or through another Extreme Unction to the sick novices, professed and others dwelling day and night in the house.²⁴ They may anoint their own novices and professed who are ill and outside the religious house.²⁵ In a monastery of *nuns* the ordinary confessor or the one taking his place has the same right and duty.²⁶ In *other lay institutes* it pertains to the local pastor or to the chaplain to whom the local Ordinary has granted this right.²⁷ It is the right and duty of the rector in a seminary.²⁸ The assistant (*vicarius cooperator*) is assigned to the parish to assist in the administration of this sacrament.²⁹

6. - 2. - *Obligation.*

a) The ordinary minister is seriously bound to *administer* this sacrament personally or through another.³⁰ To delay in conferring the sacrament and thus to expose the sick person to dying without it would be a serious sin. He is not bound to administer it with special danger to his life, unless the sacrament is morally necessary for salvation or more certainly valid than Penance, as in the case of the unconscious who have not confessed for a long time. In the latter case he is not so bound if the disposition of the recipient (and thus the effect of the administration) is not certain, or even if certain, a greater evil to the common good would result from the death of the priest (as in areas when there is a scarcity of priests, e.g., in mission territories, when often there are detailed norms to guide the missionaries).

b) The ordinary minister also has the grave duty to *admonish* the sick of their serious condition in order that they might provide for the reception of the sacrament in due time. The seriously sick should be prudently urged to seek the benefit of the grace and the effects of this sacrament and not to consider Extreme Unction as an indication of certain or imminent death, and thus an occasion for despair. The family may also need similar instruction and admonition to obtain their consent. Pastors, therefore, should instruct the faithful in their obligations toward themselves and those in their care to secure the administration of a priest when there is probable danger of death and not to wait until it is certain and imminent. A physician, servant, friend, etc., who do not have the spiritual care of others are not gravely bound to provide for this reception, unless the

sacrament is necessary for the sick person. It is a grave sin for one to prevent the summoning of a priest or to delay until the person becomes unconscious.³¹

B. - EXTRAORDINARY MINISTER.

7. - 1. - *Subjects.* - In a case of necessity or with the at least reasonably presumed permission of the pastor or local Ordinary any priest can administer this sacrament.³² Permission may be presumed if it is understood the pastor would grant it. Another priest may lawfully confer the sacrament if delegated expressly or tacitly by the pastor or local Ordinary. To administer Extreme Unction outside of necessity and without permission is seriously prohibited and of itself a serious sin unless there is at least reasonably presumed permission. In prudent doubt of the presence of necessity or of required permission, the priest may always lawfully anoint.

8. - 2. - *Obligation.* - Every priest is bound in charity to administer Extreme Unction in a case of need,³³ i.e., when the ordinary minister or his delegate is absent and there is danger in delay. The obligation of the priest is serious, even to the endangering of his life, if the sacrament is necessary, e.g., the other sacraments cannot be received; the gravity and urgency of the obligation of both ordinary and extraordinary ministers are judged by the usual norms.³⁴ On the other hand, the zeal of these ministers for souls is not limited by what is merely of strict obligation but is controlled by prudence.

III. RECIPIENT

A. - VALID.

9. - 1. - *Baptism.* - Extreme Unction can be conferred only on a baptized person who has or at least has had the use of reason and who is in danger of death from sickness or old age.³⁵ This sacrament presupposes a baptism of water.

2. - *Use of reason.*

10. - a) This sacrament, being the completion and consummation of Penance, acts to strengthen the soul against the remnants of sin and the final assaults of the devil, all of which the infant (and the perpetually demented) is incapable, not having attained the use of reason. The sacrament thus requires the existence at some time (although presently the person may be unconscious or demented) of some use of reason and thus of a capability of temptation and inducement to commit at least venial sin, and consequently of a strengthening against them. It is not required

that the recipient have actually committed a sin, but it suffices that he has been capable of sin (*doli capax*). Thus the sacrament can be conferred immediately after the baptism of a dying adult³⁶

b) Children who have reached their first use of reason should be anointed, even before they have made their first Confession or Holy Communion.³⁷ As a norm the use of reason is presumed at the age of seven; before that it must be shown to exist, and where it does, it is an abuse to refuse to confer the sacrament.³⁸ In doubt as to the attainment or sufficient use of reason, Extreme Unction may be administered conditionally³⁹ (*si es capax*).

11. — 3. - *Dangerous illness.*

a) The recipient must be in danger of death from sickness or old age. The danger need not be imminent but it must be at least probable. The prudent estimation of the danger or its gravity will be made principally by the minister (even though he may be objectively wrong), who will anoint conditionally in case of doubt. He will weigh in his consideration the judgment of others, e.g., physician, family, the sick person. As long as it is true illness which is presently and actually grave and dangerous (even though it may be removable), the sacrament is validly conferred (thus, e.g., is excluded the case of a person who is simply insensible merely from inebriation). The danger in the illness is morally probable when it is seriously probable that the sick person may survive or die. Any illness of its nature serious and dangerous (and not merely when it takes a fatal turn), is sufficient basis for the conferral of the sacrament. When the probable danger of death is first estimated Extreme Unction may be administered; when the danger of death is morally certain it must be conferred.

b) Since the danger of death must arise from intrinsic causes, no other cause whatever justifies the conferral of this sacrament, e.g., sentence of death, shipwreck, impending air raid or battle, the mere accumulation of many years of age. A pregnancy must present an extraordinary difficulty or danger to allow an administration; likewise, illnesses requiring surgery, unless due to the age or other condition of the patient or to his refusal of surgery the status of the illness is changed. After death by hanging, electrocution, etc., Extreme Unction can and ought to be conferred conditionally, as all life is not certainly absent.

4. - *Intention.*

12. — a) Extreme Unction is to be conferred absolutely on the sick who while conscious requested it at least implicitly, or who very likely would have desired it, even though afterwards they became unconscious or lost the use of reason.⁴⁰ Such a necessary and at least implicit habitual intention is considered to be present in the will to live and die a Catholic;

it need not have been formed during the present illness. It is presumed a Catholic would always request the sacrament if he could, unless there is basis for a contrary presumption in a particular case. Bad Catholics and those who have become unconscious in the very act of sinning (e.g., in an angry quarrel or shooting) may be anointed conditionally on the basis of a habitual desire to die as a Catholic, unless they have positively manifested the contrary. Those who remain contumaciously impenitent in mortal sin⁴¹ (e.g., in an invalid marriage) and those who refuse the last sacraments before lapsing into unconsciousness should be denied the sacrament, since they give no indication of a minimum intention.⁴² In any doubt of impenitence or obstinacy the sacrament is conferred conditionally. Unless there is obvious grave sin, Extreme Unction may not be refused because the sick person has not gone or will not go to confession. Each case for Extreme Unction must be judged on its own merits and any danger of scandal removed, keeping in mind the benign indulgence of the Church toward her children in face of the danger of death.

b) Conscious *heretics* and *schismatics* may not be anointed, unless they have renounced their errors and become reconciled to the Church. If they are unconscious, in good faith and admit (or their sect admits) the sacrament of Extreme Unction, they may be anointed conditionally, all danger of scandal being removed.⁴³ If these people are conscious but it would be fruitless to disturb their good faith, whereas they are sorry for their sins and are prepared to embrace all the divinely instituted means of salvation (in this intention Extreme Unction may be considered to be implicitly intended, if it is not positively rejected), they may be anointed, if the danger of scandal is absent. However, if they themselves have requested Extreme Unction, they should first be made in the most feasible manner to reject their errors and profess the faith.⁴⁴

13. — B. - **LAWFUL.** - The lawful and fruitful reception of Extreme Unction requires the possession of the *state of grace*, since it is a sacrament of the living;⁴⁵ also, if time and the condition of the patient permits, Penance and Viaticum. If the sick person is unconscious and cannot confess, or so close to death that it is feared that time does not permit the administration of both sacraments, it is more urgent and safer to anoint *before* giving absolution. Internal *attrition* suffices for the valid reception of Extreme Unction, whereas Penance requires a confession or some sensible manifestation of interior sorrow (at least attrition), and thus Extreme Unction will justify accidentally. At the same time, the greater the *reverence* and *devotion* in the reception of the sacrament, the richer the fruits gained.

14. — C. - **OBLIGATION OF RECEPTION.** - Although this sacrament is of itself not a necessary means of salvation, no one is allowed to neglect it; and thoughtful and assiduous care must be taken that the sick may receive it

while they are fully in possession of their senses.⁴⁶ It is commonly taught that the obligation (in charity to oneself) of receiving this sacrament is not grave and a justifying reason would permit its omission. Contempt, or a neglect of the sacrament which gives rise to serious scandal (e.g., in the case of a priest or a religious) would be a serious sin. The obligation would also be grave in the presence of serious sin and when no other sacrament can be received.

IV. CONDITIONAL AND REPEATED ADMINISTRATION

15. — A. - CONDITIONAL CONFERRAL.

1. - When there is doubt whether the sick person has attained the use of reason, whether he is really in danger of death, or whether he is dead, Extreme Unction is to be administered conditionally.⁴⁷ A conditional administration is lawful when there is a doubt concerning anything pertaining to the validity of the sacrament.⁴⁸

2. - In the case of the *use of reason* in *children* the normal prescriptions should be followed, which will yield to contrary facts.⁴⁹ Regarding those who have been *insane* from infancy, there must be a doubt as to whether or not they ever enjoyed lucid intervals. In practice it will usually result that the insane are anointed conditionally. The condition in both cases is: *si es capax*.

3. - Whenever the minister is in doubt whether or not the person is actually in *danger of death* from sickness or old age, the sacrament is conferred conditionally: *si es capax*.

4. - Extreme Unction cannot be given to one who is certainly dead. However, in a particular case *death* may be only *apparent* and not real, the only certain signs of the latter being rigor mortis and putrefaction. In the absence of these signs which lend certitude, the period between the apparent death and the actual cessation of all vital functions cannot be determined beyond reasonable doubt. In all cases of apparent death a single conditional anointing suffices: *si vivis*, a condition which the *Roman Ritual* requires to be expressed verbally (for lawfulness).⁵⁰

a) In cases of *sudden death*, such as from epilepsy, apoplexy, suffocation, drowning, electrocution, and similar violent deaths, it is likely that life lingers for some time after the apparent death of the person. Thus, in these circumstances a person may be anointed conditionally within an hour after apparent death, and even within two or three hours, especially if the person was in full vigor at the time of his demise. (In practice one may conditionally anoint the head of the decapitated.) In order to avoid

scandal or laxity in summoning a priest, it may be expedient to explain to the bystanders that the actual moment of death is uncertain and that the sacraments are for men.

b) Where a *lingering illness* has gradually consumed the person, it is considered that real death occurs shortly after all signs of life have ceased. Extreme Unction may thus be conferred within a half-hour of apparent death.

5. - In *other circumstances* of doubt a conditional (*si es capax*) administration must be given: in doubt a) whether or not a heretic or schismatic has retracted his errors; b) whether or not the recipient has been baptized (e.g., in an accident; he may be anointed conditionally, but there is no strict obligation); c) whether or not the sacrament has been administered in the present danger of death; d) whether or not a previous administration was valid; e) whether or not the recipient was properly disposed (intention); f) whether or not the matter used (e.g., sacred chrism) was valid for this sacrament.

16. - B. - REPEATED CONFERRAL.

1. - In the same illness the sacrament of Extreme Unction cannot be repeated unless the sick person has recovered after being anointed and has fallen into another danger to his life.⁵¹ Thus the sacrament is to be conferred as often as the sick person certainly falls into a fresh or new and distinct danger of death, whether during the same illness or owing to another illness, but not in the mere ebb and flow of the same danger. If a person is anointed in danger of death from one sickness, e.g., pneumonia, and while that sickness and danger perdures another danger arises from another sickness, e.g., from pleurisy, the sacrament is not given again, since it is the status of danger of death which has perdured, although it now becomes more seriously dangerous. There is no limit to the number of times Extreme Unction can be conferred when the requisite conditions are verified.

2. - In the case of *doubt* whether the illness is the same or a new and distinct danger is present Extreme Unction may be administered again (*si adhuc non es unctus* or *si es capax*), since the sacraments are for men and the sick person should (at least from charity) be given the benefit of the doubt. In many cases of this kind which are difficult, if not impossible to resolve, the priest must be his own guide and form a reasonably prudent judgment on whatever evidence he has. (A sacrilegiously received sacrament is not repeated, since it is valid and is apt to revive.) Thus, when there is no certain evidence, in cases of lingering illness, where it is doubtful whether the sick person has recovered from the danger in which he was anointed, the lapse of about a month from the previous unction is considered in practice as tenable basis for the pre-

sumption that the former danger has passed and a new and distinct one is present. The sacrament may not be given automatically every month in all cases of lingering illness, but only when there is a doubt of a new danger of death.

V. CEREMONIES

17. - A. - ORDINARY CASE.

1. - The oil used in Extreme Unction should be kept in the church (or sacristy) in a properly marked (O.I. or Extr. Unct.) container of silver or at least of lead or tin, which is applicable also to the smaller individual stocks. Because of necessity or some other reasonable and not necessarily grave cause (e.g., the frequency of calls, distance from the church) the local Ordinary may permit the custody of the oil of the infirm in the rectory.⁵² This permission is usually listed in the diocesan faculties; tacit or reasonably presumed permission suffices. There is no time or place prescribed for the administration of this sacrament.

2. - The preparations for the administration should include a surplice and violet stole (or at least the stole)—which outside of necessity is considered to be a grave precept,—a table covered with a white cloth upon which lie a crucifix, lighted candles (at least one), a container with six pieces of cotton to wipe off the oil from the person after each unction, bread to cleanse the minister's thumb of oil, water and towel for his hands. The cotton should not be dipped in oil after it has touched the skin of the one anointed; it should be burned and the ashes together with the bread and water put into the sacrarium.

3. - a) The unctions are to be performed accurately according to the words, order and manner prescribed by the Ritual.⁵³ The anointing of the reins is always to be omitted,⁵⁴ under grave obligation; the anointing of the feet may be omitted for any reasonable cause,⁵⁵ such as prudence or hygiene or even because of the displeasure of the sick person. An omission of all but one unction, outside of necessity, is certainly a grave sin, probably also to omit a greater part; to omit one or two unctions is probably a slight sin. An instrument (e.g., an applicator or a pencil) may not be used in anointing, except in case of serious need,⁵⁶ (e.g., certain infectious diseases), but then only in lieu of the normal antiseptic precautions and not because of a distaste or lack of courage. It should be burned after use.

b) The anointings are made with the thumb in the form of a cross, i.e., a line is drawn downwards on the place being anointed and another line perpendicular to the first is made beginning from the left to the right of the priest. The order to be followed is: eyes, ears, nose, lips,

hands, feet; where the organs are double the one on the right of the sick person is anointed first and the double anointing made while the one form is being pronounced.

c) The eyes are closed and the anointing is made on the eyelids or the eyebrows. The ears are anointed on the lobes or lower extremity. The nose is anointed either singly on the tip or individually on the side of each nostril. The mouth should be closed and the unction extended over both lips, or if it cannot be closed, on one lip. Each hand of a layman is anointed on the palm but a priest's hands are anointed on the back, since his palms have already been anointed in ordination. The anointing of the feet, when carried out, is usually made on the instep.

d) When many are anointed on the one occasion, the priest first offers the crucifix to each to be kissed and then recites in the plural number the prayers preceding the unctions, anointing each person in the usual way; having anointed all he recites the rest of the prayers in the plural number.⁵⁷ The prayers before and after the anointings must be recited and the omission of all of them without necessity seems to be a grave sin; the omission of those before or of those after is a light sin. The recitation of the litanies and the penitential psalms is only recommended.

B. - EMERGENCY CASE.

18. - 1. - *Single unction.* - In a case of necessity, when there is no time or opportunity for conferring the several anointings, a single unction is made with the prescribed shorter form on one sense, but more properly on the forehead.⁵⁸ The anointing of one organ, even when there are two, suffices (e.g., one eye). The condition of the recipient often indicates the procedure to be followed (e.g., a completely bandaged head). The need for a single unction may arise from the imminent danger of death, the danger of contagion to the priest, the urgency of medical or surgical treatment, the lack of time due to the number to be anointed. The general shorter form "*Per istam sanctam unctionem indulgeat tibi Dominus quidquid deliquisti. Amen,*" is always to be used in a single anointing, since a single unction on one sense alone under its particular form doubtfully suffices for more than that sense.

19. - 2. - *Suppliance of unctions.*

a) When there has been a single anointing, the other anointings are to be supplied when the danger has passed,⁵⁹ as pertaining to the integrity of the sacrament and to complete the rite. They are to be supplied absolutely and not conditionally.⁶⁰ When the *immediate urgency* passes, on account of which the single anointing was indicated, the other unctions

are to be supplied; thus the obligation of suppli-ance urges as long as the identical danger of death continues, since with the passing of the danger itself Extreme Unction could not be administered.

b) The obligation of suppli-ance is considered to be of itself grave; it may become light or cease to urge at all because of a disproportionate inconvenience, or because of misunderstanding or scandal that would arise and that could not be prevented by an explanation that this was not a repetition but only a suppli-ance of unctions omitted in the previous urgency. The obligation of suppli-ance rests in justice upon the ordinary minister of the place or his delegate, and upon other priests out of charity in cases of necessity. Normally, the priest who anoints in necessity with the shorter form will also, when time permits, supply the unctions. In his absence or if the patient has been transferred, the duty devolves upon the minister obliged in justice. Because of the opinion of some commentators who hold that the lapse of a notable period of time, e.g., one hour, relieves the priest of the obligation of suppli-ance, a priest who does not supply the unctions for this reason cannot be judged remiss. If the sick person requests the suppli-ance at a later time, there is some obligation at least in charity to comply.

c) If the longer rite of Extreme Unction has commenced and the sick person seemingly expires before its completion, the remaining unctions at least should be given conditionally. The prayers of the *Ritual* may be lawfully added. When the single anointing is given in a case of apparent death, the unctions should not be supplied, unless the person gives signs of life.

20. — C. - ORDER OF LAST SACRAMENTS. - The *Ritual* and the present custom of the Church place the reception of Extreme Unction after both Penance and Viaticum.⁶¹ For a just reason (which may even be for the sake of better preparation for the Eucharist) Extreme Unction may be received before Viaticum; this is the custom in several religious Orders, e.g., the Order of Preachers,⁶² and the procedure when the *Collectio Rituum* is used to administer the last rites without interruption.⁶³ When Viaticum, Extreme Unction and the Apostolic Blessing are given immediately one after the other, the opening prayers of each rite and the *Confiteor* need to be recited only once.⁶⁴

VI. APOSTOLIC BLESSING AT THE HOUR OF DEATH

21. — A. - MINISTER.

1. - *Faculty*. - The pastor and any other priest who ministers to the sick are given the faculty of granting the Apostolic blessing with a plenary

indulgence at the hour of death, using the formula provided in approved liturgical books, and this blessing is not to be omitted.⁶⁵ The priest need not enjoy normal confessional faculties in the place. This blessing is the outstanding title by which a plenary indulgence may be gained at the hour of death; it may not be applied to the dead, even by those who have made the heroic act.⁶⁶

22. - 2. - *Formula.* - The priest, in surplice and violet stole (or at least a stole), uses the prescribed formula⁶⁷ under pain of nullity.⁶⁸ In urgent necessity the preliminary prayers may be omitted and the blessing given immediately, as noted in the rite. When the blessing is imparted to many at the same time, everything is said once and in the plural throughout.⁶⁹ A priest of an Order enjoying a proper rite (e.g., the Order of Preachers) uses his own version of the *Confiteor*, etc.⁷⁰

23. - B. - RECIPIENT.

1. - *Intention.* - This blessing is given after the sacraments of Penance, Eucharist and Extreme Unction to those sick, who either have sought it while of sound mind and possessed of their senses, or who seemingly would have sought it, or who have given signs of contrition; even if later they have been deprived of the use of their speech or other sense, or have fallen into a delirium or frenzy.⁷¹

24. - 2. - *Danger of death.* - The recipient must be in a true (and not presumed) danger of death,⁷² even though not imminent, whether from an internal cause, as illness or old age, or from an outside source, as approaching battle, execution, shipwreck, etc.⁷³ The danger of death is prudently estimated, and thus a danger warranting Extreme Unction or Viaticum would suffice.⁷⁴ This blessing may be imparted conditionally in a case of apparent death when absolution and Extreme Unction are given conditionally.

25. - 3. - *Conditions.*

a) The excommunicated, those dying impenitent and those dying in manifest mortal sin are excluded from this blessing, unless there is a doubt of the dispositions, as noted above.

b) Penance and the Eucharist should precede the blessing, if possible;⁷⁵ otherwise the state of grace at the last moment of life suffices.⁷⁶ Children who have reached the use of reason have a right to this blessing, even before making first Communion.⁷⁷

c) The recipient must be prepared to accept the will of God and to meet death patiently as the wages of sin, i.e., to accept death with resignation to the will of God⁷⁸ (an essential condition).

d) There must be an invocation of the name of Jesus with his lips,⁷⁹ or if this is impossible, at least in his heart (e.g., "My Jesus, mercy"; "Jesus for Thee I live"; "Jesus"; "O Jesus, for Thee I die"), which must at least imply an act of sorrow and of love.

26. — 4. - *Repetition.* - This blessing is not to be repeated in the one serious danger or illness, no matter how long they endure.⁸⁰ It may be imparted again if the sick person has recovered and for any cause has fallen again into a new danger of death.⁸¹ If the person does not die at the time the blessing is given, the indulgence is not gained but is held in reserve until the moment of death. Thus the repetition is not strictly necessary in a new danger; it is allowed to give it again to remove all doubt and for the consolation of the recipient; this is also the practice. If the person receiving the blessing is in the state of sin, or should commit new sins after receiving the blessing, the indulgence will be gained after the state of grace is recovered.⁸²

VII. OTHER INDULGENCES AND PRAYERS FOR THE DYING

27. — A. - INDULGENCES.

1. - There are various titles in addition to the Apostolic blessing by which, without the intervention of a priest, a plenary indulgence may be gained by the dying. The usual conditions must be present: confession and Communion in danger of death, or, if impossible, at least a contrite heart; the invocation of the name of Jesus orally, or, if impossible, at least in the heart; resignation to the will of God in the patient acceptance of death. Usually there is some prayer or pious work to perform. The indulgence can be gained only at the moment of death. No matter under how many titles a plenary indulgence is obtainable, by its very nature only one such indulgence can be gained at the moment of death by each individual. However, the many opportunities afforded of gaining such an indulgence present a surer confidence of securing this ultimate spiritual benefit, and the prescribed prayers or works performed are apt to stimulate more perfect dispositions of soul for grace. This indulgence is not applicable to the dead.

2. - A plenary indulgence in danger of death may be gained by membership in some confraternity or pious association, or by the possession of some object of piety. An indulgenced object must be on the bed or by the bedside of the sick person, even if he does not touch it or is not aware of its presence. An indulgenced crucifix must be kissed or touched.⁸³ Religious who are Regulars and who are penitent, who have confessed and communicated or who are at least contrite, and who invoke the Holy Name, at least in their heart, can gain a plenary indulgence in danger of death.⁸⁴

28. - B. - PRAYERS. - The *Ritual* contains prayers for the dying which may be devoutly said and brief aspirations suggested to the dying person. These prayers are not obligatory and may be said (in English) by anyone assisting the dying. There seems to be some slight obligation to commend the dying soul to God with the prayers of the "*Ordo commendationis Animae*";⁸⁵ proportionate reason may often excuse. Other appropriate prayers may be also recited. The priest may find it expedient to console the relatives of the deceased and remind them that prayers are now more availing, that the life of each one is short and a good Christian life is the best preparation for death.

EXTREME UNCTION

¹ From its matter it is sometimes called "holy oil" (ἁγίασμα), or "prayer with oil" (ἁγίον ἔλαιον), or "oil of the sick" or "sacrament of the dying" from its recipient.

² Trent, Denz. 907.

³ *Ibid.*, "This sacred unction of the sick was instituted by Christ our Lord as truly and properly a sacrament of the New Law, alluded to indeed by Mark (6:13) but recommended and announced to the faithful by James the Apostle and brother of the Lord. 'Is any man,' he says, 'sick among you? Let him bring in the priests of the Church and let them pray over him, anointing him with oil in the name of the Lord; and the prayer of faith shall save the sick man, and the Lord shall raise him up; and if he be in sins, they shall be forgiven him.'" (Jas. 5:14) Cf. Denz. 908; 926.

⁴ *Ibid.* "For the thing signified is the grace of the Holy Spirit whose anointing takes away the sins if there be any still to be expiated, and also the remains of sin and raises up and strengthens the soul of the sick person by exciting in him great confidence in the divine mercy, supported by which the sick one bears more lightly the miseries and pains of his illness and resists more easily the temptations of the devil who lies in wait for his heel; and at times when expedient for the welfare of the soul restores bodily health." Cf. Denz. 909; 927.

⁵ Cf. *Catechism of the Council of Trent*, The effects of Extreme Unction.

⁶ *Ibid.*, Extreme Unction is but one sacrament.

⁷ c. 944.

⁸ c. 945; Florence, Denz. 700; Trent, Denz. 908; cf. *Summa Theol.*, *Suppl.* q. 29, a. 4.

⁹ S. Off. 14 sept. 1842; 15 maii 1878.

¹⁰ c. 734, 2.

¹¹ cc. 734, 1; 735.

¹² Holy oils may not be sent through the mails or entrusted to an express company.

¹³ c. 734, 1.

¹⁴ *Rit. Rom.*, tit. V, c. 1, no. 18. This precept does not seem to be grave.

¹⁵ cc. 937; 947.

¹⁶ *Rit Rom.*, loc. cit., n. 20; *Collectio Rituum* (1954), Tit. III, c. 2, n. 11; *Priest's Ritual* (1962), p. 91a-b; *Practical Handbook of Rites, Blessings and Prayers* (1961), Part One, Section VIII, pp. 179-180.

¹⁷ c. 947, 1; *Rit. Rom.*, loc. cit., n. 21.

¹⁸ *Rit. Rom.*, loc. cit.; *Collectio Rituum*, loc. cit., n. 12; *Priest's Ritual* (1962), p. 96; *Practical Handbook*, loc. cit., p. 183.

¹⁹ *Processionarium S.O.P., De Sacramento Extremae Unctionis (ad unguendum Infirmum Fratrem)*.

²⁰ c. 938, 1; Trent, Denz. 929.

²¹ c. 938, 2.

²² c. 462, 3^o.

²³ c. 451, 2; cf. also c. 397, 3.

²⁴ c. 514, 1.

²⁵ PCI 61 iun. 1931.

²⁶ c. 514, 2.

²⁷ cc. 514, 3; 464, 2.

²⁸ c. 1368.

²⁹ c. 476, 6.

³⁰ c. 939.

³¹ Cf. Pius XII, Discourse "The Foundations and Norms of Christian Morality for the 'Exercise of the Mission of Health.'" 12 nov. 1944.

³² c. 938, 2.

³³ c. 939.

³⁴ Cf. *General Norms*, nos. 33-36. It should be noted that no priest may anoint himself (S.C.P.F. 23 mart. 1844).

³⁵ c. 940, 1; Florence, Denz. 700; Trent, Denz. 910.

³⁶ S. Off. 10 maii 1703; S.C.P.F. 26 sept. 1821. There must, of course, be a sufficient intention of receiving this sacrament (S. Off. 10 apr. 1861).

³⁷ Cf. S. C. Sac. 10 aug. 1910.

³⁸ *Ibid.*, 8 aug. 1910.

³⁹ c. 941.

⁴⁰ c. 943.

⁴¹ c. 942.

⁴² Some theologians would allow conditional Extreme Unction in such extreme cases. However, cf. *General Norms of Sacramental Administration*, no. 55.

⁴³ Cf. cc. 731, 2; 943. S. Off. 17 maii 1916 to various local Ordinaries (Denz. 2181a): "I. Whether when material schismatics at the point of death, in good faith seek either absolution or extreme unction, these sacraments can be conferred on them without the abjuration of their errors? R. In the negative, but it is required that they reject their errors as best they can and make a profession of faith. II. Whether absolution and extreme unction can be conferred on schismatics at the point of death when unconscious? R. Conditionally, in the affirmative, especially

if from the circumstances it may be conjured that they at least implicitly reject their errors, yet effectually removing scandal, at least by manifesting to the bystanders that the Church supposes that at the last moment they have returned to unity."⁴⁴

⁴⁴ S. Off., *loc. cit.*; cf. *ibid.*, 15 nov. 1941.

⁴⁵ Cf. c. 942.

⁴⁶ c. 944.

⁴⁷ c. 941.

⁴⁸ Cf. *General Norms*, no. 19.

⁴⁹ Cf. no. 10 above.

⁵⁰ *Rit. Rom.*, Tit. V, c. 1, n. 14. It should be noted that this case is not to be confused with the circumstance in which the sick person dies after the anointings have begun; whereupon the remaining unctions are given conditionally. It is even lawful to add the prayers of the Ritual.

⁵¹ c. 940, 2; cf. Trent, Denz. 910.

⁵² cc. 735; 946; 1269, 2.

⁵³ c. 947, 1; *Rit. Rom.*, Tit. V, c. 2; *Collectio Rituum*, Tit. III, c. 2, (English is excluded from the actual unctions); *Priest's Ritual* (1962), p. 91a-b; *Practical Handbook*, *loc. cit.*, pp. 175-182.

⁵⁴ c. 947, 2.

⁵⁵ *Ibid.*, 3.

⁵⁶ *Ibid.*, 4.

⁵⁷ S. C. Rit. 9 aug. 1922; *Rit. Rom.*, Tit. V, c. 1, n. 22.

⁵⁸ c. 947, 1.

⁵⁹ *Ibid.*

⁶⁰ S. Off. 9 mart. 1917.

⁶¹ *Rit. Rom.*, Tit. V, c. 1, n. 2.

⁶² *Processionarium S.O.P., De Sacramento Extremae Unctionis (Ritus Benedictionis Apostolicae in articulo mortis)*.

⁶³ *Collectio Rituum* (1954), Tit. III, c. 4.

⁶⁴ S. C. Rit. 30 oct. 1953.

⁶⁵ c. 468, 2.

⁶⁶ S. C. Indulg. 23 ian. 1901; S. Poenit., 25 ian. 1932.

⁶⁷ *Rit. Rom.*, Tit. V, c. 6; *Collectio Rituum*, Tit. III, c. 3; *Priest's Ritual* (1962), p. 100; *Practical Handbook*, *loc. cit.*, pp. 183-187.

⁶⁸ S. C. Indulg. 5 feb. 1841; 22 mart. 1879.

⁶⁹ *Rit. Rom.*, Tit. V, c. 6, n. 8.

⁷⁰ S. C. Rit. 9 aug. 1922; 30 *Analecta O. P.*, 155.

⁷¹ *Rit. Rom.*, *loc. cit.*, n. 1.

⁷² S. C. Indulg. 23 apr. 1675.

⁷³ *Ibid.*, 23 sept. 1875.

⁷⁴ *Ibid.*, 18 dec. 1885.

⁷⁵ In the Dominican rite for the brethren and the sisters Viaticum is administered after the Apostolic blessing. (*Proc. S.O.P., loc. cit.*)

⁷⁶ S. C. Indulg. 16 dec. 1826.

⁷⁷ *Ibid.*, 23 sept. 1775.

⁷⁸ *Pia Mater*, const. Bened. XIV, 4 apr. 1747.

⁷⁹ S. C. Indulg. 22 sept. 1892.

⁸⁰ *Ibid.*, 23 sept. 1775; 20 ian. 1836; 24 sept. 1838.

⁸¹ *Ibid.*, 24 sept. 1838; 12 feb. 1842; 12 mart. 1855. This differs from Extreme Unction which is repeated when a fresh danger arises in the same state of serious illness.

⁸² Cf. S. C. Indulg. 12 mart. 1885.

⁸³ S. Poenit. 23 iul. 1929; 22 sept. 1942.

⁸⁴ Paul V, 23 maii 1606; cf. *Cap. Gen. O.P.* 1910.

⁸⁵ *Rit. Rom.*, Tit. V, c. 7, nn. 1-5 and perhaps also n. 7; *Collectio Rituum*, Tit. III, c. 5; *Priest's Ritual* (1962), p. 113 sq.; cf. *Practical Handbook*, *loc. cit.*, pp. 187-200.

VII

The Administration
of
Holy Orders

THE ADMINISTRATION OF HOLY ORDERS

I. NOTION

1. - A. - DEFINITION.

1. - Order in general (τάξις, τάγμα) is the disposition, arrangement or coordination of many things among themselves in the manner of superior and inferior. It also stands for grade or dignity; thus as regards the clergy it means hierarchical order or sacred hierarchy. As a sacrament, called in English "Holy Orders," it is defined as a sacrament of the New Law instituted by Christ (genus) by which through a sacred rite, (external sign) a spiritual power or character (effect) is imparted by a competent minister on the one ordained (subject) and grace conferred (effect) to exercise rightly and worthily ecclesiastical duties (purpose).¹ The spiritual power conferred in this sacrament is for the purpose of governing the faithful and of providing a ministry of divine worship.² The power of Orders or the sacerdotal power regards the Eucharistic Body of Christ (and all the other sacraments and connected things inasmuch as they are ordered to the Eucharist); the power of jurisdiction regards the Mystical Body of Christ or the Church through ruling, governing and directing the Christian people toward eternal happiness.

2. - It is of faith that Holy Orders is a true sacrament instituted by Christ,³ and that it imprints an indelible character in the soul distinct from that of Baptism and Confirmation.⁴ Thus by divine institution there is a distinction between clergy and laity.⁵ By a necessity of the sacrament itself Holy Orders presupposes Baptism, and by a necessity of precept Confirmation.

2. - B. - MATTER AND FORM. - The constitutive elements of this sacrament are considered below inasmuch as they differently relate to each of the orders. The theological discussion whether Christ mediately or immediately, generically or specifically instituted the sacraments, i.e., as to matter and form, pertains in a special way also to the sacrament of Holy Orders.

The Church has *de facto* determined for the future the precise matter and form of the diaconate, priesthood and episcopate.⁶

3. - C. - EFFECTS. - Because of the indelible character, the sacrament of Holy Orders is not repeatable. Although it may accidentally give first grace, as a sacrament of the living Holy Orders confers an increase in sanctifying grace,⁷ and in an eminent degree, since it is the most worthy sacrament after the Eucharist, being immediately ordered to It. Infused at the same time is the sacramental grace proper to it. "The worthy exercise of Orders requires not any kind of goodness but excellent goodness, in order that as they who receive Orders are set above the people in the degree of Order, so may they be above them by the merit of holiness. Hence they are required to have the grace that suffices to make them worthy members of Christ's people, but when they receive Orders they are given a yet greater gift of grace, whereby they are rendered apt for greater things."⁸

4.

II. DIVISION

A. - In the Latin Church there are seven orders which are conferred by sacred rites;⁹ in the Oriental Church there are four orders. The theological question is argued whether all rites (except tonsure) are all sacraments, or only some of them, with the others being instituted by the Church as sacramentals. It is of faith that the episcopacy, priesthood, diaconate are of divine institution;¹⁰ it is certainly of faith that the priesthood is a sacrament.¹¹ It is commonly taught as theologically certain that the episcopacy (considered as a distinct order from the priesthood) and the diaconate are sacraments. It is more common opinion today that the subdiaconate and minor orders are not sacraments, because they lack divine institution.¹²

B. - However, regardless of the number of orders, there is only one sacrament of Holy Orders,¹³ by reason of the end to which it is ordained. i.e., the Eucharist. It is defined that there are major and minor orders in the Church.¹⁴ They are called major or sacred orders because they are the closest to the Sacrifice of the Mass, the others thus being minor or non-sacred. Tonsure is not properly an order but the entrance or preamble to orders. In the Latin Church the major orders are: priesthood (episcopacy), diaconate, subdiaconate;¹⁵ the minor orders are: acolyte, exorcist, lector, porter.¹⁶ In the Oriental Church the major orders are: priesthood (episcopacy) and diaconate; the minor orders are: subdiaconate and lector.

III. MINISTER

5. - A. - ORDINARY.

1. - Every consecrated bishop and only such is the ordinary minister of valid ordination.¹⁷ This is of faith for orders which are sacraments,¹⁸ and certain for others. It makes no difference for validity even if the bishop is heretical, schismatic, excommunicated, degraded, etc.¹⁹

2. - The lawful ordinary minister is the proper bishop, or one delegated by him with lawful dimissorial letters,²⁰ even for the conferral of tonsure.²¹ The proper bishop for the ordination of *seculars* is that bishop only who is the bishop of the diocese in which the candidate possesses a domicile, if it is the diocese also of his origin, or if not, provided the candidate takes an oath of remaining permanently in it, except in the case of the ordination of a cleric already incardinated in the diocese by first tonsure, or of one destined to serve in another diocese by the norm of c. 969, 2.²² The proper bishop for the ordination of *religious* (and thus to whom the religious superior is obliged to send dimissorial letters) is the bishop of the place in which is located the religious house to which the candidate is assigned,²³ unless the Institute has an indult from the Holy See to present subjects to any bishop.

3. - One who is not the proper bishop may lawfully ordain the subject of another on the receipt of lawful dimissorial letters from the bishop of the one to be ordained, as long as the letters are genuine and accompanied by any requisite testimonies.²⁴ Dimissorial letters (*litterae dimissoriae*) are those by which a superior releases (*dimittere*) or sends his own subject to another bishop with the faculty of receiving orders from him. They differ from testimonial letters by which is given merely an authentic attestation of birth, age, character, doctrine, etc., of the one to be ordained. As long as they retain jurisdiction in the territory entrusted to them, the proper bishop, the vicar general with special mandate, the administrator of the diocese may issue dimissorial letters for *seculars*; likewise vicars and prefects apostolic and abbots and prelates *nullius*, even though without episcopal character and even for promotion to major orders.²⁵

4. - *Religious* who are exempt can be lawfully ordained by no bishop without the dimissorial letters of their own proper major superior.²⁶ A religious superior can issue dimissorial letters only for tonsure and minor orders in the case of their subjects (excepting novices) who have not made perpetual profession (simple or solemn).²⁷ Religious who are not exempt are governed regarding dimissorials by the norm for seculars, unless the Institute enjoys a special Apostolic indult.²⁸ The religious superior may send dimissorial letters to another bishop only if the dioce-

san bishop grants permission, or he is of a different rite from that of the candidate or he is absent, or not prepared to ordain at the next lawful date, or if the diocese lacks a head with episcopal character.²⁹ The religious superior should not send a subject to another religious house or deliberately postpone issuing dimissorials thereby infringing on the right of the diocesan bishop.³⁰

6. — B. - EXTRAORDINARY. - One who, though lacking episcopal consecration, receives by law or by Apostolic indult the authority to confer certain orders is an extraordinary minister of ordination.³¹ By law Cardinals can confer tonsure and the minor orders on anyone having the proper dimissorials.³² Vicars and prefects apostolic, and abbots and prelates *nullius* who do not possess episcopal character, in their own territory, may, during the tenure of their office, confer tonsure and the minor orders on their own secular subjects, non-exempt religious, and others with proper dimissorials; outside their own territory the ordinations would be invalid.³³ Likewise, regular abbots *de regimine* (if not bishops) enjoy this authority but only regarding candidates subject to them by at least simple profession.³⁴

7.

IV. TONSURE

A. - NATURE. - Tonsure (*tonsura*) is a sacred rite instituted by the Church whereby a baptized layman, through the cutting of the hair of the head and the vesting with the surplice, performed by a competent minister and with fitting and prescribed words, is ascribed to the clerical state and prepared for the reception of orders.³⁵ The rite of tonsure is not an order but the preparation for or preamble to orders. It separates a man from the lay state and incorporates him into the clerical³⁶ state as a member of the ecclesiastical hierarchy. Thus it is called *first* tonsure as the rite first separating a man from the laity and binding him to the divine service, and not because a further tonsure is presupposed.³⁷ Similarly it is called a *clerical* tonsure, establishing one as a cleric, and is thus distinguished from the monastic tonsure. In addition to effecting the transfer to the clerical state, tonsure also makes the recipient capable of the power of orders and of jurisdiction and of obtaining ecclesiastical benefices and pensions,³⁸ a participant in the rights and privileges of clerics,³⁹ as well as subject to the obligations of clerics.⁴⁰

B. - RITE. - The essential rite of tonsure consists of a determined matter and form. The remote matter is the true and natural hair of the head of the candidate.⁴¹ If hair is lacking, recourse must be had to the Holy See. The proximate matter is the cutting of the ends of the hair in four places, as described in the *Pontificale Romanum*. One cutting,

however, suffices for validity. Not being an order, tonsure is improperly said to have a form, namely: "*Dominus pars—haereditatis meae—et calicis mei—tu es qui restitues haereditatem meam mihi.*" These words must be recited by the recipient of tonsure, customarily repeating them after the minister part by part with each cutting. The receiving of clerical dress (where it is not already worn) and the investing with the surplice accompanied by certain words is part of the rite of tonsure but not essential.

8. V. PORTER

A. - NATURE. - The order of porter is a sacred rite by which a special power is conferred *ex officio* of opening and closing the doors of the church, and of admitting the worthy and rejecting the unworthy. The porter (*ostiarius*) or doorkeeper is one who rings the church bells, opens up the church and sacristy⁴² and opens the book for the preacher.

B. - RITE. - The conferral of the order of porter is by the handing over of the keys (matter), which are touched by the right hand⁴³ of the candidate, and the recital by the minister of the words of the form: "*Sic agite, quasi reddituri Deo rationem pro iis rebus quae his clavibus recluduntur.*" Any single key suffices,⁴⁴ but the practice of the *Pontificale* requiring two is to be observed.⁴⁵ The opening and closing of the church door and the ringing of the church bell by the ordinand is only of precept and not for the validity of the order; it is not necessary by precept to lock and unlock the door with a key or to ring many bells; one bell suffices and for a just cause the small altar bell may be rung.⁴⁶

9. VI. LECTOR

A. - NATURE. - A lector or reader (*lector*) is one who by a sacred rite receives the power *ex officio* to read the psalms or parts of the Sacred Scriptures which are to be explained by the bishop or the preacher, and to catechize the people. His duty is to read or sing the lessons in church, but not the Gospel at Mass (which is proper to the deacon). He can bless bread and first fruits.

B. - RITE. - The order of lector is conferred by handing over to the candidate the book of the Scriptures (matter), i.e., the Lectionary or book of Lessons, Missal, Bible, breviary, or such book containing the Scriptures, to be touched with his right hand,⁴⁷ with the words of the form recited by the minister: "*Accipite et estote verbi Dei relatores, habituri, si fideliter impleveritis officium vestrum, partem cum eis, qui verbum Dei bene administraverunt ab initio.*"

10.

VII. EXORCIST

A. - NATURE. - The rite by which a power is given *ex officio* to drive out devils from bodies through the exorcisms instituted by the Church confers the order of exorcist (*exorcista*). However, by the present legislation of the Church exorcisms over those possessed by the devil cannot be made except by a priest and with the special and expressed permission of the Ordinary.⁴⁸

B. - RITE. - The order of exorcist is conferred by the handing over of the book of exorcisms, or the Missal, *Pontificale* or *Rituale Romanum*, (matter) to be touched by the right hand of the candidate,⁴⁹ as the minister recites the words of the form: "*Accipite et commendate memorice et habete potestatem imponendi manus super energumenos sive baptizatos sive catechumenos.*"

11.

VIII. ACOLYTE

A. - NATURE. - An acolyte (*ἀκόλουθος*, *acolythus* or *ceroferarius*) or follower is so-called because, while carrying lighted candles, he accompanies the subdeacon when the Gospel is to be read and is attendant upon the subdeacon when the latter ministers the wine and water. The order of acolyte is conferred through a rite by which a power is given *ex officio* to carry the candlesticks, to light the church lights, and to minister the wine and water for the Eucharist. The candlesticks are principally those carried when the Gospel is being sung. The ministry of wine and water consists in the offering of the cruets of wine and water at Mass to the celebrant or to the subdeacon as the ceremony may prescribe.

B. - RITE. - The order of acolyte is conferred by the handing of a candlestick with unlighted candle (matter), to be touched by the candidate with his right hand,⁵⁰ while the minister recites the words of the form: "*Accipite ceroferarium cum cereo, et sciatis vos ad accendenda ecclesiae luminaria mancipari, in nomine Domini.*" To which the ordinand responds: "*Amen.*"⁵¹ Likewise, by an empty cruet (matter), which the candidate must touch with his right hand,⁵² the words of the form being recited by the minister: "*Accipite urceolum ad suggerendum vinum et aquam in Eucharistiam Sanguinis Christi, in nomine Domini.*" To which the ordinand responds: "*Amen.*" It is not essential that the candle be unlighted; it suffices that the ordinand touch the candlestick only; it is not essential that the cruet be empty.

12.

IX. SUBDEACON

A. - NATURE. - The rite by which the power is given *ex officio* to serve the deacon at solemn Mass and to sing the epistle confers the order of the subdiaconate. It is the duty of the subdeacon (ὑποδιάκονος—*subdiaconus*) to wash the sacred linens (purificators, palls, corporals), to offer the chalice and paten for use in the Holy Sacrifice, to carry the cross in procession. The maniple is the proper insignia of the subdeacon.

B. - RITE. - Subdiaconate is conferred by the handing over of the empty consecrated chalice and empty consecrated paten (matter),⁵³ and the book of epistles, to be touched by the right hand of the candidate,⁵⁴ with the words of the forms being recited by the minister: (chalice and paten) "*Videte, cuius ministerium vobis traditur; ideo vos admoneo, ut ita vos exhibeatis, ut Deo placere possitis.*" (book of epistles) "*Accipite librum Epistolarum, et habete potestatem legendi eas in Ecclesia sancta Dei, tam pro vivis tam pro defunctis. In nomine Pa tris, et Fi lii, et Spiritus Sancti.*" To which is responded; "*Amen.*" The handing of the book of epistles (or Missal, Bible or breviary) is more commonly considered not essential, but if omitted or if handed by another than the ordaining bishop, that part of the rite is to be repeated, even privately outside of Mass with the appropriate form.⁵⁵ The accidental rite is the imposition by the bishop with appropriate forms of the amice, tunic and maniple, and the handing by the archdeacon of the cruets with basin and towel to be touched.

13.

X. DEACON

A. - NATURE. - The order of deaconate (διάκονος—*diaconus*, minister) is the order of ministry to the priesthood. It is a sacrament by which is conferred a power *ex officio* immediately to assist the priest at solemn Mass and to sing the Gospel, and to administer solemn Baptism and Holy Communion as extraordinary minister,⁵⁶ and to admonish the faithful as to what they must do; e.g., *Ite, Missa est*, or *Benedicamus Domino*. The deacon offers the host to the celebrant at Mass and pours into the chalice the wine to be offered by the same celebrant.⁵⁷ He assists the priest at solemn sacred functions, such as exposition and benediction of the Blessed Sacrament (he is ordinary minister of exposition and reposition but not of benediction). He may also preach,⁵⁸ but only with the permission and faculty of the competent superior;⁵⁹ the pastor's permission does not suffice, except in a case of necessity or in a particular case and with the lawfully presumed permission of the local Ordinary. Without the Ordinary's permission he can catechize children, but not

adults.⁶⁰ The proper insignia of the deacon is the stole (worn on the left shoulder and crossed on the right side), and to a lesser extent the dalmatic.

B. - RITE. - The essential rite for the future⁶¹ is the imposition of the hand of the bishop on the head of the ordinand (matter), while the essential words of the Preface (the only one in this rite of ordination) are recited: "*Emitte in eum, quaesumus, Domine, Spiritum Sanctum, quo in opus ministerii tui fideliter exequendi septiformis gratiae tuae munere roboretur.*" The right hand of the bishop is imposed, but the left hand suffices also for validity. There must be a physical touching of the head, although a moral contact, i.e., a mere extension of the hand over the head without touching it, suffices for validity.⁶² All other rites are accidental, namely, the handing over of the book of Gospels (or Missal or Bible),⁶³ touching the chalice and paten, the investing with the stole and dalmatic, with the corresponding forms. If any of these accidental rites are omitted or if a defect is present, recourse should be had to the Holy See for decision in each case. Ordinations to the diaconate, priesthood, episcopacy before April 28, 1948 (the effective date of "*Sacramentum ordinis*") are to be judged in accordance with the discipline prevailing at the time.

14.

XI. PRIESTHOOD

A. - NATURE. - The priesthood (*πρεσβύτερος*— *presbyter, senior, president*) is a sacramental order in which is conferred the power of consecrating the Body and Blood of Christ, of remitting sins, of administering the other sacraments and sacramentals as ordinary minister when they do not require the episcopal character. The duties of the priest⁶⁴ are to offer (principally the Holy Sacrifice), to bless (in the sacramentals, in the official prayers said in the name of the Church, in the sacraments of Matrimony, Extreme Unction and Penance), to preside (to aid the bishop, to take his place in the divine offices and in ruling the people of a parish), and to preach (to announce the word of God by teaching the people Christian doctrine in solemn preaching, homilies, catechizing). The insignia of the priesthood is the stole worn over both shoulders and crossed in front of the chest during Mass, and to a lesser extent the chasuble.

B. - RITE. - The order of the priesthood is conferred for the future by the first imposition of the bishop's hands upon the head of the ordinand (matter), which is done in silence,⁶⁵ and the words of the Preface recited by the bishop: "*Da, quaesumus, omnipotens Pater, in hunc famulum tuum Presbyterii dignitatem; innova in visceribus eius spiritum sanctitatis, ut acceptum a Te, Deus, secundi meriti munus obtineat censuram-*

que morum exemplo suae conversationis insinuet."⁶⁶ All other rites are accidental, namely, the handing over of the instruments to be touched by the ordinand,⁶⁷ the anointing of the hands, the investing with the priestly stole and chasuble, the last imposition of hands to which are attached the words: "*Accipe Spiritum sanctum, quorum remiseras peccata, etc.*" If any of these accidental rites are omitted or a defect is present, recourse is to be had in each case to the Holy See for decision.

15. XII. PRAYERS ENJOINED

A. - "All those who have been promoted to the first tonsure, or the four minor orders, say once the seven penitential psalms with the litany (of the Saints), versicles, and orations. Subdeacons and deacons, say the nocturn of this day. Those who have been ordained priests, say, after your first Mass, three other Masses: one of the Holy Spirit, another of the Blessed Mary ever virgin, and the third one for the faithful departed, and pray to Almighty God also for me." To which injunction of the ordaining prelate the ordained answer: "Gladly" (*libenter*).⁶⁸

B. - 1. - It is more commonly held that the prayers and Masses enjoined on the newly ordained do not oblige gravely. It is more probable that they do not oblige even lightly, since there is no evident strict obligation but rather an obligation of decency and not under sin. Certainly a sense of religion and of gratitude will prompt the newly ordained to satisfy the injunction.

2. - The nocturn of that day is understood to be the ferial nocturn (9 psalms), or the first nocturn of the feast or the Sunday, as the ordination is conferred on one or another of these days, unless the bishop expressly designates another.⁶⁹ It is not required to recite the psalm *Venite exultemus*, the hymn and lessons; it suffices to recite the psalms with their antiphons.⁷⁰

3. - The three Masses are understood to be votive Masses and are to be said on the days permitted by the rubrics for votive Masses.⁷¹ They need not be said earlier than the days on which votive Masses are not impeded; for a just cause their celebration may be delayed. If a feast of the Blessed Virgin occurs, or a day on which a Mass of the Holy Spirit must be said, the injunction is fulfilled by celebration on that day. The newly ordained priest is not obliged to apply the three Masses for the intention of the ordaining prelate,⁷² but they may be applied for other intentions and persons, even with a stipend. It is recommended, however, that the newly ordained apply these Masses, out of devotion and grati-

tude to the Holy Spirit and the Blessed Virgin, to implore divine help for the Church, the ordaining prelate and for themselves, and out of pity, for the poor suffering souls.

16.

XIII. TIME AND PLACE

A. - Major orders are to be conferred at Mass on the Ember Saturdays, on the Saturday before Passion Sunday, and on Holy Saturday; for a grave reason the bishop may confer them on any Sunday or holyday of obligation; if pastoral utility should arise, the local Ordinary may confer sacred orders outside the cathedral and *extra tempora*, even on weekdays.⁷³ First tonsure may be conferred on any day and at any hour; minor orders may be conferred on Sundays and feasts of double rite, but in the morning.⁷⁴ When an ordination is to be repeated or some rite supplied, whether absolutely or conditionally, this may be done outside the above time and in secret.⁷⁵

B. - General ordinations are to be held in the cathedral church, or, if in another district of the diocese, in the church of greater dignity. For a just reason the bishop may hold particular ordinations in other churches or even in the oratory of the episcopal residence, of the seminary, or of a religious house. First tonsure and minor orders may be conferred even in private oratories.⁷⁶

XIV. RECIPIENT

17. — A. - VALID RECEPTION.

1. - Only a male who is baptized and has at least the habitual intention of receiving the sacrament of Holy Orders is a *capable* subject of valid ordination.⁷⁷ By divine law only males in this life are capable of receiving sacred ordination.⁷⁸ If there is prudent doubt as to the sex of the candidate, e.g., in the rare instances of a hermaphrodite or pseudohermaphrodite, the candidate must be barred from ordination; if ordination has been conferred, recourse must be had to the Ordinary and a competent physician, and the individual must be barred from the ministry in the meantime.

2. - An intention, which is at least habitual and explicit,⁷⁹ is required in those who are adults or who have attained the use of reason. Because of the importance and the obligations of the clerical state, an intention which is at least virtual is urged. Those who are ordained when asleep or unconscious, drunk, or insane, receive valid ordination inasmuch as the requisite intention is present or not. Baptized infants are validly

ordained, but on the completion of their sixteenth year they may choose or reject the obligations of the clerical state (principally celibacy and the divine office); in the latter choice, they are permitted to live as a layman.⁸⁰

3. - A cleric who has received a sacred order under the influence of grave fear (or of grave deceit, and which has not removed the requisite intention or the use of reason) and has not, after the coercion has ceased, ratified the ordination at least tacitly by the exercise of the functions of the respective order with the intention in so doing of submitting to the obligations imposed by it, shall be reduced to the lay state by a sentence of an ecclesiastical judge after proof of the coercion and the absence of ratification (according to cc. 1993-1998); and this reduction frees the cleric from the obligations of celibacy and the divine office.⁸¹ It is commonly taught that one who deceitfully (*ficte*) approaches the reception of Holy Orders is invalidly ordained, i.e., one who outwardly allows the external rite to be completed on him but inwardly dissents or refuses to receive the Sacrament or what the Church does by this rite.

18. - B. - **LAWFUL RECEPTION.** - For the lawful reception of Holy Orders many other conditions are required of the candidate to be a *qualified* subject. These refer both to the ordinand himself and to the ordination.⁸² Thus the candidate must be endowed, in the opinion of his proper Ordinary, with the qualities required by the canons and free from irregularities and impediments; in other words: a divine vocation, suitability, absence of legitimate impediments.⁸³

19. - 1. - *Divine vocation.*

a) *the call.*

1) The sacrament of Holy Orders invests a man with priestly and hierarchical functions to be exercised in the Christian society of the Church. Admission to Holy Orders is subject to the authority of the Church through its competent representatives, who, in calling candidates to assist the bishops in the discharge of their duties as actual pastors of the Christian society, select and accept them according to certain norms required by the nature of the sacrament and the ends and needs of the Church, and also of a particular religious Institute in the case of religious candidates.⁸⁴ This is the external or public call, the so-called ecclesiastical or canonical vocation to Orders. These norms or requirements at the same time are signs of the presence of a divine interior vocation, which they presuppose or guarantee, make known and complete.⁸⁵ Thus the Church cooperates with God who by His special grace interiorly calls the candidate to the service of the Master in Holy Orders. Both a divine interior vocation and the external call of the Church are required of the candidate of Holy Orders.⁸⁶

ii) Vocation to the clerical state is thus an act of divine providence whereby God selects some above others for His priesthood and prepares them with suitable gifts for the worthy exercise of priestly duties. For this reason, and because this sacrament has been instituted not so much for the recipient as for the common good of the faithful, one who is conscious of a lack of vocation or who has made insufficient inquiry or who is in serious doubt about his vocation is liable to grave sin in approaching the reception of Holy Orders. Moreover, it is likewise sinful to remain in the clerical state in face of an obvious mistake in choice of life, as long as the individual can legitimately leave. The principal signs of a clerical vocation are a right intention, probity of life and suitability (knowledge and health).

20. – b) *the right intention.* - The right intention essential to vocation is the supernatural motive or desire, free, firm and constant, to procure the glory of God and the salvation of souls; it is a certain supernatural propensity to embrace the clerical life. It is man's response to God's special grace and the primary sign of a divine vocation.⁸⁷ This is also true of those aspiring to the priesthood in the religious state.⁸⁸ The stronger the supernatural motivation of the will, the clearer will be the divine vocation and fitness of the candidate.⁸⁹ The intention requisite in the candidate for Holy Orders is the determination to go on to the priesthood, which is the contemporary meaning of the requirement: *animus clericandi*.⁹⁰ Thus, to have the intention of not persevering in the clerical state or of not going on for the priesthood is usually not without some sin, if not necessarily grave sin. One who, otherwise properly equipped, feels himself less suited for the clerical state, or who has a less worthy primary purpose in embracing the clerical state, e.g., to improve his condition in life, is not often without at least slight sin; it is, however, possible that such a person may in time, under grace, acquire the right intention. If the doubt of the candidate arises about his vocation, due to his uncertainty as to suitable qualities of mind and body on his part, he should not go on to orders, especially major orders, if the doubt cannot be dispelled according to the norms of prudence. If the doubt exists because evil habits exist, which have not yet been overcome or rooted out, he must be considered as not possessing a vocation and not allowed to go on for orders.

21. – 2. - *Suitability.* - Besides the right intention necessary in the aspirant for the priesthood, there must also be present "those qualities of mind and body which make him fit for that state in life,"⁹¹ i.e., the candidate must possess a suitability for a life of dedicated service to God, a fitness for bearing the burdens and tasks of the priesthood—"a fitness based on qualities of nature and of grace, proved by uprightness of life and sufficiency of knowledge."⁹² "A bishop should not confer sacred orders upon anyone unless he is *morally* certain by reason of *positive* proof that the

candidate is canonically fit; otherwise he not only sins most grievously but also runs the risk of sharing in the sins of others."⁹³ Both the divine vocation and the suitability of the aspirant are not conferred but are rather presupposed by his admission by the bishop to orders. This admission is not of itself a certain sign of either, as the bishop (or those presenting the candidate to him) may be mistaken. A prudent and founded doubt of fitness in the candidate indicates a lack of requisite qualities and thus he should be rejected. The bishop, of course, ultimately depends wholly or in great part upon the estimation of fitness made by those engaged in the formation of seminarians, whether secular or religious.⁹⁴ It is important, then, to use every effort to certify that an exterior appearance of suitability bespeaks an interior reality. It is not enough merely to be aware of nothing bad about the candidate, but there must be a moral certitude of his uprightness of character relative to the sublimity of the degree of orders desired.⁹⁵ Suitability includes the whole man with his complexity of faculties and qualities—physical and psychological, intellectual, moral—, which fitness should become more evident as the candidate ascends through the various grades of orders.⁹⁶

22. - a) *physical and psychical.*

1) More is required today for the candidate for the priesthood than an absence of bodily defects.⁹⁷ He must be completely fit physically and able to handle the tasks and responsibilities of the present-day priesthood (as well as the special burdens of the religious life, in the case of the religious priesthood).⁹⁸ It should be recognized that not only illness or debility, e.g., incipient deafness or blindness, renders a candidate physically unfit, but also that some past bouts with disease may have left in their train certain constitutional or even psychical disorders (experts note especially tuberculosis, epilepsy, encephalitis). Other weaknesses may be handed down directly or indirectly from parents or grandparents to the aspirant, e.g., tuberculosis, venereal disease, alcoholism.⁹⁹ The Church has always been conscious of the likelihood of transmission of incontinency in the case of those who are illegitimate; a cautious circumspection is recommended even in the admission of those for whom the obtaining of a dispensation is otherwise in order.¹⁰⁰ Cases of pronounced stuttering or stammering should be carefully reviewed, since they are deterrents to the ministry and often indicate a deeper psychological problem. An adequate investigation of the candidate in accordance with the norms of the law will serve to bring out counter-indications to requisite physical health.¹⁰¹ Expert and informed medical opinion should be sought in forming a judgment of the acceptability of such risks.

II. - No candidate should seek orders, or be accepted for or promoted to orders, of whose balanced psychological attitude, sound judgment and common sense there is not positive proof. Those who give indication of mental illness, nervous disease or psychological disturbance, or traits of

vices or mental instability evident in parents or family, should be given special attention, even including expert medical aid and advice.¹⁰² A clear inability or unlikelihood, or a positive doubt of a candidate's fitness or compatibility to carry the burdens of sacred ordination, especially celibacy, with honor to the clerical state is a hindrance to the pursuit of a clerical vocation.¹⁰³ It is important to discern the early stages of any psychological abnormality so that the unsuitable may be eliminated or at least detained before advancing further toward orders. A sense of responsibility proportioned to the degree of approach to orders should be characteristic of every candidate.

23. — b) *intellectual*. — Intellectual ability and knowledge are indispensable for the priesthood.¹⁰⁴ The specific fundamental knowledge required of candidates for promotion to tonsure or to any of the various orders is regulated by law.¹⁰⁵ Responsible authorities in the formation and the acceptance of such candidates are bound to expect and insure,—and can be satisfied with,—at least competence in these matters. Local Ordinaries, however, may require more of their own subjects; religious institutes likewise may require a greater or more varied preparation and achievement consonant with their work and purpose. Moreover, a fuller and wider intellectual formation and performance by clerical candidates in the modern age is the insistent and expressed wish of recent Pontiffs.¹⁰⁶ In addition to the virtues and the results to be demanded of clerical students, their intellectual equipment must include a competence in the use of the Latin language.¹⁰⁷

24. — c) *moral*.

I. — “Clerics are bound to lead a more saintly interior and exterior life than the laity, and to give them the example by excelling in virtue and righteous conduct.”¹⁰⁸ “Holiness of life and sound doctrine are, therefore, the two conditions which must be regarded as essential for the promotion of clerics.”¹⁰⁹ Holiness is not the goal of the priesthood but the preparation for it.¹¹⁰ A standard of holiness for the priestly office exceeds even that of the religious state.¹¹¹ The seminarian, both secular and religious, should have at least the positive beginnings of the virtues eventually expected in the priesthood. Such suitability must become more manifest as the candidate aspires to one step after another to the priesthood;¹¹² seminary training is designed to develop such virtues. The Church in requiring these exterior qualities or evidences of virtue is principally concerned with their interior possession, in which holiness primarily resides.¹¹³ Although all the virtues are present with the state of grace, some especially befit the priest and are to be expected to be manifest in the candidate for orders as signs of vocation. The clerical virtues singled out by the Supreme Pontiffs are: piety or an earnest

striving to use the means of perfection, detachment from worldly goods, obedience and docility, zeal and humility, strength and charity, modesty and chastity.¹¹⁴

ii. - The Church's appreciation of the sublimity of the priesthood of the New Testament quite soon made obligatory "what the Gospels and Apostolic preaching had already shown to be something like a natural requirement"¹¹⁵—*perfect chastity*. The Church, by her ancient law of *celibacy* in recognition of the supreme becomingness of chastity or modesty and purity in the priest, has consistently striven to maintain the highest standards of chastity in the clergy.¹¹⁶ The priest is called upon to live not an ordinary life but an heroic life of virtue; consequently the great concern of the Holy See also in these days for the proper fitness and preparation in clerical candidates in the matter of chastity.¹¹⁷ Among the gifts of grace and of nature of which there must be positive proof¹¹⁸ in order to recognize a divine vocation for the priesthood, chastity must be singled out as the "*sine qua non* condition."¹¹⁹ The chastity must be proven or tried, in that there must be positive evidence of its presence and not merely an absence of deviation; consequently, the seminarian must be a person of proven purity, solidly possessed, profoundly appreciated and zealously cherished. The severe attitude which the Church takes in this matter is manifest in her exhortations and directives regarding the admission of candidates to the seminary and their promotion to orders. Competent authorities in the external forum, as well as spiritual directors and confessors in the internal forum, should be guided by the mind of the Church in judging with respect to purity the divine vocation and the suitability of the aspirant.¹²⁰ In a doubt of the suitability of the candidate or in even a probability of a crime committed by him, he (even if a finally professed religious) must be barred from orders.¹²¹

iii. - The following norms direct the attitude that should be taken in the matter of clerical chastity.¹²² By the time the seminarian begins his theology course, he must have put in order all matters relating to chastity, and thus have acquired the habit of chastity. There should be moral certainty arising from this period preceding the entrance into theology that the candidate will persevere in this purity, under God; otherwise, he should be eliminated from the path of the priesthood. On the other hand, he must be excluded from the priesthood if, for *at least* one whole year preceding the beginning of theology, he has not kept himself free from all grave external sins, and especially with another person. Only in an *exceptional* case could a further year of trial be permitted, when a period of crisis was verified or prolonged, depending on the age or special conditions of temperament of the youth, who otherwise appeared gifted with sincere piety and solid virtue, and provided a definitive judgment can be made in the case within the first year of theology and preferably before Tonsure.¹²³ In order that such purity might be clearly possessed

before entering theology or receiving Tonsure, no candidate should be received into the seminary who has not overcome the temptations and the disturbances against chastity or does not show more than merely negative dispositions, or who appears to be given to strong sensuality or sentimentality. A seminarian, no matter at what point in his career, must be excluded from the clerical ranks, without any indulgence or granting of further trials, if he has committed a grave sin with a person of the opposite sex or even with a companion.

iv. - Because of the nature of the matter involved, and because unchastity can be more easily hidden than other habits, spiritual directors and *confessors* bear a heavy responsibility in securing the moral fitness of clerical candidates in the area of chastity.¹²⁴ The confessor who proceeds here with great caution safeguards the cause of the Church, the good of the faithful and of the cleric himself. Experience has clearly demonstrated the unfortunate and even tragic results that have ensued in the cases of those in whom chastity has not been well secured and who nevertheless have assumed the clerical state and the priesthood itself. If a candidate cannot remain chaste, he has no vocation. The expectation of the necessary graces from God is insufficient without a required period of trial or proof of positive chastity. The confessor cannot afford to be lax or gentle, even on the eve of ordination, as severity in these cases, even including denial of absolution, is not out of order. Experience also shows here that it is wiser to risk judgment on the side of strictness than of indulgence. The period of probation usually refers to solitary sin, as rarely will there be ordination in cases of sexual sins with others. The period of probation must be *at least* six months (and *at least* a full year, if the time is just previous to entering theology). Virtue cannot be judged to be sufficiently recovered without an adequately prolonged period of testing, since sexual impulses and temptations may enjoy extended periods of latency before an unexpected awakening; good intentions alone are not enough. It is an injustice to allow a candidate to remain on in the seminary or religious novitiate or institute when relapses continue to reappear. It becomes more difficult to withdraw as time goes on, and the candidate, fearing rejection, may then live continently for some time before ordination and subsequently fall back into old habits. Although there cannot be realized such a certainty that the candidate will not relapse, since everyone is prone to sin, yet the period of probation does give a sufficiently founded hope of his maintaining chastity henceforward, since purity now appears to be solidly possessed, appreciated and cherished.

v. - A clerical candidate who is an habitual sinner, and who is sincerely contrite and firmly resolves amendment, can be absolved by the confessor. However, the latter must refuse absolution to such an habitual sinner who nevertheless intends to take orders and refuses to submit to a required period of probation, even though he is otherwise disposed for absolution.¹²⁵ Besides the state of grace, the lawful reception of orders

demands *outstanding* and *habitual* goodness of life, which is not commonly acquired immediately. Thus, such a clerical penitent would be rash in his resolve and unworthy of sacramental absolution, since he does not have the purpose of fulfilling all the grave precepts and of avoiding all mortal sins. An extraordinary confessor, or an occasional confessor to whom the seminarian or aspirant is free to approach, must not deviate from these norms, after he has made a careful inquiry into the candidate's condition of soul and the previous advice he has received from his ordinary confessor or other priests. Nor should he be swayed from insisting upon the period of probation by the tears or other signs of fervent penance or resolution of the penitent; extraordinary signs are truly sufficient to demonstrate present dispositions but do not guarantee a future proving of chastity. The shame or disgrace of withdrawal from the clerical life does not excuse, as some other pretext for leaving may be alleged, e.g., more mature consideration, and the spiritual good accomplished outweighs the difficulty. The penitent should also be warned to inform the priest in a subsequent confession of the denial of absolution and the reasons justifying it. It should be noted that addiction to intoxicating drink and to narcotics in clerical candidates should be treated with the same norms as with the habit of impurity.

25. – 3. - *Canonical age.* - There is no specific age prescribed for the reception of Tonsure and the minor orders, but they may not be received before theological studies in a seminary are begun.¹²⁶ The subdiaconate is not to be conferred before the completion of the twenty-first year, the diaconate not before the completion of the twenty-second year, the priesthood not before the completion of the twenty-fourth year.¹²⁷ The Holy See very rarely dispenses from the age for the subdiaconate, rarely for the diaconate, frequently for the priesthood, even from a defect of eighteen months. Faculties are often delegated to local Ordinaries to dispense from the age for the priesthood, and should be noted. Local Ordinaries may dispense for a just cause from the defect of age, but not beyond six months.^{127a}

26. – 4. - *Confirmation.* - It befits the sacrament of Holy Orders as a complement of the other sacraments that the other perfections of grace and the gifts infused by the Holy Spirit be already possessed.¹²⁸ Those who are bound to the divine ministry by ordination ought to be strong in the faith themselves, and as leaders of others be themselves soldiers of Christ. Thus the sacrament of Confirmation is required for the lawful reception of Holy Orders.¹²⁹ The precept, however, does not seem to be grave.

27. – 5. - *State of grace.* - As a sacrament of the living, Holy Orders must be received in the state of grace. This obligation is at least grave for the reception of Communion required in the rite of ordination to major orders.¹³⁰ Moreover, to receive in a state of sin orders which certainly have the dignity of a sacrament would be a grave sin.¹³¹

28. — 6. - *Interstices.*

i. - Interstices are the fitting intervals to be kept between the reception of one order and another, so that there might be a period of trial and preparation before promotion to the next order, as well as time for each order to be exercised.¹³² It is to be noted that Regular Orders often enjoy privileges of dispensation from this law.

ii. - The time intervals between first tonsure and the ostiariate and the individual minor orders is left to the prudent determination of the bishop; an acolyte shall not, however, be previously promoted to the subdiaconate; a subdeacon to the diaconate; a deacon to the priesthood, unless respectively the acolyte shall have possessed his order for a year; a subdeacon and a deacon for three months; unless in the judgment of the bishop the need or profit of the Church indicates otherwise.¹³³ Without the special permission of the Roman Pontiff, however, minor orders are not to be conferred at the same time as subdiaconate, and two sacred orders are not to be conferred on one and the same day, notwithstanding any contrary custom, which is hereby rejected as unreasonable; indeed, it is not lawful to confer first tonsure at the same time as one of the minor orders is conferred or to confer all the minor orders at one and the same time.¹³⁴

iii. - No one, secular or religious, is to be promoted to first tonsure before the beginning of his course in theology,¹³⁵ which presupposes two years of philosophy and allied disciplines.¹³⁶ In addition to the required age, the subdiaconate is not to be conferred until near the end of the third year of theology, the diaconate until the beginning of the fourth year, the priesthood until after the middle of the fourth year.¹³⁷ The year is taken as the scholastic year of nine months; the total period for the course of theology is forty-five months, including the months of vacation.¹³⁸ Even though a dispensation is granted since the Code from the course of studies preceding ordination, in order to advance the latter, the four years of theology must still be completed in the seminary and the ordained are forbidden in the meantime any ministry of souls, i.e., they should not be employed in preaching or hearing confessions or in the exterior works of the institute; which condition is made a grave responsibility in conscience upon superiors.¹³⁹ Thus an habitual and permanent ministry or permanent attachment to the ministry is forbidden, e.g., as a curate or administrator; it is not forbidden to participate in the ministry on one or another occasion (*per modum actus*), such as on Sundays or on vacations which are outside the school year.

29. — 7. - *Retreats and oath.*

i. - Candidates for first tonsure and minor orders are to make a retreat of at least three full days; candidates for sacred orders a retreat of six full days. In the case of those who within six months are to receive more than one sacred order, the Ordinary can reduce the period of retreat

required for the diaconate, but not below three full days. If after the completion of the retreat sacred ordination is postponed for any reason beyond a period of six months, the retreat is to be repeated; if for a shorter period, the Ordinary is to determine whether or not it is to be repeated.¹⁴⁰ If by lawful disposition sacred orders are conferred on anyone on distinct consecutive or proximate days, so that there is not time to observe the requirements of the law, in that case, provided that the sacred order which is first conferred be always preceded by a retreat of at least six full days, the other orders, if in the judgment of the bishop it can be done, shall be preceded by at least one day of spiritual retreat.¹⁴¹

ii. - Religious are to make these retreats in the house to which they belong or in another, in the prudent judgment of the superior; seculars, however, are to make them in a seminary or in some other pious or religious house designated by the bishop. The latter is to be informed that the retreats have been made by the assurance of the superior of the house where they were made, or by the major superior in the case of religious.¹⁴² The profession of faith and the oath against modernism are to be recited by those to be promoted to the subdiaconate, before the local Ordinary or his delegate.¹⁴³

30. - 8. - *Exercise of orders.* - Orders are to be conferred in proper sequence, so that the omission of intermediate orders (*per saltum*) is entirely forbidden.¹⁴⁴ The omitted order must be conferred even after the reception of the higher order, and the cleric is suspended until this occurs.¹⁴⁵ Orders omitted in the promotion of a candidate in the Oriental rite must be supplied if, by an Apostolic indult, he is to be promoted to higher orders in the Latin rite.¹⁴⁶

31. - 9. - *Title of ordination.*

i. - No one can be lawfully ordained to major orders without a canonical title.¹⁴⁷ The obligation of a title reflects the Church's caution in providing that a cleric receive a fitting and permanent sustenance.¹⁴⁸ If one title is lost, another must be provided¹⁴⁹ or provision for proper livelihood secured.¹⁵⁰ The canonical title for *secular clerics* is the title of benefice, and, if that is not available, the title of patrimony or of pension.¹⁵¹ Since in the U.S.A. the only benefices are parishes, there can be no title of benefice. In place of these titles the cleric is ordained under the title of service of the diocese, and in places subject to the Sacred Congregation for the Propagation of the Faith by the title of the mission, provided, however, that the candidate takes an oath to dedicate himself to the perpetual service of the diocese or the mission under the authority of the prevailing local Ordinary. He must then be fittingly provided as to support by the Ordinary.¹⁵² Entrance into religion is not excluded by the oath of service of the diocese,¹⁵³ but it usually is in that of the mission, except with permission of the Holy See.

ii. - For *religious* of solemn vows the canonical title is their solemn religious profession or, as it is called, the title of poverty.¹⁵⁴ Some religious clerics are supported, as it were by alms, by their religious institute. Some religious of simple vows enjoy the privilege of this title, e.g., Jesuits, Redemptorists. For religious of perpetual simple vows it is the title of the common table, of the congregation, or any similar title as provided in the constitutions.¹⁵⁵ They thus have the right to be supported from the common table or the goods of the Institute. Other religious, even in respect to the title of ordination, are governed by the norms for seculars.¹⁵⁶ Often these, as well as societies living in common without vows, enjoy the privilege of the title of common table or of the congregation.

XV. OTHER REQUISITES PREPARATORY TO ORDINATION

32. - A. - TESTIMONIAL LETTERS. - Secular candidates and religious candidates who in the matter of ordination are governed by the norms established for seculars must present proof of baptism and confirmation or of the last order received, of the prescribed studies completed, of good moral character, testimonial letters of the Ordinary of any place dwelt in long enough to incur a canonical impediment, or, in the case of a religious, of the major religious superior.¹⁵⁷ The exempt religious superior need only testify according to law that the candidate is qualified, without furnishing other evidence. Care should be taken that the requirements are fulfilled as prescribed in the Instructions for secular and religious candidates respectively by the Sacred Congregations of the Sacraments and Religious.¹⁵⁸

33. - B. - EXAMINATION OF REQUISITE KNOWLEDGE. - Every candidate, secular and religious, must undergo a previous thorough examination regarding the order he is to receive, and in the case of major orders an examination also in other collateral treatises of sacred theology.¹⁵⁹

34. - C. - ANNOUNCEMENT OF ORDINATION. - With the exception of religious who have made perpetual profession of simple or solemn vows, the names of candidates for individual sacred orders are to be publicly announced in the respective parish church of every candidate; but the Ordinary according to his judgment may both dispense from this announcement for adequate reason or, on the other hand, amplify or extend it.¹⁶⁰

35.

XVI. RECORD OF ORDINATION

After ordination is completed the names of all those ordained and of the ordaining minister, as well as the place and date of ordination, are to be entered into a special book carefully guarded in the curia of

the place in which the ordination occurred, together with all pertinent documents. An authentic certificate of the ordination is to be given to every candidate ordained; if the legitimately ordaining bishop was not his own, the candidate is to show this certificate to his own bishop for recording.¹⁶¹ The local Ordinary in the case of seculars, or the major superior granting dimissorials for religious, are to send a notification of the promotion to the subdiaconate of every single candidate to the pastor of the parish in which baptism was conferred so that the latter might record it in his baptismal register.¹⁶²

XVII. IRREGULARITIES

36. - A. - NORMS.

1. - An irregularity is a canonical impediment or disqualification of its nature perpetual which prohibits primarily and directly the reception of orders (including Tonsure) and secondarily and indirectly the exercise of orders. Only those capable of receiving orders can contract an irregularity. The purpose is to safeguard the dignity of the clerical state and office, reverence and becomingness in the sacred ministry, and to avoid offense to the laity, by excluding those unqualified to serve the altar. An irregularity is not a penalty (either medicinal or vindictive) but a disqualification; it binds gravely. An irregularity does not invalidate the reception or exercise of orders but makes them unlawful.¹⁶³ The reception of the other sacraments or of sacramentals is not prohibited, nor the exercise of other ecclesiastical acts or of jurisdiction, but only what is connected with the exercise of the power of orders.

2. - An irregularity may arise from a defect (*ex defectu*), e.g., blindness, which disqualifies, or from a delict or crime (*ex delicto*), e.g., voluntary homicide, which renders the exercise of the ministry unbecoming. The irregularity may be total or partial in effect in the degree that it prohibits the reception of all orders or of the next order, or the exercise of every order or office or only some, e.g., a crippled priest may be barred from celebrating but not from hearing confessions. The irregularity may arise before or after ordination, and be either public or occult.¹⁶⁴ Irregularities and impediments are multiplied if more than one cause of them exists, but not from the repetition of the same cause, with the exception of voluntary homicide.¹⁶⁵

3. - An irregularity arising from a defect does not indicate or presuppose a fault, as in the case arising from a delict. The latter requires that there be a sin which is grave, certain and externally manifested, whether publicly or occultly.¹⁶⁶ A merely attempted delict effects an irregularity only when so specified in the law. Whatever removes the gravity of responsibility or the crime prevents the incurrance of the irregularity,

e.g., invincible ignorance. However, ignorance of irregularities, whether of those arising from a delict or of those arising from a defect, or ignorance of the impediments, does not excuse from them.¹⁶⁷ Thus no ignorance excuses from incurrance of an irregularity arising from a defect. It is most commonly held that ignorance of the irregularity itself does not excuse, if the grave delict itself was culpably committed.

4. - An irregularity can be removed or ceases only by dispensation.¹⁶⁸ The Holy See can dispense from all irregularities and impediments: Sacred Penitentiary in the internal forum, in the external forum the Sacred Congregations of the Sacraments, of Religious, of the Oriental Church, of the Propagation of the Faith for seculars, religious, Eastern rites, and mission subjects respectively. Ordinaries (including those in clerical exempt institutes) may personally or through a delegate dispense their subjects from all irregularities arising from an *occult delict*, with the exception of voluntary homicide and abortion, and any other that has been brought to the judicial forum.¹⁶⁹ The same power is given to every confessor for more urgent occult cases in which it is impossible to reach the Ordinary and imminent danger exists of serious harm or infamy, but only to permit the penitent the lawful exercise of orders already received.¹⁷⁰ The confessor may exercise this faculty even in the internal extrasacramental forum,¹⁷¹ as long as at the same time he enjoys jurisdiction to hear the confession of that person. Regulars acting as confessors enjoy the additional privilege of dispensing in order to allow the reception of further orders. Local Ordinaries may dispense those already ordained for the effect of celebrating Mass, and for acquiring and retaining ecclesiastical benefices, from all irregularities arising both from defect and from delict, as long as scandal will not ensue and providing that the ministry of the altar is rightly fulfilled, with the exception of no. 38 c) d) below, and with an abjuration being made in the hands of the one absolving when it is a case of the crime of heresy or schism.^{171a}

5. - If a dispensation is general, it will be effective for all irregularities that may have been omitted in good faith (excepting voluntary homicide, abortion and those before a judicial tribunal), but not for any deliberately omitted.¹⁷² A limited or special dispensation does not include any irregularities not mentioned, even inculpably. Under pain of invalidity the number of delicts must be mentioned in seeking a dispensation from the irregularity arising from voluntary homicide.¹⁷³ A general dispensation granted in the internal non-sacramental forum is to be put into writing and evidence of it recorded in the secret register of the curia.¹⁷³ In practice this latter may be too burdensome or almost impossible.

37. - B. - INDIVIDUAL IRREGULARITIES.

1. - Arising from defect.¹⁷⁶

a) *Illegitimacy*, (*ex defectu natalium*) whether it is public or occult, unless legitimation has taken place¹⁷⁷ or solemn vows taken.

b) *Bodily defects (ex defectu corporis)* which prevent the ministry of the altar from being exercised either safely because of weakness or becomingly because of deformity. To prohibit the exercise of an order lawfully received, however, a more serious defect is required, and those acts which can be properly performed are not forbidden because of it. Such disqualifications are: mutilation, as the absence of a thumb or index finger, hand, arm, foot, leg, both eyes; weakness, as blindness, complete deafness, dumbness, excessive stammering, lameness requiring a cane; deformity, as genuine dwarfs or giants, the noseless, the excessively hunchbacked, or any affliction which has the effect upon onlookers of disgust and abhorrence or amusement and ridicule.

c) *Mental defects (ex defectu animi)* which are epilepsy, insanity or diabolic possession, whether past or present. But if these defects became present after the reception of orders and if they are shown now beyond a doubt to have been cured, the Ordinary may again allow his subjects to exercise the orders received.

d) *Bigamy (ex defectu sacramenti)* or the fact of having contracted successively two or more valid marriages. A plurality of marriages does not perfectly represent the union of Christ to one spouse, namely, the Church.

e) *Infamy of law (ex defectu famae)*, which is the bad reputation which the law itself expressly attaches to an individual.¹⁷⁸

f) *Capital judgment (ex defectu lenitatis)* which includes only those who, as judges, have imposed the death sentence. This lack of gentleness is the unfitness that one representing Christ, gentle and clement, should have inflicted death on another, however just. The irregularity is incurred by a just sentence, since an unjust sentence is the basis for the irregularity arising from the crime of voluntary homicide.

g) *Capital execution (ex defectu lenitatis)* which includes only those who have assumed the position of executioner and the voluntary and immediate assistants of the same in the execution of a sentence of death.

38. - 2. - *Arising from delict.*¹⁷⁹

a) *Apostasy, heresy, schism.* The delinquent need not have belonged to a sect. The irregularity refers to past or present separation from the Catholic Church. A dispensation *ad cautelam* should be sought for those brought up in good faith in a sect or those doubtfully baptized.¹⁸⁰

b) *Baptism by non-Catholic.* Those who, outside of a case of extreme necessity, in any way allow baptism to be conferred on them by a non-Catholic. It is an abuse of the sacrament of baptism.

c) *Attempted marriage.* Those who have dared to attempt marriage or to perform only the civil act of giving marital consent, while they were bound by a matrimonial bond, by sacred orders or by (public) religious

vows, even though these latter are only simple and temporary, or with a woman who is bound by these vows or by a valid marital bond. This is an abuse of the sacrament of marriage.

d) *Homicide and abortion.* Those who have committed voluntary homicide or who have effectively procured the abortion of a human fetus, as well as all who cooperate in these delicts. The homicide must be a gravely culpable and formally unjust taking of another's life. It must be voluntary and directly productive of the result, and probably not merely voluntary indirectly or in cause. This will also include craniotomy, etc. The abortion must be the ejection of an immature fetus, which actually takes place as a consequence of the action taken to effect it. All formal and positive cooperators in either delict without whose cooperation the delict would not have been committed,¹⁸¹ incur this irregularity. In a case of doubtful incurrence, it is expedient to seek a dispensation *ad cautelam*.

e) *Mutilation and attempted suicide.* Those who mutilate themselves or others, or who attempt to take their own life. The mutilation is commonly considered to be one by which is removed a member of the body which enjoys a function of its own distinct from that of other members of the body, e.g., hand, foot, eye, testicles. There must be a grave fault and not a necessary and lawful operation. It seems that the suicide attempt is to be understood as one that was frustrated in its effect by some agency outside the will of the sinner, e.g., a physician.

f) *Medicine or surgery.* Those who as clerics practice medicine or surgery when it is forbidden them, if death results from their act. Those who do *not* have an Apostolic indult to *practice* medicine or surgery¹⁸² incur this irregularity if *death* occurs as an *effect* of this practice, even though they are otherwise competent and skilled.

g) *Abuse of a sacred order.* Those who, lacking the requisite order or restrained from the exercise of it by a canonical penalty, either local or personal, medicinal or vindictive, perform an act of orders reserved to clerics in sacred orders. The usurpation of an order incurring the irregularity obtains when there is the placing of an act of orders (and not of jurisdiction), regarding a major order, by one who lacks this order. It must be a solemn act in grave matter done with grave responsibility. A cleric who is tonsured may, for a justifying reason, act as subdeacon, provided he does not wear a maniple, or wipe the chalice before the Offertory, or pour water into the chalice, or remove the pall from it or place the pall on it, or purify the chalice.¹⁸³

39.

XVIII. IMPEDIMENTS

A. - NORMS. - The impediments are temporary disqualifications and while they exist they impede the reception and exercise of orders. They

may cease by dispensation or by the lapse of time or removal of the cause. They have the same effect as irregularities. The basis for them is considered to be lack of faith, lack of freedom and lack of good reputation.

40. - B. - INDIVIDUAL IMPEDIMENTS.¹⁸⁴

1. - *Catholic children of non-Catholics.* - The impediment is incurred even if only one parent is non-Catholic and even though the mixed marriage was contracted with a dispensation and the promises made; however, the local Ordinary may dispense for a just cause, provided that the parents continue to be non-Catholics.¹⁸⁵ The impediment does not affect the grandchildren of the non-Catholic.¹⁸⁶ The illegitimate incur the impediment. With the death or conversion of the non-Catholic parent, the impediment ceases.

2. - *Married men.* The impediment exists as long as the wife is living and the bond of the marriage has not been lawfully dissolved. The Holy See does dispense under certain conditions so that a married man might enter a secular or religious seminary and leave his wife. Civil arrangements may be indicated in this case.

3. - *Clerics in forbidden activity.* Those who are charged with an office or an administrative burden forbidden to clerics, which carries with it the obligation of an accounting, until they have resigned the office and the administrative responsibility, have rendered their account, and are free of responsibility of it. These are the activities which are especially forbidden in c. 139, 2, 3.

4. - *Slaves.* Those who are slaves in the strict sense of the term, until they have obtained their freedom.

5. - *Subjects of military service.* Those who are bound by civil law to a period of ordinary military service and who have not yet served it. This includes also those not yet called due to lack of proper age or because they have been declared temporarily unfit.¹⁸⁷ This would not include the extraordinary service during war time, nor the service of chaplains.

6. - *Neophytes.* They are those who have recently received *absolute* baptism in the Church as adults. They are impeded from orders until in the judgment of the Ordinary they have been sufficiently tried. Those converted from heresy or schism fall under the irregularity.

7. - *The disreputable.* Those who are infamous in fact, as long as in the judgment of the Ordinary this ill-repute continues. Infamy of fact is contracted when, because of a crime or immoral conduct, one has lost his reputation in the opinion of upright and reliable Catholics, which is left up to the judgment of the Ordinary.¹⁸⁸

41. XIX. OBLIGATIONS OF ORDINATION

Besides the obligation of perfection incumbent upon the cleric, there is also the obligation of celibacy and of the divine office assumed at the subdiaconate, the prayers or penances enjoined by the ordaining prelate for each of the major orders. At the end of the rite of ordination to the priesthood, the bishop receives from the newly ordained a promise of obedience. This obedience is pledged by the seculars to their proper local Ordinary that they will not depart from the service of the church to which they are bound, without the bishop's leave,¹⁸⁹ except to enter the religious state, after having at least consulted him.¹⁹⁰ In the case of religious the obedience is pledged to their own lawful prelate.

42. XX. TRANSFER TO ANOTHER SEMINARY

A. - Those who have been dismissed from other seminaries or from a religious institute are not to be admitted to the seminary, unless the bishop shall previously have gathered secret information from the superiors or others regarding the reason for the dismissal, as well as the conduct, character and temperament of the one dismissed, and shall have become certain that there is nothing in them which is unbecoming to the priestly state; and this information, in accordance with all truth, the superiors are under a serious obligation in conscience to supply.¹⁹¹

B. - "Before a person who has belonged by any title to a religious family is admitted to a seminary, the Ordinary must have recourse to the Sacred Congregation of Seminaries and Universities, which will inform the Ordinary of its judgment in the case, after all that the case requires has been done."¹⁹² Certainly included in this decree are postulants, novices and professed religious, whether clerical or lay, but only probably included are those coming from an apostolic school of a religious community or from a religious institute without public vows.¹⁹³ The seminary to which admittance is sought may be either major or minor. The decree affects those who have been dismissed from a religious institute or who have departed of their own accord. It does not affect those who apply while still belonging to the institute, since they are not properly ex-religious (although if in vows a dispensation is needed), and thus no recourse is necessary.

C. - "It is an established principle in the Church that candidates for the priesthood are to be carefully tested, so that those who are worthy and qualified shall receive sacred orders, while the unworthy or unfit are excluded. For this reason bishops should not as a rule admit to the seminary students who have left the seminary of any diocese of their own

accord or have for any reason been dismissed therefrom by superiors. If, after carefully considering everything they judge that such a one should be admitted, then having observed the prescription of c. 1363, 3 of the Code of Canon Law, they should moreover apply to the Sacred Congregation of Seminaries and Universities for authority to receive him, so that the fitness of the candidate may be more abundantly proved."¹⁹⁴ Only those who have left or been dismissed from a seminary and now seek admission to the seminary of another diocese and those who seek re-admission to the same seminary but for the service of another diocese need have recourse to the Congregation.¹⁹⁵ No recourse is required for a bishop to readmit such a person to the same seminary for the same diocese or to transfer his own seminarian from one seminary to another or to permit his seminarian to become legally incardinated in another diocese while in the seminary.

D. - Aspirants for entrance into a religious institute who have been in a seminary, a college, a postulancy, or a novitiate of another institute must present testimonial letters, issued by the rector of the seminary or the college after consultation with the local Ordinary or by the major superior of the institute.¹⁹⁶ "Likewise, before a person who has for any reason left a seminary is ascribed to a religious family, the religious superior must have recourse to the Sacred Congregation of Religious, which will inform the superior of its judgment in the case, after all the case requires has been done."¹⁹⁷ Private replies from this same Congregation have subsequently been given to the effect that this Dicastery considers the above mentioned part of the joint Decree of 1941 to be no longer operative, so that in practice no recourse is needed in the future to admit an ex-seminarian into the religious life. Faithful observance of the canon of the Code mentioned above will safeguard the religious institute from unworthy or undesirable candidates.

HOLY ORDERS

¹ "Order, when understood in its strict meaning and acceptation, is the arrangement of superior and inferior things so disposed as to stand in mutual relation towards each other. Now, as in this ministry there are many grades and various functions, and as all these are disposed and arranged according to a definite plan, the name *Order* has been well and properly applied to it." (*Catechism of the Council of Trent*). "The sacrament of Orders is the seal of the Church, whereby spiritual power is conferred. (cf. c. 950)

² Cf. cc. 948; 197.

³ Florence, Denz. 701; Trent, Denz. 951; 959; 961; 963; Pius X, Denz. 2049-2050.

⁴ Trent, Denz. 960; 964; 852.

⁵ c. 107; cf. Trent, Denz. 960.

⁶ Pius XII, Const. "*Sacramentum ordinis*," 30 nov. 1947; Denz. 2301.

⁷ Trent, Denz. 964.

⁸ *Summa Theol., Suppl.*, q. 35, a. 1, ad. 3. Pius XII, Ency. *Mediator Dei* (20 nov. 1947): "This sacrament confers, not merely a particular grace that is proper to this state of life and function, but also an indelible 'character,' which conforms the sacred ministers to Jesus Christ the Priest, and renders them competent to carry out the lawful religious acts whereby men are sanctified and due glory is rendered to God, in accordance with the divinely appointed ordinances." Pius XI, Ency. *Ad catholici sacerdotii*, (20 dec. 1935): "Along with the character and the exalted powers of which we have been speaking, the priest receives a new and special grace with special helps. If he does his part faithfully by cooperating with the divine promptings of grace, these aids will enable him to carry out the duties of his office worthily and courageously; they will make it possible for him to bear the very heavy responsibilities. . . ."

⁹ There are eight for those considering the episcopacy as a separate order from the priesthood, nine if tonsure is included among the orders (cf. c. 950).

¹⁰ Trent, Denz. 966.

¹¹ *Ibid.*, Denz. 957; 959; 960; cf. also n. 6 above.

¹² Nevertheless, it is the opinion of St. Thomas and of many others that they are sacraments. *Summa Theol., Suppl.*, q. 37, a. 2, ad. 2: "The

division of Order is not that of an integral whole into its parts, nor of a universal whole, but of a potential whole, the nature of which is that the notion of the whole is found to be complete in one part, but in the others by some participation thereof. Thus it is here; for the entire fullness of the sacrament is in one Order, namely, the priesthood, while in the other sacraments there is a participation of Order. . . . Therefore all the Orders are one sacrament." *Ibid.*, a. 2, ad 2: "In the early Church, on account of the fewness of ministers, all the lower ministries were entrusted to the deacons. . . . Nevertheless, all the power to do all these things was included in the one power of the deacon, though implicitly. But afterwards the divine worship developed and the Church committed expressly to several persons that which had hitherto been committed implicitly in one Order. That is what the Master means when he says in the text that the Church instituted other Orders."

¹³ Cf. Trent, Denz. 959; 844.

¹⁴ Trent, Denz. 958; 960; 962; 966.

¹⁵ Trent, Denz. 958.

¹⁶ c. 949; Trent, Denz. 949; *Suppl.*, q. 37, aa. 2-3.

¹⁷ c. 951; Florence, Denz. 701; Trent, Denz. 967. This includes vicars and prefects apostolic, and abbots and prelates *nullius* possessing episcopal character (c. 957, 1).

¹⁸ Trent, Denz. 967.

¹⁹ Anglican ordinations were declared invalid (Leo XIII, *Const. Apostolicae curae*, 13 sept. 1896) because the anglican rite lacked the essential form, did not express the Catholic teaching on sacrifice and priesthood, and lacked the intention of conferring a properly priestly power. Ordinations conferred by dissident Oriental bishops, Jansenists and Old Catholics are generally valid, because of a validly consecrated hierarchy (cf. Pius IX, *Ency. Etsi multa*, 21 nov. 1873).

²⁰ c. 955. To choose an individual who is to ascend to the priestly ministry is an act of jurisdiction and thus can be lawfully exercised only on one's subject.

²¹ PCI 17 feb. 1930. A bishop may not lawfully ordain one who is the subject of an Oriental rite, unless he has received an Apostolic indult (c. 955, 2).

²² c. 956. A quasi-domicile is not sufficient. Lacking domicile, a candidate acquires the bishop of the place where he is staying as his proper bishop, taking the oath of intention to remain permanently (PCI 17 aug. 1919).

²³ c. 965.

²⁴ c. 962.

²⁵ c. 958.

²⁶ c. 964, 2°.

²⁷ *Ibid.*, 3°.

²⁸ *Ibid.*, 4°. This includes also quasi-religious institutes (S. C. Rel.

1 dec. 1931). A special indult is restricted to the issuance of dimissorials for major orders.

²⁹ c. 966, 1.

³⁰ c. 967.

³¹ c. 951; Florence, Denz. 702; Trent, Denz. 967.

³² c. 239, 1, 22°.

³³ cc. 957, 2; 964, 4°.

³⁴ c. 964, 1°.

³⁵ Cf. c. 108, 1.

³⁶ κληρος—*sors, haereditas*.

³⁷ "It is becoming for those who apply themselves to the divine ministry to be shaven or tonsured in the form of a crown by reason of the shape. Because a crown is the sign of royalty; and of perfection, since it is circular; and those who are appointed to the divine service acquire a royal dignity and ought to be perfect in virtue. It is also becoming to them as it involves the hair being taken from both the higher part of the head by shaving, lest their mind be hindered by temporal occupations from contemplating divine things, and from the lower part by clipping, lest their sense be entangled in temporal things." *Summa Theol., Suppl.*, q. 40, a. 1.

³⁸ c. 118.

³⁹ cc. 119-123.

⁴⁰ cc. 124-144.

⁴¹ Cf. S. C. Rit. 25 sept. 1846.

⁴² i.e., *sacrarium* or treasury or place where the sacred vessels and vestments for liturgical use are kept.

⁴³ It is not essential that the ordinand touch the instruments with the *right* hand; it is very probable, but not certain, that physical or immediate contact is not essential.

⁴⁴ S. C. Rit. 11 mart. 1820; S. C. P. F. 27 sept. 1843.

⁴⁵ S. C. Rit. 20 iul. 1899. The keys may be touched by several together.

⁴⁶ *Ibid.*, 12 nov. 1831; 27 sept. 1873.

⁴⁷ Cf. n. 43 above.

⁴⁸ c. 1151.

⁴⁹ Cf. n. 43 above.

⁵⁰ *Ibid.*

⁵¹ S. C. Rit. 12 nov. 1831.

⁵² Cf. n. 43 above.

⁵³ Subdeaconate must be repeated if the chalice and paten had not been presented by the ordaining bishop (S. Off. 1 aug. 1697). Chalice and paten need not be consecrated for validity (cf. S. Off. 28 ian. 1937); more probably it is not necessary that they be empty.

⁵⁴ Cf. n. 43 above. Several candidates may touch the chalice and paten simultaneously (S. C. Rit. 11 mart. 1820), and it suffices to touch the paten alone (*ibid.*, 17 mart. 1897). The candidate touches the paten

with the first two fingers and the chalice with the thumb of the right hand.

⁵⁵ S. C. Conc. 10 ian. 1711.

⁵⁶ Cf. *The Administration of Baptism*, no. 20; *The Administration of the Eucharist*, nos. 15-16.

⁵⁷ In the Dominican rite the pouring of the wine and water into the chalice is actually done by the subdeacon.

⁵⁸ *Pontificale Romanum, de ordinatione diaconorum.*

⁵⁹ Cf. cc. 1328; 1342, 1.

⁶⁰ Cf. c. 1332.

⁶¹ Cf. n. 6 above.

⁶² *Ibid.*

⁶³ Each candidate, or many together, touch the book with the right hand (cf. n. 43 above) and respond "Amen" to the form recited by the bishop: "*Accipite potestatem legendi Evangelium in Ecclesia Dei, tam pro vivis quam pro defunctis: in nomine Domini.*"

⁶⁴ *Pont. Rom., de ordinatione presbyterii.*

⁶⁵ Thus, not the continuation of the same imposition through the extension of the right hand. Physical contact is required, although moral contact suffices for validity.

⁶⁶ Cf. n. 6 above.

⁶⁷ That is, the chalice with water and wine, and the paten with host, each candidate singly touching the cup of the chalice and the paten between his index and middle fingers.

⁶⁸ *Pont. Rom.*

⁶⁹ S. C. Rit. 27 iun. 1899.

⁷⁰ *Ibid.*, 10 iul. 1903.

⁷¹ *Ibid.*, 11 apr. 1840.

⁷² The bishop also at the same time enjoins "and also pray to God for me," which is clearly not of precept.

⁷³ c. 1006, 2-3; also in case of ordaining to another rite (*ibid.*, 5). This does not include the holydays suppressed in the universal Church (PCI 15 maii 1936), but it does include any by indult not observed in a particular locality (S. C. Conc. 28 dec. 1919). Regulars have an extant (cf. c. 4) privilege of ordaining on Sundays and holydays of obligation (including the suppressed holydays). An indult to ordain "*extra tempora*" means on any Sunday or feast of precept, unless it is clearly more extensive, as in the motu proprio, *Pastorale Munus*, I Fac. 18, of Paul VI, 30 nov. 1963.

⁷⁴ c. 1006, 4. The bishops of the U.S.A. currently enjoy more extensive faculties (quinquennial) regarding the time and the days for the conferral of major and minor orders.

⁷⁵ c. 1007.

⁷⁶ c. 1009.

⁷⁷ Cf. c. 968.

⁷⁸ Cf. *Summa Theol., Suppl.*, q. 39, a. 1.

⁷⁹ Cf. *General Norms of Sacramental Administration*, no. 26.

⁸⁰ Cf. Benedict XIV Const. *Eo quamvis*, 4 mart. 1745; Instr. *Anno vertente*, 19 iul. 1750; cf. also c. 214, 1.

⁸¹ c. 214. The S. C. Sac. is competent in this matter. Cf. c. 211 for the reduction of clerics to the lay state.

⁸² Cf. c. 968, 1.

⁸³ Cf. cc. 538; 968; 973, 1; 974, 2, 4.

⁸⁴ Pius XII, Const. Apost. *Sedes Sapientiae* (31 mai 1956), *General Statutes of S. C. Rel.* (7 iul. 1956), Tit. VI, art. 31, 2, 1: "To be admitted into the novitiate, or the equivalent probation, it is required that they already show signs of a true religious, sacerdotal, apostolic vocation, and indeed a specific one, namely, for the particular institute."

⁸⁵ *Sedes Sapientiae*, II: "It is plain that those who aspire to work in the clerical ranks in the State of Perfection, and for whom these norms are being set forth, should fulfill all the requirements postulated by such a multiple vocation—religious, sacerdotal, and apostolic—and that they should possess all those endowments and qualities which are considered necessary for the performance of these exalted works of God." S. C. Rel. (1 dec. 1931), *Instruction to the Supreme Moderators of Clerical Religious Institutes and of Societies of Clerics*, I: "But only those are to be admitted in whom the signs of a divine vocation are discerned, and of whom there is hope that they will dedicate themselves forever with fruit to the ecclesiastical ministry. . . . Indeed, in choosing candidates destined for the priesthood, the ordinary signs of religious vocation by no means suffice, but there are required besides special signs proper to the state of clerics."

⁸⁶ *Sedes Sapientiae*, II: "In the first place, We want it definitely understood by all that the foundation of the whole religious, sacerdotal and apostolic life—a foundation which is known as divine vocation—is, as it were, essentially made up of a twofold element: the one divine, the other ecclesiastical. Now in regard to the first part, the call of God to enter upon a religious or priestly state must be considered so necessary that if it be lacking the very foundation on which the edifice rests must be called wanting. For God by His grace neither moves nor assists anyone He does not call. . . . Now if we proceed to the other element of a religious and sacerdotal vocation, we find that the Roman Catechism teaches: 'They are said to be called by God, who are called by the legitimate ministers of the Church.' This teaching, far from contradicting what We have said of a divine vocation, is rather in closest harmony with it. For a divine vocation to the religious and clerical state is a call to a public life of sanctification and to the exercise of a hierarchical ministry in the Church—i.e., in a visible and hierarchical society. Consequently, this divine vocation must likewise be authoritatively proved, acknowledged, and governed by hierarchical superiors to whom the government of the Church has been divinely committed." *Letter from the Secretariate of*

State on the Nature of Priestly Vocation (2 iul. 1912): "1. No one ever has any right to ordination antecedently to the free choice of the bishop; 2. On the part of the candidate, the requirement which has to be examined, and which is called *priestly vocation*, by no means consists, at least necessarily and as a general rule, in a certain interior attraction of the subject, or in invitations of the Holy Spirit, to enter the ecclesiastical state; 3. On the contrary, in order that the candidate may be rightly called by the bishop, nothing more is required of him than a right intention and fitness; this fitness consists in qualities of nature and of grace, proved by uprightness of life and sufficiency of knowledge, as will give solid grounds for hope that he will be able to discharge properly the functions of the priesthood and fulfil its obligations in a holy manner."

⁶⁷ Cf. *Instruction to the Supreme Moderators*, cf. n. 85 above.

⁶⁸ *Ibid.*: "Novices before profession of temporary vows, which must always precede promotion to tonsure and minor orders, shall present a written petition to their superior in which they expressly testify to their vocation to the religious and clerical state, and at the same time declare their firm resolve to consecrate themselves forever to the ecclesiastical ministry. . . . The superiors shall allow no one to take orders as long as they are not certain, by means of accurate investigation, of the candidate's morals, piety, chastity, inclination towards the clerical state, progress in studies, and religious observance." Cf. also c. 973, 1. S. C. Rit. (2 feb. 1961) *Instruction to the Superiors of Religious Communities, Societies without vows and Secular Institutes on the careful Selection and Training of Candidates for the States of Perfection and Sacred Orders*, cf. nn. 5-13 on the common causes of defection; nn. 22-26 on the freedom required for vocation.

⁶⁹ S. C. Sac. (27 dec. 1930), *Instruction to Local Ordinaries concerning aspirants to the Secular Priesthood*: "Examiners should keep before their minds the reasons which are usually adduced by those who say they did not have a true intention of receiving sacred ordination or at least of submitting themselves to the grave burdens attached to sacred orders. Some of these reasons are personal or intrinsic to the appellant, such as a desire for the more comfortable life of the priesthood as the people picture it to be, the desire for honor, for easy gain, and (this today is the most common reason) the desire to avoid manual labor, e.g., to till the fields with their parents or brothers, or some other similar way of life; the desire to enjoy the clerical privileges, especially exemption from military service or from civil jurisdiction, or at least the prospect of attaining by means of the sacerdotal office a more honorable position, one held in esteem even by the world. The extrinsic and, as it were, classical reason in these cases, is grave fear, either absolute or relative, such as reverential fear." Pius XII, (23 sept. 1950), *Exhortation to All the Clergy* "Menti nostrae": "It is always necessary, however, to

examine every candidate for the priesthood with great care, and especially to find out what is his intention and what are the reasons for his decision to become a priest." Pius XI, (20 dec. 1935), Ency. *Ad Catholici Sacerdotii*: "As you know, venerable brethren, the existence of a vocation is proved not so much by an inner call of conscience and a sensible feeling of attraction—which may sometimes not be there at all—as by a right intention in the aspirant to the priesthood joined to those qualities of mind and body which make him fit for that state in life. The man who wants to be a priest for the noble motive of giving himself to the service of God and the salvation of souls, and at the same time possesses solid piety, proved chastity, and has or is trying to acquire sufficient knowledge, as We have already explained, that man is clearly called to the priestly state." Cf. also S. C. Rit. (2 feb. 1961), *loc. cit.*

⁹⁰ c. 973, 1: "First tonsure and orders are to be conferred only on those who seriously intend to go on to the reception of the priesthood and who will be, it is safe to suppose, worthy priests."

⁹¹ Pius XI, cf. n. 89 above.

⁹² *Letter from the Secretariate of State*, cf. n. 86 above. This fitness, then, consists in positive qualities regarding especially the interior worthiness of the candidate relating to his maturity in the faith, in morals, prudence and knowledge commensurate with the stage of his approach to sacred orders; and of negative qualities referring to the absence of impediments and the exterior worthiness proper to the divine ministry.

⁹³ c. 973, 3. In a *Reserved Communication* the S. C. Sem. (1 iul. 1955) stated that very often unworthy subjects are promoted to Orders because of insufficient severity and lack of uniformity of criteria in judging the worthiness of such aspirants. Cf. also S. C. Sac., *Instruction to Local Ordinaries*, (cf n. 89 above); also *ibid.*: "Let the bishop or ordinary, in examining the qualities of those desiring to be numbered in the sacred ministry, remember well that it is of extreme importance that those who are not suitable for the priesthood, that is, those who are not called by God, should be eliminated in the early stages and should not be even allowed to take first tonsure and the minor orders. For sacred orders, according to the prescription of the canons, are conferred towards the end of the course of studies. Now, 'it is worse to dismiss a guest rather than to refuse him admittance,' that is to say, everyone knows how embarrassing and difficult it is to dismiss a young man when he has almost finished his theological studies, not only on account of his advanced age which renders it difficult to take up another way of life and other studies, but also because of the opinion of his relatives and friends, who often think that such a change is due to lack of character or to some fault, so that whoever has progressed so far will do all in his power to continue"; also *ibid.*: "Let the bishops and local ordinaries be convinced that it is of the greatest importance that anyone who is not worthy or is not called by God, should not be allowed to take the first step towards ordination."

For when these individuals have once entered the sanctuary, impelled by human motives or under persuasion from others, they generally do not act as if they have been called by God, but strive to cover up and disguise their actions. There are others who receive minor orders and the two sacred orders in good faith, but before they attain the priesthood, they feel that they are unequal to bearing the burdens of sacred orders, or they find themselves entangled with sins or worldly ways; in these the lack of a divine vocation will be more clearly and easily seen, and they themselves will earnestly and willingly desire that they be freed from their miserable condition." Cf. also S. C. Rit., *Instr.* nn. 15-17 (2 feb. 1961).

⁹⁴ *Sedes Sapientiae, General Statutes* (cf. n. 84 above), art. 34, 2: "1°. As often as there remains a prudent doubt about the suitability of any candidate, it is wrong to allow him to bind himself (cc. 571, 2), especially definitively (cc. 575, 1; 637). 2° This is to be much more intently avoided when it is a question of sacred orders (c. 973, 3). 3° To remove a prudent doubt concerning fitness, probation must be prolonged according to the law, and all those things must be done which can lead to the attainment of moral certitude (cc. 571, 2; 574, 2; 973, 3) 4° If the qualities for a higher state, and especially for sacred orders, be lacking, or if certitude concerning chastity be wanting, the situation must be met either by dismissal according to the law or by a transfer to an inferior state, depending upon the nature of the case." *Instruction to the Supreme Moderators* (cf. n. 85 above): "Before God and the Church they (the bishops) can give assent to the favorable testimony of the superiors and leave to them full responsibility for the formation and worthiness of the candidates (cc. 970; 995, 2). . . . The superiors shall allow no one to take orders as long as they are not certain, by means of accurate investigation, of the candidate's morals, piety, modesty, chastity, inclination towards the clerical state, progress in studies, and religious observance (c. 973, 1). In order to make more certain of these things, they shall ask for the opinion of the spiritual prefect and others, who, on account of their frequent contact with the young men, have occasion to know their lives and characters. These opinions are not to be received lightly, but sedulously weighed, taking into account the prudence, sincerity and maturity of judgment of those proffering them. . . . Before the subjects are admitted to the subdiaconate, the superiors shall make a new investigation concerning the above. In order to do so, they shall review the document of the previous investigation, and compare the new information on the moral conduct and spiritual qualities of the subjects with the old. Thus they will be able to judge properly of the behavior of the young men since their profession, both in regard to religious discipline and in progress in studies." Cf. S. C. Rit., *Instr.* n. 45 (2 feb. 1961), cf. n. 88 above.

⁹⁵ Pius X, Ency. *Pieni l'Animo* (28 iul. 1906): "To make easy the admission of candidates to Holy Orders undoubtedly leads to an increase in the numbers of priests, but it does not proportionately increase grounds

for rejoicing thereafter." Pius XI, Ency. *Ad Catholici Sacerdotii* (cf. n. 89 above): "Do not be afraid of appearing unduly strict by demanding, as the rights and duties of your office require, such positive proofs of worthiness before ordination, or by postponing ordination to a later date when you are still in doubt. . . . Neither bishops nor religious superiors should be deterred from this necessary strictness by fear of diminishing the number of priests for the diocese or the Order. This particular problem had already occurred to St. Thomas Aquinas and he solved it with his usual lucidity and judgment: 'The Church is never abandoned by God to the point of not having enough capable priests for the needs of the people, if it ordains only those who are worthy and sends the unworthy away.' (*Summa Theol. Suppl.* q. 36, a. 4, ad 1) The same illustrious Doctor makes the pertinent remark (*ibid.*) taken almost verbatim from the fourth Lateran Council (c. 22): 'If it should ever become impossible to preserve the present number of priests, it is better to have a few good ones than a multitude of bad ones.' Cf. also *Instruction to Supreme Moderators* (cf. n. 85 above): "Above all, superiors must use all diligence, even from the first reception of candidates into religion, that the young men are not admitted, as it were, in crowds, and with undue haste." *Sedes Sapientiae, General Statutes* (cf. n. 84 above), art. 31, 1: "Candidates are not to be admitted hastily or *en masse* to the States of Perfection. . . ."

⁹⁶ Pius XI, Ency. *Ad Catholici Sacerdotii* (cf. n. 89 above): "All these splendid efforts for the education of future priests would achieve very little if the greatest care were not taken in the selection of those who are being trained in the seminary. All those who are engaged in the religious formation of the clergy should help to the best of their ability in making this selection. Superiors, spiritual directors, and confessors, each in his own way and keeping to his own sphere, should do everything they can to foster and encourage a true God-given desire to enter the priesthood. They should, however, be no less zealous in discouraging from Holy Orders and sending away in good time those whom they know to be unsuitable and incapable of carrying out the duties of the priesthood fittingly. It is far better to send away an unsuitable student in the early days, because delay in these matters can lead to errors and can do harm. However, if there has been a delay, no matter what the reason may have been, the mistake should be corrected as soon as ever it is discovered, and no human consideration should be allowed to interfere with the decision. Those whose duty it is to take these decisions should not allow themselves to be moved by any mistaken sense of mercy. To do so would be a crime not only against the Church, which is given a useless and unworthy minister, but also against the young man himself, because choosing the wrong course would be a misfortune to him and to others and might gravely imperil their eternal salvation." S. C. Rel. cf. n. 93 above. The mind of the Church on ecclesiastical formation is clearly stated in the

two *Circular Letters* to the Bishops of the S. C. Sem., 5 iun. 1959 and 27 sept. 1960.

⁹⁷ c. 984, 2^o.

⁹⁸ Pius XII, *Allocution to Students of the North American College* (14 oct. 1953): "‘To be a priest and to be a man dedicated to work is one and the same thing,’ wrote Blessed Pius X; and he liked to quote the words of the synod presided over by St. Charles Borromeo: ‘Let every cleric repeat again and again: he has been called not to a life of ease and leisure, but to hard work in the spiritual army of the Church.’”

⁹⁹ *Instruction to Local Ordinaries* (cf. n. 89 above): "It will help not a little to prevent the evils which usually arise when the burdens of sacred ordination are rashly undertaken to inquire whether there is grounds for suspecting whether anything abnormal in the parents may have been passed on to the candidate, and especially whether there is any corporal inclination to sensuality which may be hereditary. Each bishop shall see that this inquiry is made regarding his own subjects."

¹⁰⁰ Cf. cc. 542, 2^o; 984, 1^o.

¹⁰¹ The importance of this investigation and examination was reemphasized by the S. C. Sac. (27 dec. 1955), in a *Circular Letter to Local Ordinaries* which includes specific norms regarding physical, psychological and moral qualities requisite in a priestly vocation.

¹⁰² *Sedes Sapientiae, General Statutes*, (cf. n. 84 above), art. 33: "The peculiar signs and motives of a genuine vocation must be attentively weighed in those to be admitted to the novitiate according to the age and condition of the candidates. Both the moral and the intellectual qualities of the candidates must be accurately and thoroughly examined. Moreover, their physical and psychological fitness must also be investigated, relying in this matter on the medical history and diagnostic judgment of an experienced doctor, even in relation to possible hereditary diseases, especially mental ones; the judgment of the doctor must be recorded in the report of each candidate." S. Off. 15 iul. 1961, *Monitum*: "3. Clerics and Religious are forbidden to practice psychoanalysis, in accordance with the norm of c. 139, 2. 4. The opinion is to be reprovved of those who aver that prior psychoanalytic direction is altogether necessary for the reception of sacred orders or that candidates for the priesthood or for religious profession must undergo what are properly called psychoanalytic examinations or investigations. This applies also if it is a matter of exploring the aptitude required for the priesthood or for religious profession. Likewise, priests and religious of both sexes are not to approach psychoanalysts except with the permission of their Ordinary and for a grave cause." S. C. Rel. *Instr.* n. 31 on psychopathic cases (2 feb. 1961), cf. n. 88 above.

¹⁰³ S. C. Sac., *Circular Letter* (cf. n. 101 above): "And if he (doctor) finds him (candidate) physically and psychologically so disposed as to be considered not qualified for Orders, his other qualities, even though

outstanding, must be set aside and he must be counseled in a fatherly but firm manner that he should withdraw from embracing the priesthood. To be held back from the priesthood are those who are by nature subject to quite strong propensities to emotion and who exhibit the lamentable traits of parents given over to vice. . . . 'Those who show they have a special tendency toward sensuality . . . all these were not born and are not fit for this sacred office.' Therefore youths of slight constitution with weak bodies, especially those deficient in their nervous system, prone to sexual degeneracy, and still more those laboring from stubborn psychic melancholia and dread of epilepsy, with so-called fixed ideas, or from homosexuality and those suspected of suffering any mental lesion should be held off from receiving the priesthood."

¹⁰⁴ Cf. Malachias 2:7; see 4:6.

¹⁰⁵ Cf. cc. 589; 976; 993, 2^o; 1364-1365; cf. no. 28 below. S. C. Rel. *Instr.* nn. 27-28 on candidate's knowledge of his obligations (2 feb. 1961), cf. n. 88 above.

¹⁰⁶ Pius X, *motu proprio Sacrorum Antistitum* (1 sept. 1910): "A cleric who wishes to exercise his ministry in a manner appropriate to the present time, so as to fruitfully 'exhort with sound doctrine and refute opponents,' (Tit. 1:9) and to apply his intellectual resources for the benefit of the Church, must strive to acquire a standard of learning which is above the ordinary and practically on the level of the expert. . . . All those who are preparing in the quiet of the seminary for the exercise of the sacred and difficult functions of the priesthood must take timely steps to see that they are equipped with the rich resources of learning." Pius XI, Apostolic Letter *Unigenitus Dei Filius* (19 mart. 1924): "The principal object of this Letter is to exhort religious, whether they are already ordained or preparing for admission to the priesthood, to assiduous study of the sacred sciences; unless they are thoroughly acquainted with these subjects, they will not be capable of fulfilling properly the duties of their vocation. . . . It is a mistake for them (those who lead the contemplative life of the cloister) to think that, if theological studies were neglected before ordination or subsequently abandoned, they can easily dwell in the heights and be raised up to interior union with God, even though they lack that abundant knowledge of God and of the mysteries of the faith which is derived from the sacred sciences. . . . Anyone who undertakes the sacred ministry without training or competence should tremble for his own fate, for the Lord will not suffer his ignorance to go unpunished; it is the Lord who has uttered the dire warning: 'Because thou hast rejected knowledge, I will reject thee, that thou shalt not do the office of priesthood to me.' (Osee 4:6) If ever there was an obligation on priests to be men of learning, it is even more pressing at the present time. . . . There is another reason why a religious should pursue these studies, namely, that in virtue of his vocation he is obliged in conscience to seek after perfection." Pius XI, *Ad Catholici Sacerdotii* (cf. n. 89

above): "As to the rest of the clergy, none of them should be content with a standard of learning and culture which was perhaps sufficient in former times; they must try to acquire a broader and fuller general education which will correspond to the higher level and wider range of knowledge—particularly with regard to scientific developments—which this modern age demands." Pius XII, *Menti Nostrae* (cf. n. 89 above): "In this matter, it is Our most earnest wish, that in literary and scientific studies, future priests should at least be in no way inferior to lay students who follow corresponding courses. . . . Furthermore, the priest . . . will not be able to combat these errors effectively, unless he has learned thoroughly the solid fundamentals of Catholic philosophy and theology. . . . In conformity with Our Apostolic duty, We have insisted earnestly on the importance of a high standard of intellectual training for clerics."

¹⁰⁷ c. 1364, 2°. Pius XI, Apostolic Letter *Officiorum omnium* (1 aug. 1922): "The Church, inasmuch as it embraces all nations and will last until the consummation of the world and allows no share in government to the simple faithful, by its very nature needs a language which is universal, unchanging and not vernacular. The Latin language meets these requirements, and by the dispensation of Providence it serves as a wonderful instrument for the Teaching Church, and provides a strong bond of unity between learned Christians of every race; it makes it possible for them to compare ideas and plans, whether they be far apart or met together and, even more valuable, it enables them to attain a deeper understanding of the Church and to become more closely united with the Head of the Church. For these two reasons, to say nothing of other considerations, it is clear that clerics, more than others, ought to be very attached to Latin. . . . If in a layman who has some acquaintance with literature, ignorance of Latin (which we might fairly describe as the 'catholic' tongue), denotes a certain lukewarmness in his affection for the Church, how much more appropriate it is that all clerics without exception should have acquired a thorough knowledge and mastery of the language. . . . Consequently, it is Our will, as is prescribed in canon law, that young aspirants to the priesthood should be carefully taught Latin in the course of their early training. . . . How can anyone hope to detect and refute these errors unless he grasps properly the meaning of the dogmas of faith and the force of the words in which they are solemnly defined, in a word, unless he knows the language which the Church uses?" S. C. Sem., *Letter to local Ordinaries* (27 oct. 1957); *ibid.*, *Private Recommendations to U.S.A. Ordinaries* (25 ian. 1928): "Students must not be admitted to the study of philosophy and theology who do not possess a sufficient mastery of the Latin language. If students transfer from another institution, they must be given an examination in order to ascertain how much Latin they know. A compulsory special course in Latin must be conducted for all who are found not to possess a working knowledge of that language." *Sedes Sapientiae, General Statutes* (cf. n. 84 above),

art. 43, 3, 2^o: "In accord with the often repeated desire of the Holy See, diligent care must be used in concentrating on the study and use of Latin, both because of its power in training minds and also because it is the language of the Church. Students should be versed in classical and Christian Latin literature, at least to the extent that they can read scholarly texts with ease and, when the time comes, may be able to use the sources of ecclesiastical tradition fruitfully." Pius XII, *Allocution to the Discalced Carmelites* (23 sept. 1951): "Let there be no priest who cannot read and speak Latin with ease and facility! . . . The sacred minister who is ignorant of it must be regarded as deplorably lacking in mental refinement." John XXIII (22 feb. 1962), Ap. Const. *Veterum Sapientia* "... We... establish and order. . . . 3. That, in the same way as is established both by the Code of Canon Law (canon 1364) and by Our predecessors, candidates for the priesthood, before beginning ecclesiastical studies properly so-called, be instructed with utmost care in Latin by expert professors with a fitting method and for an adequate period of time, and this in order to avoid that subsequently, 'having progressed to higher disciplines, they cannot, because of a culpable ignorance of Latin, understand them fully, and still less exercise themselves in those scholastic debates through which the minds of young men are trained for the defense of truth'. We intend that this apply also to those who have been called by God to the priesthood at a mature age, having received no or inadequate classical education. In fact, no one may be admitted to the study of the philosophic or theological discipline if he has not first been fully instructed in this language and if he cannot use it." Cf. also S. C. Sem. (22 apr. 1962) for the ordinations and norms which apply the prescriptions of *Veterum Sapientia* regarding the teaching and learning of Latin and Greek. Cf. Paul VI, motu proprio, *Studia Latinitatis*, 22 feb. 1964.

¹⁰⁸ c. 124.

¹⁰⁹ Pius X, *Sacrorum Antistitum* (cf. n. 106 above); *Allocution to the French Seminary* (23 feb. 1905): "No one can have any doubt that piety should be the characteristic of a cleric. . . . You have the duty to be holy, not simply in a mediocre degree but completely; ordinary holiness is not enough, your holiness must be outstanding; you must avoid not only mortal sins but also the smallest sins." Exhortation *Haerent Animo* (4 aug. 1908): "In this exhortation it is not your personal welfare alone that We are striving to secure, but the common welfare of Catholic peoples; the one cannot be separated from the other. For the priest cannot be good or bad for himself alone; his conduct and way of life have far-reaching consequences for the people. A truly good priest is an immense gift wherever he may be. . . . There should be as much difference between the priest and any other upright man as there is between heaven and earth; consequently, the priest must see to it that his life is free not merely from grave faults but even from the slightest faults. The Council of Trent made the teaching of these venerable men its own when it warned clerics to avoid 'even venial faults which in their case would be very grave.' (sess.

XXII, *de Reform.* c. 1) These faults are grave, not in themselves, but in relation to the one who commits them; for to him, even more than to the sacred edifice, are applicable the words: 'Holiness becometh thy house.' (Ps. 92:5)"

¹¹⁰ Pius XI, *Ad Catholici Sacerdotii* (cf. n. 89 above): "All the reasons already mentioned in demonstrating the dignity of the priesthood again come to mind and move Us to exhort priests most earnestly to practice that holiness of life which is demanded of them as a duty. For, as the Angelic Doctor teaches: "To carry out fittingly the duties of the priesthood not any and every level of sanctity is sufficient; a very high degree of virtue is called for in order that those who, by receiving Orders, are placed above the ordinary people in rank, may likewise be above them in sanctity of life.' . . . But if your labors are with God's help and blessing to meet with the desired success, you must be eminent for holiness of life." Pius XII, *Menti Nostrae* (cf. n. 89 above): "But it is absolutely impossible for the priestly ministry to achieve results fully commensurate with present-day needs, unless priests shine out among their people with exemplary holiness."

¹¹¹ *Summa Theol.*, II-II, q. 184, a. 6: "From the fact that a man receives a sacred order he is not placed simply in the state of perfection, although inward perfection is required that one exercise such acts worthily"; "If the religious is also without orders . . . , then it is evident that the preeminence of order excels in dignity, since by holy orders a man is appointed to the most august ministry of serving Christ Himself in the sacrament of the altar. For this requires a greater inward holiness than that which is requisite for the religious state"; q. 189, a. 1, ad 3: "Holy Orders prerequisite holiness, whereas the religious state is a school for the attainment of holiness. Hence the burden of Orders should be laid on the walls when these are already seasoned with holiness, whereas the burden of religion seasons the walls, i.e., men, by drawing out the damp of vice."

¹¹² c. 974, 1: "That one may be lawfully ordained the following requisites are necessary: 2°. morals becoming the order to be received." Cf. also Trent, sess. XXIII, cap. XII, XIII, XIV. There should be moral certainty of this proven virtue before admitting a professed cleric to final vows, or after a three-year period in the Institute (cf. *Instr. to the Supreme Moderators*, n. 85 above).

¹¹³ Pius XII, *Menti Nostrae* (cf. n. 89 above): "What We have written of priests We likewise insist on here: clerical students must be absolutely convinced that they are bound to strive with all their might to acquire those adornments of the soul, the virtues, and when they have acquired them, to preserve them and zealously develop them."

¹¹⁴ Pius X, *Sacrorum Antistitum* (cf. n. 106 above): "Those who are responsible for discipline and piety shall see what promise the students give and examine closely the character of each one; let them discover

whether the student is unduly given to his own gratification, or seems to adopt a worldly outlook, whether he is prompt to obey, of pious disposition, not holding too high an esteem of himself, faithful to discipline, whether his desire for the dignity of the priesthood springs from a correct motive, or is inspired by merely human considerations; and finally whether the student possesses the appropriate degree of knowledge and sanctity; or, at least, should he fall short in either, whether he is sincerely and eagerly striving to acquire it. Such an investigation can be carried out without excessive difficulty; the absence of the virtues of which We have spoken soon betrays itself in the discharge of religious duties without any sincerity, and in the observance of discipline through fear and not in order to obey the voice of conscience. The individual who observes discipline through servile fear, or violates it through levity or contempt, is far from giving promise of a saintly priestly ministry. For it is difficult to believe that one who treats the interior discipline of the seminary with contempt will not also depart from the public laws of the Church. If a superior detects such a state of mind in any of the clerics under his care, and if, after repeated admonitions and a year's trial, he finds that the student is not correcting his conduct, then it will be the duty of the superior to remove him from the seminary, and he may not be received back by him nor indeed accepted subsequently by any other bishop." Pius XI, *Ad Catholici Sacerdotii* (cf. n. 89 above): "Let all your efforts be directed towards becoming one day, in piety, chastity, humility, obedience, discipline and study, the kind of priests that Christ wants you to be. Be assured that, no matter what labor and energy you expend in preparing yourself, it will not be too great, because on the formation you acquire now will largely depend the fruitfulness of your priestly ministry." *Discourse to the International Pilgrimage of Seminarians* (24 iul. 1929): "The first pledge is one of piety, of that piety which above all is perfection, the virtue of religion which may be called the queen of all the virtues. . . . Let piety before all else regulate your attitude to God, and let it inspire you with the desire to become more fully and perfectly true priests in the holy Church of God; not mere functionaries, nor mere employees, but sons, true sons filled with affection, devotion and tenderness for their Father." *Instruction to Supreme Moderators* (cf. n. 85 above): "The superiors shall allow no one to take Orders as long as they are not certain, by means of accurate investigation, of the candidate's morals, piety, modesty, chastity, inclination towards the clerical state, progress in studies and religious observance." John XXIII, *Address to Italian Seminarians, 'L'incontro'* (22 nov. 1959): "This program that We want to offer you is inspired by the three graces that We constantly beg from God through the intercession of the Immaculate Virgin, the Mother of Good Counsel, through the intercession of the Holy Apostles Peter and Paul, of St. Charles Borromeo, and of all the holy patrons of dioceses and seminaries: purity of heart, strength of character, and ardent charity." S. C. Rit.

Instr. (2 feb. 1961), nn. 35-36 on natural and supernatural virtue, obedience and self-sacrifice, cf. n. 88 above.

¹¹⁵ Pius XI, *Ad Catholici Sacerdotii* (cf. n. 89 above).

¹¹⁶ *Ibid.*: "Another shining ornament of the Catholic priesthood, closely related to piety, is the virtue of chastity. Clerics of the Latin Church who are in Major Orders are bound to observe it by an obligation so strict that any violation makes them guilty of sacrilege (c. 132, 1). Though this law is not binding in all its rigor on the clergy of the Oriental Church, ecclesiastical celibacy is held in high honor by them, and in some cases it is a matter of obligation, particularly for the higher grades of the hierarchy. . . . What We have said in praise of clerical celibacy should not be taken to imply any criticism or disapproval on Our part of the different discipline which has quite legitimately prevailed in the Oriental Church. Our only intention was to eulogize what We regard as the greatest glory of the Catholic priesthood and what seems to Us to be the most perfect fulfillment of the wishes and designs of the Sacred Heart for the sanctification of His priests." Pius XII, *Menti Nostrae* (cf. n. 89 above): "Consequently, since he ought to be free from all earthly cares and be devoted completely to the service of God, the Church has established the law of celibacy, in order to make it even clearer to all that the priest is the minister of God and the father of souls. Instead of completely losing the privilege of fatherhood, by reason of this law of celibacy, the priest actually enhances it to an immense degree; for he begets children not for this earthly and transient life, but for the heavenly and everlasting life." Encyclical *Sacra Virginitas* (25 mart. 1954): "This is the reason why the Church in her profound wisdom considers that the celibacy of priests must be maintained; she knows that celibacy is and will continue to be a source of spiritual graces, which will bring priests into ever closer union with God." Cf. also cc. 132, 1; 1072; 2388.

¹¹⁷ Benedict XV, *Consistorial Allocution* (16 dec. 1920): "And so, venerable brethren, We once more affirm, solemnly and formally, as We have more than once taken occasion to do in the past, that this Apostolic See will never in any way even lighten or mitigate the obligation of this holy and salutary law of clerical celibacy, not to speak of abolishing it." Pius XII, *Allocution to the Seminarians of the Ecclesiastical Colleges of Rome* (24 iun. 1939): "The priestly office demands of you, so to speak, various particular forms of sacrifice, among which is that primary and complete sacrifice of self in devotion to Christ which is made by celibacy. Prove yourselves, and if any among you find themselves unable to observe celibacy, We implore them to leave the seminary, and go elsewhere to lead honestly and rewardingly a life which otherwise they would drag out in the sanctuary, not without danger to their own salvation and disgrace for the Church. And We exhort those who are in the priestly state, or are about to enter it, to give themselves unreservedly and wholeheartedly." *Menti Nostrae* (cf. n. 89 above): "Careful watch is also re-

quired to ensure that candidates for the sacred ministry appreciate highly, love and defend in their souls the virtue of chastity, because on it largely depends their decision to adopt this life and their perseverance in it. Therefore, because of the great dangers to which chastity is exposed in human relations, those who aspire to the dignity of the priesthood must have this virtue firmly, and for a long time, rooted in their souls. Not only, therefore, must clerics be taught the meaning of priestly celibacy and of the chastity which they must observe, and be made aware of the obligations attached to them, but they must be warned as well of the dangers which arise. At the same time, students must be urged to take precautions against the dangers from the very earliest years, by having recourse to those means of overcoming passion which the masters of the spiritual life recommend; because the soul will advance in other virtues, and priestly labor will grow in fruitfulness, in proportion as control over passion becomes firmer and more constant. And if it should happen that any cleric shows himself to be prone to sin in this matter, and after a reasonable time of trial does not free himself of his evil inclination, he certainly should be sent away from the seminary before receiving Holy Orders."

¹¹⁸ c. 973, 3.

¹¹⁹ Cf. S. C. Sem., *Reserved Communication* (cf. n. 93 above). "Among the proofs and signs of a divine vocation the virtue of chastity is regarded as absolutely necessary." S. C. Rel. *Instr.* (2 feb. 1961), n. 29, cf. n. 88 above.

¹²⁰ Pius XI, *Ad Catholici Sacerdotii* (cf. n. 96 above). Also *ibid.*: "Those given to sensuality and who over a long period have given no sign that they are able to overcome these habits . . . are not suitable and are not meant for the priesthood. If they are not removed from the seminary at the proper time, they will find it harder to depart at a later stage, and though they have neither vocation nor priestly spirit, they may perhaps take on the obligations of this onerous office. Superiors of seminaries, as well as spiritual directors and confessors, should reflect very seriously on their heavy responsibility to God, the Church and the young men themselves to do everything they can to prevent such a mistake. In saying that spiritual directors and confessors have this responsibility, in virtue of their office, We do not mean that they can take any action in the external forum; in fact, any such intervention on their part is forbidden, either by the confidential nature of their office or by the inviolable sacramental seal; but rather that they should effectively influence the souls of the individual students and direct them, as their spiritual needs demand, with the firmness and devotion of a father. For that reason, and particularly when the superiors are negligent or weak in doing their part, they should without any regard for human considerations order those who are unsuitable or unworthy to leave the seminary

while there is yet time. And in deciding these cases, the safer view should always be followed; it is much more to the student's advantage, in that it may turn them from a course which might lead to their eternal ruin. Sometimes it may not be quite clear that they should make departure from the seminary a matter of obligation; in that case, they should use the authority which their position and their fatherly love for the students give them to persuade those whom they know to be wanting in the required dispositions to leave of their own accord. The confessor should always have before his mind what St. Alphonsus said of a similar situation: 'As a rule in such cases, the more severe a confessor is on his penitents, the more does he help them to their salvation, while on the contrary the more indulgent he is, the more is he really cruel to them. St. Thomas of Villanova called all such over-kind confessors *wickedly kind*; such charity is contrary to charity.'

¹²¹ Cf. cc. 970; 2222, 2.

¹²² Cf. S. C. Sem., *Reserved Communication* (cf. n. 93 above); *Letter to the Rectors of Regional Seminaries in Italy* (13 mart. 1943); S. C. Sac., *Circular Letter* (cf. n. 101 above); S. C. Rel. *Instr.* (2 feb. 1961), cf. n. 124 below.

¹²³ E.g., if a seminarian has committed no sin of unchastity (alone) for many years, and in this year commits one or two of this type, he may be granted a further period of trial.

¹²⁴ Pius XI, cf. 120 above; S. C. Sac., *Circular Letter* (cf. n. 101 above): "As to how spiritual directors and the ordinary and extraordinary confessors of candidates for orders should conduct themselves, confer what has been wisely set forth in the encyclical of Pius XI referred to above (*Ad Catholici Sacerdotii*) and the special norms which may have been set down for this matter in some places by the pastors of souls, each for his own diocese."; S. C. Sem., *Private Recommendations* (cf. n. 107 above): "The Code of Canon Law prescribes that, besides extraordinary confessors, at least two other priests assist the spiritual director in hearing the confessions of seminarians (cc. 1358; 1361). In a seminary in charge of a religious Order, the office of confessor may be exercised by professors in service, provided, of course, they are approved confessors and have been appointed to this office by their own Superior and by the Ordinary. The mere fact that one is a professor is not sufficient title to empower him to hear the confessions of seminarians. He must be appointed specifically for this work and receive the approval above mentioned. In seminaries conducted by the secular clergy, however, professors are only permitted to be extraordinary confessors." S. C. Rel., *Instr.* (2 feb. 1961) on Confessors, Directors and the norms of judgment regarding chastity, cf. *The Administration of penance*, nn. 342, 343.

¹²⁵ The distinction between the intemperate and the incontinent sinner is of practical value in judging the dispositions of penitents, but

not in judging the suitability of the ordinand to go on in the clerical life.

¹²⁶ c. 976, 1.

¹²⁷ c. 975. The day of birth is not computed (c. 34, 3, 3°).

¹²⁷ * Paul VI, motu proprio, *Pastorale Munus*, I Fac. 15, 30 nov. 1963.

¹²⁸ *Summa Theol.*, *Suppl.* q. 35, a. 4.

¹²⁹ c. 974, 1, 1°.

¹³⁰ c. 1005.

¹³¹ *Summa Theol.*, *Suppl.*, q. 35, a. 1.

¹³² Cf. c. 978, 1.

¹³³ *Ibid.*, 2.

¹³⁴ *Ibid.*, 3.

¹³⁵ c. 976, 1.

¹³⁶ Cf. c. 1365, 1.

¹³⁷ c. 976, 2. Cf. *Circular Letter* of S. C. Sac. (27 dec. 1955), nn. 14, 17, and *Instruction* of S. C. Rel. (2 feb. 1961), n. 40.

¹³⁸ Cf. S. C. Consist. 24 mart. 1911; S. C. Rel., 7 sept. 1909; 1 mart. 1915; *Sedes Sapientiae, General Statutes*, (cf. n. 84 above), art. 42.

¹³⁹ S. C. Rel., 27 oct. 1923. A similar restriction is usually affixed to dispensations for secular clerics by the S. C. Sac.

¹⁴⁰ c. 1001, 1-2.

¹⁴¹ S. C. Sac. 2 maii 1928.

¹⁴² c. 1001, 3-4.

¹⁴³ c. 1406, 1, 7°.

¹⁴⁴ c. 977.

¹⁴⁵ c. 2374.

¹⁴⁶ c. 1004.

¹⁴⁷ c. 974, 1, 7°.

¹⁴⁸ Cf. c. 979, 2.

¹⁴⁹ c. 980, 1; cf. also c. 2373, 3°.

¹⁵⁰ c. 980, 2.

¹⁵¹ c. 979, 1.

¹⁵² c. 981, 1-2.

¹⁵³ Cf. c. 542.

¹⁵⁴ c. 982, 1-2.

¹⁵⁵ *Ibid.*, 2; e.g., religious life, simple vows, service of religion.

¹⁵⁶ *Ibid.*, 3.

¹⁵⁷ Cf. cc. 993-995.

¹⁵⁸ S. C. Sac., 27 dec. 1930; 27 dec. 1955; S. C. Rel., 1 dec. 1931; 2 feb. 1961.

¹⁵⁹ Cf. cc. 996-997.

¹⁶⁰ Cf. cc. 998-1000.

¹⁶¹ Cf. cc. 1010.

¹⁶² Cf. c. 1011.

¹⁶³ c. 968. A new irregularity is not incurred when one who is irregular nevertheless receives or exercises an order (cf. c. 985, 7°).

¹⁶⁴ Cf. cc. 1037; 1047.

¹⁶⁵ c. 989.

¹⁶⁶ c. 986.

¹⁶⁷ c. 988.

¹⁶⁸ Excepting illegitimacy which can be removed by solemn profession, and, in the case of an impediment, by the cessation of the fact on which it is based.

¹⁶⁹ c. 990, 1. They may also dispense from any irregularity under the conditions of c. 15 or c. 81.

¹⁷⁰ *Ibid.*, 2.

¹⁷¹ c. 202, 2.

¹⁷¹ a Paul VI, motu proprio, *Pastorale Munus*, I Fac. 17, 30 nov. 1963.

¹⁷² c. 991, 1.

¹⁷³ *Ibid.*, 2.

¹⁷⁴ *Ibid.*, 3.

¹⁷⁵ *Ibid.*, 4.

¹⁷⁶ c. 984.

¹⁷⁷ Cf. c. 1116; PCI 13 iul. 1930 states that sons legitimated by the subsequent marriage of their parents are regarded as legitimate for the purpose of admission to the seminary, unless the parental marital impediment was age or disparity of worship (PCI 6 dec. 1930). Legitimation of offspring of an adulterous or sacrilegious union is not usually granted unless under stringent conditions. The local Ordinary may admit to the Seminary illegitimate sons, if they show the qualities required for admission, provided that they are not adulterine or sacrilegious offspring (Paul VI, motu proprio, *Pastorale Munus*, I Fac. 31, 30 nov. 1963). Cf. I Fac. 36 regarding religious.

¹⁷⁸ Cf. cc. 2293, 2; 2294, 1; 2295; 2314, 1, 3°; 2320; 2328; 2343, 1, 2°, 2, 2°; 2351, 2; 2356; 2367, 1.

¹⁷⁹ c. 985.

¹⁸⁰ The irregularity includes those belonging to an atheistic sect (PCI 30 iul. 1934), and probably to the Communist party (S. Off. 1 iul. 1949).

¹⁸¹ Cf. c. 2209.

¹⁸² c. 139, 2.

¹⁸³ S. C. Rit. 17 iul. 1894; 10 mart. 1906 (14 mart. 1906).

¹⁸⁴ c. 987, 1°-7°.

¹⁸⁵ PCI 16 oct. 1919; Paul VI, motu proprio, *Pastorale Munus*, I Fac. 16, 30 nov. 1963. Present practice (1962) no longer requires permission from the S. C. Sem. for a candidate with the impediment of c. 987, 1° to enter the seminary; it suffices to recur to the Holy Office for a dispensation when the candidate is ready for First Tonsure and Minor Orders.

¹⁸⁶ PCI 14 iul. 1922.

¹⁸⁷ PCI 2-3 iun. 1918.

¹⁸⁸ c. 2293, 3.

¹⁸⁹ c. 127; Benedice XIV, Bull *Ex quo dilectis*, 14 ian. 1747.

¹⁹⁰ Cf. c. 542, 2.

¹⁹¹ c. 1363, 3.

¹⁹² S. C. Rel. & S. C. Sem., joint Decree, 25 iul. 1941. Private replies have indicated that this Decree does not affect those institutes subject to the S. C. P. F.

¹⁹³ S. C. Sem., 8 maii 1945, private to the Archbishop of Toledo in Spain; 12 ian. 1950, private to the Vicar General of Cologne.

¹⁹⁴ *Ibid.*, 12 iul. 1957.

¹⁹⁵ *Ibid.*, 6 feb. 1958, private to the U. S. Apostolic Delegation.

¹⁹⁶ c. 544, 3.

¹⁹⁷ cf. n. 191 above.

VIII

The Administration
of
Matrimony

THE ADMINISTRATION OF MATRIMONY

PRENOTE.

1. - 1. - The family and through it all human society have their source and their origin in matrimony. Only when the nature, purposes and obligations of marriage are known and understood can the good of the family and the common weal itself be perfectly attained, or even achieved at all. The true progress of any people, the perfection of its culture, is in direct proportion to the attitude of that group toward the institution of marriage and the sanctity and perpetuity of its bond. Exemplification need not be sought in pagan times but rather in our own day and country, where there is widespread loose and erroneous thinking, not to speak of living, with respect to matrimony. In a real sense the condition of our contemporary decades is worse than in pagan times. Our civilization has been steeped in the atmosphere of Christian Revelation and still lives at least on the residue of a Christian culture and tradition in which matrimony regained the proper position which it had first received from the hands of God and in which the dignity bestowed on it by Christ was safeguarded and promoted.

2. - The true teaching on marriage, and on Christian marriage in particular, is part of Christian doctrine. Consequently, it must be known by all the faithful according to their capacities, opportunities and circumstances of life and state. The obligation is *certainly grave* for priests, no matter what form their ministry takes, whether their exercise of office is in the pastoral area or limited to the forum of conscience. Priests are constituted the guides and instructors of the faithful for whom matrimony is something quite real, necessary and of considerable duration. The priest must know not only the theory of matrimony, but also have a handy grasp of the discipline and practice of the Church today. The latter must change and be adapted to fit the constant movement of human life, and at times of human perversity. Thus, regarding the positive laws and instructions of the Church, the priest cannot be content with the knowledge once acquired in this field, but he must use all ordinary diligence and prudence to keep abreast of the mind of the Church as expressed from time to time and competently reported.

I. NOTION

A. - DEFINITION.

2. — 1. - *Nominal*. "The word 'matrimony' (*matrimonium - matris munus*) is derived from the fact that the principal object which a female should propose to herself in marriage is to become a mother; or from the fact that to a mother it belongs to conceive, bring forth and to train her offspring. It is also called wedlock (*conjugium - yoking together*) from joining together, because a lawful wife is united to her husband, as it were, by a common yoke. It is called nuptials (*nubere, nuptiae - to veil oneself*), because, as St. Ambrose observes, the bride veiled her face through modesty—a custom which would also seem to imply that she was to be subject and obedient to her husband."¹

3. — 2. - *Real*.

a) Matrimony considered actively, i.e., in relation to the transitory act (of internal and external consent) creating the relationship of man and wife (*matrimonium in fieri*), is defined as the lawful contract between a man and a woman by which is given and accepted the exclusive and perpetual right to those bodily functions apt to generate children, and by which they oblige themselves to share in a common life.²

b) Considered passively,³ i.e., in respect to this relationship in its permanent state as established by the mutual consent: the matrimonial bond or permanent and indissoluble alliance of man and woman (*matrimonium in facto esse*), matrimony is defined as the lawful marital union of a man and a woman involving their living together in undivided partnership.⁴

3. - *Essence*.

4. — a) Matrimony has no other primary purpose but the mutual giving of the use of their bodies for the legitimate generation of offspring (and consequent education), the specific element which is proper and exclusive to marriage as distinct from all other unions. The right (as distinguished from the use) to the acts of themselves apt to procreate is essential; if the right is not transferred (in the sense of being intended and not excluded) or if the party is not apt to generate, there can be no marital contract or union. Marriage bespeaks an order to carnal copulation but the latter does not pertain to its essence but to its integrity.⁵

b) Marriage as an office of nature is essentially a contract and a bond, and more properly the bond which is effected causally by the contractual consent.⁶ The conjugal bond is the complex of relations arising from the matrimonial contract and uniting the spouses in one society, the group of rights and obligations among which the exclusive and perpetual right and obligation of carnal intercourse holds first place. The sharing of bed,

board and cohabitation pertains to the integrity and perfection of the conjugal life and not to its essence, as is obvious in a marriage of conscience. The union of the two spirits through mutual love is not the object of the contract but rather the condition of a happy married life. Similarly, the union of material goods is a condition for bearing equitably the burdens of marriage; it can and sometimes is determined by civil agreement. Nevertheless, the primary and secondary ends of marriage are usually not to be achieved or well attained, unless the integrity of the bond is had.

c) The remote matter of the contract of marriage is the persons of the contractants, i.e., the mutual right to the body of each relative to procreation. The proximate matter is the signs or words expressing this reciprocal exchange. The form is the mutual and exteriorly manifested acceptance of this right.

B. - ORIGIN AND NECESSITY.

5. - 1. - Marriage as an office of nature was instituted by God by a positive ordination, when after the creation of Adam He formed Eve as a companion and helper and blessed their partnership.⁷ Implicitly it was instituted by God in the creation of man and woman. God in creating them to His own image and likeness, showed at the same time that He wished them to be different in sex and apt to generate offspring, that hence through their matrimonial union the human race might be propagated. Moreover, to fulfill the purpose of creation and to attain the perfection of his nature, the offspring must for many years be nourished and religiously reared, for which nature requires the cooperation of man and woman. And God wished that this stable partnership be achieved in a way consonant with an intellectual and free nature, i.e., by mutual and free consent.

2. - Thus matrimony is a special design of God and its essentials were established by Him and not by man. It must be accepted as divinely designed and made, and may not be changed or altered to adapt it to man's whims and wishes. Since it is of natural institution, matrimony exists truly among the non-baptized, and natural reason inclines to it.⁸ Thus it is in itself lawful, good and praiseworthy,⁹ because of God its author and inasmuch as it is ordained to a threefold end, as noted below.

3. - Although matrimony is good and even necessary for the human race, the precept or obligation of contracting it falls upon the race as a whole and not upon each individual,¹⁰ unless accidentally, e.g., to avoid incontinence,¹¹ to repair an injury or to fulfill a promise. Each one is free to choose his state in life; no human authority is able *absolutely* to forbid marriage to anyone against his antecedent will and capability of carrying out its duties; no one can prohibit the propagation of the human race. Moreover, the conjugal act itself is also meritorious when virtuously moti-

vated, e.g., to render the debt in justice or to beget children out of religion, and when performed under due conditions, the principal of which is that it be done in charity. The shamefulness of concupiscence which usually accompanies the marital act is not that of fault but of penalty coming from original sin. If the intensity of the pleasure takes away the reason's use, it does not take away the order of reason, because the marital act is preordered by reason.¹² Even the natural contract is a sacred thing, as noted below, and thus its principal act is also sacred.

C. - ENDS AND BENEFITS.

6. - 1. - Some *ends* or motive causes are *intrinsic* and *essential* to matrimony (*finis operis*):¹³

a) *primary*. The end to which marriage of its nature is primarily and principally destined or ordained is the *procreation and education of offspring* (*proles*). This end (and thus the right to it) must be principally intended, or at least not positively excluded, in contracting marriage. If the primary end is lacking, the secondary ends cannot exist as matrimonial ends; but the primary end and marriage itself can exist without the secondary ends, although not very conveniently.

b) *secondary*. These are the ends to which marriage of its nature can tend, but only secondarily and dependently on the primary; they serve and foster the principal end. The secondary ends cannot be considered independent of and equally principal with the primary end.¹⁴ The fact that the primary end is not excluded by these secondary ends implicitly includes it, even though the marriage is celebrated or used only for the secondary ends.

i. - *mutual help and comfort*. The spouses, endowed by God and nature with different and complementary inclinations and faculties, find mutual help and comfort in marriage (*mutuum adiutorium*) inasmuch as from it springs a happier life together, which is necessary for the education of offspring and a more tolerable forbearance of the burdens of a common life and of old age. It consists in mutual love and deepest friendship together with other helps and solaces of the spiritual and material orders, e.g., a sharing of goods.

ii. - *the enjoyment of pleasure and the quieting of concupiscence*. Although this is not an essential end, it is intrinsic to marriage in this state of fallen nature, as a remedy for weakness. It is an alleviation of concupiscence especially toward a third party, and safeguards the achievement of the primary end. Fallen nature restrains concupiscence within reason only with difficulty; it is less excited to the forbidden if it is granted in marriage lawful things respecting the primary end.¹⁵ This quieting or healing of concupiscence is the acquisition of the virtue of chastity.

7.-2.- Other *ends* are extrinsic and not essential to matrimony (*fines operantis*). Whatever the intentions, motivations, accidental ends, occasions which the contractants have in entering marriage, they must not be opposed to the primary end, since they would render the marriage invalid. They must be good in themselves, since evil intentions would render the marriage sinful.¹⁶

8.-3.- There are certain *goods* or *benefits* or *effects* which follow from a validly and lawfully contracted marriage, substantial or essential goods which cannot be intentionally excluded and safeguard the validity of marriage.¹⁷ Inasmuch as they accrue to the spouses they are called goods or benefits or blessings (*bona*); inasmuch as they attract or move men to contract marriage they are called ends (*fines*). They compensate for the difficulties and trials of married life.

a) *offspring*. This benefit or blessing (*proles*) consists in the generation and education of offspring. It founds the rights and obligations regarding the use of marriage and the rearing and formation of the offspring.

b) *faith*. Conjugal fidelity is what is meant by faith here (*fides*), the mutual faithfulness to one another as to bodily rights and as conducive to leading a stable family life. It forbids all that is opposed to conjugal chastity and justice.

c) *sacrament*. This effect (*sacramentum*) is the hallowedness or sacredness of every marriage bond and the inseparableness of the spouses as a sign of the indivisible union of Christ with His Church. It is confirmed and strengthened in the case of a marriage which is also a sacrament.

II. DIVISION

9.- A. - VALID. - A valid marriage (*validum, verum*) is a union which fulfills all the conditions requisite for validity, i.e., which is not vitiated by diriment impediment, by defective consent, or by failure to observe the required form. The presence of a prohibitive or impedient impediment renders the marriage unlawful but valid. A valid marriage produces its juridical effects and makes the contractants to be spouses with all the rights and obligations thereof.

1.- *sacramental only (ratum tantum)*. This is a marriage in which both parties are validly baptized and in which the union has not yet been consummated (*ratum et non consummatum*). There must be valid baptism present in both parties, since there cannot be a sacrament (and consequently its greater obligations) existing on the side of one party and not on the other; marriage does not limp. This is a union which is received or recognized (*ratum*) as a sacrament by the Church.¹⁸ When a party or

the parties who are unbaptized receive baptism subsequent to having entered into a valid and legitimate marriage, the marital bond automatically becomes sacramental by reason of the baptism now present in *both* spouses.¹⁹

2. - *sacramental and consummated (ratum et consummatum)*. A sacramental union is consummated in which the spouses have performed the conjugal act, which must consist in at least some penetration of and insemination in the female vagina by the male generative member. This act must be one placed *after* the celebration of the valid marriage. Once the parties cohabit after the marriage celebration, consummation is presumed, until the contrary is proved.²⁰ A sacramental and consummated marriage is absolutely indissoluble by any power on earth.

3. - *legitimate (legitimum)*. This is a valid union (whether consummated or not) entered into according to the laws binding them between two unbaptized parties or between an unbaptized and a baptized party.²¹ It is a merely *natural* bond and not sacramental (which requires two baptized parties). Thus, even the marriage of a Catholic with an unbaptized according to the canonical form is only a natural bond. The marriage of two unbaptized parties is governed only by the natural law and by just civil laws. When one party alone is baptized (even though a non-Catholic) the marriage is by that fact ruled by ecclesiastical law (and the unbaptized party is indirectly bound), unless exempted in some respects, e.g., those baptized as non-Catholics are exempted from the Catholic form of marriage.

10. — B. - INVALID. - An invalid marriage (*invalidum, nullum, irritum*) is a union lacking some condition for validity and in which an external manifestation of consent has no effect due to the presence of a lack of required form, or of defect in consent, or of a diriment impediment.

1. - *in good faith*. A marriage celebrated in good faith by at least one of the parties is considered to be a *putative (putativum)* marriage, until such time as *both* parties become aware of the nullity of the matrimonial contract.²² There remains the figure or appearance of a true marriage. However, to be considered *certainly* putative, the marriage must have been *celebrated before the Church*,²³ i.e., in the canonical form, either ordinary or extraordinary.²⁴ Only an outwardly correct contract will be recognized as putative, with consequent effects. Thus, any act in good faith which by external form of celebration has the appearance of a canonical marriage, although actually null due to some substantial defect, is certainly a putative marriage, e.g., if celebrated in good faith before a priest lacking necessary jurisdiction, or before a pastor and two witnesses outside his parish. An invalid marriage celebrated in any form

which the Church regards as sufficient for those not bound to the canonical form is *probably* putative. In such a case, the local Ordinary is to be consulted.

2. - *in bad faith*. A marriage is called *attempted* or an *attempt at marriage* (*attentatio matrimonii, matrimonium attentatum*) or made in bad faith (*simpliciter invalidum*), if one or both of the parties have knowledge of the nullity and yet have gone through the external form of a marriage contract. A marriage contracted not *coram Ecclesia* by one who is bound to the canonical form, but contracted only civilly, is an attempted marriage; in the sight of the Church it has not even the appearance of a marriage and is rather concubinage,²⁵ which implies no form or appearance of marriage,²⁶ although the intent and will to be considered as spouses is expressed (thus differing from common concubinage).

11. - C. - PUBLIC. - A marriage entered into according to the canonical form, either ordinary or extraordinary, by those bound to it, is called public (*publicum*) in law. It is recorded in the public parochial register. A marriage is called public in fact when notice of it has been divulged or when it is celebrated or takes place in such circumstances that it can be, and ought prudently to be judged to be, easily divulged.

12. - D. - SECRET. - A marriage can be called secret (*occultum*) when the bans are omitted and the marriage contracted secretly. In the strict canonical sense the only secret marriage is the *marriage of conscience*, (*matrimonium conscientiae*).²⁷ It is not secret with respect to the Church but only to civil society. A marriage which is contracted secretly and without the legitimate form prescribed by the Church is called a *clandestine* marriage; it is always invalid for Catholics not dispensed from the form.

III. SACRAMENT

13. - A. - ORIGIN AND ESSENCE.

1. - Matrimony as a sacrament can be defined as a sacrament of the New Law which confers grace for the sanctification of the lawful union of man and woman and for the religious and holy reception and education of offspring. It is a sign of the union of Christ with His Church, significative and productive of the grace derived from Christ, Head of the Church, whereby the marital union might be supernaturally fruitful of its proportionate likeness to the union of Christ and His Church. Christ definitively instituted it as a sacrament, elevating the natural bond to the higher state of a sign and cause of grace, after His resurrection. He had sanctified marriage by His presence in Cana of Galilee and had recalled marriage to its original perfection of unity and indissolubility. It is of

faith that marriage is a sacrament and that a valid matrimonial contract between Christians is by that fact a sacrament.²⁸ The distinction between marriage as a natural contract and as a religious act of sacrament can relate only to the effects of Christian marriage and not to the marriage itself.²⁹ Thus, strictly, the baptized cannot celebrate the matrimonial contract as the cause of civil effects and not also as the cause of supernatural effects or as a sacrament.

2. - Elevation implies addition, and matrimony remains after its elevation what it was before, with the power of causing grace added. Thus, whatever properly belongs to a contract, belongs also to the sacrament, e.g., to contract through a proxy. Baptized non-Catholics, even if they do not admit or expressly deny that it is a sacrament, if they enter marriage with true consent, by that fact they confer and receive a sacrament. Their intention, although erroneous, is sufficient; in the will to celebrate marriage or to contract a valid marriage is included the intention of doing that which in the Church is a sacrament. There is no sacrament and no marriage, if their positive and prevailing will is not to receive a sacrament, as at least a virtual intention is required in the minister. The marriage of infidels, when *both spouses* become subsequently baptized, automatically becomes a sacrament, even if they are not aware of the fact. The matrimonial contract and consent virtually perdure in the bond itself, which with the advent of baptism becomes a sacred sign. The Church does not require a renewal of consent from such converts, but rather exhorts them to receive the nuptial blessing.³⁰ If matrimonial consent has been withdrawn expressly, e.g., by a divorce, or if a new marriage is desired, the local Ordinary is to be consulted.

14. — B. - MATTER AND FORM.

As in the natural contract the matter of the sacrament is the outward manifestation of the *conferral* of marital rights; the form is the external expression of the *acceptance* of these rights.

15. — C. - MINISTER AND SUBJECT.

1. - The ministers of the sacrament of matrimony are the contracting parties themselves, as in the case of the natural contract.³¹ The priest is only the qualified or official witness of the validity and lawfulness of the sacramental contract, and may be called a minister of the juridical and religious solemnity only.

2. - All the baptized who are free of any diriment impediment are capable of receiving the sacrament of matrimony. The contracting parties must be present to one another, either personally or by proxy, which holds also for baptized non-Catholics.³² They must not have expressed a condition contrary to the essence of matrimony. They also receive the sacra-

ment lawfully and fruitfully, if they are free from prohibitive impediments, in the state of grace, confirmed, possessed of parental consent when only minors, and observant of all the ecclesiastical prescriptions for the celebration of marriage. The Church does not command but it strongly advises the reception of Penance and the Eucharist before marriage.³³ This is the common practice, which is to be urged upon all nupturients, as well as the best man and the bridesmaid. Opportunity should be afforded them, usually at their last visit to the priest, for going to confession.

16. IV. AUTHORITY OVER MARRIAGE

A. - It is of faith that the Church can establish diriment impediments to marriage, dissolve a *ratum* marriage, and that matrimonial causes or cases belong to ecclesiastical tribunals.³⁴ It is at least theologically certain that the government of Christian marriage, i.e., between two baptized persons, pertains exclusively to the Church and is not possessed cumulatively with the civil power. It is commonly held that a marriage between a baptized and an unbaptized person is governed only by the law of the Church.³⁵

B. - Civil authority, for the good of society, can and ought to make just laws (which bind in conscience) for the temporal effects of marriage,³⁶ the separable civil effects, e.g., inheritance, dowries, social status, titles, registration, union and administration of goods, as long as they are not evil in themselves nor expressly proscribed by the Church. Inseparable civil effects exclusively reserved to the Church in the case of the baptized are, e.g., legitimacy of children, the right of parties to mutual marital relations, questions affecting or depending on the validity of marriage.

C. - The Church does not have authority directly over the marriages of infidels. However, all marriage is governed by the divine law. The Church as the one authentic interpreter of the natural and divine law may speak on all marriage by her Teaching Authority. She alone can give a judgment as to what natural marriage is valid before God. It is most common teaching that the marriage of infidels is governed not only by natural and divine law, but also by civil law exclusively and properly. The practice of the Church confirms this. Thus the civil power probably may establish both diriment and prohibitive impediments for their infidel subjects, as long as they are not contrary to natural or divine positive law (although it is sometimes not clear which quality of impediment the lawgiver intended). However, there can be no perfect divorce or dissolution of the natural bond granted, as this is forbidden to all by positive divine law in the New Testament. Marriage between infidels is a juridic

fact with consequent effects even for the faithful inasmuch as it constitutes an impediment of existing bond. The civil power may justly regulate espousals or betrothal, the valid form of celebration, civil effects, recognize and define causes of nullity, etc. In mission territory care and consideration must be given to the various kinds of marriage possible or current in the area, such as unions entered into according to tribal customs, according to the marriage statutes of the government, or in other ways, and the effects obtained by various acts placed.³⁷ The mission law of the territory must be consulted; nullity of a legitimate marriage contracted contrary to tribal or civil law is to be referred to the local Ordinary.

17.

V. PROPERTIES OF MARRIAGE

The unbaptized, together with the baptized, are subject to the prescriptions of the natural and the divine law regarding the essential properties of the contract of marriage: unity and indissolubility. These properties are even more firmly attached to Christian marriage, since the sacramental union more perfectly reflects and signifies the perfect and lasting union of Christ with His Church.³⁸ Thus as the woman gives herself wholly and perpetually to the one man, so equally the man should give himself to the woman.

18. — A. - UNITY. - The unity of matrimony, which is the union of one man with one woman to the exclusion of all other persons, is called monogamy. To this unity is opposed plurality, whether simultaneous or successive.

1. - *Simultaneous polygamy*. This is the union of one party with many spouses. It is divided into:

a) *simultaneous polyandry*. This is the marital union of one woman with several husbands. It is historically of most rare occasion. It is opposed to the Scriptural command of two in one flesh³⁹ and to the primary and secondary ends of marriage. The woman tends to become infertile, the uncertainty of the father renders the education of offspring impossible, the woman cannot remain faithful to multiple husbands, the natural subjection of woman to man is unrealizable, domestic concord cannot be achieved nor the remedy for concupiscence.⁴⁰ The union is intrinsically evil and can never be allowed.

b) *Simultaneous polygyny* or polygamy principally so-called. The marital union of one man with several wives is more commonly designated by the generic term of polygamy. Although it is not absolutely repugnant to the natural law, it is opposed to the secondary precepts and ends of marriage,⁴¹ rendering their fulfillment most difficult and hindering. It existed among the Jews and Gentiles before the time of Christ and con-

tinues among some sects today. Christ recalled marriage to its pristine unity and made it unlawful and invalid for all men, baptized, Jew, infidel, to have more than one valid wife simultaneously.⁴²

2. - *Successive polygamy*. This is bigamy in the canonical sense, or the second or repeated marriages validly entered into upon the lawful cessation of a previous bond by death or by lawful dissolution by the Apostolic power.⁴³

19. - B. - **INDISSOLUBILITY**. - The property whereby marriage even as an institution of nature cannot be dissolved is called indissolubility or unbreakableness. Because of its intrinsic and inviolable firmness the conjugal *bond* should be lasting and stable and not be dissolved. Although this firmness certainly belongs to the natural bond, it is more strongly present in a sacramental marriage, in which the indissoluble union of Christ with His Church is more perfectly represented and signified, and thus it is called the good of the sacrament (*bonum sacramenti*). This property is called firmness inasmuch as the intimate nature itself of marriage requires an indivisible bond; it is called indissolubility, since no human cause or agency can divide or break the *bond*. "What God has joined together, let no man put asunder."⁴⁴ Thus marriage is said to be indissoluble as diseases are said to be incurable, i.e., not excluding the power of God to interfere.⁴⁵

1. - *Intrinsic*. Matrimony cannot be dissolved by an intrinsic cause, such as the mutual consent of the parties themselves, and thus it is said to be intrinsically indissoluble. The primary precepts of the natural law would be violated; the principal end of marriage, the procreation and education of offspring, could not be realized if at any time and at their own pleasure the parties themselves were able to sever the conjugal bond. The contractants in a marriage contract do not of themselves stipulate or determine the terms of the contract; these have already been instituted by nature and by divine law. Thus the terms of marriage are not proposed by the parties but to the parties, by God, the third and interested and authoritative party to every marriage. The parties are free to enter or not into the marital contract, but they assume the contract as stipulated, i.e., with the properties of unity and indissolubility. They are then bound by the marital bond contracted and are not free of themselves to change or sever it.⁴⁶

2. - *Extrinsic*. The marriage *bond* cannot be dissolved by any human authority outside the parties themselves, even by those holding the supreme natural civil power or by those endowed with highest supernatural power simply as head of a supernatural society; it is thus said to be extrinsically indissoluble. To dissolve the bond by an extrinsic authority does not appear to be absolutely contrary to the purpose of the natural law,

but opposed to the secondary precepts.⁴⁷ However, the prohibition of the natural law has been reinforced by that of divine law. Although marriage could sometimes be dissolved by a bill of divorce (*libellus repudii*) under the Mosaic law (and the relaxation probably extended to the Gentiles), Christ in the New Law recalled marriage to its original indissolubility, so that no marriage by anyone can be dissolved henceforth by any human authority or power or for any cause, but only in certain cases by the divine power itself.⁴⁸ God can dissolve any marriage bond whatsoever (which exceptions are rare and special), either by direct action or by granting the power to dissolve the bond to men, either the spouses themselves (as in the case of the Pauline privilege), or to the Supreme Pontiff, dispensing in a divine and natural law not as head of the supernatural society with the general mandate to rule the faithful, but by an extraordinary and vicarious power (the so-called Petrine power or privilege of the faith) as successor of St. Peter as the Vicar of Christ on earth.

3. - *Explanation.* The altogether adequate reason for the indissolubility of marriage as an office of nature and as a sacrament is very probably the positive will or precept of God. However, nature itself indicates the exigency. Every marriage, especially when consummated, is indissoluble by at least the secondary precepts of the natural law. Absolutely speaking, the primary end of marriage can in certain cases be achieved without perpetual indissolubility. However, notwithstanding this, marriage is of itself ordered to the primary end, which is protected and fostered by the properties of unity and indissolubility, even though the end cannot be actually realized, as in the case of a sterile union, or where the education of offspring is providable outside of the union; in the generality of cases the achievement of the primary end is impeded or made very difficult and far less perfect if the bond is held to be dissoluble. The secondary ends cannot be enjoyed without this property. Dissolubility would cause the greatest inequality between man and woman, to the detriment of the woman. Mutual help in domestic partnership of itself ought to endure for life; love itself tends to perpetuity, since the total giving should be mutual and irrevocable. Nature intends the education and care of the offspring for his whole life; the possibility of separation with a new marriage and the fragile union of peace endanger this. The concord of domestic and civil society is imperilled and strife and the corruption of morals given entrance.

20.

VI. CONTRACT OF MARRIAGE

A. - The state or bond of matrimony is entered into or caused by way of contract. Every marriage is a contract, and for the baptized the contract in addition becomes sacramental or the sign and cause of sacra-

mental grace. As a contract it thus pertains to the virtue of commutative justice since rights and obligations are assumed. These rights acquired by the matrimonial contract are inalienable; they can be diminished by no pact, nor transferred to any others, e.g., by prescription,⁴⁹ nor directly limited by public authority.

B. - Being essentially the legitimate consent of two parties to the same thing with the purpose of binding themselves, matrimony is a *true* contract. It is *consensual* and not real, i.e., it is perfected and takes its immediate effect by the very consent alone of the contractants and not by the actual exchange of any thing. Thus actual intercourse or use of marriage, or actual common life, do not constitute the contract. This matrimonial consent cannot be forced by any created power or supplied by any human power or be considered as supplied by any human authority.⁵⁰ In matrimony nature itself determines everything substantially pertaining to the contract and leaves nothing so to be determined or decided upon or varied by the contracting parties, whereas in other contracts they can by private decision determine many things as to the object, effects, obligations, firmness, perpetuity, etc., of the agreement. Thus the parties are so bound that by mutual consent or in any other way they can never rescind the matrimonial contract validly entered into or retain the right to pull out of the assumed obligation, either unilaterally or bilaterally.

C. - The contract is perfectly *bilateral* inducing in each rights and obligations or duties with respect to a perpetual life together as one, especially the mutual, exclusive and perpetual right to each other's body for those functions of themselves apt for generation. As a relation it is a contract which can at no time limp or retain the force of a unilateral pact, but must necessarily spring from both sides or be null and void. It cannot be stronger on one side than on the other; there cannot be a right or obligation on one side only, otherwise, e.g., one side would fornicate and the other side rightly use marriage.

D. - Matrimony is a *natural* contract founded in nature and tending to the good of nature and of the whole race;⁵¹ it is not a private contract but affects society. It preexisted any civil contract, e.g., with our first parents, and precedes any civil contract, e.g., with those unable civilly to enter marriage. It can be called civil only in that it depends secondarily on the civil power and with respect to accidental effects separable from the contract itself.

E. - In addition to the above, the matrimonial contract is of a special type because it is of its very nature sacred and religious and not merely profane, even prescinding from its elevation to a sacrament.⁵² It has God

as its author and has the procreation and education of children of God as its purpose together with the mutual help of spouses in attaining their destiny in God. It is also a foreshadowing and representation both of the union of God with the souls of the just and of Christ with the Church through the Incarnation. Even among pagans matrimony can be called a sacrament in the wide sense of being a sign of a sacred thing. Among all peoples matrimony has been considered something holy and religious and surrounded with religious ceremonies.

VII. MATRIMONIAL CONSENT

21. — A. - NOTION. - Marriage is effected by the consent lawfully expressed of persons who are capable according to law, and this consent no human power can supply. Matrimonial consent is an act of the will whereby each party gives and accepts a perpetual and exclusive right over the body for acts which are of themselves designed to generate offspring.⁵³ Consent is necessary and essential for the contract as its expression. It is the total cause of matrimony, as both matter and form of the contract and sacrament, constituting formally the contract and effectively the bond or state. Thus a proper understanding of this consent is important.

B. - QUALITIES. - The consent to the terms of marriage must be:

22. — 1. - *internal*. The consent must be genuine, true and sincere, an internal act of the will and not falsified or merely theatrical or jocose. If in no way it is expressed explicitly or implicitly, the contract is null. Internal consent is always presumed to be in conformity with the words or signs used in the contracting of marriage.⁵⁴ A spouse who falsely gives consent sins gravely against truth, justice and chastity, and is forbidden the use of marital rights. The innocent spouse may seek or render the debt, since the deception need not be believed until proven in the external forum.

23. — 2. - *mutual*. There must be a reciprocal consent and not an unilateral donation and acceptance of rights and obligations; nor does it depend upon the approval of a third party, e.g., parents.

24. — 3. - *free*. The expression of consent must be made by one capable of a perfectly human act, with the independence required by natural and ecclesiastical law, e.g., as in the case of child marriage in mission areas.

25. — 4. - *deliberate and simultaneous*. Deliberate consent is required in undertaking such serious obligations, i.e., with full knowledge and will. By the natural law there must be at least a moral simultaneity of mutual consent, so that the consent of one perdures when the other consents, both being present.⁵⁵

26. - 5. - *of the present*. The contract must be consented to here and now. A promise of future contract is not marriage but espousals or betrothal (*sponsalia*).

27. - 6. - *externally expressed*.

a) *requisites*. Matrimony as a human contract must be expressed by some human sensible sign; as a sacrament it requires that there be a sensible sign. The spouses are to express their matrimonial consent in words; and if they can speak, it is not lawful for them to employ equivalent signs.⁵⁶ Thus the baptized, even non-Catholics, if they can speak, are bound to express their consent in words for lawfulness; for validity it must be expressed in the juridical form by those so bound.⁵⁷ Also for validity it is necessary that the parties be present to each other in person or by proxy.⁵⁸ This binds baptized non-Catholics as well.⁵⁹ Thus consent given by letter, messenger, radio, telephone, telegraph, etc., is invalid for them. The unbaptized are not bound by any specific formalities in the expression or exchange of their consent. It suffices that they abide by what conforms to the natural law and by what is required for validity by the civil law or the estimation of the region.⁶⁰

28. - b) *interpreter*. Marriage may be contracted through an interpreter.⁶¹ There must be a justifying reason, e.g., language barrier on the part of the pastor and witnesses, and the permission of the local Ordinary is needed for lawfulness.⁶² The interpreter should be a Catholic adult who is trustworthy and capable of interpreting properly, and who probably is under oath to satisfy the function faithfully and truthfully.

29. - c) *proxy*.

I. - Without prejudice to diocesan statutes containing further regulation, for a marriage by proxy to be contracted validly, there is required a special mandate for the contracting of marriage with a specific purpose, signed by the person giving the mandate and either by the pastor or the Ordinary of the place in which the mandate is given, or by a priest delegated by either of these, or at least by two witnesses. If the principal does not know how to write, this is to be noted in the mandate and another witness is to be added and the latter is also to sign the commission; otherwise the mandate is invalid. If before the proxy has made the contract in the name of the principal the latter shall have revoked the contract or become insane, the marriage is invalid, even in the case in which either the proxy or the other contracting party was unaware of the event. For the marriage to be valid the proxy must perform his function in person.⁶³

II. - For validity the proxy must be competent to execute his office personally. It is proper that the proxy be a Catholic adult of the same sex as the principal and in good standing. There must be for lawfulness a justifying reason for use of a proxy, e.g., impossibility of physical presence

of one of the parties, and the permission of the local Ordinary.⁶⁴ Civil law acceptance of the use of a proxy must be considered; most U.S.A. laws appear to view such marriages as invalid. The principal or contracting spouse must personally designate the proxy and cannot entrust this designation to another.⁶⁵

30. — C. - OBSTACLES. - Being an act of the will, matrimonial consent is given in relation to the knowledge possessed beforehand. Thus there can be obstacles to valid consent both on the part of the intellect: want of reason, ignorance, error; and on the part of the will: force or fear, simulation, condition.

31. — 1. - *want of use of reason*. By the natural law all those who are incapable of the use of reason cannot validly enter a matrimonial contract as long as they remain in that state, e.g., infants, the insane, those totally under the influence of intoxicants or drugs, those asleep, etc. The demented or partially insane, i.e., affecting certain matters, may contract marriage, but not validly if the matters affected concern the substance of matrimony. Prudence often indicates that such weak-minded parties should be discouraged from marriage at all, also deaf-mutes, unless it is prudently judged they can properly fulfill their marital obligations. In attacking a marriage bond the marriage must be considered valid until the want of reason is proved to have existed at the time the contract was made. Civil law regarding insanity antecedent and subsequent to marriage should be consulted.

32. — 2. - *ignorance*.

a) For matrimonial consent to be present it is necessary that the contracting parties be not ignorant at least of the fact that marriage is a permanent state between a man and a woman for the purpose of procreating children. A lack of this knowledge is not presumed after the age of puberty.⁶⁶ A party invalidly contracts marriage who does not know that marriage consists in the mutual giving and accepting of the right over the body for the purpose of procreating. However, a general or vague or implicit knowledge of this necessary bodily cooperation suffices for valid consent. It is more commonly held that, because of the very serious obligations assumed, the matrimonial contract requires greater discretion of judgment than that necessary to commit a serious sin.⁶⁷

b) Knowledge of the particular manner of procreation or the exact technique of intercourse, is not necessary for valid consent; it is sufficient to intend to enter marriage as it is in itself and as practiced by all men, thus implicitly and deliberately willing all that is connected with marriage. It is not any subsequent and more exact knowledge—even that which, if known at the time of the marriage, would have deterred it—which invalidates, i.e., not the consent which would not have been given

but that which actually was given.⁶⁸ A false idea about the union of the bodies in marriage, e.g., that it means only kisses, may be a substantial error invalidating the consent.

c) Knowledge that marriage is a permanent state does not mean a knowledge that it is indissoluble, or an approval of its perpetuity and indissolubility, but rather that it is not a transient or, as it were, a momentary or experimental association (trial marriage), a mere friendly arrangement or sex outlet. It suffices that the parties do not positively exclude the essential properties of marriage, and, since they are inseparable, they are implicitly consented to. Actual community of domestic life and mutual affection do not pertain to the essence of marriage and thus their absence does not affect the validity.⁶⁹

33. - 3. - Error.

a) Error is a false judgment, which is substantial in marriage if it affects the very nature or object of the contract, and accidental if it does not. As with ignorance, error which is substantial invalidates marriage, but such an error is not presumed after the age of puberty. Since the will bears upon the object as known, error in the intellect always influences the will, but not every kind of error renders the consent null and invalid.

b) An error or mistake of *fact* will be about the person with whom the marriage contract is made or about a quality of that person. To be in error about the very identity of the person with whom one contracts marriage is substantial and invalidates the contract by the natural law itself, i.e., to judge that one is marrying the very party intended, whereas it is someone else.⁷⁰ To be mistaken or in error about some quality of the person with whom marriage is contracted is accidental, e.g., that the person is rich, or healthy, or a virgin, or has a different name, etc., and does not of itself invalidate marriage either by natural law or positive law of the Church, even though the contract is based on it.⁷¹ Notwithstanding error about the accidental qualities, the substance of the contract remains—consent to contract with the person of the other contracting party. However, error of quality will invalidate in three cases:

i. - If the error as to quality amounts to an error of person.⁷² This is most rare, unless in those areas where marriages are arranged with the parties never previously known to or seen by each other or in proxy marriages. Thus the quality must be one that identifies or is most proper and individual to a definite person, e.g., the *first-born* daughter. Similarly, if this accidental quality or characteristic is the necessary condition (*sine qua non*) of the marital consent or at least is implicitly demonstrable from the circumstances, the marriage is invalid, e.g., consent is given *only* on the supposition or condition of the presence of virginity.

ii. - If a free person contracts marriage with a person whom he believes to be free but who is a slave in the strict sense of servile bondage.⁷³

This impediment is of ecclesiastical law only and thus does not bind the unbaptized marrying among themselves; civil law may prohibit such marriages.

c) 1. - An error or mistake of *law* concerns the nature or essential object and properties of the matrimonial contract, as in the case of ignorance. Thus, a *simple* error regarding the unity or the indissolubility or the sacramental dignity of marriage, even though the motivating reason for entering into the contract, does not invalidate the matrimonial consent.⁷⁴ A simple error is one which remains in the intellect without a positive act following in conformity with it. Thus, as the essence of matrimony has inseparably attached to it its essential properties, in consenting to marriage as it is in itself, consent is thereby also given to its properties of unity and indissolubility. To know a thing with all its properties and to will a thing differ; one can simply will a thing as it is in itself and not know very well its properties or be mistaken about them. Thus an error about the essential qualities of marriage does not necessarily invalidate it. The general intention to contract marriage as instituted by God prevails over the error. Although many consider marriage to be dissoluble and not sacramental, e.g., Protestants, Jews, infidels, yet they normally will to contract marriage as it is. They probably would positively exclude these properties if they were later *questioned* about them, but they *did not* actually exclude them at the time the consent was given.

ii. - If either party or both parties by a *positive* act of the will should exclude marriage itself, or all right to the conjugal act, or any essential property of marriage, he contracts invalidly.⁷⁵ This is of the natural law. Thus the error is no longer simple, if it so influences the act of the will that this positive exclusion is made in the matrimonial consent. Such a positive exclusion may be *explicit*, e.g., an agreement made to experiment with the marriage for a while and to break up by divorce if it turns out unhappily, or *implicit*, e.g., while intending to contract a true and proper marriage, one is at the same time deliberately disposed to terminate the contract by divorce in the future, should some special circumstance be verified, such as infidelity of the other party.⁷⁶ Nevertheless, every marriage must be held to be valid in the external forum until the contrary can be proved.⁷⁷ No general rule of invalidity can be applied but each individual case must be examined on its own merits, even in mission areas where polygamy and divorce are prevalent.⁷⁸ Civil law on fraudulent representation in a marriage contract should be consulted.

d) The knowledge or probable suspicion of the invalidity of a marriage does not necessarily exclude matrimonial consent.⁷⁹ This is with reference to consent as naturally valid, not as juridically efficacious. If the parties intend to contract marriage insofar as they can or as it depends on their will, the consent is valid, although inefficacious. Such consent is pre-

sumed to endure until it is proved that it was recalled.⁸⁰ This is important for cases involving radical sanation. Each case is to be judged by itself.

34. - 4. - *Force or fear.*

a) Marriage is also invalid which is entered into under the influence of such force or of *grave fear unjustly* induced from *without* that to escape it one is compelled to choose marriage. No other fear, even though it provides the cause for the contract, entails the nullity of the marriage.⁸¹ Force is coercion exercised by an extrinsic agent against the will of him who is subjected to it. Fear is a state of mental trepidation at the prospect of some imminent or future evil, so that the will shrinks from the evil and attempts to free itself from it by doing the act fear induces it to do. Fear is absolutely grave, such as a brave man or one not easily intimidated might experience, e.g., death, exile, loss of all goods, etc.; relatively grave, inasmuch as it is grave for some people and not for others, e.g., because of age or temperament or health or intelligence or other circumstances. Reverential fear is the trepidation of the evil consequences impending as a result of offending a parent or superior. It is not of itself grave, but it may become so from contributing circumstances.⁸²

b) Where there is physical violence or duress forcing an external compliance with the will of the one exercising such pressure, the consent thus manifested is null by natural law as excluding a voluntary act, e.g., forcing a reluctant victim to nod his head or making his arm inscribe his signature. Also by the natural law a fear which is so intense that it removes the control of reason invalidates matrimonial consent. Whether in other cases the impediment of force or fear arises from the natural law, no authoritative declaration has been given, but in practice the Church does not dispense in what is even probably of divine law. It binds certainly a baptized non-Catholic and probably also the unbaptized marrying among themselves, certainly if the civil law declares marriage contracted in fear to be null.

c) The fear or pressure brought to bear from without may be unjust itself, e.g., threat of an unjust penalty, e.g., to take his life or unjustifiably ruin his good name, or unjustly brought to bear, e.g., a just penalty to be inflicted in an unjust manner, e.g., to expel one's relative from one's home unless she marries a certain man. Moreover, one is said to be forced to enter marriage when there appears to be no other alternative to ridding oneself of the fear.⁸³ The unjust pressure must actually exist at the time of the celebration of the marriage.⁸⁴ The party forcing the marriage is bound to repair the unjust damage, and if he is party to the forced marriage and if there is no other means of reparation, he is bound to enter or to convalidate the marriage, if the innocent party or victim so desires.

35. — 5. - *Pretence or simulation of consent.*

a) The internal consent of the mind is always presumed to be in conformity with the words or signs used in the contracting of marriage.⁸⁵ Simulated or feigned consent is present in marriage when, although exteriorly the words expressing matrimonial consent are duly and seriously pronounced, one or both parties withhold internal consent. The intention of the pretender may be not to contract marriage, or to contract it but not to assume its obligation, or not to fulfill its obligation. An intention not to contract marriage excludes consent and nullifies the contract. Likewise, the intention not to assume the obligation of marriage, since without it there cannot be true matrimonial consent.⁸⁶ The intention not to fulfill the matrimonial obligation does not invalidate consent, as this does not pertain to the essence of the contract. The intention to violate an obligation can exist with the intention to assume the obligation itself.

b) To feign consent is certainly a grave sin; it is a violation of truth, justice, chastity (if intercourse is intended) and perhaps religion by simulation in the case of the sacrament (although this is not agreed upon). The guilty party is bound to repair the injustice done, even by giving true consent, if this is the only way and it can be done without grave inconvenience. Lack of internal consent is clearly difficult to prove. Civil law in the U.S.A. does not generally admit it as a grounds for nullity.

36. — 6. - *condition.*a) *validity.*

i. - A condition is a circumstance in marriage upon which one makes his consent depend, so that the consent (if not revoked) takes its effect as the circumstances is verified or not. Thus the contract is consented to *only if* or *when* the condition placed is fulfilled (a *sine qua non*). A condition must thus be distinguished from a mode (*modus*) or prenuptial agreement or stipulation to do or to omit something *after* marriage is validly contracted and realized, e.g., to move to another State, which neither affects the validity of the marriage nor does the consent depend on it. Of itself a condition need not be expressed, but a merely internal condition is seldom easy to prove to have existed; it may relate to the past, the present or the future. The use of a marital right is prohibited until the condition is clearly verified and the marriage in possession.

ii. - If a condition placed refers to the present or past, the marriage will be valid or invalid as that on which the condition is based exists or not.⁸⁷ It does not suspend the validity.

iii. - If it refers to the future and its object is lawful, it suspends the validity of the marriage,⁸⁸ e.g., if your father recovers his health.

iv. - If it refers to the future and its object is something necessary, or impossible, or base, but not opposed to the substance of marriage, it is

to be held as not having been made; if it refers to the future and is opposed to the substance of marriage, it renders the marriage invalid.⁸⁹

α) A condition regarding a future necessary event or one impossible of fulfilment or a base object, i.e., contrary to right moral conduct, is considered in the internal and external fora as not seriously meant and thus nonexistent. This supposition will cede to contrary proof. Thus, if the object of the condition is necessary, e.g., consent to marry, if the sun rises on the morrow, the condition has no effect; if it is seriously meant, the marriage is valid when the circumstance is realized. If the object is impossible, e.g., if you grasp a star with your hand, the condition is void; but if it is seriously meant, the marriage will never be valid. If the condition is base but not contrary to the substance of marriage, e.g., if you kill your father or if you steal a certain sum of money, neither party is bound to observe the condition and it must be withdrawn; if it is not, the matrimonial contract is effective when the condition is fulfilled.

ε) If the condition is base and against the substance or properties of marriage, i.e., an intention *not to assume* the obligations, it is destructive of true marital consent and nullifies the contract, since a right to an essential element is not given but rather excluded. Whether the right itself or only the fulfilment of a right is withheld in certain conditions is difficult to ascertain. In the internal forum it depends upon the actual intention of the one placing the condition, in the external forum upon the proof that can be reached with moral certainty from indications and circumstances. Each case must be examined to ascertain whether an excluding condition or merely a stipulation (mode) or agreement was made; the latter is generally presumed until the former is proved and thus the marriage is considered to exist.

γ) Matrimonial consent is valid only when the intention predominates to transfer (and not positively to exclude) the perpetual and exclusive and continual right to natural intercourse. A condition designed to exclude this transference perpetually or for a certain time or after a certain time (e.g., periodic continence or the non-use except for infertile days or the right only to onanistic relations) is contrary to the substance of marriage, vitiates the consent and invalidates the contract (*contra bonum prolis*).⁹⁰ If this right is transferred and the condition implies only the intention to abuse this transferred right, the contract is valid, as the sinful condition is not contrary to the substance of marriage.

δ) If a restriction made on marital intercourse is absolute, without any limit of time, i.e., the marital right and obligation would be perpetually abused, the *presumption* (in the external forum) is that the right itself, i.e., the order to the object of the contract, is excluded and thus no true marital consent and valid contract exists. This is especially true if a mutual pact has been made acceding to this condition. If the condition is not absolute but limited to a certain time when this marital abuse is

intended, the *presumption* is that true (although sinful) consent has been given and the marriage is presumed valid. This latter presumption considers that the right to the use was given but the fulfilment restricted. If the restriction is one of perpetual non-use (and not abuse), this is also against the substance of marriage if it implies that the conjugal right is not exchanged. However, such a condition of non-use is less clearly a vitiation of marital consent as is the condition of abuse. It is, moreover, not authoritatively determined nor generally agreed upon whether a condition of perpetual non-use or abstinence is in itself opposed to the substance of marriage.⁹¹ The condition may not be permitted, but a marriage so contracted must be *presumed* in practice to be valid.

ε) A condition against the requisite fidelity or unity of marriage (*contra bonum fidei*), e.g., if you will commit adultery, invalidates the contract, if the intention is to exclude it and not merely not to observe it. A restriction of essential indissolubility (*contra bonum sacramenti*), e.g., only until I find someone more suitable, even though an implicit and hypothetical exclusion, always invalidates, as there can be no distinction between the intention to assume and to fulfil the property of indissolubility.⁹²

ζ) It is the more common view that a condition which is contrary to the Catholic upbringing of offspring is not one that is opposed to the substance of marriage, although it is sinful and unlawful. Moreover, although in a non-Catholic marriage ceremony or formula a condition contrary to essential indissolubility may be present and thus invalidate it, the marriage itself must not be presumed invalid until an investigation of the individual case proves that the consent itself was vitiated.⁹³

37. – b) *lawfulness*. Conditions affecting matrimonial consent which are not forbidden may be placed for a serious cause and with the permission of the local Ordinary.⁹⁴ However, such conditions are discouraged and when allowed should be made before witnesses and recorded in the matrimonial register (as well as the fulfilment).⁹⁵ The civil law of the U.S.A. does not recognize the effect of these conditions.

38. VIII. ORDINARY JURIDICAL FORM OF MARRIAGE

The natural law requires for validity of the contract no special conditions of the form of entering into the contract or formalities, but only that the ministers—the contracting parties themselves—externally manifest deliberate and mutual consent in some way. Divine law likewise has laid down no particular solemnities. Positive civil law is competent to make determinations or validating requirements concerning contracts for the sake of public good and order. This power can be exercised also regarding the matrimonial contract between two unbaptized parties. But, since the marriage of two baptized parties (a sacrament), and where even only

one party is baptized is subject exclusively to the competence of the Church, the positive ecclesiastical law can and does lay down certain conditions, formalities or solemnities, which must be observed by those wishing to enter a marital union. This is the canonical or juridical form (or formality) of marriage, rendering the contract juridically public or celebrated in the sight of the Church. Solemnities are substantial when required for validity, accidental when prescribed for lawfulness (to which the liturgical form of marriage pertains).

The first decree "*Tametsi*" establishing a juridical form of marriage was issued by the Council of Trent in 1563, prescribing the presence of the pastor of the parties and witnesses.⁹⁶ The form was again regulated by the universal decree of Pius X "*Ne temere*" promulgated in 1908 requiring the presence of the pastor of the place where the marriage was celebrated and witnesses.⁹⁷ With minor changes this became also the form prescribed by the present Code, effective as of May 19, 1918.

39. - A. - VALID FORM. - *Only those marriages are valid which are contracted in the presence of the pastor, or the local Ordinary, or a priest delegated by either, and at least two witnesses, as regulated by the canons.*⁹⁸

1. - witnesses.

a) pastor.

1. - designation.

40. - α) The pastor is the qualified or authorized witness of the matrimonial contract in the name of the Church; as the specially selected or approved representative, he actively receives the matrimonial consent, certifies the contract and secures the due and fitting celebration of the sacrament in the name of the Church.⁹⁹ Thus, since he is an assisting priest and not the minister of the sacrament but rather of the liturgical rite, he does not confect or administer a sacrament. Assisting in the state of serious sin, he does not commit a sacrilege. The power of assisting at marriage in his territory, which belongs to the pastor and to the local Ordinary and which is not jurisdiction in the strict sense although governed by the same principles and norms, is ordinary power attached by law to the office. The pastor and the local Ordinary enjoy this power cumulatively, so that the latter personally or through another can validly assist at any marriage in his diocese independently of the pastor.

ε) The pastor for valid assistance is the one strictly so-called as well as those who are the equivalent.¹⁰⁰ Included therefore are: quasi-pastor,¹⁰¹ vicar of a moral person,¹⁰² administrator or priest in charge,¹⁰³ substitute vicar approved by the local Ordinary,¹⁰⁴ auxiliary vicar if he supplies for the pastor in everything.¹⁰⁵ Personal pastors without territory validly assist at the marriages of their *subjects only*.¹⁰⁶ Pastors of national and

language parishes in the U.S.A. usually have a territory and thus they enjoy cumulative power for the *valid* assistance at all marriages in their territory. Chaplains of the U. S. Military Vicariate validly and lawfully assist at marriages of their (personal) subjects anywhere, which power they share cumulatively with the pastor and local Ordinary of the place of celebration.

γ) A curate or assisting priest does not enjoy *ordinary* power to assist validly at a marriage.¹⁰⁷ A chaplain or rector of a pious place exempted from the local pastor lacks power to assist, unless he is endowed with full parochial power;¹⁰⁸ likewise with other chaplains and the rector of a seminary.¹⁰⁹ A priest assigned as full-time chaplain for the imprisoned and the prison officials is not a proper pastor or assistant pastor unless so constituted by the local Ordinary; a part-time chaplain should be delegated for each definite marriage by the Ordinary or pastor of the place.¹¹⁰ Cardinals, legates of the Holy See, bishops who are not local Ordinaries, a diocesan officialis do not enjoy power of assistance.

41. — II. - conditions or qualifications.

α) For the valid exercise of his ordinary power of assistance at marriage the pastor must have canonically assumed the office and be free from declared or imposed canonical penalties.¹¹¹ To disqualify him a suspension must be from office and not simply from jurisdiction.

β) A pastor validly assists at marriage *only* and *exclusively* in his own territory not only of his own subjects but also of others.¹¹² He may not validly witness the marriage of his own subjects outside his own territory without delegation of the pastor of that place. Places exempted from the jurisdiction of the pastor, e.g., a seminary or religious house, do not belong to his territory but are considered as in his territory for valid assistance at marriage.¹¹³

γ) For validity the pastor must ask and receive the consent of the contracting parties without being coerced to do so by force or grave fear,¹¹⁴ either by the contractants or by a third party even without their knowledge. Although fraud may be the cause of the assistance, it remains valid since free and not invalidated in law. The pastor must be physically present and aware of the necessary actions, which active assistance is required also in mixed marriages.¹¹⁵

42. — III. - common error. In the case of common error or of positive and probable doubt of law or of fact as to legitimate assistance, the Church supplies the power of assistance for the internal and external fora,¹¹⁶ e.g., if the one to be married requests a particular priest to assist at his marriage, since he judges—as most of the parish would—that he has (since he has had) the faculty to do so; or if an assisting priest thinks he is in his proper territory or that he has been properly delegated or that as parochial vicar he is empowered to supply in all things, etc. From the circumstances it will be judged whether the error was common or private,

whether the cause of the common error is certain in that the public fact founding it is disposed to result with a certain constraint in the error. Common error in the form of marriage is not easily proved. More common teaching maintains that in the case of such an error or doubt regarding a priest who habitually assists at marriages, e.g., as a curate, or frequently helps out in this capacity, he receives the suppli-ance of the Church in these circumstances; not, however, in the case of a priest who habitually is not engaged in marriage assistance, for a single marriage. The practice of the Rota is and has been to declare as null a marriage where the delegation—not otherwise habitually enjoyed by the priest—is absent in the particular case.

43. - b) *delegated priest.*

1. - *delegation.* The pastor (and the equivalent) and the local Ordinary who can validly assist at marriage can also grant permission or delegation to another priest to assist at marriage within the limits of their territory.¹¹⁷

44. - II. - *conditions or qualifications.*

α) It is the common opinion, to be followed in practice, that the delegated priest must be aware of his delegation and at least tacitly accept it; thus one should not assist at a marriage unless he has a morally certain presumption that delegation has been granted him. A delegation that has been extorted by grave and unjust fear or fraud is nevertheless valid.¹¹⁸

ε) The permission or delegation to assist at marriage must be expressly given to a definite priest for a definite marriage, and no general delegations are allowed except in the case of assistants or curates for the parish to which they are assigned; otherwise it is invalid.¹¹⁹ No general delegation can be given. It should be noted that civil delegation is distinct from canonical delegation; thus in every case of assistance at marriage the priest must be careful to conform to the requirements of civil law in the place as to his competence to act in a marriage ceremony, e.g., to register for the performance of marriage.

γ) Tacit or presumed permission does not suffice for valid marriage delegation. It must be expressed, either explicitly or implicitly, directly or indirectly conceded, made orally or in writing or by unambiguous sign. It is explicit when it is given clearly in so many words; implicit when contained in another act, e.g., in the appointment as administrator of a parish. The delegation need not be made personally but may be transmitted to the delegated priest through a third party. It is more desirable that the delegation be given in writing¹²⁰ but it may be given orally and even by telephone, telegraph, radiogram.

δ) Delegation must be granted to a specific priest who is designated by name or by office, e.g., the present chaplain of such-and-such convent. The permission thus must be so granted that it clearly designates who the individual priest is; otherwise it is invalid. Delegation may not be given

to the priest who will later be designated by the nupturients or by a religious superior.¹²¹ Several priests may be delegated for the same marriage, as long as it is clear that definite individuals are designated, e.g., in a case where it is not certain that a certain priest or priests will be free to perform the marriage on the date set. The priest delegated need not be known by the delegator, but a substantial error by the latter as to the identity of the one delegated renders the permission invalid.

ε) A specific marriage must be the object of the delegation. The marriage to be performed must be designated by the names of the parties or their office or in some way to individualize or identify the couple to be married for which delegation is given. Delegation can be given for the marriages on an itemized list but not merely for the time and place of a marriage without further identification.¹²² Delegation cannot validly be given, therefore, for marriages generally, e.g., a pastor to delegate a priest to perform any marriages that might come up during his absence. It should be kept in mind that a temporary supply priest, e.g., weekend, few weeks, summer, needs specific delegation for specific marriages, since he usually enjoys not even the status of a parochial vicar. A substantial error in the designation of the parties to be married invalidates the delegation. The restrictions and disqualifications noted for the pastor apply also to the delegated priest, as does the application of canon 209.

45. — III. - *subdelegation*. One who is delegated to assist at a marriage can further subdelegate another for this marriage *only* if this faculty of subdelegation is granted expressly with the delegation he receives, or if the delegate himself enjoys general delegation for all marriages, as in the case of a curate (*vicarius cooperator*). The designation is made by the subdelegator of the one subdelegated.

46. — c) *other witnesses*. These are the ordinary or common witnesses prescribed in addition to the priest acting as qualified or authorized witness of the contract.¹²³ They must be at least two in number, more being permissible. For *validity* alone they may be of either sex, of any age, even heretics or infidels, as long as they enjoy the use of reason and are capable of witnessing.¹²⁴ Thus those who are asleep, drunk, etc., deaf and blind (but not if only deaf or only blind) may not validly act as witnesses. They may use an interpreter in order to be made aware when consent is requested and given. They must be physically present and attentive to the exchange of consent, even if their presence is induced by constraint or fraud or is accidental. It suffices that they are present and can testify to the contract; they need not expressly intend to be witnesses but merely know from what transpires that marriage is being contracted.¹²⁵ It is commonly maintained that for validity they need not have been designated beforehand by the contractants or the assisting priest. Lawful assistance is considered below.

47. - 2. - *Those bound by the form.*

a) All baptized Latin Catholics, including converts from heresy or schism, even though either the former or the latter should have later fallen from the faith, whether reared in the Catholic faith or not, when they marry among themselves or marry non-Catholics, whether baptized or not, even after obtaining a dispensation from the impediments of mixed religion or disparity of worship, are bound to the form; in like manner all Oriental Catholics of whatsoever rite.¹²⁶

b) Baptism is not received in the Catholic Church necessarily by the fact that it is administered by a Catholic priest. It is by the expressed or tacit intention of being aggregated externally to the Church as manifested by himself in the case of an adult or in the case of an infant by his parents, legitimate guardians or in default of all these by the minister himself. One can be baptized in the Catholic Church even if the parents (or the minister) are non-Catholic.¹²⁷ Infants who are validly baptized in heresy or schism, if subsequently reared in the Catholic Church by their parents who have become converts, are considered as converts to the Catholic faith. Converts from infidelity or judaism become immediately subject to the law of the canonical form by the reception of Catholic baptism.

48. - 3. - *Those not bound by the form.*

a) All non-Catholics, whether baptized or not, when they contract marriage among themselves.¹²⁸

b) Before Jan. 1, 1949¹²⁹ persons born of non-Catholic parents, even though baptized in the Catholic Church, who have grown up from infancy in heresy or schism or infidelity or without any religion, when they contracted with a non-Catholic party, or with a Catholic Oriental who was not bound to any form.¹³⁰ The parents may be two non-Catholics or only one non-Catholic, even if the promises were made,¹³¹ or two apostates,¹³² and probably even one apostate. The exemption does not apply to the children of non-practicing Catholic parents.¹³³ It is often not easy to determine in the individual case the absence or presence of a Catholic upbringing. The practice of the diocese for sufficient certification should be consulted and observed.

c) Before May 2, 1949¹³⁴ Oriental Catholics when they married among themselves, or with the baptized or the unbaptized who were not bound to a form, unless by the law of their own Rite they were bound by a canonical form.

49. - 4. - *Those bound by a rite.*

a) The rite is the complexus of ceremonies in the celebration of marriage. Marriages of Catholics of *different* rites are to be celebrated in the rite of the groom and before his pastor.¹³⁵ This applies to the case of a

Latin rite Catholic marrying an Eastern rite Catholic as well as to two Catholics of different Oriental rites. When both parties belong to the *same* Oriental rite, the pastor of the groom is to assist, unless a lawful custom or a just reason provides to the contrary.¹³⁶ The priest who assists at the marriage of the faithful of another rite always follows his own rite in the marriage ceremony.¹³⁷ An Eastern rite pastor does not validly assist in his territory at the marriage of two Latins, nor a Latin rite pastor validly assist in his territory at the marriage of two Orientals.¹³⁸

b) The Oriental canonical form of marriage is now the same as that for the Latins with the exception that for the former the blessing of the assisting priest is also required for validity.¹³⁹ A single blessing suffices and no certain liturgical rite is required;¹⁴⁰ it suffices to follow the approved Eastern rite books and customs and laws.

c) Because of the very many faithful in the U.S.A. who belong to the various Eastern Catholic rites, it is necessary to be aware of what rites were not obliged to a canonical form prior to the present matrimonial law binding the entire Eastern Church. In the U.S.A. Greek Ruthenians have been bound by the form since August 17, 1914.¹⁴¹ Maronites and Melchites were not bound;¹⁴² Catholic Armenians were bound.¹⁴³ With regard to those whose origin was lower Italy or Sicily, it must be determined whether they pertain to the Latin or Italo-Albanian (Italo-Greek) rite. If the latter, they were not bound to the canonical form if they married in the U.S.A., but marriages contracted in Italy may have been subject to the form because so prescribed in the diocese of origin or celebration.

d) The pastor (and local Hierarch) can validly and lawfully assist at the marriages of the faithful of his rite within the boundaries of his territory also in places which are exclusively of another rite, provided the express consent of the Ordinary or the pastor or the rector of such places has been given.¹⁴⁴ As already noted, he cannot validly assist at the marriage of two faithful of the Latin rite nor can a Latin pastor validly assist at a marriage of two faithful of an Oriental rite.¹⁴⁵ If a priest of the Oriental rite of a Catholic party is available, either residing nearby or ready to come to assist at the marriage in the local church of the Latin rite, the Latin pastor there has no right to assist at the marriage and he would be acting invalidly without proper delegation.

e) The pastor for assistance at marriage for an Oriental Catholic in the U.S.A.¹⁴⁶ is: 1) a pastor of his own rite who is subject either to an Ordinary of the same rite (true *only* of Ruthenians who have their own Apostolic eparchies with their Hierarchs) or to the local Latin Ordinary; 2) a pastor of another Oriental rite or of the Latin rite expressly appointed to care for such Oriental Catholics or who becomes their pastor in virtue

of the law itself. When a dispensation is required in the case of a mixed marriage the petition will be forwarded to the Latin Ordinary whenever the Catholic party belongs to an Oriental rite, except in the case of a Ruthenian when the dispensation is to be sought from the proper Ruthenian Apostolic Exarch.

B. - LAWFUL ASSISTANCE.

50. - 1. - *pastor*.

a) The pastor (or local Ordinary) lawfully as well as validly assists in his own territory at the marriage of spouses, either of which, it is legally ascertained, has a domicile or quasi-domicile or a month's residence in the place of celebration.¹⁴⁷ Regularly it is the lawfully constituted pastor of the bride who assists, unless a just reason excuses.¹⁴⁸ In marriages of mixed rite the pastor of the groom assists; in marriages of the same Oriental rite the ceremony takes place before the pastor of the groom, unless legal custom provides otherwise or a just cause excuses.¹⁴⁹ If the parties are wanderers (*vagi*) who are actually travelling and have no place of sojourn anywhere, the pastor of the place of celebration lawfully assists.¹⁵⁰

b) Domicile and quasi-domicile are established according to the norms of law.¹⁵¹ A month's residence is the morally continuous presence within the limits of the parish where the marriage is to take place, reckoning from moment to moment immediately prior to the celebration according to the calendar. It is not the intention but the factual residence for a month which is required, no matter what the reason for the residence may be, e.g., to avoid one's own pastor, to benefit by less expenses, etc. One or two days' absence is not considered to break the continuity of the month's residence.

c) One who is not, for at least one of the parties, the lawful pastor of marriage, must request permission of the latter, usually the pastor of the bride; grave necessity will excuse from seeking this permission,¹⁵² e.g., to prevent a civil marriage, because of grave inconvenience to the pastor or the contractants, etc. This permission may be written or oral, expressed or tacit, or even reasonably presumed. The marriage between a Catholic and a non-Catholic is customarily celebrated in the parish of the Catholic party. A Latin pastor lawfully assists under the usual conditions at the marriage of Orientals who have no pastor of their own rite or when their own is not available.¹⁵³

d) In every case the pastor does not lawfully assist unless he has legally ascertained the free status of the parties to marry in accordance with the law.¹⁵⁴ Moreover, a pastor who assists at a marriage without the permission required by the law is not entitled to the stole fees and must

remit them to the proper pastor of the parties,¹⁵⁶ usually of the bride. This is an obligation in justice, which regards the stole fees as such and not Mass stipends, donations given out of friendship, gratitude, etc.

51. — 2. - *delegated priest*. - One lawfully delegated by the proper pastor must observe the norms for the use of the power of assistance as oblige the pastor. The stole fee by right belongs to the proper pastor.

52. — 3. - *other witnesses*. - The ordinary witnesses should only be Catholics who are in good standing. Non-Catholics, those who are excommunicated or infamous are excluded as lawful witnesses, unless the local Ordinary judges their presence more opportune, at least in the case of heretics.¹⁵⁶ Also excluded are adolescents, at least before the age of puberty and outside of necessity. Militant Communists, (i.e., adherents and defenders of the Communist system) cannot be lawful witnesses, but simply ascribed Communists can be tolerated outside the case of grave scandal, since they are not excluded from the celebration of marriage.¹⁵⁷

IX. EXTRAORDINARY JURIDICAL FORM OF MARRIAGE

A. - DANGER OF DEATH.

53. — 1. - *Norm*. - When it is impossible without grave inconvenience to have or to approach a pastor or Ordinary or delegated priest who can assist according to cc. 1095-1096, in danger of death marriage is valid and lawful when celebrated before witnesses alone.¹⁵⁸

54. — 2. - *Validity*.

a) The danger of death may be from any internal or external source, as long as there is true danger of death prudently estimated. It must be at least a probable danger in the normal judgment of prudent people who consider that in the serious danger delay would prohibit the contract from taking place until an authorized priest could be reached or become available. The motive for entering the marriage may be varied, e.g. legitimation of offspring, to convalidate an invalid union, repair scandal, etc.

b) The impossibility or morally serious inconvenience of securing qualified assistance may be absolute, e.g., there is no time remaining, or relative, e.g., the inability to bear the expenses. The grave difficulty or danger may affect both spouses or either of them or a third person such as the pastor, even if it is due to a prohibition of the civil law.¹⁵⁹ The serious inconvenience must be real and proportionate to the non-observance of the ordinary form and the real danger of serious scandal. The consent of the contracting parties must be expressed in the presence of at least two competent witnesses.

55. - 3. - *Lawfulness.* - If any priest can be easily had, he must be called to assist together with the witnesses, but not under penalty of nullity of the marriage if this is not done for any reason.¹⁶⁰ It is required only for lawfulness. Probably excepted is a priest who is *vitandus* or under sentence of censure. An heretical or schismatic priest should not be approached, in order to avoid communication in religious affairs. The assisting priest would enjoy the faculties of dispensation of cc. 1044-1045. He should ask and receive the consent of the contracting parties.

B. - OUTSIDE THE DANGER OF DEATH.

56. - 1. - *Norm.* - In the exact same impossibility of the assistance of an authorized priest but outside a case of danger of death, *and* when it is prudently foreseen that this condition of affairs will last for a month, marriage may be celebrated before witnesses alone.¹⁶¹ This is often applicable in mission fields or in areas of persecution of the Church.

57. - 2. - *Validity.*

a) There must be a continual and complete month which need not have already expired but is prudently foreseen will expire before the opportunity of contracting before a qualified priest arises. The validity is not affected if the authorized priest appears suddenly and unforeseen after the contract has been made, or even if the parties waited until it would be impossible for the priest to be present. The serious inconvenience or impossibility is the same as noted above.

b) A normal prudent presumption and not a scrupulous inquiry of the pastor's absence suffices,¹⁶² although a mistaken conviction made in good faith that an authorized priest was absent whereas in reality he was available will not make the marriage valid.¹⁶³ However, the mere fact of the pastor's absence is not sufficient, but moral certainty is also necessary, based either on common knowledge or on inquiry, that for one month the pastor will neither be available nor accessible without serious inconvenience.¹⁶⁴ The pastor must be physically absent or, although materially present in the place, is unable because of serious inconvenience to assist at the marriage asking and receiving the consent of the contracting parties.¹⁶⁵

58. - 3. - *Lawfulness.* Even an unauthorized priest should be called in, if this can be easily done, as in the previous case. He enjoys the faculties of c. 1045. There are no formalities prescribed in this and the previous extraordinary case, except that the priest who assists ought to follow the ritual for marriage realizing that the asking and receiving of consent of the parties does not pertain to validity.¹⁶⁶ There is no grave obligation to supply later the ceremonies and solemnities of marriage. However,

the spouses, witnesses and the priest are bound in *solidum* to see that the marriage is recorded as soon as possible in the matrimonial and baptismal registers of the parish or diocese of the place of celebration.¹⁶⁷

59. — C. - MARRIAGE OF CONSCIENCE. - This is not an extraordinary form of marriage but an extraordinary canonical circumstance in which the ordinary juridical form is observed.

1. - Only for the gravest and most urgent reasons, and by the local Ordinary in person, not by the vicar general without special mandate, can it be allowed that a marriage of conscience be contracted; that is, that a marriage be celebrated without the banns and in secret, according to the following norms.¹⁶⁸

2. - The permission to celebrate a marriage of conscience carries with it the promise and grave obligation of keeping secrecy on the part of the priest who assists at the marriage, the witnesses, the Ordinary and his successors, and even the other contracting party as long as the first does not consent to the divulgence of the marriage.¹⁶⁹

3. - The obligation of this promise on the part of the Ordinary does not extend to a case in which any scandal or serious harm to the sanctity of marriage is imminent as a result of the observance of secrecy, or in which the parents fail to see to the baptism of the children born of such a marriage, or have them baptized under false names, unless in the meantime within thirty days they give notice to the Ordinary of the birth and baptism of the child, with the true indication of the parents, nor to a case in which they neglect the Christian education of the children.¹⁷⁰

4. - A marriage of conscience is not to be recorded in the usual matrimonial and baptismal registers, but in the special book mentioned in c. 379, which is to be kept in the secret archives of the curia.¹⁷¹

X. LITURGICAL FORM OF MARRIAGE

60. — A. - OBLIGATION.

1. - Outside of necessity marriage is to be celebrated according to the rites of the approved liturgical books of the Church and of praiseworthy and sanctioned customs.¹⁷² The ceremonies concerning consent placed by the qualified witness are essential and for validity.¹⁷³ The sacrament of matrimony must ordinarily take place during Mass, after the gospel and homily. Celebrated apart from Mass, at the beginning of the ceremony, after a brief exhortation, the epistle and gospel of the nuptial Mass are read and subsequently the blessing of the Roman Ritual, tit. 8, c. 3, is given.^{173a} The complete omission of the liturgical ceremonies outside of necessity is a grave sin, but their supplianee when omitted in necessity

is not certainly of obligation, at least gravely. The votive Mass for bride and bridegroom (*pro sponso et sponsa*) must be said if the rubrics permit.¹⁷⁴ It is not strictly necessary to apply the Mass for the spouses, unless they have contracted for the same, i.e., given a stipend.¹⁷⁵ A pastor or his delegate may assist at a marriage and another priest designated by either may celebrate the Mass and impart the solemn blessing. Confession and Communion are not obligatory but are to be strongly urged upon the spouses by the pastor.

61. - 2. - Mixed marriages are celebrated without sacred rites, but the questions in the Ritual regarding consent are put to the spouses.¹⁷⁶ The same is true even if the non-Catholic party uses a Catholic proxy.¹⁷⁷ There are no sacred vestments (e.g., surplice or stole, but a cassock or religious habit is not considered a sacred vestment), no formal sermon although words of exhortation are permitted, no blessing of the ring, no nuptial blessing, no Mass, no use of a sacred place. For a serious reason the local Ordinary may permit some of the usual ceremonies, excepting Mass,¹⁷⁸ to avoid hatred or opposition toward the Church or to enhance the sacredness of marriage in a particular community, etc. Local diocesan law and custom should be consulted. As anyone else, the newly-weds may hear Mass after the marriage ceremony, but the Mass must not be such as can be considered the final ceremony of the marriage.¹⁷⁹

B. - CEREMONY. - The ritual for the marriage ceremony¹⁸⁰ comprises three principal parts: the joining of the spouses, the blessing of the ring and the nuptial Mass and blessing.

62. - 1. - *joining of the spouses.* - The public and solemn approval of the marriage contract by the Church through the priest is given in the words: "*Ego vos conjungo in matrimonium. In nomine Patris, et Filii, et Spiritus Sancti. Amen.*" This formula, as well as the interrogation of consent, is omitted if ceremonies are supplied after an extraordinary form of marriage. In a double marriage ceremony the consent of each couple must be given separately and the "*ego vos conjungo*" repeated each time.

63. - 2. - *blessing of the ring.* - This blessing, in the ritual of marriage, is also given for second marriages, even if the same ring was blessed for a previous marriage.¹⁸¹ In a double ring ceremony both rings are blessed together.¹⁸² If the blessed ring should be lost or broken, another can be blessed with the same formula. The proper place for the ring is on the third finger of the left hand.

64. - 3. - *nuptial Mass and solemn blessing.*

a) The nuptial Mass or votive Mass for bride and bridegroom is a votive Mass of the second class.¹⁸³ This votive Mass, or at least its collect in the Mass of the day which impedes it, is permitted whenever a wedding is celebrated, whether outside the closed time (i.e., from the first

Sunday of Advent to Christmas Day inclusive and from Ash Wednesday to Easter inclusive) or even within the closed time if the local Ordinary for a good reason has allowed the solemn nuptial blessing.¹⁸⁴ On Sundays and whenever the nuptial blessing cannot be given, the votive Mass is not said nor a commemoration inserted in the Mass required by the rubrics.¹⁸⁵ Whenever this votive Mass, but not the nuptial blessing, is prohibited, the Mass of the Office of the day is celebrated and to its collect is added under a single conclusion the collect of the impeded votive Mass, even on those days on which a commemoration of an impeded votive Mass of the second class is prohibited; and the nuptial blessing is imparted in the usual way in the Mass of the day. But when both the votive Mass and the nuptial blessing are prohibited, the Mass together with the blessing may be transferred to an opportune unimpeded day after the marriage has been celebrated.¹⁸⁶ On All Souls Day and during the Sacred Triduum the votive Mass and its commemoration in the Mass of the day and the nuptial blessing within the Mass are all prohibited.¹⁸⁷

b) The solemn nuptial blessing consists of the two prayers immediately after the *pater noster* of the Mass—which are recited by the celebrant standing at the Epistle side of the altar facing the spouses, and a third prayer before the *placeat*—recited at the center of the altar facing the couple. The pastor should see to it that spouses receive the solemn blessing, which can be given to them even after they have lived a long time in the marriage state, but only during Mass and with the observance of the special rubrics, exclusive of the forbidden seasons; only that priest, in person or through another, can give the solemn blessing who can validly and lawfully assist at the marriage.¹⁸⁸ The nuptial blessing within the Mass must be given by the priest who is celebrating the Mass, even if another priest has presided over the marriage.¹⁸⁹ It is omitted if the spouses are not present; and it is omitted if both of them or one of them has already received the blessing. Wherever the custom prevails, however, of imparting the blessing if only the man has received it, that custom may be retained.¹⁹⁰ The nuptial blessing is inseparable from the Mass. Hence it cannot be given outside the Mass, except by apostolic indult; in which case it is to be imparted according to the formula which is found in the *Roman Ritual*.¹⁹¹ Local Ordinaries in the U.S.A. enjoy quinquennial faculties to bless marriages outside of Mass or to recite prayers over the couple, according to approved formulas, with the power to sub-delegate. Even the substitute formula is forbidden in mixed marriages without special permission.¹⁹² The local Ordinary may permit the solemn blessing even during the forbidden times, for a justifying reason, with an admonition to the spouses that they refrain from excessive display.¹⁹³

65. TIME AND PLACE OF CELEBRATION

Marriage may be celebrated at any time of the year¹⁹⁴ and at any time of the day, unless local regulations limit it. Marriages between Catholics are to be celebrated in the parish church; the pastor or local Ordinary may permit marriage in another church or public or semipublic oratory (no special cause is needed). Special permission is required from the local Ordinary for marriage to be celebrated in a private house, a chapel of a seminary or of a house of religious women.¹⁹⁵ Mixed marriages are to be celebrated outside of the church but the local Ordinary may dispense from this restriction.¹⁹⁶

66. XII. REGISTRATION OF MARRIAGE

A. - MARRIAGE REGISTER. - Record of the celebration of a marriage must be inscribed in the marriage register as soon as possible by the pastor or by his substitute, with the names of the spouses and of the witnesses, the place and date of celebration, as well as other items prescribed in the ritual books or by the local Ordinary, even though some other priest has been delegated to assist at the marriage.¹⁹⁷ Likewise any convalidation or dissolution of marriage is to be inscribed in this register. There is a grave obligation to record a marriage promptly (*quamprimum*), which regularly means within at least three days. It is not a serious fault if the record is kept over a longer period on a sheet distinct from the marriage register, unless delay in the proper inscription raises the danger of failure to record properly in the register. The pastor is bound in conscience to supervise the proper recording of marriages. If a marriage has been contracted according to the extraordinary form, the priest—if one assisted, and otherwise the witnesses and the spouses are all bound, jointly and severally (*in solidum*), to make sure that the marriage is inscribed in the required registers as soon as possible,¹⁹⁸ and by the pastor of the place of celebration.

B. - BAPTISMAL REGISTER. - Celebration of marriage must be recorded also in the baptismal register of the parties in the place where each has been baptized in the Catholic Church. If the place of baptism is not that of the celebration of marriage, the pastor of the place of celebration is to send all the requisite details, either directly or through the episcopal curia, to the pastor of the place of baptism of each spouse for inscription in the baptismal register; written assurance that this has been done should be received and placed in the dossier of the marriage.¹⁹⁹

C. - CIVIL REGISTER. - The assisting priest, besides qualifying by civil law to witness a marriage in a particular place, should also be careful to

fulfil the requirements of the civil law respecting the proper civil registration of a marriage contracted. Most often it is required that the witnessing priest sign the civil marriage license and return it to the civil authorities within a specified time.

XIII. BANNES OF MARRIAGE

67. — A. - OBLIGATION. - The banns or canonical proclamations are the public publication or notification whereby a future or intended marriage is made known to the whole populace so that any canonical impediment that is known might be disclosed. Before a marriage is celebrated it is to be ascertained that no obstacle exists to its valid and lawful celebration.²⁰⁰ Thus the pastor must publicly proclaim the parties who are to contract marriage.²⁰¹ This is a grave obligation (affecting only the lawfulness of the marriage) incumbent upon the pastor, even though he is otherwise morally certain of a lack of impediment in the case. It is commonly held that outside of necessity the omission of one bann—and probably of even two—is venially sinful, if the pastor is morally certain of the absence of an impediment; it is certainly a grave sin to omit three publications.

68. — B. - FORM. - No special formality of publication is prescribed, although one is contained in the *Ritual*.²⁰² The contractants should be clearly named and identified as to parish, the publication that is being made (1st, 2nd, 3rd), which publication has been dispensed, and the obligation of the faithful to reveal any impediments of which they are aware.

69. — C. - TIME. - The banns are published on three successive Sundays or feasts of precept in that place.²⁰³ The successive days are not required for validity; the interval of one day without publication is not more than a venial sin, unless the days are so close that there would not be sufficient time to reveal impediments or if some other sound reason justifies the interval. The banns are usually published at the more important Mass or at the one which is more fully attended. They may be published even though it is a closed season for the solemnization of marriage.

70. — D. - PLACE.

1. - The publications must be made in the proper parish where each party has a domicile or quasi-domicile. The request of the other pastors to publish the banns usually comes from the pastor of the bride, who is to assist at the marriage. They should be published also in each place where the parties have had residence for six months after attaining

puberty (14 years for a boy, 12 years for a girl), but in such cases the local Ordinary should be consulted, who may direct instead that other proofs be collected.²⁰⁴ If the pastor has a positive suspicion that an impediment exists, he should also consult the local Ordinary respecting briefer periods of residence.²⁰⁵

2. - Although the practice is to publish the banns in the parish church, they may also be published in any church or public oratory during Mass or other sacred functions attended by a large number of the faithful, as long as they are published by the authority of the pastor.²⁰⁶ With the permission of the local Ordinary the banns of those with no fixed abode (*vagi*) may be published in the place where they are actually residing or intend to contract marriage.²⁰⁷

71. - E. - OMISSION. - Publication of the banns is omitted in marriages with non-Catholics, whether baptized or not;²⁰⁸ otherwise the Church would seem to approve implicitly the mixed marriage. It is also omitted in marriages of conscience,²⁰⁹ of rulers of states, in danger of death and in a case of necessity when the marriage cannot be deferred without grave inconvenience and there is not time to apply for a dispensation, e.g., when there would be scandal or infamy in delay. Often there is need to procure a dispensation in the case of a convalidation of a marriage. A modest tax according to their means may be paid by the parties to the diocesan chancery for the dispensation.

72. - F. - DISPENSATION. - The local Ordinary of the parties can in his prudent discretion and for a just cause dispense from the banns, even in another diocese than his own. If there are several Ordinaries of the parties, that one in whose diocese the marriage is celebrated has the right to dispense; in case it is to be celebrated outside the proper diocese of the parties, then any proper Ordinary can dispense.²¹⁰ Diocesan faculties sometimes delegate pastors the power to dispense for a just cause from one publication. Reasons proportionate to the number of banns for which a dispensation is sought should be presented, e.g., the pregnancy of the woman, the danger of incontinence when a marriage has already been attempted civilly, prudent fear that the marriage will unjustifiably be interfered with.

73. - G. - INTERVAL. - The pastor should not assist at a marriage until he has at hand all the necessary documents for a valid and lawful contract of marriage. Moreover, unless there is a reasonable cause otherwise, he should wait until three days have elapsed since the last publication. If the marriage is not contracted within six months the banns must be republished, unless the local Ordinary judges otherwise.²¹¹ If another pastor

has conducted an investigation or has completed the publications, he should immediately by an authentic document notify the pastor who is to assist at the marriage of the result of his effort.²¹²

74. — H. - EXISTENCE OF IMPEDIMENTS.

1. - *Obligation of disclosure.*

a) All the faithful are bound, if they are aware of any impediment, to make known the same to the pastor or local Ordinary before the celebration of marriage.²¹³ This obliges also by the natural and divine law (even the unbaptized) in order to prevent sin or harm to the parties to the marriage or to the common good, as well as irreverence to the sacrament. All are bound at the earliest moral possibility to disclose an impediment of which they have certain or at least seriously probable knowledge.

b) Sacramental knowledge of an impediment absolutely forbids its revelation. A mere natural secret or one confided under a promise of secrecy does not excuse, since the harm resulting from the disclosure usually is not proportionate to the seriousness of the law and the evil effects of silence. Knowledge gained through a professional secret more probably excuses, e.g., a physician or lawyer professionally consulted, a priest consulted outside of confession, etc. There is no obligation of disclosure when greater harm would result to oneself, a third party or to the common good. The damage which is done to the parties to the marriage by the disclosure, however, is usually outweighed by the advantages accruing to them.

2. - *Continuance of the banns.*

a) If a pastor is in doubt about the existence of an impediment, he must pursue his investigation further by questioning witnesses (if this would not disgrace the contractants), and even the parties themselves if necessary, under oath. He is to make or to finish the publications if the doubt has arisen before they have begun or have finished. If he prudently judges that the doubt still exists, he must not assist at the marriage without consulting the local Ordinary.²¹⁴

b) A pastor who discovers with certainty that an impediment exists which is occult, he is to make or to finish the publications and to report on the matter, without mentioning names, to the local Ordinary or to the Sacred Penitentiary. If the impediment is public and is detected before the banns are published, he should not proceed further until the impediment has been removed, even if he knows that a dispensation has been obtained for the forum of conscience only. If the impediment is discovered after the first or second publication he is to complete the publications and refer the matter to the local Ordinary.²¹⁵ Finally, if no

doubtful or certain impediment is discovered, when the banns have been finally published, the pastor is to admit the parties to the celebration of their marriage.²¹⁶

XIV. PRE-MARITAL INVESTIGATION

75. - A. - GENERAL NORMS.

1. - "The Church has established certain carefully framed laws in order to insure that marriage might be lawfully, and especially validly, entered into and be productive of the abundant graces coming from this sacrament, and which, it is evident to anyone, cannot be disregarded without grave injury to the sacrament and grave sin for the recipient of the sacrament. This damage and sin, though merely caused by carelessness, is shared by those ministers of the Church who by allowing the faithful to celebrate marriages that are forbidden, are gravely deficient in the duty committed to them of previously making a careful investigation lest marriages be contracted in defiance of the sacred canons. . . . We are all aware that the causes of invalid or unlawful marriages can be reduced to three points, namely: a) a marriage impediment in the strict sense, b) a defect of consent, c) a defect of canonical form."²¹⁷

2. - Before a marriage is celebrated it should be made certain that no obstacle exists to its valid and lawful celebration. In danger of death, if other proofs are not available and if adverse indications are absent, sufficient proof is obtained in the sworn statement of the contractants that they are baptized and are not disqualified by any impediment,²¹⁸ which statement would be insufficient if their veracity were open to suspicion or if they contradicted each other.

3. - The manner of arriving at the requisite knowledge of the freedom of the parties to marry has been established by the Instruction "*Sacro-sanctum*," which contains other prescriptions not in the Code.²¹⁹ "Scrupulous fidelity" to this Instruction²²⁰ is expected in marriage cases. Present diocesan forms and questionnaires are commonly devised to cover the material of this Instruction.

76. - B. - PASTOR OF INVESTIGATION.

1. - The pastor who enjoys the right of assisting at a marriage must carefully inquire beforehand and in good time whether any obstacle to the marriage contract exists.²²¹ The prospective spouses should notify their pastors of their intention to marry in sufficient time to permit the proper investigation to be made before the proclamation of the banns. In ordinary cases the investigation should be made in practice one month before the proposed date of the marriage; when the parties are from

different parishes and especially different dioceses, a proportionately longer period should be allowed. The regular place for holding the investigation is the parlor or office of the rectory.

2. - The pastor who conducts the investigation will be the proper pastor of the bride, unless there is a just reason to the contrary. The pastor (or Military Chaplain) of the groom, either on his own initiative or at the man's request or that of the bride's pastor, should also confirm by examination the latter's freedom to marry, the result to be sent in writing as soon as possible to the bride's pastor, together with other necessary documents which may be in his parish archives.²²² The pastor who grants delegation or permission to another to assist at a marriage is to conduct the investigation himself even if he is morally certain of the freedom of the parties, although he may delegate this duty to another for a just and not necessarily grave cause. The pastor also is to secure the *nihil obstat*, as noted below.

3. - At the time of the investigation the parties intending marriage must reveal any hidden impediments, as otherwise they expose themselves to the proximate danger of serious sin in the case of a diriment impediment. When an impediment is occult but of a defamatory nature, e.g., crime, and will not be divulged, it need not be revealed to the pastor but to a confessor who, using a fictitious name, can recur to the Sacred Penitentiary for a dispensation in the internal forum. The pastor is to take the bride and bridegroom separately and question discreetly whether they are disqualified by any impediment, whether their consent—especially that of the woman—is free, and whether they are sufficiently instructed in Christian doctrine, (unless it is clear from their qualifications that this last inquiry would be pointless),²²³ especially relative to a correct idea of the sanctity and indissolubility of Christian marriage and the obligations undertaken.²²⁴ The least that should be known also is the Commandments of God and of the Church, the obligation of receiving the sacraments, the Our Father, Hail Mary, Creed, Acts of Faith, Hope, Charity and Contrition. Defect of knowledge and even a refusal to take instructions is not of itself cause for refusal to assist at a Catholic marriage.²²⁵

4. - The pastor, in seeking to establish and to verify the free status of the parties through appropriate documents and the testimony of reliable witnesses whenever necessary, especially gains this information by his direct questioning of the parties. It is important that on their first visit the prospective spouses be received kindly, affably and sympathetically; usually they feel strange and uncomfortable in the circumstance and in the place, and thus they need to be put at their ease immediately. The pastor or interrogating priest must conduct himself in a way so as to inspire confidence and respect and to arouse an appreciation of the sacredness and seriousness of the sacrament. He should speak distinctly and

with all due prudence, modesty, circumspection, particularly with regard to impediments and other circumstances which could suggest shame or loss of reputation. His questions should be framed in ways to accommodate the understanding of each party, phrased to safeguard the rightful sensibilities of the parties; at times he will have to be plain-spoken and firm in order not to diminish respect for and observance of the truth and the law.

77. - C. - QUESTIONARY.

1. - *Oath and identification.* A preliminary oath is required (but not preceptive) of each party attesting to the truth of their replies, once the sacredness and sanction of oaths has been explained to them. If either a Catholic or a non-Catholic party refuses to be questioned under oath, the pastor should not insist upon it but merely note the refusal and the reason for it in the questionnaire. Moreover, if the party questioned is unknown to the pastor personally, he should require some other identification which has a photograph.²²⁶

2. - *Residence.* Interrogation to establish the residence of each party is necessary in order to determine the lawfulness of the pastor's assistance at the marriage in his territory, especially in the case of those with no fixed abode (*vagi*) or who are emigrants from a distant country. The pastor must also discover in what dioceses the parties have lived (including the Military Vicariate) for at least six months after attaining the age of puberty.²²⁷

3. - *Baptism.*

a) The fact of baptism must be established with certainty. The pastor, unless it was conferred in his own territory, is to demand proof of the baptism of both parties, or of the Catholic party in a disparity of cult case.²²⁸ Official proof of baptism or transcript from the baptismal register should be not more than six months old so as to include also all other pertinent information.²²⁹ The seal of the parish and the pastor's signature should be affixed to make the document authentic. If a written certification is impossible, e.g., the records have been destroyed by fire or contact with a distant country is not possible, the sworn evidence of relatives or other reliable witnesses or of the party himself, if he was an adult when baptized, will suffice.²³⁰ Diocesan forms for such an affidavit are usually available.

b) A doubtfully established baptism of a professed Catholic should be referred to the local Ordinary. A pastor who, after a diligent investigation to establish the facts, remains in doubt as to the baptism or its validity in the case of a non-Catholic, should petition a dispensation not only from mixed religion but also *ad cautelam* from disparity of worship.

4. - *Confirmation*. Proof of confirmation is usually put on the baptismal certificate or on a separate confirmation certificate, or in lieu of either on the sworn testimony or affidavit, as with baptism. Catholics should be confirmed before entering marriage, if this can be done without grave inconvenience.²³¹ The pastor should try to arrange conveniently the reception of this sacrament before but at least as soon as possible after the marriage takes place.

5. - *Confession and Communion*. The pastor should urge upon the parties as strongly as possible to confess their sins before entering into marriage and to receive Communion worthily.²³² An opportune time for confession should be indicated to the parties. It is usually recommended that the entire bridal party receive the Eucharist at the wedding ceremony, or at least on the day. Opportunity for private confession may be afforded at the last visit of the parties with the priest or at the wedding rehearsal, although in time to handle any hidden impediment that may appear. Recommendation of a general confession is left to the prudence of the pastor or priest preparing the couple.

6. - *Unworthy Catholics*. If a public sinner or one laboring under censure refuses to make a sacramental confession or to be reconciled with the Church before marriage, the pastor is not to assist at the marriage, unless a serious reason demands and, if possible, not without consultation with the local Ordinary.²³³ The investigation may also reveal that one of the parties has notoriously abandoned the Catholic faith, though without becoming affiliated with a non-Catholic sect, or has joined societies forbidden by the Church, in which cases the pastor is gravely forbidden to assist at the marriage without the previous permission of the local Ordinary who is to provide adequate guarantees and safeguards.²³⁴ The Ordinary likewise should determine whether the bans should be published and if any of the sacred rites pertaining to a nuptial Mass and blessing should be eliminated. In the sense of this prohibition there is not usually included one who has given up the practice of his religion without being ascribed to any sect or notoriously professing anti-religious tenets. It is forbidden to possess open or secret membership in societies explicitly or implicitly condemned by the Church, whether by censure or not, or which exact an oath or pledge of blind obedience or of secrecy even from ecclesiastical authority.²³⁵

7. - *Minors*.

a) The pastor is directed to dissuade minors from contracting marriage without the knowledge of or contrary to the reasonable opposition of their parents; if they nevertheless insist on going ahead, the pastor may not *lawfully* assist without previous consultation with the local Ordinary.²³⁶

In ecclesiastical law a person is a minor until his twenty-first birthday;²³⁷ the age in civil law varies from State to State but in most it is twenty-one for the man and eighteen for the woman.

b) The reasons for the parental refusal must be weighed by the pastor against the reasons of the minor for wishing to enter the marriage. If the parental opposition is prudently judged reasonable after questioning and investigation, e.g., because of the immoral or irreligious character of the other party, the pastor must dissuade them from the marriage and failing this to refer all facts to the local Ordinary. If parental consent is judged to be unreasonably withheld, he should try to win their consent; if they remain adamant, the pastor may go ahead with the marriage, even without consulting the Ordinary. However, civil law must always be kept in mind regarding parental consent and requisite age for marriage. Usually a diocesan form is available with which to secure and record parental consent.²³⁸ Where the parties have known each other only a short time, or known little about each other so that the pastor fears the lack of a sufficiently solid basis for so important a union, or there is a difference of religion or other factors of disruption, even if pre-marital pregnancy has occurred, the pastor is to be most prudent in favoring and permitting the marriage.

78. - D. - NIHI. OBSTAT.²³⁹

1. - When the bride and groom belong to different parishes in the *same* diocese all the documents and testimony pertinent to the intended marriage *may* be sent to the diocesan chancery so that a *nihil obstat* may be granted by the episcopal curia, i.e., a written authorization to proceed with the marriage in the diocese since the evidence submitted appears to establish the free status of the parties to marry. This procedure is recommended but not prescribed by the Instruction "*Sacrosanctum*"; however, it may be prescribed by diocesan law.

2. - The Instruction *prescribes* the procedure that must be observed when the parties belong to *different dioceses*. When the pastors are of *different* dioceses and the pastor of the bride is to celebrate the marriage, all the documents pertinent to the marriage are to be transmitted to the bride's pastor through the diocesan chancery of the pastor of the groom and not directly from pastor to pastor.²⁴⁰ It is for this chancery, then, to issue a *testimonial letter* (*litterae testimoniales*) certifying the groom's freedom to marry. If the pastor of the groom is to celebrate the marriage, the documents concerning the bride are to be sent to him through the diocesan chancery of the bride's pastor together with the testimonial of the latter chancery of her freedom to marry. Moreover, the pastor who is to assist at the marriage *must* obtain the *nihil obstat* of his own chancery before proceeding to the celebration of the marriage, i.e., he is to send

to the chancery all the documents relating both to the groom and to the bride for certification of the free status of the parties to contract marriage within the diocese. When the pastor who assists at the marriage in his territory is neither the proper pastor of the bride nor of the groom, each pastor should consult his own diocesan regulations, but the ultimate responsibility of securing certificates of freedom rests with the pastor of the place of celebration of the marriage.

3. - In due time before the marriage the pastor whose duty it is to seek the *nihil obstat* should send the abovementioned documentation to his chancery together with a transcript or list or summary of the available relevant documents (*status documentorum*), which transcript the chancery uses in issuing the *nihil obstat*. The authenticated transcript and the dossier or file of documents should be safeguarded in the files of the parish where the marriage is celebrated. A pastor who permits a marriage to be lawfully contracted outside his parish before a priest who is in other respects legally competent is to use this form or transcript in granting permission.

79. - E. - DOCUMENTATION. - The following summary of documents will be more or less required of the priest seeking a *nihil obstat* according as the marriage case requires. Diocesan law or practice may demand further information. Explanation of them is found in connection with the matters to which they relate.

- 1) Transcript or summary of the dossier of documents.
- 2) Certificates of the priest of the freedom of each party to marry.
- 3) Prenuptial questionnaire or inquiry form properly signed and annotated where necessary.
- 4) Formula of oaths or affidavits (supplementary or suppletory oaths)
 - a) of witnesses to prove freedom to marry, b) of the party intending marriage regarding freedom from all impediments when direct proof is lacking, c) of parents or guardians of their lack of objection to the marriage of a minor.
- 5) Baptism certificate including Confirmation and other notations duly issued within six months.
- 6) Certificate of publication of the banns or of the Ordinary's dispensation.
- 7) Death certificate of a previous spouse executed by competent authority according to diocesan regulation.
- 8) Authentic record of a papal dissolution, decree of nullity (whenever a marriage has been attempted), Pauline privilege or a privilege of the faith.
- 9) Civil divorce decree with date and place of issuance.

- 10) Ordinary's decision regarding any previous marriage.
- 11) Promises or guarantees (*cautiones*) required in mixed marriages and properly executed in the form prescribed.
- 12) Civil certificate of marriage in a case of revalidation with place and date of issuance.
- 13) Dispensations from impediments.
- 14) Parental consent for the marriage of minors.
- 15) Delegation for valid assistance at the marriage.
- 16) Permission for lawful assistance at the marriage.
- 17) Permission of the local Ordinary for
 - a) persons of no fixed residence (*vagi*) or emigrants.
 - b) apostates, public sinners or persons under censure.
 - c) a lawful condition to be attached to the marital contract.
 - d) the nuptial blessing to be imparted within the closed time.
 - e) minors to marry without parental consent.
- 18) Curial testimonial or the *nihil obstat*.
- 19) Assurance received of registration in the marriage and baptismal registers.
- 20) Civil license with date and place of issuance.

80. - F. - PRE-MARITAL INSTRUCTION.

1. - "To the proximate preparation of a good married life belongs very specially the care to be taken in choosing a partner; on that depends a great deal whether the forthcoming marriage will be happy or not, since one may be to the other a great help in leading the Christian life, or a great danger and hindrance. And so, that they may not deplore for the rest of their lives the sorrows arising from an indiscreet marriage, those about to enter into wedlock should carefully deliberate in choosing the person with whom they must live continuously. In so deliberating they should keep before their minds the thought, first of God and of the true religion of Christ, then of themselves, of their partner, of the children to come, as also of human and civil society for which wedlock is a fountain head. Let them earnestly pray for divine help so that they may make their choice in accordance with Christian prudence, not indeed led by the blind and unrestrained impulse of lust, nor by any desire of riches or other base influence, but by a true and noble love and by a sincere affection for the future partner, and let them strive in their married life for those ends for which the state was established by God. Finally, let them not omit to seek the prudent advice of their parents regarding the partner, and let them regard this advice in no light manner, so that by their parent's mature knowledge and experience of human affairs they may

guard against a disastrous choice, and on the threshold of matrimony may receive more abundantly the divine blessing of the fourth Commandment: 'Honor thy father and thy mother (which is the first Commandment with a promise), that it may be well with thee and thou mayest be long-lived upon the earth.' (Eph. 6:2-3; Exod. 20:12)"²⁴¹

2. - The pastor is not to fail to instruct the parties, according to their varying capacity, on the sanctity of the sacrament of marriage, the mutual obligations of the spouses, the obligations of parents toward their children, the impediments of marriage and the requirements for valid consent.²⁴² All parties to marriage today need some pre-marital instruction or vocational guidance, which may generally be secured in marriage courses in Catholic schools, closed retreats, etc. The pastor should usually recommend or even insist upon attendance at Cana conferences. However, if he knows that the parties have not the necessary knowledge, the pastor's obligation to impart sufficient instruction is grave. If the parties are known to be fully instructed, he may give a short talk on mutual forbearance and patience, love and sympathy, the Catholic education of offspring, and the graces which attend the married state and flow from the sacrament itself. Such is the personal instruction which is given over and above the required parochial instructions and the examination involved in the questionnaire.

3. - In the case of a mixed marriage many dioceses require a series of instructions for the non-Catholic party; Cana conferences are sometimes accepted as fulfilling this requirement. Where other instructions are not given or prescribed, the pastor himself should introduce the non-Catholic party to the Catholic attitude and practice regarding the nature and obligations of marriage, the role of the Church and the practices of Catholics, Catholic teaching on conjugal chastity and birth prevention, Catholic baptism and education. The education and attitude of the non-Catholic will influence the approach of the priest in his instruction.

4. - The practice of reserving instruction on conjugal chastity and its implications for the sacramental confessional is not in accord with the character of the judgment exercised in this tribunal nor with the desire of the Church. If either or both parties are found to be completely ignorant or in error regarding the conjugal act or the physical cooperation necessary between husband and wife, he should refer them to morally sound and mature relatives or to a Catholic physician for adequate instruction in the nature of the marriage act, while indicating at the same time that all acts ordained to the proper accomplishment of the marriage debt are lawful and even sacred or meritorious. In these matters the instructor must speak with great discretion in order to avoid any degree of offence or scandal.

XV. IMPEDIMENTS TO MARRIAGE

81. - A. - NOTION. - A matrimonial impediment is a circumstance present in the parties on account of which marriage, by disposition of law either natural or divine or ecclesiastical (or even civil), cannot be lawfully or even validly celebrated. It is a circumstance which disqualifies a person from contracting marriage lawfully or validly. All persons are able, i.e., have a right, to contract marriage, if they are not prohibited by law from doing so.²⁴³ Even though an impediment exists on the part of only one party, it nevertheless affects the right of both parties and disqualifies both.²⁴⁴ An impediment directly affects a marriage inasmuch as it is a contract and only consequently as a sacrament. Not every cause rendering a marriage unlawful (e.g., mortal sin, omission of banns) or null (e.g., fear, error, lack of jurisdiction) is a canonical impediment, but only those recognized as impediments by law are canonical impediments.

82. - B. - DIVISION. - Matrimonial impediments are divided on the basis of:

1. - *origin*. Impediments are *natural*, *divine* or *human* as they are founded in the natural, divine or human law (ecclesiastical or civil).

2. - *effect*.²⁴⁵

a) *impedient*. A prohibitive or impedient impediment gravely prevents the lawful contracting of marriage, saving its validity.

b) *diriment*. A diriment impediment nullifies a marriage contract, so that a marriage cannot be even validly contracted.

3. - *extension*.

a) *absolute*. An absolute impediment prevents marriage from being contracted with any person whatsoever, e.g., sacred orders, absolute impotency.

b) *relative*. A relative impediment forbids marriage with a certain person, while permitting it with others, e.g. consanguinity, affinity, relative impotency.

4. - *duration*.

a) *perpetual*. An impediment is perpetual which always endures, unless there is room for dispensation, e.g., consanguinity.

b) *temporary*. An impediment is temporary which ceases with the lapse of time, e.g., age.

5. - *dispensation*.

a) *dispensable*. An impediment from which the Church can and customarily does dispense is called dispensable, e.g., spiritual relationship.

b) *indispensable*. An impediment from which the Church either cannot or customarily does not dispense is called indispensable, e.g., absolute impotency, episcopacy.

6. - *grade*. The grade or degree of impediment is based on the difficulty of obtaining a dispensation or the reluctance in granting the same.²⁴⁶ An impediment is called:

a) *minor*:²⁴⁷

1° consanguinity in the third degree collateral.

2° affinity in the second degree collateral.

3° public propriety in the second degree.

4° spiritual relationship.

5° crime arising from adultery with a promise or an attempt at marriage, even civil marriage.

b) *major*: all other impediments. If false reasons are alleged in seeking a dispensation from a minor impediment, the dispensation is still valid; it is invalid in the case of a dispensation from a major impediment.²⁴⁸

7. - *knowledge*.

a) An impediment is *certain* or *doubtful* inasmuch as a prudent doubt is excluded or admitted; the doubt may be of law or of fact. Ignorance does not excuse from impediments.²⁴⁹

b) When there is a doubt of law regarding an impediment of ecclesiastical law, the impediment does not bind.²⁵⁰ If the doubt is only of fact regarding an impediment of the divine law, the impediment binds and marriage is forbidden, e.g., in doubt whether a previous marriage has been dissolved.²⁵¹ If the doubt of fact regards an impediment of ecclesiastical law, the Ordinary may dispense, if it is an impediment from which the Roman Pontiff customarily dispenses.²⁵²

8. - *proof*.²⁵³

a) An impediment is *public* which can be proved in the external forum, otherwise it is *occult*.

b) An occult *impediment* refers to the possibility of proof in the external forum; an occult *case* refers to the lack of notoriety of an impediment, whether it is known or not by others. Thus an impediment may be public by nature, i.e., which is customarily evident, e.g., age, sacred orders, consanguinity by legitimate birth; or by nature occult, i.e., which is customarily secret, e.g., crime, private vow, consanguinity by illegitimate birth. An occult impediment may become known in fact or remain a secret; a public impediment may not be known in fact and thus remain in certain circumstances classed as an occult case; it may be known by only a very few discreet people who will keep it a secret. It may be public in one place, e.g., where the impediment was contracted, but occult in

another, e.g., where the marriage is celebrated; or public at one time and becoming later occult, e.g., after ten years. To determine how many people must be in the know in order to render a case no longer occult, the common rule of thumb is four or five people in a town and eight to ten in a city, which numbers may increase or lessen as these individuals are discreet, hostile, garrulous, etc. For an impediment to be by nature public, it is not necessary that it be known as an impediment but only that the fact be public, e.g., uxoricide.²⁵⁴

83. - C. - IMPEDIENT IMPEDIMENTS.

1. - Simple vows.²⁵⁵

a) *notions*. A vow is a deliberate and free promise made to God of a possible and better good and which obliges from the virtue of religion.²⁵⁶ It is public if accepted by a legitimate ecclesiastical superior in the name of the Church; otherwise it is private.²⁵⁷ It is reserved when only the Holy See can dispense,²⁵⁸ absolute when its fulfilment is not made contingent upon a future event. Only an external vow is considered in canon law, but an internal vow of itself will by the natural law impede the lawful celebration of marriage. Violation of the vow is a grave sin against the virtue involved and against the virtue of religion. All private vows are simple vows, even though reserved to the Holy See. No simple vow nullifies or invalidates a marriage unless the Holy See so declares,²⁵⁹ as in the case of Jesuit simple public vows regarding attempted marriage subsequent to profession. The following *simple* vows, whether public or private, reserved or not, absolute or condition, perpetual or temporary, prohibit the lawful contracting of marriage, because the observance of their obligations is incompatible with the married state and runs the proximate risk of violation:

b) *virginity*. The vow of virginity is a promise made to God to abstain perpetually from the first complete act of carnal pleasure, in or out of marriage, by which virginity is lost. If the voluntary violation is merely internal, virginity is restored after the sin has been forgiven, but any external consummation of a voluntary venereal act effects an irreparable loss, as the preservation of physical integrity cannot ever be restored. Usually this latter is lost by voluntary emission of seed in man and by intercourse or other actions by which the hymen is culpably broken in a woman. The vow imposes a grave obligation and yet the party who contracts a valid marriage may not ask for the marital debt the first time but is bound to render the debt when requested. Since after the intercourse the object of the vow can no longer be realized, the debt may thenceforth be requested and received. A private vow of virginity can be dispensed by the local Ordinary, a confessor who is a Regular,²⁶⁰ and a confessor with delegated faculties.

c) *perfect chastity*. This is a promise made to God to abstain, whether perpetually or for a time, from every deliberate act of venereal pleasure (even though virginity has been lost) in or out of marriage. Within a valid marriage the party may not request the marital debt but may accede to the reasonable and lawful request of the other party. Upon the death of the spouse the vow revives its vigor and forbids a second marriage, if it is perpetual or has not elapsed or been dispensed. A private vow of perpetual and perfect chastity made absolutely after the completion of the eighteenth year of age is reserved to the Holy See.²⁶¹ The quinquennial faculties of the bishops permit dispensation of the non-reserved vow for just cause for a marriage about to be contracted, and also from this reserved vow to enable the person who has violated the vow to ask for conjugal rights. The Apostolic Delegate can commute or dispense the reserved vow.²⁶²

d) *celibacy*. This is a promise made to God not to marry. If nevertheless marriage is contracted validly, the marital debt may be lawfully asked and received, since the object of the vow is limited to abstinence from the celebration of the marriage. If this vow is absolute and perpetual, it forbids a second marriage upon the dissolution of the first; otherwise it ceases as an impediment. This vow is dispensable as in the vow of virginity.

e) *to receive sacred orders*. A vow made to God to receive the subdiaconate, diaconate or the priesthood indirectly forbids marriage, inasmuch as its fulfilment is practically impossible. It is a vow that is to be fulfilled unless the one assuming it is otherwise impeded, e.g., being refused admittance into major orders. If marriage does take place, the marriage debt may be lawfully sought and received. The obligation of the vow continues even after the dissolution of the marriage, unless circumstances, e.g., children, or age have changed and render its fulfilment impossible. It is dispensable as in the case of the vow of virginity.

f) *to embrace the religious state*. This vow made to God to embrace the religious state, whether in a diocesan or pontifical institute, whether of perpetual or temporary, simple or solemn vows, indirectly forbids marriage, as in the previous case. If the marriage is contracted, the marital debt may be lawfully requested and received. The private vow to enter a religious institute of solemn vows is reserved to the Holy See.²⁶³ After the marriage is dissolved, the vow renews its force, unless age or other circumstances make its realization impossible. It is dispensable in the ways noted for the vow of perfect chastity.

84. — 2. - *Legal relationship*. - In those places where legal relationship arising from adoption renders a marriage unlawful in civil law, the marriage is also unlawful in canon law.²⁶⁴ In the U.S. jurisdiction legal adoption is not a prohibitive impediment in civil law.

3. - Mixed religion.

85. - a) *impediment*. Mixed religion is not as such an impediment of the divine or natural law, but in the nature of things there does exist the danger of perversion or of religious indifference. Thus the Church everywhere most severely forbids the contracting of marriage between two baptized parties of whom one is a Catholic and the other a member of a heretical or schismatical sect; and if there is danger of perversion for the Catholic party and the offspring, the marriage is also forbidden by the divine law itself.²⁶⁵ A Catholic does not have a right to marry a non-Catholic. The Church in her experience is wisely reluctant to permit such a union, since it is generally harmful to the intimacy of the union and the happiness of the spouses, dangerous to the faith and even the morals of the Catholic party and especially the children because conducive to indifferentism, and suggestive of communication *in sacris* with heretics.

86. - b) *subject*. Both contracting parties must be validly baptized.²⁶⁶ Catholics include all who have been baptized in the Catholic Church or converted to it and have not become members of a false religion, an heretical or schismatical or atheistic²⁶⁷ sect.²⁶⁸ Non-Catholics include those who have been baptized as non-Catholics and who have remained in heresy or schism, or who have given up their sect without becoming Catholics, or a baptized Catholic who has become affiliated with an heretical, schismatic or atheistic sect.

87. - c) *dispensation*. By his quinquennial faculties the local Ordinary of the Catholic party may dispense from the impediment of mixed religion (and also from the impediment of disparity of worship *ad cautelam*, if there is a prudent doubt about the validity of the baptism of the non-Catholic party), when it has been found impossible before the marriage either to bring the non-Catholic party to the true faith or to deter the Catholic party from marriage.^{268a} However, there is first required:²⁶⁹

1) *just and grave reasons*. These reasons (which are in addition to the absence of danger and to the giving of the guarantees) must be truly present or else the dispensation will be invalid, e.g., a well-founded hope of the conversion of the non-Catholic party, removal of serious scandals, sincere promise of the non-Catholic to embrace the faith after marriage, sometimes even the danger of apostasy or of an attempted marriage. The pastor must have cause to be morally certain of these reasons based on his reasonable efforts to verify them. The circumstances of the case and positive evidence, proportionate to the reluctance of the Church in mixed marriages, should indicate that a happy outcome of the marriage in view of the dangers involved is indicated.

2) *guarantees or promises*. The validity of the dispensation granted, even in danger of death,²⁷⁰ requires that adequate guarantees (*cautiones*)

are given to remove the danger that threatens such a marriage. These guarantees are the promises made by the non-Catholic party not to interfere in any way with the religious beliefs and practices of the Catholic party, and by both parties to baptize and educate all the children of both sexes in the holiness of the Catholic faith. Although the promises or guarantees refer strictly only to the children yet to be born, the parties are to be warned of their grave obligation by divine law to provide for the Catholic education of children already born to the union.²⁷¹ Although it is regularly a strict requirement of the Church that the guarantees be given explicitly by both parties, the validity of the dispensation is safeguarded if they are given at least implicitly, i.e., if the parties placed acts from which it must be concluded and can be proved in the external forum that they were conscious of their duty to fulfil the conditions and that they manifested a firm purpose to perform that duty.²⁷² For lawfulness the promises should normally be made in writing (diocesan forms are usually available), unless the local Ordinary approves of verbal guarantees. It is the duty of the pastor to see to it that the promises are sincerely made, since insincerity in giving these guarantees, if the fact is legally proved, renders the dispensation itself invalid.²⁷³ Diocesan practice or statute may require further promises, e.g., that there will be only the Catholic ceremony, that the Catholic teaching on birth prevention will be observed, etc. It is always expedient to give the non-Catholic instruction in the Catholic religion, especially as regards Catholic obligations and practice, particularly the institution of marriage and family life. Some dioceses require a certain number of instructions to be given.

γ) *certainty*. For the validity of the dispensation it is required that there be moral certainty that the guarantees will be fulfilled; the local Ordinary himself must have this certainty in order to use his quinquennial faculty of dispensation. In this he must depend upon the pastor or investigating priest who must certify the presence of sufficient reason for the dispensation and the fact of the promises sincerely made. This moral certainty must be more than a subjective reliance on the external promise but a matter of objective foundations or reliable evidence which exclude positive, grave and prudent doubt of the fulfilment of the guarantees.

88. — d) *prohibitions*.

α) Even with a dispensation from the impediment of mixed religion the parties are, either before or after the marriage contracted before the Church, forbidden also to approach, either personally or by proxy, a non-Catholic minister acting as such for the purpose of giving or renewing their marital consent. If a pastor knows with certainty that the parties are about to or have already violated this law, he is not to assist at their marriage except for the gravest reasons, and then only if the danger of scandal is removed and the local Ordinary previously consulted. However, if civil law requires it, the parties are not forbidden to appear before

even a non-Catholic minister acting only as a civil officer for the sole purpose of performing the act required by civil law for the sake of the civil effects.²⁷⁴

ξ) Catholics who have dared to contract a mixed marriage without a dispensation incur an exclusion from legitimate ecclesiastical acts and the sacramentals until dispensed by the local Ordinary.²⁷⁵ If they undergo the non-Catholic religious ceremony forbidden above, they automatically incur an excommunication reserved to the local Ordinary.²⁷⁶ The pastor is obliged to seek their reconciliation with the Church.

89. – e) *obligations*.

α) The Catholic spouse is bound by an obligation in charity to strive with all prudence for the conversion of the non-Catholic spouse.²⁷⁷ Means best adapted to the condition of the non-Catholic should be employed and discretion should moderate the efforts in order not to alienate the spouse. There is no substitute for the example of a good and virtuous life.

ξ) Pastors ought to deter by all available means the faithful from entering mixed marriages (without offence, especially in public, to those living in such unions and who are faithful to their promises); if they cannot prevent them, they should strive to see that they are validly and lawfully contracted and earnestly follow up all such unions in their territory to assure the fulfilment of the promises.²⁷⁸

D. - DIRIMENT IMPEDIMENTS.

90. – 1. - *Age*.

a) *impediment*. A valid marriage cannot be contracted by a man before he has completed his sixteenth year, by a woman before she has completed her fourteenth. Although a marriage contracted after the completion of the stated ages is valid, nevertheless pastors of souls are to make every effort to prevent the marriage of youths before that age at which, according to the accepted usage of the country, marriage is customarily contracted.²⁷⁹ The age is computed according to the norm of law.²⁸⁰

b) *subject*. Assurance for the primary end of marriage, the health of the spouses and offspring and the maturity needed for family life and the rearing of children are protected by this law of the Church. On the other hand, too great a disparity of age in couples to be married is not recommendable but is no impediment. The natural law itself forbids marriage to all who have not the necessary use of reason validly to contract marriage by giving true matrimonial consent. The attainment of natural or physiological puberty is not necessary for the validity of the marriage. Ecclesiastical law specifies only the definite age for valid marriage.²⁸¹ It binds only the baptized, including non-Catholics; in practice it includes the marriage of a baptized with an unbaptized party. Civil impediment

binds marriages among the unbaptized. A civil birth certificate is acceptable proof of age; a baptismal certificate will indicate only the maturity of the party. The impediment of nonage in civil law, as well as the age requiring parental consent in civil law, must be considered also.

c) *cessation*. The impediment of nonage normally ceases with the attainment of the required legal age; it is rarely dispensed. In doubt of the fact of the age the local Ordinary is to be consulted, especially in the missions, who may dispense by c. 15 if and when expedient. The Apostolic Delegate may dispense from this impediment of ecclesiastical law for a grave reason. A marriage invalid due to nonage requires for validation a renewed act of consent according to the prescribed form of marriage.²³²

91. – 2. - *Impotency*. - For a proper understanding of this impediment and of other matters of marital concern regarding reproduction, it is necessary first to describe briefly the anatomy or structure of the reproductive organs and their physiology or functions.

a) *notions*.

92. – 1 - *male reproductive organism*.

α) The external organs of reproduction are the testicles (testes) and the male member or penis. The testicles are oval-shaped glands which produce the microscopic bodies or fertilizing germ cells, called spermatozoa, which by way of intercourse unite and fuse with the female germ cells. Each normal spermatozoon (in appearance like a tadpole and one five-hundredth of an inch in length) keeps up a whipping motion with its long tail-like portion enabling it to travel in the seminal fluid about eight inches an hour. Lodging in the female uterus after intercourse the sperm cells retain this motility and capacity to unite with the female cells for about two days, after which they slowly perish. In an ordinary ejaculation at the time of intercourse, hordes of these spermatozoa are emitted. The testicles, encased in a protective sack, called the scrotum, delicate and sensitive to pain, are indispensable for procreation. They contain a mass of tubules (total length of a thousand feet) which subsequently run into larger ducts or tubes at the upper end of the testicles, called the epididymes. The testicular glands also produce an essential secretion, from the Leydic cells, called hormones, which are greatly responsible for the peculiarly male characteristics which mainly appear at puberty.

ε) The penis is the immediate organ of sexual union or coitus. It is a soft spongy organ (about four inches long and an inch in width) attached at its root to the pelvis and hanging limply above the scrotum. Due stimulation or excitement of desire causes the blood to surge into its spongy tissues whereby it swells, elongates (about six inches), spontaneously lifts itself, becoming very firm and stiff; this process is called erection. The tip of the penis is a bulbous gland supplied with abundant sensitive

nerve, an enlarged cone-shaped structure called the glans penis, which is covered with a movable or retractable membrane of skin known as the prepuce or foreskin. Frequently the minor operation of circumcision is performed on male infants or even on adults for medical or hygienic reasons, which removes all or part of the prepuce. When penetration of the female genitals occurs this foreskin is pushed back exposing the tip; the friction of the coitus gradually excites these nerve endings until the peak or climax of nerve excitation is reached, which is called orgasm, when emission occurs by the sperm fluid being strongly expelled into the female receptacle or vagina. Thereupon the penis returns to its quiescent or flaccid state.

γ) The internal reproductive organs include the seminal vesicles with vasa deferentia, prostate gland, Cowper's glands. The seminal vesicles are two small pouch-like organs situated near the upper sides of the bladder where the ureters from the kidneys join it. They generally act as reservoirs for the sperm cells which are continually produced in the testicles. These cells are transmitted to the vesicles through the groin, i.e., from the scrotal sack into the pelvic cavity, by means of seminal ducts or tiny tubes, called vasa deferentia. The seminal vesicles themselves are attached to the outer side of each vas deferens in forming the ejaculatory duct and secrete a seminal fluid which mixes with the sperm cells before going into the prostate gland.

δ) The prostate gland, chestnut-like in form, situated at the neck of the bladder, surrounds the urethra, i.e., the bladder outlet or central canal through which both urine and semen pass on their way outside the body. It secretes a fluid apt for carrying or giving mobility to the spermatozoa stored in the vesicles. The Cowper's glands are two small, rounded, lobulated bodies of the size of peas, situated at the urethra, which secrete a clear alkaline fluid that, after erection, cleanses the urethral tube of any acidity left by the passage of urine. This precoital fluid lubricates the canal and exudes in drops from the tip of the penis, acting also as a lubricant in coition. At the moment of orgasm both seminal vesicles and prostate expel their contents into the urethra in spurts. This seminal fluid or semen is a mixture of the consistency of the white of eggs.

93. — II. - *female reproductive organism.*

α) The external organs or those which can be easily discerned are the vulva, labia, clitoris, hymen. The vulva or genitals is a mouth-like organ with thick and fleshy outer lips or folds, usually in apposition, called the labia maiora, about three inches in length. The vulva forms a triangle with the point or apex to the back and the base at the front of the body, which base is covered with hair rooted in a fatty cushion called mons veneris. The vulva is closed or slightly open, soft and flabby except during intercourse when the blood gathering in the spongy tissues gradually swells

them and makes them firm. Beneath the labia maiora are the labia minora which are two thinner, hairless and more sensitive lips or folds parallel to the former. While separated at the bottom they are joined at the top in a V-shape to form a kind of hood for the clitoris and enclose and protect the entrance to the vagina (also called introitus or vaginal orifice) and the urinary canal.

ξ) The clitoris is a small organ in the shape of a bean, frequently about one fifth of an inch across the tip. It is a kind of stub penis, since it bears a resemblance to the male penis and is constructed in a similar fashion though minus the urinary canal. Its role is highly important in producing the female orgasm. Beneath the labia are two openings into the body—the urinary orifice (meatus) or small upper one, and the vagina or large lower one which is often partially sealed by the hymen or maidenhead, a membrane perforated to allow passage of the menstrual flow. Although the hymen is usually ruptured in the first marital act, many other natural or accidental factors may cause this.

γ) The vagina, where the penis deposits its seminal fluid, is a tube-like organ of four to six inches in length lying along an uphill line thirty degrees above the horizontal and extending to the opening or neck of the uterus. Normally the vaginal walls are in a collapsed condition touching each other but they are capable of great distension. Sexual stimulation causes the vulvo-vaginal glands underneath the labia maiora to exude their secretion into the groove between the edge of the hymen and the labia minora to serve as the needed lubricant for coition.

ζ) The uterus or womb is the organ of gestation of the living fetus. Its tip or neck (cervix uteri) projects downward about one-half inch into the vagina at its far end, with a very small canal, about one eighth of an inch in diameter, in its center as the outlet for the uterus and the entrance for the sperm cells. Resembling a flattened pear in shape the body of the uterus lies upward from the vagina and normally tilts slightly forward toward the bladder (thus the uterus in a person in a standing position normally lies horizontal or level with the floor). In itself a very small organ (three inches long, two inches at its widest, one inch thick), it is capable of enormous growth during the period of pregnancy. Its mucous lining is destined to lodge and nourish the fertilized ovum until maturity and to account for the menstrual cycle. When the fetus is fully formed after normally nine months, it is forced down into the vagina and thence expelled.²⁸³

ε) At the wide part of the uterus are the fallopian tubes, one at each side, which act as passageways into the uterus for the ova or egg cells which have matured in and been discharged by the ovaries. These tubes, four or five and one-half inches long, terminate in large fringe-like structures that pick up the ova floating in the pelvic cavity. An ovum is a tiny

cell, about one tenth of an inch in size, built like an egg with white, yolk, nucleus and thin shell; it takes three to four days to reach the uterus. In its journey it may be met and fertilized by one (and only one) of the hordes of sperm cells in opposite transit. The ovaries, a few inches from the uterus, one on each side, and behind and below the fallopian tubes, are oval-shaped organs, which are attached to the uterus by rope-like appendages. They are packed with a large supply of ova or egg cells which begin to mature at puberty and rather regularly thereafter during adult life until the menopause or period of change of life.

ζ) Each ovary normally releases a mature ovum every other lunar month, about fifteen days before the commencement of the menstrual flow. If the ovum is not fertilized it will disintegrate and pass out with the next menstruation. The ovaries also act as glands for an internal secretion which contains the female hormones that help to regulate the development of the peculiarly female characteristics.

94. - III. - *impotency and sterility.*

α) The human action as such is the only action over which the human individual has control and thus responsibility, and consequently the only action which can be made the object of the marital contract. In the process which leads to generation of offspring in marriage the specifically human act is the conjugal act. True conjugal intercourse and thus consummation of the marriage consists in the penetration of the female vagina by the male penis with insemination in the vagina with true seed. It is required and suffices that "a man in some fashion, even though imperfectly, penetrates the vagina and immediately effects, in a natural manner, a semination, at least partial, within the vagina, with this reservation that the entire male organ need not enter the vagina."²⁸⁴ Thus, those things which pertain to copulation alone are within the control of the individual and not the subsequent acts solely of nature itself. For this reason the parties in marriage mutually transfer the rights to those acts which of themselves are apt for generation; the action of nature itself in the process of generation or procreation is neither included nor excluded. The impediment of impotency is therefore the inability to copulate (*impotentia copulandi*).

ε) Anything which is extraneous or accidental to copulation itself and which frustrates the passage of the seed or generation is a lack of fertility or sterility (*impotentia generandi*). It is a failure in some phase of the natural process of the physiological functions that operate independently of the human will and control, e.g., the movement of the semen within the female organism, the descent of the ovum, the fecundation of the same, the fertility of the male sperm itself. Thus the inability of nature itself to accomplish its purpose where copulation is not impeded is the defect of sterility and not of impotency.

95. — b) *types of impotency.*

i. - *as to time*: impotency may be *antecedent*, if it existed prior to or at the time of the marriage contract; *subsequent*, if it arose after a valid and indissoluble contract was entered into.

ii. - *as to extent*: it may be *absolute*, i.e., extending to marriage with any person; *relative*, i.e., limited only to marriage between particular individuals and not others.

iii. - *as to origin*: impotency is *natural*, if it is from nature or has existed from birth; *artificial* or *accidental*, if it has been acquired from an accidental cause, such as surgery, disease, accident.

iv. - *as to certainty*: it is *certain*, if its existence or presence can be certified or proven with at least moral certainty; otherwise it is *doubtful*.

v. - *as to duration*: impotency is *temporary*, if it will cease in time or can be overcome by human effort, e.g., surgery; *perpetual*, if in the prudent judgment of experts it will never cease or if it cannot be cured without danger to life or be removed by lawful means. Perpetuity is usually unlikely in cases of functional impotence.

vi. - *as to cause*: impotency is *organic*, mechanical or anatomical, if it arises from an anatomical defect in the genital organs themselves, when either the organs are lacking or are inept for perfect copulation; it is *functional*, when due to some lack of stimulation preventing normal functioning, or due to some organic defect or abnormality in another part of the body or to some disease of the nervous system, or due to some psychological cause arising from the purely mental or psychological makeup of the person, e.g., homo-sexuality, eiaculatio praecox, vaginism.

96. — c) *canonical impediment.*

i. - By the natural law itself a marriage is rendered invalid by *antecedent* and *perpetual* impotency on the part of either the man or the woman, whether known to the other party or not, whether it is absolute or not. If the impediment of impotency is doubtful because of either a doubt of law or a doubt of fact, the marriage is not to be hindered. Sterility neither invalidates marriage nor renders it unlawful.²⁸⁵

ii. - There must be real and true impotency which is both antecedent and perpetual and which must be proved with moral certainty. The presumption is in favor of the power to copulate until the contrary is proved. It is difficult to prove antecedent and perpetual impotency, especially if arising from a psychic cause. It is not necessary that it actually existed or was evident before marriage but that the proximate causes of the impediment existed then and thus it was virtually antecedent.

iii. - Impotency is judged to be present in a man in the following instances: absence or ineptness of the male organ or penis, its inability to erect at least sufficiently to allow proper penetration of the vagina

(sexual anesthesia), lack of both testicles, excessive venereal excitement resulting in an uncontrollable loss of seed before penetration can take place (sexual aphrodisia or *ejaculatio praecox*), absence of true seed which has been elaborated in at least one exstant and vital testicle (mere apposition of both genital organs with semination at the orifice of the vagina is not apt of itself for generation). All agree that the presence of spermatozoa in the ejaculate is not necessary for true semen. However, it is controverted whether it is necessary that the seed be elaborated in the testicles (at least one). The majority view affirms this requirement and thus the man who has undergone double or bilateral vasectomy is impotent. Others, denying the requirement of a testical component in the ejaculate, hold that the doubly vasectomized man is not certainly impotent and thus not impeded from contracting marriage. Double vasectomy signifies the excision or ligation of the vasa deferentia, thus precluding the transit of fluid from the testicles. The condition is perpetual if at the same time irremediable. The Roman Rota has consistently held that a man is impotent and thus incapable of marriage, if he is incapable of producing true semen elaborated in the testicles.²⁸⁶ Therefore, although recognizing the controversy and the opinion that this is a case of doubtful impotency, in practice the priest will always consult the local Ordinary before petitioning a declaration of nullity or at least a dissolution of an unconsummated marriage, when prudent judgment indicates a valid doubt about the application of the impediment.

iv. - In the following cases impotency is considered to exist in a woman: absence of a vagina, impenetrability of the vagina due to narrowness or to vaginism—which is the spastic contractions of the muscles surrounding the opening of the vagina and rendering penetration impossible; this functional impediment has a psychic origin and is usually not permanent. On the other hand, the occlusion or retroversion of the uterus or its absence (hysterectomy) which leaves the vagina perfectly intact,²⁸⁷ the severance or ligation of both fallopian tubes (fallectomy) or their radiation (oophorectomy), the removal of both ovaries (ovariotomy) cause sterility but not impotency, since it is accepted in practice that they do not pertain to the act of copulation. Controversy prevails in the case of a woman with an artificially constructed vagina, especially if it is open at the inner end to the uterus, as to the existence of the impediment of impotency. In this case, as above with double vasectomy, the pastor will consult the local Ordinary before making any petition, and also before approving of any vaginal surgery before marriage.

97. - *d) obligations.*

1. - The pastor or confessor does not normally inquire about impotency. If he becomes aware of it and the parties are in good faith, he should not immediately warn them, since it is usually very difficult to separate and material sins may become formal ones. A dispensation from at least

an unconsummated marriage will be petitioned (if there is a doubt of the fact of the impotency being antecedent or perpetual and irreparable). Only in a rare and exceptional case will an arrangement to live as brother and sister be admitted. When certain and antecedent impotency is discovered after marriage the parties lose all right to the marital act; they may exercise their right until the impediment becomes certain or nullity declared. A woman must submit to surgery to remedy an impediment, if the operation is relatively easy and ordinary, but not if it is truly dangerous. Separation is not urged as long as there is reasonable hope of substantial fulfilment of the marital act; if there is no hope, acts are permissible which do not expose either part to the proximate danger of pollution. A sterile party is bound to reveal this defect to the other partner, whether the defect is discovered before or after marriage is celebrated; also in the case of subsequent impotency.

ii. - Medical science and civil law are not always in accord with canon law regarding the definition of impotency and the consideration of cases. In all but Connecticut, Louisiana and South Carolina, impotency is grounds for annulment or divorce (but not double vasectomy). Concealment of sterility is often treated as impotency, but knowledge by the innocent party of the other's defect often precludes judicial action.

98. — 3. - *Marriage bond.*

a) *impediment.*

i. - One who is bound by the bond of a previous marriage, even though it was not consummated, attempts marriage invalidly, without prejudice, however, to the privilege of the faith. Even though the former marriage is invalid or dissolved for any reason, it is not therefore allowed to contract another marriage before nullity or dissolution of the previous one has been established in accordance with the law and with certainty.²⁸⁸ This impediment of *ligamen* is a diriment impediment of the natural and divine law, and thus binds all without exception.²⁸⁹ The exception of the privilege of the faith refers to the Pauline privilege whereby the previous valid bond is dissolved at the moment the second is contracted and not before.²⁹⁰

b) *conditions.*

i. - The freedom of a party from a previously existing bond of marriage, even though certainly known to be invalid, must be canonically certified.²⁹¹ This applies also to revalidation. Where the previous spouse is deceased, the death must be proved by authentic document.²⁹² The testimony of the surviving spouse is of no value. The authentic death certificate (normally from the pastor of the place of burial) should be compared with the certificate of the first marriage to insure that the same party is involved and that there is no prohibited degree of consanguinity. Mere lapse of time and the presumptions of civil law (or of military

authorities or an insurance company, etc.) are canonically insufficient proofs, unless other evidence and indications, in the judgment of the local Ordinary, warrant a declaration of freedom.

ii. - Whenever it is discovered that a party has at any time possessed marital status, even only civilly, and the death of the previous spouse is not authentically certified, the case must be referred to the local Ordinary, who will proceed according to the norms of the Instruction of the Holy Office.²⁹³ Petition for a declaration of freedom or decree of nullity should be made according to the forms or procedures required in the diocese, with the collection of baptismal certificates pertaining to the previous marriage, impediments dispensed, divorce decrees, record of convalidation or affidavit of non-convalidation, marriage certificates, affidavits of the three parties in the two marriages. Where the previous bond has been dissolved by papal dissolution (or solemn profession), the authentic document to this effect must be obtained, or the certification on the baptismal certificate. A second marriage or convalidation cannot be allowed until there is moral certainty of the absence or the removal of the impediment of ligamen, as well as assurance of the non-convalidation of the union. Investigation of the possible existence of the impediment of crime must always be made and dispensation secured *ad cautelam*.

iii. - The impediment of ligamen may also be present in the case of a common law marriage. From the viewpoint of the Church this type of informal marriage implies that two parties—neither of whom are bound to the canonical form of marriage—have exchanged true marital consent effective of a valid marriage according to the natural law, but without any religious or civil ceremony. Civil law in some states and U.S. jurisdictions recognize common law marriages as valid, but not in others. When both parties to the union are unbaptized, the validity or invalidity will be regulated by the law of the particular state. If at least one party is validly baptized (as a non-Catholic), the local Ordinary must decide on the validity of the common law union, regardless of the attitude of the civil law. A common law marriage of baptized non-Catholics enjoys the presumption of validity. In common law marriage in general, the assumption of marital status as indicative of true marital consent is presumed, until proven otherwise when the parties themselves live as man and wife, are publicly considered as married, perform public acts as a married couple, e.g., joint bank account or income tax return, registration for voting, housing, etc.

c) *obligation*. If it becomes morally certain during the second marriage that the first spouse is still alive, the second marriage is invalid, but the children are considered legitimate inasmuch as they are born of a putative marriage. A doubt about the death of the first spouse arising after the second marriage must be carefully investigated. Meanwhile the doubting party, being a possessor in bad faith, must refrain from request-

ing the debt but may render it. If both parties are in doubt, both must abstain. If the existence of the first spouse becomes certain, the parties must separate from bed and also from cohabitation, if the case is public. If the doubt persists after careful investigation, the present partners are considered to be possessors in good faith and thus may continue fully as spouses in a presumed valid marriage,²⁹⁴ until the second marriage is declared null by an ecclesiastical tribunal because of a positive and insoluble doubt of the validity of the first marriage,²⁹⁵ or until the existence of the first partner becomes certain.

d) *penalties*. Bigamists, i.e., those who attempt marriage while bound by a previous bond become automatically infamous, public sinners and irregular, subject to the impediment of crime and of the excommunication of the Third Council of Baltimore.²⁹⁶

99. - 4. - *Disparity of worship*.

a) *impediment*.

i. - A marriage contracted by a non-baptized party with a person who has been baptized in the Catholic Church or converted to it from heresy or schism, is null. If at the time the marriage was contracted the person was commonly considered to be baptized or if his baptism was doubtful, the marriage is to be regarded as valid according to the norm of c. 1014, until it is certainly established that one of the parties was baptized and the other unbaptized.²⁹⁷

ii. - No baptized has a right to marry an unbaptized party. The divine law itself prohibits (but does not invalidate) such a union when there is any danger of perversion to the spouse or offspring; from this law there is no dispensation. The impediment of ecclesiastical law is diriment, nullifying a marriage, whether the danger of perversion is present or not; lacking the danger, the impediment is dispensable.

b) *conditions*.

i. - One of the parties must be unbaptized. The other party must be baptized in the Catholic Church. Although in reality everyone is baptized in the Catholic Church, the impediment is drawn in the present law in a restricted sense. It binds only those whose baptism (or conversion) binds them or aggregates them to the external communion of the Catholic Church, as acknowledged members of the Catholic Church. This is determined in an adult baptism by his own intention, in an infant baptism by the intention of the parents or guardians or the minister in lieu of either (a Catholic baptizes an infant in danger of death in the Catholic Church, even against the wishes of the parents). Thus, the impediment does not bind validly baptized Protestants who remain unconverted to the Catholic Church when marrying the unbaptized. On the other hand, non-Catholic or Dissident (Orthodox) Orientals are bound by this impedi-

ment.²⁹⁸ Likewise bound were those who were born of non-Catholic parents but baptized in the Catholic Church and raised outside the Church, although they formerly were not bound by the canonical form of marriage.²⁹⁹ An infant of non-Catholic parents, who is baptized by a Catholic priest or layman contrary to the law³⁰⁰ outside the danger of death and educated outside the Church, is probably not bound, but the local Ordinary should be consulted in practice.

ii. - If there is doubt of the baptism of the non-Catholic party in the case of a marriage about to be contracted, a dispensation from the impediment should be sought *ad cautelam*. (A doubtfully baptized Catholic should be rebaptized conditionally). If in the case of a marriage already contracted a doubt should arise over the baptism of one or of both parties, the marriage must be *presumed* to be valid until the contrary can be proved and the certainty of non-baptism established. In judging marriage cases certain presumptions of the validity of baptism in non-Catholic sects prevail, until a particular case establishes the contrary.³⁰¹

iii. - The requirements of just and grave reasons for seeking a dispensation, the obtaining of sincere promises or guarantees and the moral certainty of their fulfilment, and the prohibition of any other marriage ceremony must be strictly observed, as in the impediment of mixed religion.³⁰²

c) *dispensation*. The local Ordinary by his quinquennial faculties may dispense from the impediment of disparity of worship, except in the case of a Mohammedan.³⁰³ In this latter case the Apostolic Delegate is competent to dispense. A dispensation from this impediment does not imply a dispensation from any other.³⁰⁴ Lack of true canonical cause, failure to make the guarantees or defect of the sincerity, or the absence of moral certainty of their fulfilment render the dispensation invalid and thus the marital contract invalid. The liturgical rite of marriage is the same as in the case of mixed religion.

100. - 5. - Sacred orders.

a) *impediment*. Clerics in sacred orders attempt marriage invalidly.³⁰⁵ Sacred orders in the Latin Church are subdiaconate, diaconate and priesthood (with episcopacy).³⁰⁶ The impediment is of ecclesiastical origin. The ordination must be valid and free; ignorance, force and fear would be difficult to prove juridically today because of the oath taken before subdiaconate.³⁰⁷ Valid marriage contracted by clerics in minor orders thereupon reduces them to the lay state.³⁰⁸

b) *dispensation*. In ordinary cases the Holy See alone dispenses from this perpetual impediment. It is the present practice to grant dispensation from subdiaconate and diaconate for sufficient cause; it is not granted for the priesthood.³⁰⁹ In danger of death or of urgency any priest may dispense from this impediment, except in the case of the priesthood.³¹⁰

c) *penalties*. A cleric in sacred orders (and his accomplice) incurs an excommunication simply reserved to the Holy See for attempting marriage, even civilly; he is irregular *ex delicto* and is liable to further penalties after warning with failure to amend.³¹¹ If he is a religious he is automatically dismissed from the institute, suspended and deprived of clerical garb.³¹²

101. – 6. - Solemn vows.

a) *impediment*. Marriage is invalidly attempted by religious who have taken solemn vows or simple vows to which by a special provision of the Holy See the effect of invalidating marriage has been added.³¹³ The solemn vow must be actually and validly taken. If one party is a cleric in sacred orders, the impediment is twofold and multiple if both parties have solemn vows.

b) *dispensation*.

i. - The impediment is of ecclesiastical law and in ordinary cases is dispensed by the Holy See alone.³¹⁴ In danger of death or of urgency any priest may dispense.³¹⁵ A religious automatically dismissed from the religious institute for attempting marriage, even civilly, is not freed from his vows, unless the particular constitutions or the Holy See provide otherwise.³¹⁶ In this latter case, since the vows have ceased to have their effect, the impediment does not exist and no dispensation is required to contract marriage.

ii. - An indult of secularization permits perpetual residence outside the cloister and separates the religious from his institute. He must lay aside the habit and conduct himself as a secular in all that concerns Mass, the divine office, the use and administration of the sacraments. He is freed from his vows but is bound by such major orders as may have been received.³¹⁷ An indult of laicization, a step beyond secularization, reduces the religious to the lay state. In the case of a priest reduced to the lay state, the indult specifies "*firma lege coelibatus*" and sometimes also "*sine spe readmissionis ad statum clericalem*."³¹⁸

c) *penalties*. A religious (of either sex) with a solemn vow of chastity (and the accomplice) who attempted marriage, even civilly, incurs an automatic excommunication simply reserved to the Holy See. He is irregular *ex delicto*, automatically dismissed from the Order, and liable to further penalties.³¹⁹

102. – 7. - Abduction (*raptus*).

a) *impediment*. Marriage is invalidly contracted between an abducted woman and a man who has abducted her with a view to marriage as long as she remains in his power. But if the abducted woman, withdrawn from the power of the man who abducted her and established in a place where she is secure and free, consents to have him as a husband, the impediment

ceases. With respect to the invalidity of marriage the violent detention of the woman is considered equivalent to abduction, that is, her violent detention by the man for the purpose of marriage in a place where she dwells or to which she has freely come.³²⁰

b) *conditions.*

i. - For the impediment to be present it must be a woman who is abducted or kidnapped; the man purposing to marry her must abduct her himself or through an agent acting under his orders; the abduction must be precisely for the purpose of marriage; the abductor must remove the woman from one place to another which is morally distinct, even though close by; the abductor must use violence, either physical force or threats or fraud and deceit; the woman must not have consented to the abduction or at least to its purpose of marriage; the woman must be under the power of the abductor in the place where she is taken. For the impediment to be present in the case of violent retention (*sequestratio*) of the woman all the above conditions must be verified, with the exception of removal to another place. The impediment binds only the baptized and it suffices that one party is baptized.

ii. - The above conditions establish the matrimonial *impediment* of abduction, which should not be confused with the *crime* of abduction. This latter is of wider scope, including the kidnapping of a woman for lustful purposes and the elopement with or seduction of a girl who is still a minor who consents to her removal unknown to or against the will of her parents or guardians.³²¹ Abduction or kidnapping is also a crime in civil law but not an impediment to marriage.

c) *dispensation.* Abduction is an impediment of ecclesiastical law. Dispensation is not granted as long as the woman is in the power of the abductor. Where there has been an incidence of abduction, the pastor should not assist at the marriage even if the woman now actually free and safe from duress consents to marry her abductor (in which case the impediment ceases). The Apostolic Delegate is competent to dispense.

d) *penalties.* The crime of abduction automatically excludes the delinquent from legitimate ecclesiastical acts and makes him liable to further penalties.³²²

103. — 8. - *Crime.* - Marriage between persons who by complicity have perpetrated certain nefarious crimes is forbidden by ecclesiastical law under pain of invalidity. The parties become incapable and disqualified. The crime may be one of a threefold species (or fourfold, as the first species has two formalities).

a) *impediment.*

i. - *Adultery with promise of marriage (neutro patrante homicidio).* Persons who, during the existence of the same lawful marriage, have con-

summated adultery together and have mutually promised each other to marry.³²³ The adultery must be true in that at least one of the parties is validly and really married, consummated by natural carnal intercourse, formally recognized by both parties as adultery inasmuch as they know that at least one party is validly married. The promise itself must be true and not merely a proposal or desire, serious, free from duress or deceit, absolute and not conditional, with the object of entering into marriage *after* the death of the other spouse³²⁴ with the existence of the valid marriage known to be impeding the fulfilment of the promise, reciprocally made and accepted, externally manifested and not revoked before committing the adultery if it precedes the latter. The adultery and promise must be before the valid marriage which they violate ceases to exist. This crime is an impediment even if only one of the parties to it is baptized.

II. - *Adultery with attempt of marriage (neutro patrante homicidio)*. Those who, during the existence of the same lawful marriage, have consummated adultery together and have attempted marriage, even civilly.³²⁵ The adultery must be characterized as above. The attempt at marriage (even civil marriage) may take place before or after the adultery, but during the existence of the valid marriage; it produces the same effects as a promise of marriage. Marital consent (although ineffectual, and inasmuch as the attempt was not withdrawn before the adultery) must be present and mutually expressed, together with mutual knowledge of the existing bond (which knowledge may come to one party later and yet the adulterous union is continued). A person validly married who subsequently divorces and remarries while still bound by the first marriage, consummating the second union, incurs this impediment, as well as the second partner who is aware of the situation. Although some hold that a belief in good faith by one party that the first marriage bond is severed by divorce and thus that adultery is not formally present removes the grounds for the impediment,³²⁶ in practice dispensation from the impediment is sought *ad cautelam*. The other elements noted in the first species pertain also here.

III. - *Adultery and conjugicide without conspiracy (uno patrante homicidio)*. Those who, likewise during the existence of the same lawful marriage, have consummated adultery together, and one of whom has killed the lawful spouse.³²⁷ The adultery requires the same conditions as above. The conjugicide is committed by only one of the adulterers, even against the will of the other: it must be consummated in that the death of the lawful spouse actually follows the placing of the cause of death, and follows also the commission of the adultery, the murder of the lawful spouse (of either adulterous partner) being committed with intention of marriage with the adulterous partner. In this species of crime only the

baptized party who has committed adultery and conjugicide incurs the impediment; if the adulterous murderer is the unbaptized party, neither party incurs the impediment.

iv. - *Conjugicide with conspiracy (utroque patrante homicidio)*. Those who, even without committing adultery, have by mutual cooperation, physical or moral, brought about the death of the lawful spouse.³²⁸ Adultery is not required. There must be true cooperation³²⁹ of both parties in the killing of the lawful spouse of either, which efficaciously results from their conspiratorial action, with the added intention (at least on the part of one conspirator) of marrying each other subsequently.

b) *multiplicity*. The impediment of crime may be multiplied when several species are verified in one and the same marriage or when more than one marriage is injured by the crime. Probably adultery with a promise and an attempt at marriage also is only one impediment in the one case, as is also the repetition of the promise or of the adultery or of the attempt. Thus multiple crime exists when both parties are mutually known to be married in the case of adultery, of conjugicide, and when both lawful spouses are murdered. It suffices to explain the circumstances of the case in seeking a dispensation rather than enumerate the number of species—which may not be so obvious.

c) *dispensation*.

i. - This impediment does not cease with the lapse of time. Crime in the absence of conjugicide is a minor impediment and is dispensable by the local Ordinary. He may also dispense in an *occult* case of adultery and conjugicide without conspiracy. The Apostolic Delegate is competent to dispense in a case involving conjugicide; however, when the latter is public, the Church in practice does not dispense. All species of the impediment are dispensable in danger of death and of urgency.³³⁰

ii. - Permission for a new marriage granted with a dispensation from the impediment of ligamen in the presumed death of a spouse includes a dispensation from the minor impediment of crime, as also when the Holy See dissolves an unconsummated sacramental marriage.³³¹ It is necessary that pastors and confessors be vigilant in discerning the presence of crime, either public or occult, in their investigations or considerations of marriage cases. Conjugicide is a diriment impediment of civil law only in Puerto Rico.

104. - 9. - *Consanguinity*.

a) *notion*.

i. - *Consanguinity (cum-sanguine-unitas)* or blood relationship, is a natural moral bond or relation between persons which is based on generation (legitimate or illegitimate, full-blood or half-blood) and which

unites them in blood. Consanguinity exists in the *direct* line if one of the persons is the ancestor or progenitor of the other, in the *collateral* or indirect and oblique line if neither person is the direct ancestor of the other but both are descended from a common ancestor or progenitor. Consanguinity is *simple* if two persons descend in one line only from the common ancestor, *multiple* if in more than one line or if there are several common ancestors. Consanguinity is multiplied as often as the proximate common ancestor is multiplied. More remote common ancestors multiply consanguinity only when they are reached by the parties by distinct lines.

II. - An *ancestor* in blood relationship is the person—male or female—from whom as from a common stock (*stipes*) or root (*stirps*) two or more persons descent through carnal generation. A *line* (*linea*) is the series of persons who spring from the same ancestor, either directly or collaterally. The *direct* line is *ascending* if the order of blood relatives are counted back to the common ancestor, e.g., son to father to grandfather, etc.; it is *descending* if the reverse order of computation is used, e.g., father to son to grandson, etc. The *collateral* line is *equal* when the blood relatives are equidistant from the common stock, otherwise it is *unequal*. When both parents in the common stock are the same progenitors there is only one line; when only one parent is common—in half-blood relationship—each parent must be considered separately in computing lines of relationship, when the respective descendants wish to intermarry.

III. - A *degree* (*gradus*) is the measure of distance between blood relatives and their common ancestor. These degrees are computed in the *direct* line according to the number of generations or according to the number of persons in the line without counting the common ancestor. In the *collateral* line they are computed according to the number of generations in one branch (or according to the number of persons in the line without counting the common ancestor) if the branches are *equal*, but in the longer branch if the two are unequal. The unequal collateral line is expressed by "second degree touching first," "second degree mixed with first," or as the degree of relationship requires. Thus, the collateral branch more distant from the common ancestor determines the degree of relationship, the longer line as it were drawing over to it the shorter line. The presence or absence of the canonical impediment in this case is determined by the more remote degree or longer line.

IV. - It should be noted that the terms denoting blood relationship in common language usage do not always correspond with the canonical terminology respecting the same degree of relationship. Examples of genealogical tables and the designations of relationships are given below.

b) *impediment*.

I. - In the *direct* line of consanguinity marriage is invalid between all the ancestors and descendants, legitimate or not. In the *collateral* line it

is invalid up to the *third* degree inclusively, but the impediment is *multiplied* only as often as the common ancestor is multiplied. Marriage is never to be permitted as long as there remains any doubt that the parties may be related by blood in any degree of the direct line or in the first degree of the collateral line.³³² If one line goes beyond the third degree collateral, the impediment ceases, e.g., fourth degree touching third—a man may marry his second cousin-once-removed or his third cousin. Baptized non-Catholics are bound by this impediment. The purpose of the prohibition is to preserve the reverence which blood relatives owe each other, the good of society, moral good, and the physical good of the offspring.³³³

II. - Because of the differences in the laws establishing the impediment of consanguinity in the Latin and Oriental Codes, it is necessary in inter-racial marriages to know also the impediment as it binds the Oriental party.³³⁴ In the direct line marriage is invalid between all ancestors and descendants, legitimate or not. In the collateral line it is invalid up to the sixth degree inclusively, but the impediment is multiplied as the common ancestor is multiplied. Marriage is never to be permitted while there exists any doubt of blood relationship in any degree of the direct line or in the second degree of the collateral line. In the direct line the degrees are computed according to the number of persons in the line without counting the common ancestor. In the collateral line there are as many degrees as there are persons in *both* branches without counting the common ancestor. By this computation the sixth degree collateral, when the branches are equal, is the same as the third degree collateral of the Latin impediment (second cousins). When the collateral branches are unequal, the "fourth degree collateral touching on second" as expressed according to Oriental computation is an impediment to marriage, whereas the same expression according to Latin computation is not.

c) *dispensation*.

I. - Consanguinity is an impediment of divine and natural law in the direct line certainly to the first degree and probably to the other degrees, in the collateral line probably to the first degree. It is certainly of ecclesiastical law in the other collateral degrees. The unbaptized are bound only by the divine and natural law, and by just civil law; upon the conversion of a married party the marriage stands as valid, unless the impediment is certain.³³⁵

II. - Dispensation in the direct line in any degree is never granted; likewise in the first degree collateral. The local Ordinary by his quinquennial faculty for a just and reasonable cause may dispense from the third degree collateral (a minor impediment), and for a grave and urgent reason as often as there is danger in delay and the marriage cannot be put off until dispensation is obtained from the Holy See from the second or third degree touching first (a man with his niece or grandniece) or

from the second degree collateral (first cousins). In other cases and under ordinary conditions the Apostolic Delegate is competent to dispense. In danger of death and in a case of urgency the degrees which are certainly of ecclesiastical law may be dispensed.³³⁸ It should be noted that the civil law regarding consanguinity as an impediment in each State should be kept in mind.

iii. - A *genealogical tree* should accompany every petition for dispensation from consanguinity.³³⁷ A clear statement of the existing relationship which is an impediment to marriage should be made, in the complete manner as exemplified in the figures below. When a dispensation from the impediment of consanguinity or affinity is granted in any degree of the respective impediment, it is valid in spite of an error regarding the degree made in the petition or in the rescript granting the dispensation, provided that the actual degree is less close than the one specified, and in spite of the failure to mention another impediment of the same kind in the same or a less close degree.³³⁸ Thus, a mistake whereby a dispensation is requested or granted for a second degree collateral whereas the actual degree is third does not invalidate the dispensation, even if another third or second degree equal or unequal is actually present.

d) *penalties*. Those who attempt and consummate marriage within the forbidden degrees of blood relationship without a dispensation are guilty of the crime of incest. They are automatically infamous, excluded from legitimate ecclesiastical acts and liable to further penalties.³³⁹ Clerics are punished with more severe penalties.³⁴⁰

e) See figures A, B, C, D, E, F, and G on insert.

105. - 10. - Affinity.

a) *notion*.

i. - Affinity or in-law-ship is a relationship arising from a *valid* marriage between two persons whereby each party is related to the blood relatives of the other.³⁴¹ It is a natural *fact* and thus is contracted by the valid marriage of the unbaptized, although it becomes an *impediment* only for the baptized. Affinity arises from a valid marriage, whether ratified only or ratified and consummated,³⁴² which must now be understood to refer not only to a sacramental union, but also to *any* valid marriage, whether consummated or not; this natural relationship only becomes also an impediment where at least one party is baptized or becomes baptized.³⁴³ Thus the natural foundation or fact of affinity may be placed before or after the reception of baptism, but the new marriage to which it is an impediment must take place after the baptism of at least one of the parties.

ii. - Affinity is computed in such wise that the blood (even half-blood) relatives of the husband are related by affinity to the wife in the same

line and degree as they are related by consanguinity to him, and vice versa.³⁴⁴ By this reckoning, a man is related in the direct line to his mother-in-law, grandmother-in-law, etc., and to his step-daughter, step-grand-daughter (i.e., any children of his wife by a previous marriage), and to his daughter-in-law and grand-daughter-in-law, step-parent or step-grand-parent. In the collateral line he is related to the wives of his brothers, uncles, granduncles or great-uncles, nephews and grandnephews, cousins, and to similar relatives of his own wife.

b) *impediment*.

i. - Affinity in the direct line in any degree invalidates marriage; in the collateral line, to the second degree inclusively. The impediment of affinity is multiplied: 1) as often as the impediment on which it is based is multiplied; 2) through a subsequent marriage with a blood relative of one's deceased spouse.³⁴⁵ Persons who are related by affinity to a third person are not, however, related thereby by affinity to each other, e.g., a man's brother's wife is not related by affinity to the same man's sister's husband. The purpose of the impediment is to lessen a danger to chastity, to foster mutual reverence among in-laws, and to embrace others in a wider range of charity and friendship through marriage.

ii. - For Orientals the common law of affinity places an impediment of affinity arising from a valid marriage, whether consummated or not, in all degrees of the direct line and to the fourth degree inclusively of the collateral line.³⁴⁶ Since the Oriental computation is followed, this impediment (and its multiplication) parallels that of the Latin Code. The Oriental Code also sanctions two particular laws regarding affinity where they are operative, namely, an impediment of affinity existing between blood relatives of one spouse and blood relatives of the other spouse, to the fourth degree inclusively (computed by totaling together the degrees of consanguinity on each side); likewise, when two persons successively are married to the same third person and when two persons are successively married to two persons who were blood relatives, to the first degree (unmultiplied).

c) *dispensation*. Affinity as an impediment is of ecclesiastical law; it is a permanent impediment and ceases only by dispensation. Affinity in the direct line, especially when the marriage has been consummated, is most rarely dispensed; the Apostolic Delegate may dispense in the case of a non-consummated marriage. By their quinquennial faculties local Ordinaries for grave and urgent reasons, when there is danger in delay and postponement until the Holy See acts, may dispense from affinity in the first degree collateral, either simple or touching on second. By the same token, for a just and reasonable cause they may dispense from the second degree collateral, which is a minor impediment.³⁴⁷ The emergency faculties of

dispensation from matrimonial impediments in cases of danger of death and of urgency excludes dispensation from affinity in the direct line when the marriage has been consummated.³⁴⁸

d) *penalties*. Those who attempt marriage while bound by the impediment of affinity are liable to the penalties for incest.³⁴⁹ Civil laws vary in the degree in which affinity is established as an impediment, with consequent penalties for incest.

106. – 11. - *Public propriety. (honestas publica)*

a) *impediment*.

i. - The impediment of public propriety (decency) arises from an *invalid* marriage, whether consummated or not, and from public or notorious concubinage; it invalidates marriage in the first and second degrees of the direct line between the husband and the blood relatives of his wife and vice versa.³⁵⁰

ii. - One foundation for the impediment is an invalid marriage, due to lack of true consent, defect of form or diriment impediment. It makes no difference whether consummation took place or whether the union was entered into in good or bad faith (thus a putative marriage incurs the impediment), as long as there is at least an appearance of marriage, an apparent contract. When at least one party is bound by the canonical form of marriage, an attempt at a purely civil marriage, independent of cohabitation, has not even the appearance of marriage, and consequently does not incur the impediment.³⁵¹ Usually public or notorious concubinage accompanies this civil act (or a marriage attempted before a non-Catholic minister), and thus the impediment is incurred.

iii. - Concubinage is a *modus vivendi* or relationship between a man and a woman which has a certain semblance of marital life. The parties cohabit as man and wife in sexual intercourse, without necessarily dwelling in the same abode or without necessarily involving financial arrangements, and even though the woman is already married. There must be a certain unity and continuance or permanence in the carnal relations of the man and the same woman, so that a condition of acceptance of the state of relationship exists or an understanding perdures between them to live in an apparently marital fashion. This stability or understanding is thus lacking in the approach to a prostitute or in the frequency of fornication, even with the same woman. The concubinage must also be public or notorious in the sense of c. 2197.

iv. - The degree of relationship is computed in the same way as for consanguinity, but only in the direct line and to the second degree. It is more commonly held that this impediment is multiplied, e.g., by entering into an invalid marriage or concubinage with the daughter of a woman with whom one has already incurred this impediment.

b) *dispensation*. Being of ecclesiastical law only, this impediment does not bind the unbaptized marrying among themselves. Becoming baptized and remaining in the conditions of the impediment, it begins to bind. The impediment is permanent and thus can be removed only by dispensation. Dispensation from both degrees (provided it is certain that one of the parties is not the offspring of the other) is obtainable from the Apostolic Delegate and from the local Ordinary by his quinquennial faculty, which requires a grave and urgent cause in a first degree relationship, but just reasons only in the second degree (which is a minor impediment). It may also be dispensed in danger of death or of urgency.³⁵² Public propriety may be incurred in some cases of common law marriage. In rectifying an invalid marriage or in witnessing a marriage after concubinage, dispensation from this impediment may be indicated.

107. – 12. - *Spiritual relationship*.

a) *impediment*. Because of the spiritual relationship which exists, marriage cannot be validly contracted between the one who baptizes and the one baptized or between a baptismal sponsor and the one baptized.³⁵³ The baptism conferred must be valid and absolute, whether solemn or private. The impediment is not incurred if only the ceremonies are supplied or if the baptism was conditionally conferred, unless the sponsor was the same person in both baptisms. The minister must have been validly baptized himself at the time of the conferral of the sacrament and the sponsors must have validly exercised their function.

b) *dispensation*. This impediment is of its nature permanent and is removed only by dispensation. Being a minor impediment, it is dispensed for just reason by the local Ordinary in virtue of his quinquennial faculty. It may be multiplied if the minister of the baptism is also, by proxy, the sponsor of the one baptized. Dispensation is applicable in a case of danger of death or of urgency.³⁵⁴

108. – 13. - *Legal relationship or adoption*. - Those who are disqualified in civil law from contracting a valid marriage because of the legal relationship arising from adoption are also impeded by canon law from contracting a valid marriage in the same circumstances.³⁵⁵ This impediment is applicable in the U.S.A. jurisdiction only to Puerto Rico.

XVI. MATRIMONIAL DISPENSATIONS

109. – A. - NOTIONS.

1. - A matrimonial dispensation is a relaxation in a particular case of some impediment in order to contract or to convalidate a marriage and which is granted by one who has the authority.³⁵⁶ In the *external forum* it is a dispensation sought in the sight of the Church and in the expressed

names of the contracting parties, not only that a marriage may be validly and lawfully contracted but also that the same may be proved, even before an ecclesiastical judge. In the *internal forum* it is a dispensation sought in the sight of God and in the area of conscience either sacramental or extra-sacramental, with fictitious names used for the parties involved, to the effect that marriage may be validly and lawfully contracted or convalidated in good conscience without it being proved in the external forum. Unless stated otherwise, a dispensation from an occult impediment granted for the internal extra-sacramental forum is to be accurately recorded in the register kept in the diocesan secret archives (and thus the real names are then supplied), and should the impediment later become public, no further dispensation for the external forum is necessary; but such further dispensation is necessary, if a dispensation is granted only for the internal forum.³⁵⁷

2. - When a dispensation is granted immediately and directly to the petitioner it is said to be given *in forma gratiosa*; when however its execution is committed to a bishop, confessor or other priest, it is said to be granted *in forma commissoria*. Rescripts in the internal and external fora issued by the Holy See are usually in the latter category; Ordinaries may use either type of grant.

110. — B. - COMPETENT AUTHORITY TO DISPENSE.

1. - The *Holy See*, i.e., the Roman Pontiff acting through the Sacred Congregations, may dispense from all matrimonial impediments of purely ecclesiastical law (although refraining in practice regarding certain ones), but not from those of divine or natural law. Thus in the *internal forum*, both sacramental and extra-sacramental, the Sacred Penitentiary alone is competent to dispense from all ecclesiastical impediments. In the *external forum* the Holy Office is competent for mixed religion, disparity of worship, and all others relating to them; the Congregation of the Sacraments for all other impediments in the Latin Church; the Oriental Congregation for all impediments as long as at least one party is an Oriental, saving the rights of the Holy Office; the Congregation of Religious for the vow of chastity.³⁵⁸

2. - The faculties enjoyed by the Apostolic Delegate and the *local Ordinary* by his delegated quinquennial faculties have been noted in respect to each impediment above. The faculties granted in the common law to certain persons in danger of death or of urgent necessity are noted below.

111. — C. - TAXES AND EXPENSES. - The Sacred Penitentiary grants dispensations absolutely gratis. Those granted by the Holy See in the external forum are subject to varying moderate payments on the score of taxes,

alms, fees, expenses, etc., except in the case of the poor. Local Ordinaries may demand nothing on the occasion of granting a dispensation unless it is but a moderate tax to defray the expenses of the chancery, except in the case of the poor. Delegation received by indult from the Holy See to dispense should be expressly mentioned in the dispensation.³⁵⁹

112. - D. - CAUSES OR REASONS.

1. - There must be reasons or causes which justify the granting of a dispensation. The priest who submits a petition is bound in conscience in each case to verify the real existence and the objective gravity of the cause or reason cited. The reason should be proportionate to the nature of the impediment from which the dispensation is sought. A primary, final or motivating reason (*causa motiva*) is one that of itself suffices for the granting of the dispensation; a secondary, persuasive or subordinate reason (*causa impulsiva*) does not of itself suffice but together with others may suffice. Canonical reasons are those which are ordinarily accepted by the Roman curia, otherwise they are non-canonical and may be accepted in an extraordinary case. Reasons alleged for a dispensation from mixed religion or disparity of worship should be those which in some way affect the public interest of the Church as distinct from the purely private interests of the Catholic party; in the case of a dispensation from consanguinity in the first degree collateral mixed with second "the causes [should be regarded as insufficient] which are usually alleged for other impediments even of the major class . . . except in cases where these, although individually insufficient, taken cumulatively constitute so grave a reason as to make the dispensation advisable."³⁶⁰

2. - Reasons or causes should not be alleged unless they are among those approved and used by the Holy See³⁶¹ as described by approved authors. Individual dioceses sometimes have published lists of acceptable or justifying reasons and, in any case, diocesan practice should be consulted. The following are the more common canonical and non-canonical causes or reasons.

Canonical Causes

Primary

a) *spes fundata conversionis partis acatholicae*. There is evidence for prudent hope of conversion such as the fact that the non-Catholic has begun instructions to become a Catholic, not merely his good will or friendliness toward the Church or his signing of the guarantees and taking the pre-marital instructions.

b) *promissio amplectendi religionem catholicam*. The non-Catholic has promised in writing or before two witnesses to enter the Church after marriage, with sufficient reason being manifested for the delay.

c) *spes fundata conversionis familiae*. The hope that a non-Catholic family will be brought into the Church by the marriage is well-based on clear and definite circumstances.

d) *periculum apostasiae ex negata dispensatione*. The danger of perversion or fear of defection to a sect if the marriage is not allowed must not arise from the ill will of the parties or from a threat; the circumstances giving substance to the validity and degree of the fear should be indicated.

e) *bonum prolis natae ex partium fornicatione*.

f) *bonum prolis natae ex anteriore matrimonio*. In this and the previous situation a dispensation may be indicated, all things being equal, since, it can be proved, marriage only will insure the Catholic baptism and upbringing of the offspring.

g) *copula publica seu notoria*. The relationship must be already notorious or in the circumstances will most probably become so.

h) *scandalum aut infamia mulieris*. The scandal or loss of reputation due to pregnancy or to conduct short of intercourse can be prevented only by marriage.

i) *praegnantia ideoque legitimatio prolis*. Marriage provides for the welfare of the child and also of the mother lest she remain unwed.

j) *periculum publici concubinatus*.

k) *cessatio publici concubinatus*. This and the previous reason are usually reduced to the danger of marriage outside the Church or to a convalidation of an attempted marriage.

l) *grave periculum incontinentiae*. Marriage, all other things considered, will prevent scandal and danger to salvation.

m) *periculum matrimonii mere civilis vel coram ministello*. The same remarks apply as in d) above. Direct interrogation of the Catholic party on probable intentions if the dispensation is not forthcoming should not be made but by discreet indirect method information is to be gleaned by the priest indicating the presence and degree of danger of an attempted marriage and even of defection, as in the case of a weak or lax Catholic of unfortunate background, etc.

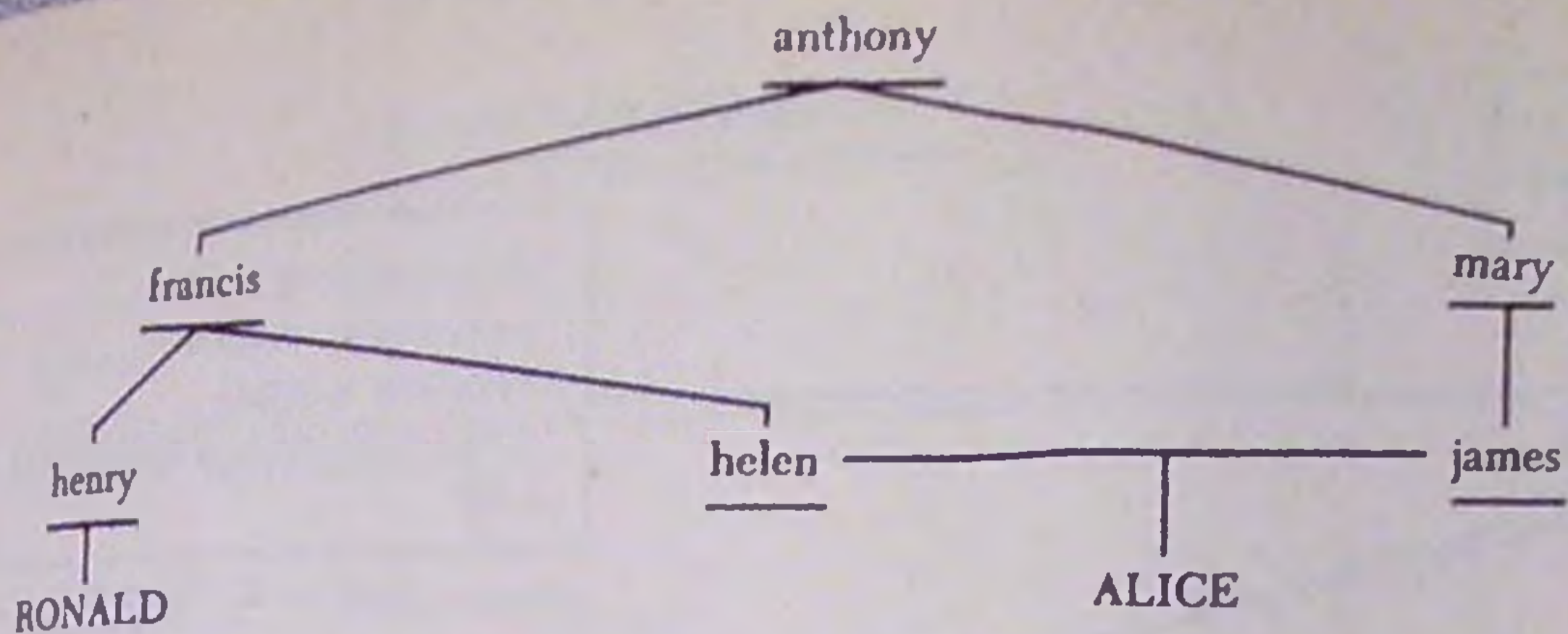
n) *convalidatio matrimonii attentati coram magistratu vel ministello*. These are cases of marriages invalid in bad faith.

o) *revalidatio matrimonii catholici*. An apparently valid marriage according to the canonical form and contracted in good faith, but in which an invalidating element has been discovered.

p) *remotio gravium scandalorum*. Marriage is indicated to remove hatreds, enmities, etc., as well as concubinage.

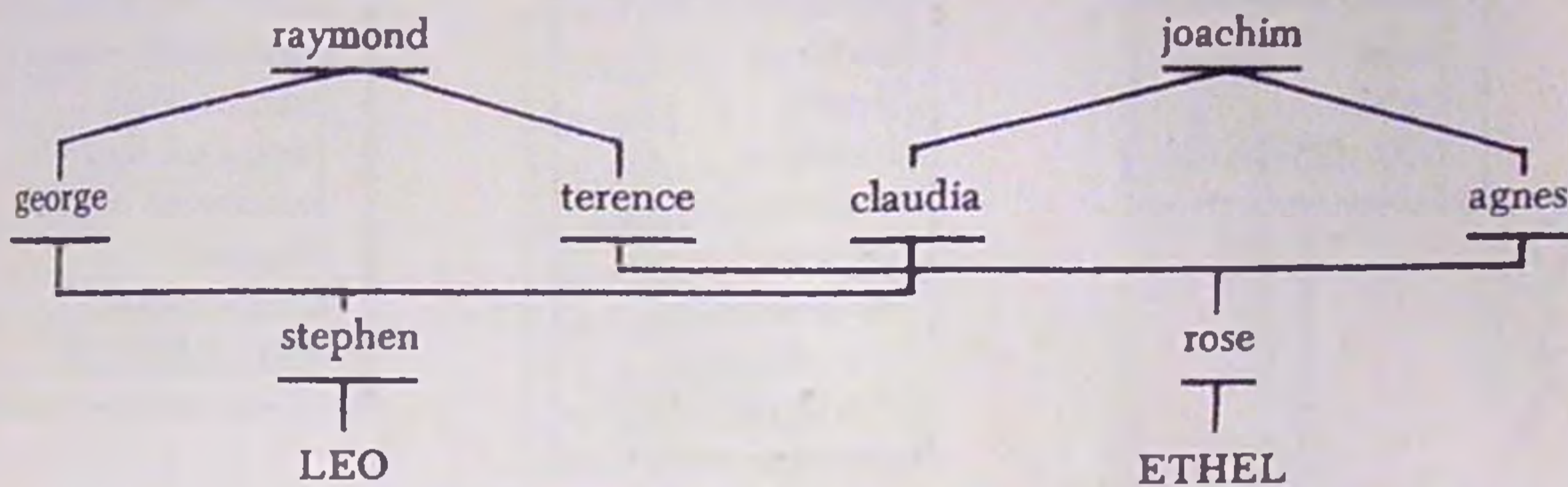
Secondary

q) *aetas superadulta*. The age must be at least the woman's twenty-fourth year completed. The exact age must be noted, and it must be well



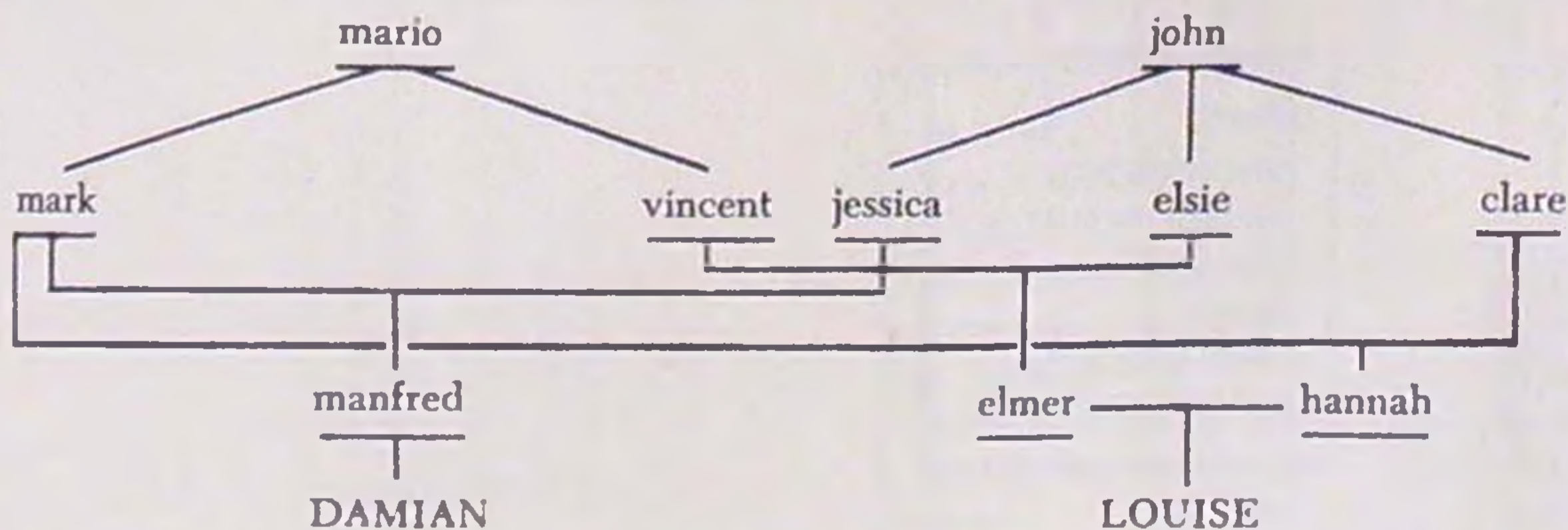
RONALD and ALICE are related in the second degree collateral equal (first cousins) through one common ancestor *Francis*, and in the third degree collateral equal (second cousins) through the other common ancestor *Anthony*.

Figure A



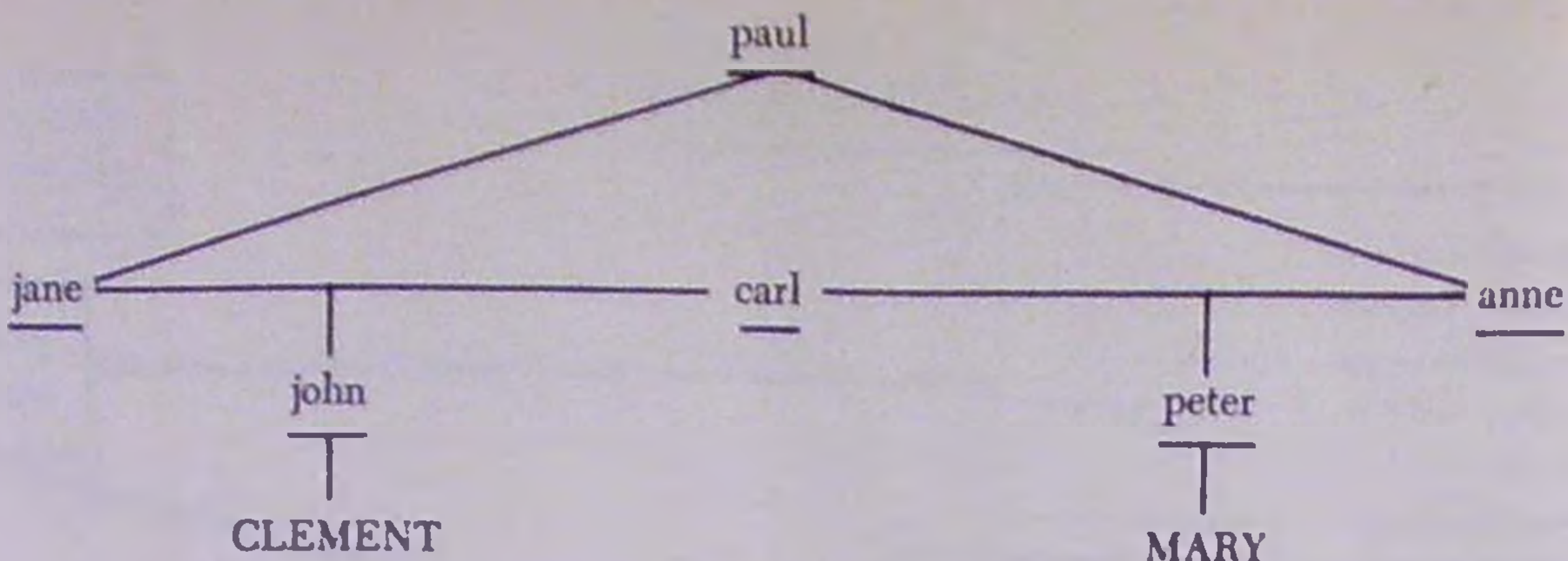
Two brothers have married two sisters. LEO and ETHEL are related doubly in the third degree collateral equal (twice second cousins) through the common ancestors *Raymond* and *Joachim*.

Figure C



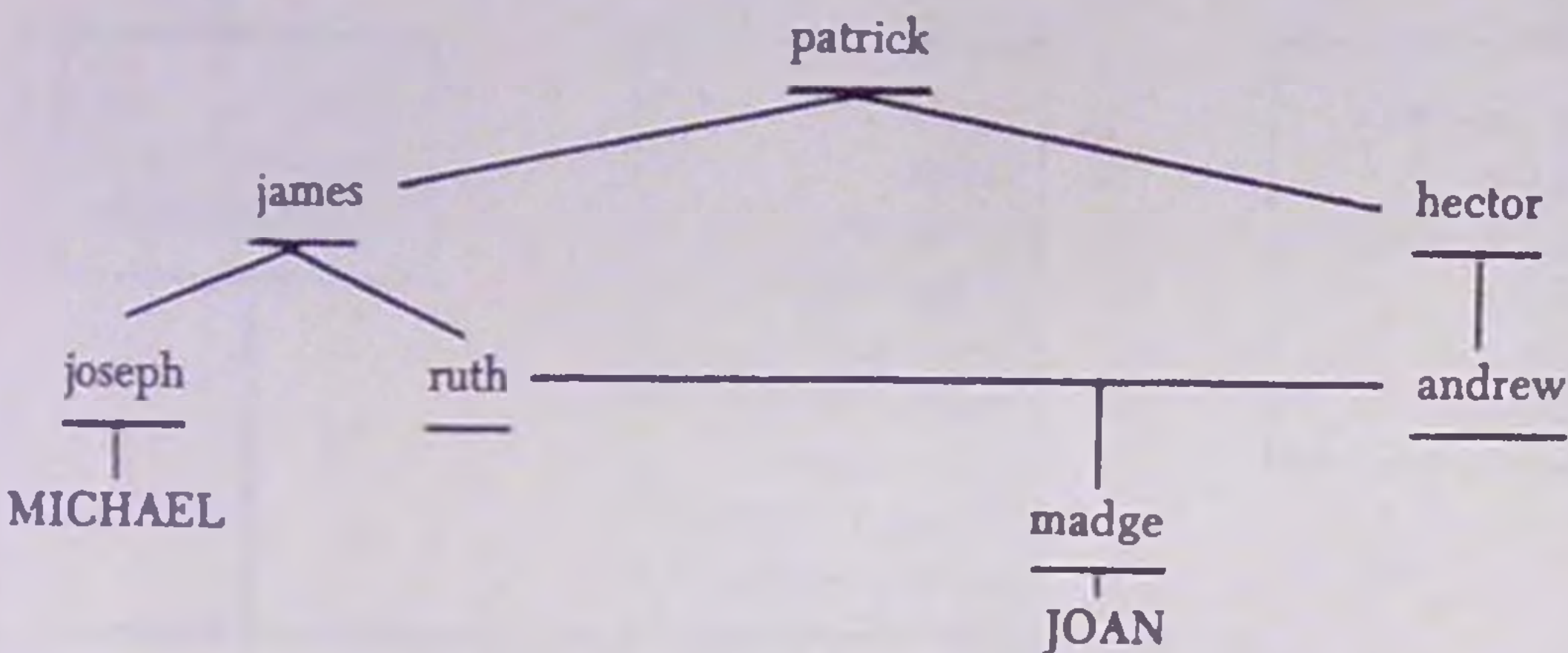
DAMIAN and LOUISE are related twice in the third degree collateral equal (second cousins) through the common ancestors *Mario* and *John*, and once in the second degree collateral equal (first cousins) through the common ancestor *Mark*.

Figure E



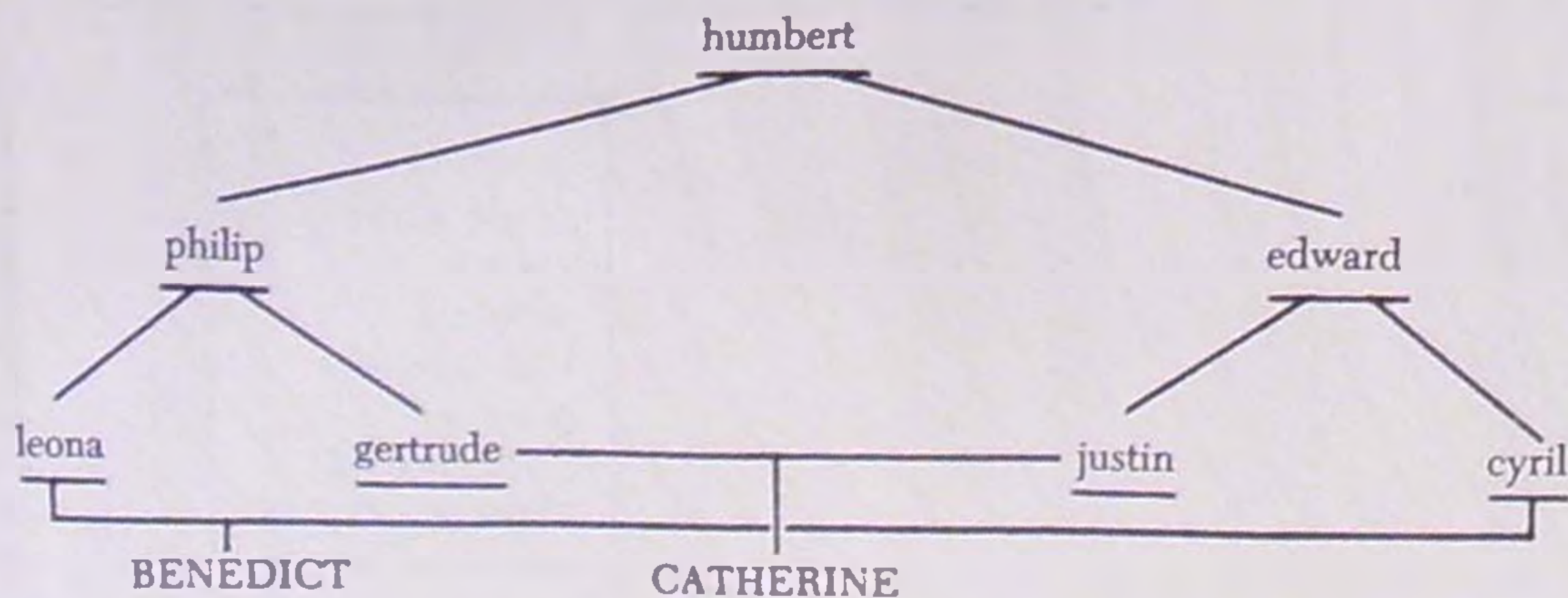
CLEMENT and MARY are related (by half blood) in the second degree collateral equal (first cousins) through one common ancestor *Carl*, and in the third degree collateral equal (second cousins) through the other common ancestor *Paul*.

Figure B



MICHAEL and JOAN are related in the third degree collateral touching second (first cousins once removed or second cousins) through the common ancestor *James*. They are not related within a forbidden degree through the remoter ancestor *Patrick*.

Figure D



BENEDICT and CATHERINE are related twice in the second degree collateral equal (first cousins) through the common ancestors *Philip* and *Edward*, and once in the third degree collateral equal (second cousins) through the common ancestor *Humbert*.

Figure F

founded that the woman will have no other opportunity to marry. This cause does not pertain to a widow, unless special circumstances are present.

r) *paupertas viduae catholicae*. The age of the widow and the number of children, if any, should be noted. Marriage may furnish the opportunity for support for the widow and her children, and prevent danger of incontinence if the woman is young.

s) *angustia loci*. Applicable only where neighborhoods are small and separated and the Catholics few in number, thus reducing marital possibilities.

t) *copula occulta iam habita*. This reason indicates the danger of incontinence, the grounds for possible future scandal, and the like. Because of the secrecy involved, the cause may not be presented without permission of the parties.

u) *nimia, suspecta, periculosa familiaritas, necnon cohabitatio sub eodem tecto, quae facile impediri nequit; copulae suspicio*. The purpose is to prevent scandal in that the situation of familiarity or cohabitation is such as naturally to give rise to suspicions of illicit relations.

v) *periculum incestuosi concubinatus*. This danger is more impelling than otherwise, since it is between parties related by blood or marriage.

w) *bonum pacis*. The public peace and the extinction of quarrels, etc., between families or individuals would be served.

Non-canonical Causes

a) *on behalf of the man.*

orator infirmitate detentus. The man has an infirmity.

orator viduus prole oneratus. The man is a widower with children.

b) *on behalf of the woman.*

oratrix orbata. The woman has lost one or both parents.

oratrix ex natalibus illegitimis. The woman was born out of wedlock.

oratrix infirmitate, deformitate vel alio defectu detenta. The woman has an infirmity, deformity or some other defect.

oratrix iam ab alio deflorata. The woman has lost her virginity.

c) *on behalf of both parties.*

utriusque oratoris boni mores. The good character of the parties.

munificentia oratorum erga bonum publicum. The generosity of the parties toward the common weal.

viri aut mulieris adiutorio indigentia. One party, e.g., with a family to rear, needs the help of the other.

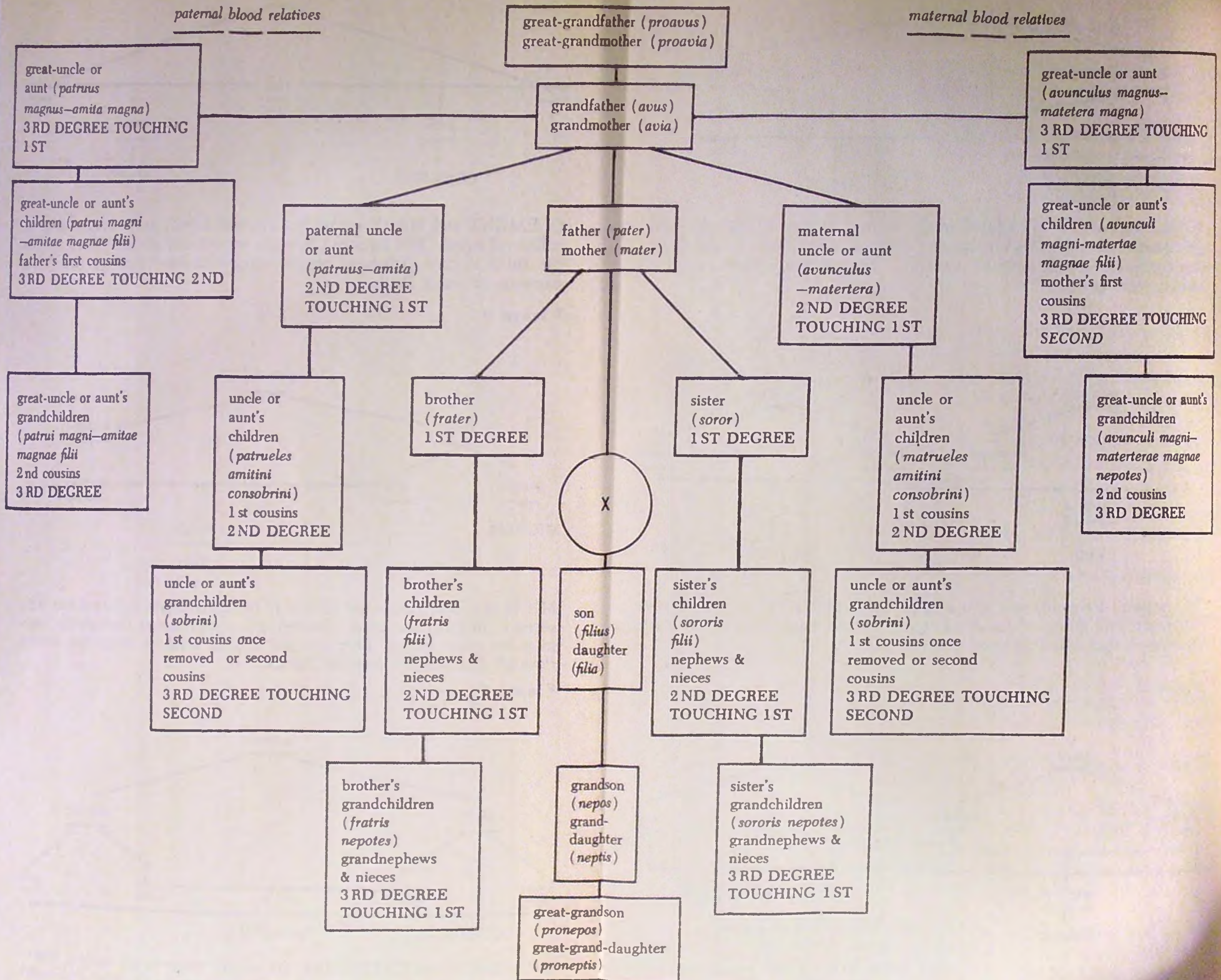
mutuum auxilium in provecta aetate. Mutual aid in advanced age.

d) *on behalf of the marriage itself.*

omnia iam parata sunt ad nuptias. Everything is prepared for the wedding.

paternal blood relatives

maternal blood relatives



propositum matrimonii contrahendi iam divulgatum. The intention of the parties to marry is well known.

pertinacia propositi matrimonii. The fixity of purpose to wed.

convenientia matrimonii. The great benefits resulting from the marriage.

bonum parentum indigentium ex adiutorio alterius vel utriusque. Provision is made for the welfare of a needy parent or parents.

113. — E. - PROCEDURE. - The formularies for various matrimonial dispensations to be petitioned from the Holy See or from the local Ordinary are found exemplified in the approved authors or in the regulations and forms laid down by the particular diocese. A petition is usually addressed to the local Ordinary, who either dispenses himself or forwards the petition to Rome. A petition to the Sacred Penitentiary may be sent directly, especially when there is any danger to the seal, or through the Ordinary with fictitious names used. One or more of the reasons in Latin for the dispensation should be supplied and a covering letter stating in detail the circumstances of the case should also be forwarded to the Ordinary. Besides the reasons for the dispensation there should also be included the number and lowest species of the impediment in question, the name and exact address of the person to whom the rescript is to be returned, whether or not the marriage has already been contracted and with the prescribed form, whether contracted in good faith or with a view to a more easily obtainable dispensation after the banns had been published. In the external forum the names, parish and diocese of the parties are to be mentioned, with the customary statement of the financial condition of the petitioner. The priest or confessor should execute the rescript exactly as laid down and make the proper registration.

114. — F. - CASE OF DANGER OF DEATH.

1. - *Law.* When the danger of death urges, *local Ordinaries*, in order to provide for *peace of conscience*, and, if the case warrants, the *legitimation* of offspring, can *dispense* both from the *form* to be observed in the celebration of marriage and from *each and every impediment of ecclesiastical law*, whether public or occult, even multiple, *except* the impediments arising from the *sacred priesthood* and *affinity in the direct line after a marriage has been consummated*; they may do this for *their own subjects* wherever they may dwell and for *all those actually dwelling in their territory*, provided that *scandal is avoided* and that the usual *guarantees* are given if a dispensation is granted from disparity of worship or mixed religion.³⁶² In these *very same circumstances*, but only in cases in which not even the local Ordinary can be reached, the *same faculty* of dispensing is enjoyed by a *pastor*, a *priest* who assists at marriage in con-

formity with c. 1098, 2^o, and a *confessor*, but this last enjoys it only for the internal in the course of a sacramental confession.³⁶³

2. - *pastor*.

115. - a) *valid exercise*.

i. - The pastor enjoys the same faculty of dispensation in the very same circumstances as it is enjoyed by the local Ordinary, but this may be exercised validly only when the local Ordinary cannot be reached. Thus there must be a physical or moral impossibility of contacting the Ordinary in time to receive back the necessary delegated faculty to dispense in the needs of the case. The use of the telephone or telegraph is *not obligatory*, as they are considered in law to be extraordinary means³⁶⁴ over and above the ordinary means of contact, such as by recourse to the Ordinary personally or in writing, but this recourse may even be normal and commendable especially if a case is complex.

ii. - There must be a prudent judgment of at least a serious probability of death ensuing, whether from intrinsic or extrinsic causes, but not necessarily an imminent danger (*articulus mortis*) or a certainty of death.³⁶⁵ For validity also the purpose of the faculty must be present, namely, peace of conscience and/or the legitimation of offspring. The disturbance of conscience to be quieted or peace of mind to be effected may refer to the party other than the one in danger of death or than the one laboring under the impediment. It need not be restricted to a need for sacramental absolution but may include some other grave cause or obstacle that is disturbing; thus the prevention of more sin, the settlement of dissension or of an injustice would suffice. The alternative motive of legitimation of offspring is usually but not always also a matter for peace of conscience. Legitimation is effected by this faculty of offspring already conceived or born and of adulterine or sacrilegious offspring born after the parents validly marry.³⁶⁶ It is disputed whether this faculty includes also adulterine or sacrilegious offspring already born; the affirmative opinion is at least probable and may be safely followed.

iii. - The pastor may dispense in the circumstances from the canonical form required for the validity of marriage. Thus he may dispense from his own presence and/or that of one or both qualified witnesses. He may not dispense from the obligation of giving or renewing consent. His faculty extends to both internal and external fora, to all his subjects anywhere and to those persons present in his parish, even though they are not his subjects. Since this power given to the pastor for the circumstances is ordinary power, it may be delegated (even habitually) and subdelegated,³⁶⁷ e.g., to the curate (*vicarius cooperator*).

iv. - For validity of a dispensation from mixed religion or from dis-

parity of religion the guarantees (*cautiones*) must be given even in danger of death, which in an extreme case may be given at least implicitly.

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116. — b) *lawful exercise.*

i. - The pastor may not lawfully exercise this faculty in the circumstances if scandal cannot be avoided. Thus he must act in the circumstances in a way that safeguards his actions against scandal, such as revealing publicly that a dispensation has been granted and the marriage "fixed up," when the invalidity is known, or in other cases concealing the granting of a dispensation and the "straightening out" of a marriage, because the invalidity is not known or one party is a cleric or religious. If death does not ensue, the parties should at least conduct themselves so as to repair any scandal.

ii. - When the condition of danger of death allows, the usual liturgical rite of marriage is employed. Otherwise, the pastor puts to each party the question of consent and then declares the bond contracted, "*Ego conjungo vos. . .*"³⁶⁹ Dispensations granted in the external forum are to be reported promptly and with sufficient explanations to the local Ordinary and record of the marriage or of a convalidation made in the marriage and baptismal registers.³⁷⁰ In dispensing it should be stated by what authority the favor is granted and for a specific impediment.

117. — 3. - *assisting priest of c. 1098, 2°.*

i. - If it is impossible, without serious inconvenience, to have or to approach a pastor or an Ordinary or a delegate who would be authorized to assist at marriage, in danger of death, if there is at hand another priest who can assist, he must be summoned and, together with the witnesses, assist at the marriage.³⁷¹ This assistance is for the lawfulness and not the validity of the marriage.

ii. - This assisting priest enjoys the faculties of dispensation as in the case of the pastor but only regarding those at whose marriage he assists. He may not delegate this power. He normally should first seek to obtain delegation to assist at the marriage, unless he prudently judges this to be seriously inconvenient. Only in an extraordinary circumstance should he dispense from witnesses. He is bound to report the dispensations and register the marriage.

118. — 4. - *Confessor.*

i. - When it is impossible to reach any of those qualified to assist at a marriage who are mentioned above, the confessor enjoys the same faculties of dispensation from the canonical form and from impediments, but only as affecting the internal forum and in the course of a sacramental con-

fession. No record or registration is made. The confessor in these circumstances is every priest empowered to hear the confession of penitents in danger of death.³⁷² It is not necessary that the confession be sacramentally valid or that absolution is imparted. Because he is limited to the internal sacramental forum, it is doubted whether he can dispense from public impediments; it is probable that he can do so as regards their effect in conscience. The penitent is to be urged to approach, if possible, the pastor or qualified priest in the external forum for rectification of the marriage in that forum.

ii. - The confessor cannot dispense from the obligation of consent. When he judges it prudent to dispense in the internal forum from the canonical form, he must have the penitent renew marital consent and notify his partner that consent must be renewed by both parties. This he may allow the penitents to do privately and secretly, i.e., externally but without the canonical form and without others knowing about it. If the requisite circumstances are present and he judges it to be prudently expedient, the confessor may urge that he be approached outside the sacramental forum and act as the assisting priest of c. 1098, 2°.

iii. - Assistance at or convalidation of a marriage in danger of death should be approached with great caution. In an urgency of the condition of danger of death the preparation of the soul of the dying person by right dispositions for the sacraments is paramount. A promise to do what is necessary to straighten out the invalid marriage situation would suffice. Dispensation would be given from impediments (with the guarantees) and from the canonical form (if indicated), absolution imparted from sins and censures, marital consent asked for and received or renewed.

G. - CASE OF URGENCY.

119. - 1. - *Law. Local Ordinaries can dispense their own subjects wherever they may dwell and all those actually dwelling in their territory, provided that scandal is avoided and that the usual guarantees are given if a dispensation is granted from disparity of worship or mixed religion, from each and every impediment of ecclesiastical law, whether public or occult, even multiple, except the sacred priesthood and affinity in the direct line after a marriage has been consummated, as often as an impediment is discovered when everything is already prepared for the marriage and it cannot, without probable danger of grave harm, be deferred until a dispensation is obtained from the Holy See. This faculty is also operative for the convalidation of a marriage already contracted, if there is the same danger in delay and time is not sufficient for recourse to the Holy See. In the very same circumstances the pastor, a priest who assists at marriage in conformity with c. 1098, 2°, and a confessor enjoy the same faculty,*

but only for occult cases in which not even the local Ordinary can be reached, or not without the danger of violation of a secret.³⁷³

2. - *pastor.*

120. - a) *valid exercise.*

i. - There must be the impossibility of recourse in the time remaining even to the local Ordinary who is competent to dispense with the faculties he possesses in the case. The period of delay in approaching the Holy See is longer, some few weeks.³⁷⁴ Thus there must be sufficient cause to judge that the marriage is imperative and cannot be delayed for the time required to obtain the necessary dispensations or faculties. It is more probable that there is no faculty given in a case of urgency to dispense from the canonical form, as the canon makes no mention of it. The faculty enjoyed is only for *occult cases*, even though the impediment may be public by nature;³⁷⁵ also when even the local Ordinary cannot be contacted without danger of violation of a secret, not only of a sacramental or confessional secret, but also of any true secret which the parties may lawfully refrain from revealing. The pastor may delegate this faculty.

ii. - There must be a discovery of an impediment after the preparations for the marriage have been made ("*omnia sunt parata ad nuptias*"); it need not be that the impediment was altogether unknown but that it was brought to the pastor's attention after all the preparations were made,³⁷⁶ even deliberately. The preparations that have been completed refer to the completion of the canonical premarital requirements, and not necessarily that all the secular or material preparations have been completed. In the circumstances it must be that the wedding must take place before a reply from an authority can be received. Coupled with this circumstance must be the presence of danger of grave harm or serious consequences resulting from such a delay, which danger or fear of it need be only at least probable in the prudent judgment of the pastor,³⁷⁷ such as scandal, ill-repute due to pregnancy, financial loss, etc. If the probable danger of serious harm is not present, the preparations alone are not sufficient for dispensing. The same circumstances and danger must prevail regarding a convalidation.

121. - b) *lawful exercise.* The pastor must employ his faculty in such a way as to avoid scandal. Dispensations are registered in accordance with the forum.

122. - 3. - *assisting priest of c. 1098, 2° and the confessor.* The same conditions for validity and lawfulness apply in their respective fora. Detecting a public impediment, the confessor should arrange to have the case taken outside the sacramental forum, even if the impediment is presently occult but it is foreseen it will be divulged.

XVII. VALIDATION OF AN INVALID MARRIAGE

123. — A. - NOTION. - Validation is the process whereby an apparent marriage which is actually invalid is rendered valid in conscience and in the sight of the Church. There must have been some formality or species of a marriage contract entered into, even though it was ineffective; otherwise there would not be an invalid marriage but mere concubinage. The apparent marriage may have been invalid because at least one of the parties did not give true consent, or the canonical form was not observed, or a diriment impediment prevented the contract from being valid. Not all invalid marriages can be subsequently rendered valid. Validation may be effected either by a renewal of consent under certain conditions (simple validation) or by a dispensation from the renewal of consent (radical sanation). Other designations are given to the process of validation, such as convalidation, revalidation, rectifying, fixing up, straightening out. It should be noted that the Apostolic faculties for mission territories grant wider delegatory and delegated powers.

124. — B. - SIMPLE VALIDATION.

1. - *presence of a removable diriment impediment.*

a) The marriage is invalid because at the time it was contracted the parties were bound by a diriment impediment and thus unable to exchange valid consent. Even though the impediment has ceased to exist, e.g., nonage, or has been dispensed, the law requires that for the validity of the marriage consent be renewed. The fact that consent was originally exchanged (even in good faith, ignorance, etc.) and not revoked does not excuse from this obligation.³⁷⁸ The renewal must be a new act of the will directed to the marriage which is known to have been invalid from the beginning.³⁷⁹ The juridical effects begin from the moment of the renewal of consent and for the future.

b) If the impediment is public, after dispensation both parties must renew consent in the form prescribed by law,³⁸⁰ so that the validation might be publicly known and scandal avoided. Usually the essentials of the juridic form are observed, with a dispensation from the bans and without the nuptial blessing or the blessing of the ring. In case the public impediment is actually not known to others, the marriage should take place with all due secrecy; but the fact must be made known if scandal has to be removed. Registration is made in the usual registers.

c) If the impediment is occult and known to both parties, after dispensation it suffices that both parties give a new consent privately and secretly.³⁸¹ Thus, in the external forum the marriage is considered valid and disclosure of invalidity by a public renewal would be apt to raise scandal. Although the parties may express their mutual consent (which need not be simultaneous) without others being aware and without pastor

and witnesses, it is recommendable to exchange consent before a priest and in the formula of the *Ritual*. Consent may be renewed by other signs than by words as long as they are external and the parties mutually realize what is being signified. If one party refuses to make the renewal, a radical sanation may be in order.

d) If the impediment is occult and known only to one party, after dispensation it suffices for this party to renew consent privately and secretly, provided that the consent of the other party perseveres.³⁸² The party aware of the nullity may renew consent implicitly, e.g., by carnal intercourse with marital affection, but it is recommendable that the confessor or priest elicit from this party an explicit expression of consent.

e) If the impediment is occult and unknown to both parties, they should be told so that they might live chastely until validation is effected, or at least one party should be acquainted with the fact so that consent might be renewed. If even this is not possible without foreseeable danger developing, such as material sins becoming formal, desertion with grave danger to the spouse or the children, etc., they may be left in good faith until a dispensation is obtained or a radical sanation effected. The case in which the marriage cannot be validated is considered below, together with the precautions to be noted respecting every invalid marriage.

2. - *lack of consent*. A marriage that is invalid because of a defect of consent is validated if the party who did not consent now supplies it, provided that the consent given by the other party perseveres.³⁸³ If both parties are cognizant of the lack of consent, it is better that both renew consent. If the defect of consent was merely internal, it is sufficient that consent be now given interiorly,³⁸⁴ e.g., if unknown to others a wholly simulated consent was given. If the defect of consent was also external (attestable by two witnesses willing and able to testify), it is necessary also to manifest consent externally either in the form prescribed by law, if the defect was public, or in some private and secret manner, if it was occult.³⁸⁵

3. - *lack of form*. A marriage that is invalid because of a defect of the canonical form can be validated only by a renewal of consent in the prescribed form.³⁸⁶ If one party will not appear for the new celebration either personally or by proxy, or if there would be proportionate danger or scandal in manifesting the nullity, a dispensation from the form or a radical sanation may be petitioned.

125. — C. - RADICAL SANATION.

1. - *nature and effects*.

a) Radical sanation (*sanatio in radice*) is a retroactive or retrospective validation, a healing in the root, i.e., a healing of the consent, since this

latter is the root and basis of marriage. It is the act by which a marriage is validated effecting, besides a dispensation from or a cessation of the impediment, a dispensation from the law requiring the renewal of consent, as well as a retroactive reinstatement, by a fiction of the law, of the canonical effects of marriage,³⁸⁷ and dating from the moment when the marital consent was truly but invalidly given.

b) The validation (and the sacrament, if the parties are baptized) is effected as of the moment when the favor is granted; but its retroactive effect (but not the sacrament) is understood to date from the beginning of the marriage, unless some restriction is expressly stated in the rescript. Dispensation from the law of renewal of consent can be granted even if one or both parties are unaware of the favor.³⁸⁸ Radical sanation is perfect if both parties are dispensed from renewal of consent and there is retroaction of canonical effects to the beginning; otherwise it is imperfect if any element is lacking. The principal effect is to make legitimate and not merely legitimated children, if they were born after the consent given by the parents to the marriage which the radical sanation now validates. Radical sanation can be granted after the death of one of the parties but only for canonical effects and not the bond itself. If the terms of a rescript of radical sanation should require the renewal of consent, the nature and retroactive power of the act are not thereby changed.

2. - required conditions.

a) Any marriage entered into with the consent of both which was naturally sufficient but juridically insufficient because of an ecclesiastical impediment or because of defect of canonical form can be radically sanated, provided the consent perseveres. But the Church does not sanate a marriage contracted with an impediment of the natural or the divine law, even if later the impediment ceases, not even from the moment of the cessation of the impediment, although it can, and for special reasons has.³⁸⁹ If there is a lack of consent in both parties or in one party, the marriage cannot be radically sanated, whether the consent was lacking from the beginning or, if originally given, was later revoked. But if the consent was lacking in the beginning but was later given, the sanation can be granted from the moment when the consent was given.³⁹⁰ Consent is considered to exist until it is positively revoked, even though the parties knew they could not contract a valid marriage originally, or they intend to separate or have already separated, or one party refuses to renew consent according to the canonical form. The character of consent is judged by what was factually done, not by what would have been done if knowledge only later acquired, was possessed at the time.

b) Besides an impediment that is dispensable and a true consent that is perduring, there must also be a grave justifying cause for a radical sanation,—a situation that does not allow of the more normal process of

simple validation. Thus, if neither party can be informed of the invalidity without serious harm arising, e.g., due to lack of proper jurisdiction in the assisting priest, or because the marriage would break up with great injury resulting to the children, or if a non-Catholic spouse will not renew consent according to the canonical form, reason exists to petition a radical sanation. The reason for the sanation must be in addition to that for dispensing an impediment. The clauses of the rescript received must be exactly executed.

3. - *competent authority*. A radical sanation can be granted only by the Holy See.³⁹¹ The U.S.A. local Ordinaries by their quinquennial faculties can grant a radical sanation under the usual conditions and with further requirements for marriages (of their own subjects anywhere and of others in their territory) attempted before a civil officer or a non-Catholic minister, where the impediment existed of mixed religion or disparity of worship, and for marriages invalidly contracted due to an ecclesiastical impediment of major or minor grade, except the impediments arising from the priesthood and affinity in the direct line when the marriage has been consummated. The local Ordinary may grant a radical sanation, provided consent perseveres, for marriages invalid due to impediments of a minor grade, from defect of form, even in mixed marriages, and from disparity of worship, even if the invalidity is also from defect of form, obtaining however the usual guarantees and certainty.^{391a}

126. — D. - CAUTIONS.

1. - Every pastor and priest in the external forum and every confessor in the internal forum is aware that, besides the norms of the common law and the regulations and procedures of a particular diocese, extreme caution and prudence must be employed in matters of marital validation. Haste in validating an invalid marriage sometimes worsens an already bad situation; on the other hand, any factual approval or acceptance of an unlawful union supplies the material for scandal. In these cases, which are often complex and difficult, the common good must be safeguarded, even at the sacrifice of individuals.

2. - When an invalid union is discovered it is lawful to dissimulate or to omit to enlighten and to warn the parties only 1) when there is good faith on the part of both parties in that neither is aware of the invalidity, 2) when others are ignorant of the invalidity so that scandal will not arise, 3) when there is a proportionately grave reason for permitting a material sin, which is still an evil. Under these *certain* conditions such a reason would be present if the marriage is *incurably null* and the parties, although in good faith, probably would not have the courage to make the heroic sacrifice of separation, especially if there are children or financial or other problems.

3. - In some cases the better procedure is separation with a subsequent declaration of nullity. Such instances would exist when the parties certainly are unsuited to each other, or where the Catholic party does not wish to validate the marriage or where validation is not possible in the circumstances, or when divorce has taken place.

4. - If the nullity of the marriage is unknown to both parties, and unknown also to others, and it is prudently judged that they can be beneficially warned of their condition, they should be told and required to separate from bed and to live in such a way that all proximate danger or occasion of sin is removed. Petition made to the local Ordinary for temporary permission to live as brother and sister may be in order. If there is an indispensable impediment, however, the circumstances may recommend the procedures of 1 or 2 above or of the brother and sister arrangement as described below. If it is judged that only one party could be profitably informed, but the nullity is incurable, the same approach would be used. If there is a dispensable impediment, the party can be informed after the dispensation has been obtained (in order to avoid formal occasion of sin) and simple validation take place or a radical sanation sought for sufficient reason without knowledge of the parties.

5. - If the nullity of a marriage is publicly known, then for the avoidance of continued scandal the parties must separate until everything is arranged for the validation. If the nullity is canonically public but factually not known and there is sufficient cause militating against separation, the local Ordinary should be petitioned for a temporary brother-sister arrangement. If the parties desire validation but are not willing to separate to the extent required to avoid the proximate occasion of sin until the marriage is rectified, the local Ordinary should be consulted. If, however, the marriage is incurably null or should not in prudence be validated, separation should take place and a decree of nullity obtained.

6. - If invalidity is known only to one party and not to the other and not to others, either separation must take place and a decree of nullity obtained or a brother-sister arrangement sought, if the marriage is incurably invalid. If the marriage can be validated and ought to be, the party cognizant of the invalidity must neither seek nor render the marital debt, whether or not the other party can be profitably informed of the invalidity until validation is effected.

7. - When a marriage problem is discovered by the priest in either forum, or presented to him, he must act with all deliberate prudence avoiding haste in attempting to validate or precipitateness in informing the parties of the invalidity. No more than a promise to do what he can to help and to investigate the case should be given to the parties, but no hope of satisfactory solution until all the facts and circumstances have been assembled and carefully examined. Simple validation is the normal process to be pursued, with radical sanation as the last resort.

8. - When validation is not possible at all, or when it cannot be effected until such time as all requisite data has been presented to the local curia, petition may be made to the local Ordinary for a temporary or permanent brother-sister arrangement, as the case indicates. There must be *compelling serious reasons* for allowing continued cohabitation in an invalid union, together with the *absence of danger of incontinence and scandal*. All cases of brother-sister petition which are in any way canonically public, formally or materially, or will become so, should be referred to the local Ordinary alone for decision. Some dioceses have specific regulations and procedures. A confessor in the sacramental forum is restricted by what he can learn of the penitent and from the penitent. Thus, if he has any doubt concerning the public or occult character of the problem, he ought not to permit a brother-sister arrangement but urge that the problem be taken into the external forum. Even if a case before the confessor is *certainly and completely occult* (in which situation alone he ought to act), the danger in granting such permission is such that the confessor is cautioned by expert authorities almost never to grant such permission in the confessional.

XVIII. DISSOLUTION OF THE MARRIAGE BOND

Marriage is of its nature perpetual and indissoluble; by divine institution what God has joined together no man may dissolve. There is no human power or authority which is capable or qualified to dissolve a valid marital bond; this is the prerogative of the divine author and the restorer of the institution of marriage. This authority has been communicated by Christ to His Church in a restricted degree, i.e., with regard to certain types of valid bond and under specific conditions.³⁹²

127. — A. - SACRAMENTAL AND CONSUMMATED MARRIAGE.

1. - "A valid sacramental and consummated marriage (*ratum et consummatum*) cannot be dissolved by any human power or for any cause except death."³⁹³ History proves that the Roman Pontiffs have always been conscious of this impossibility, even in face of the direst consequences. This intrinsic and extrinsic indissolubility is thus of divine law. This is certain teaching, as marriage is taught to be indissoluble even in a case of adultery, and consequently for lesser cause.³⁹⁴ The Church will never grant a dispensation in a marriage case where there is a possibility of its existence as a sacramental and consummated union.

2. - Although a consummated marriage is naturally perfect in its firmness inasmuch as it actually achieves the primary end of marital union, it is especially perfect as a sacred sign of Christ's union with His Church. "Before consummation marriage signifies the union of Christ with the soul

by grace, which is dissolved by a contrary spiritual disposition, namely, mortal sin. But after consummation it signifies the union of Christ with the Church, with respect to the assumption of human nature into the unity of person, which union is altogether indissoluble."³⁹⁵

128. — B. - SACRAMENT BUT UNCONSUMMATED MARRIAGE.

1. - *Fact.* "Unconsummated marriage between baptized persons or between a baptized person and one not baptized is dissolved both by the law itself upon solemn religious profession, and by dispensation granted by the Holy See for a just cause at the petition of both parties or of one party even though the other is unwilling."³⁹⁶

129. — 2. - *Solemn religious profession.*

a) The Church has recognized the greater bond which exists between man and God through solemn religious profession over the force of a union between man and woman united to each other by consent alone in a marriage which is not yet consummated.³⁹⁷ She has declared that this solemn religious profession upon taking place dissolves a valid marriage whether with a baptized or an unbaptized partner (through a dispensation from disparity of worship or through conversion), on condition that it has not been consummated. It is exclusively the *solemn religious profession*, which embraces a vow of perfect chastity, which enjoys this power of dissolution; no simple vow nor also the vow solemnized in the reception of sacred orders dissolves a valid marriage.³⁹⁸ A record of the solemn profession and the dissolution of the marriage bond must be entered in the parish registers.

b) Since a married person cannot validly be received into the novitiate while the marital bond exists, a dispensation must be obtained from the Holy See.³⁹⁹ At the same time a further petition may request a shortening of the time before solemn religious profession in order to free the spouse remaining in the world for contracting a subsequent marriage. This latter spouse may petition a dissolution of a sacramental (if both are baptized) but unconsummated marriage. In either case, the non-consummation of the marriage must be satisfactorily proved. The testimony of the free state of the party remaining in the world to contract a subsequent marriage must always contain proof of nonconsummation and of solemn profession effected.

130. — 3. - *Papal dispensation.*

a) *power.* It is "Catholic doctrine"⁴⁰⁰ that the Church can dissolve an unconsummated marriage in which at least one party is baptized. The Roman Pontiffs have for centuries employed their fulness of Apostolic power, i.e., their ministerial or vicarious power,⁴⁰¹ in dissolving such unions, and such constant and general discipline of the Church is regarded

as pertaining to the indirect object of infallibility. However, the Holy See does not act in such cases unless there is certified proof that the marriage was really not consummated and that there is a just cause for granting the dispensation. Such dispensation is sparingly granted as an extraordinary remedy to provide for the salvation of souls.

b) *proof of non-consummation.* The manner of proof of this fact is carefully regulated by the local Ordinary, normally by competently supervised physical inspection and the testimony of appropriate witnesses. The woman in the case should never be advised to consult a physician before the case has been submitted to the episcopal curia for consideration and instructions, as this may complicate later findings. The consummation is taken in the canonical sense of true and natural intercourse after the celebration of valid marriage;⁴⁰² thus offspring may have been produced before marriage by illicit relations or even after marriage by means of fecundation that canonically cannot be considered certainly as consummation. The consummation of marriage is always presumed until adequate proof is presented to the contrary; non-consummation is usually most difficult of certification, especially if the woman has remarried. A forced or an unconsciously performed conjugal act is nevertheless true consummation. A case is seriously prejudiced and even its continuance as a case jeopardized where it appears that there has been an avoidance of consummation through the practice of onanism or birth prevention.

c) *causes.* Frequently a just cause for dispensation is probable impotency, where it cannot be sufficiently determined whether or not the defect antedated the celebration of the marriage, or whether or not it is perpetual. In such cases a second marriage is often forbidden without leave of the Holy See. Other causes are similar to the following examples: the spiritual welfare of one or both parties after separation following an unconsummated marriage, which may include civil divorce and especially another civil marriage; the legitimation of offspring involved in the previous example;⁴⁰³ voluntary and too protracted a delay of one spouse in consummating the marriage; extraordinary and implacable conflicts between the spouses; crime which especially results in a long prison term; the claim, which is not sufficiently proved, that the marriage is null through fear of defective consent, together with certainty of non-consummation; disease, especially that which impedes the use of marriage; probable great scandal or family quarrels that will develop.

d) *cautions.*

1. - Since the marriage in question is a valid union, and often sacramental, the efforts of the priest in both fora must be to try to reconcile the parties, to remove the difficulty or ameliorate the problem, especially when the spouses continue to live together and where there are children, even employing the aid of a reputable Catholic physician or expert. If the

efforts appear unpromising or even harmful, consideration then can be given to a possible dissolution. This is more indicated when the union has hopelessly foundered and when in addition civil proceedings have been initiated.

ii. - The priest or confessor suspecting the elements of a non-consummation case should not enlighten the parties of a possibility of dissolution. Discreet questioning, preferably outside the confessional, will tend to bring out pertinent factors in the case. Assertions and remarks made by the spouses and others at a time when they are not aware of the value and utility of the information are weighty. All information should be carefully recorded. A dispensation is not necessarily granted only in view of another bond to be contracted. It is effective when granted and not upon the entrance into another union. The dispensation is to be noted in the matrimonial and baptismal registers. The case is a chancery case and is only pursued under proper instructions.

iii. - Since a case of this kind is usually quite involved and the matters it concerns are often not easily susceptible of proof, greatest forethought should precede sponsorship of this type of case. The dispensation is strictly a favor from the Holy See and one to which the parties can lay no claim. The avoidance of any scandal or a consequence of disrespect for the Church or the sanctity of marriage is always to be kept in mind.

131. - C. - PAULINE PRIVILEGE CASE.

1. - *privilege.*

a) "But to those who are married, not I, but the Lord commands that a wife is not to depart from her husband, and if she departs, that she is to remain unmarried or be reconciled to her husband. And let not a husband put away his wife. For to the rest I say, not the Lord: If any brother has an unbelieving wife and she consents to live with him, let him not put her away. And if a woman has an unbelieving husband and he consents to live with her, let her not put away her husband. . . . But if the unbeliever departs, let him depart. For a brother or sister is not under bondage in such cases, but God has called us to peace."⁴⁰⁴

b) The law of indissolubility is relaxed in a marriage which has been contracted by *two infidel* or unbaptized parties, if on the conversion of one to the Christian faith through *baptism* the other remaining in infidelity consents to live together either *not at all* or *not peaceably*, inasmuch as the convert can enter a new marriage upon which marriage the preceding marriage, even though consummated, is *ipso facto* dissolved. St. Paul recognized two situations attendant upon conversion. In one instance the infidel partner agrees to live in peace with the new convert and thus conversion is no cause for the breakup of the marriage but rather an anticipated benefit for the unconverted spouse and present or future children.

On the other hand, many prospective converts would be restrained from embracing the faith on account of the marital difficulties that would result. Thus, if the infidel refuses to live together or at least in peace, thereby departing in the language of St. Paul, the convert is not bound to restrain him or to entice him back to a restoration of the marital union. Ancient teaching and practice, and the legislation of the Church have confirmed this privilege, which was promulgated by St. Paul under divine inspiration.

2. - *conditions.*

a) *conversion.* There must be a true and *valid* marriage contracted when *both* parties are *unbaptized*.⁴⁰⁵ When there are several wives or when there have been several marriages, there must be an investigation from the beginning to determine which is the first lawful wife. One spouse must be *converted* to the Christian faith.⁴⁰⁶ The privilege does not apply when both parties become baptized at the same time, nor does it apply to a baptized party who contracted marriage with an unbaptized with a dispensation from disparity of worship.⁴⁰⁷ The spouse who has been converted from infidelity must not have lapsed again into infidelity or atheism and must be still married to an *unbaptized* partner. The conversion must be through a certainly established baptism of *water*, thus excluding catechumens.⁴⁰⁸ If both spouses should become baptized, even unbeknown to each other, there is no Pauline case.⁴⁰⁹ The privilege also does not apply to two doubtfully baptized non-Catholics; recourse to the Holy See must be made in the case of a doubtfully baptized non-Catholic and an unbaptized spouse.⁴¹⁰ The convert spouse without forfeiting the privilege may have lived for some time after conversion and baptism in marital union with the unbaptized spouse, even consummating the marriage again.⁴¹¹

b) *departure.* The valid cause for the application of the Pauline privilege is the unjust "departure" (physical or moral) of the unbaptized party.⁴¹²

i. - *Physical* desertion on the part of the infidel after the baptism of the convert which takes place for any reason at all is a cause for applying the privilege, *as long as the convert has provided no just and reasonable cause for such departure*,⁴¹³ e.g., by adultery. The departure may be either *involuntary*, such as slavery, capture, imprisonment, perpetual insanity of the unbaptized party, etc., which prevent cohabitation, or *voluntary*, such as a refusal of the infidel to cohabit or to move to another dwelling place, the contracting of a second marriage which the unbaptized party refuses to or cannot abandon, departure out of hatred of the Christian faith, disappearance in order to avoid the interpellations, etc.⁴¹⁴

ii. - *Moral* departure or desertion takes place when the unbaptized party refuses to cohabit peacefully with the convert without offense to the Creator. Moral desertion is present when danger to the convert of per-

version by the unbaptized spouse is present, such as impelling the convert to give up the Catholic faith, or to commit a grave sin, or to impede the convert from practicing the faith or observing the laws of God or the Church or from educating present or future children in the faith.⁴¹⁵ Likewise, when there is offense to the Creator given by the unbaptized party, such as habitual blasphemy, constant ridicule of the Catholic religion and practices, a life of concubinage or habitual adultery.⁴¹⁶ Also, when conjugal servitude is laid upon the convert inasmuch as the common life is made odious and morally intolerable by quarrels, fights, etc., without just cause, by a dissolute manner of life, criminal pursuits, etc.⁴¹⁷ The motive for the departure may be other than the conversion itself of the baptized convert, as long as no just and reasonable cause after baptism was provided by the latter and conjugal life in practice is impossible.⁴¹⁸

c) *interpellations.*

I. - Before *validly* contracting a new marriage the convert must ask the questions: 1) whether the unbaptized spouse is also willing to be converted and to receive baptism, and 2) if not, whether the unbaptized party is willing to dwell peaceably with the convert without offense to the Creator.⁴¹⁹ The divine law requires proof of the departure of the unconverted spouse if the departure cannot be otherwise made evident;⁴²⁰ the normal means of certification required for validity of the use of the Pauline privilege are the interpellations. The law of interpellations binds *all* the baptized *always*, unless dispensed. Only the Holy See can dispense from the law of interpellations,⁴²¹ and thus those who become baptized in a non-Catholic sect are unable to apply the Pauline privilege without a dispensation from the same. If there is danger in the delay in having recourse to the Holy See, the Apostolic Delegate has certain faculties to dispense, as also do some local Ordinaries for a number of cases. Dispensation may be sought because of the impossibility of locating the unbaptized party, of grave danger resulting to the convert or others in making the interpellations, etc. More ample faculties of dispensation are enjoyed in mission territories. The interpellations are to be regularly made *after* the conversion and baptism of the Catholic party and before that of the unbaptized spouse, unless the Holy See permits them before the baptism.⁴²²

II. - It is sufficient that the interpellations be made once, but out of charity they may be made more than once.⁴²³ They may be made in the summary judicial form, i.e., before the Ordinary of the convert or his delegate, which is very seldom done; or in the summary extrajudicial form, i.e., an authorized delegate of the Ordinary making contact either in person or by official letter, which is the usual form; or in a private form, i.e., privately by the convert party,—which interpellations are valid albeit to be proved in the external forum, and lawful if authorized by the local Ordinary.⁴²⁴

iii. - If the interrogated unbaptized party answers both questions in the negative, departure is verified and the Pauline privilege is applicable. If the answers to both questions are in the affirmative, there is no departure and the privilege is not applicable. If the answer to the first question only is in the affirmative and in the negative to the second *without a just reason* being given, the unbaptized party is considered to be insincere and thus to have departed, allowing the application of the privilege.⁴²⁵ If the first question is answered in the negative but the second in the affirmative, there is no departure, unless the unbaptized party later ceases to dwell in peace with the convert. If there is doubt regarding the seriousness or sincerity of the answers, the Holy See should be consulted.⁴²⁶ If the unbaptized party refuses to answer the questions at all or within the appointed time, the refusal or silence can be judged a negative reply.⁴²⁷ A negative reply may be explicit or implicit.

3. - *use of the privilege.* The convert party does not lose the right to use the Pauline privilege if the unbaptized spouse again departs after a reconciliation and resumption of marital life after baptism, even with renewed consummation.⁴²⁸ New interpellations may be made to verify the departure. Although the convert is not obliged to use his right to dissolution of marriage by the Pauline privilege, he is obliged at least to effect a suspension of the common life if this is the only means of avoiding grave danger of perversion for himself or the offspring. If, after the baptism of one spouse marital life is continued and the other spouse also receives or seriously intends to receive baptism, the right to a second marriage by the Pauline privilege is lost.

4. - *effect of the privilege.*

a) The bond of the former marriage which was contracted in infidelity is dissolved *only* at the time when the baptized party contracts a new marriage *validly*.⁴²⁹ Thus the unbaptized party is bound by the impediment of *ligamen* until the convert has validly contracted a new bond. The new marriage of the convert must ordinarily be contracted with a Catholic party. Due to the impediments of mixed religion and (in this case) of disparity of worship, a Catholic never has the right to marriage with a non-Catholic, nor does the Pauline privilege concede this right.⁴³⁰ Special permission of the Holy See is necessary to allow a convert to use the Pauline privilege to marry a non-Catholic. A local diocesan curia may not be willing to petition the Holy See for this favor in a particular case.

b) In summary form it can be stated that the *right* to the Pauline privilege, i.e., to interpellate, is acquired at the time of the baptism of the convert; the *cause* for its use is the unjust departure of the unbaptized spouse; the use of the privilege is not of obligation nor does it cease by

non-use; the *effect* of the privilege, i.e., the dissolution of the natural bond contracted when both parties were unbaptized, is had upon the valid contracting of the second marriage.

5. - *cautions.*

a) Before admitting a prospective convert to instructions, and certainly before any baptism, an investigation must be made by the pastor or priest to determine the canonical and civil marital status of the party. A complete course or period of instructions in the Catholic faith as well as a sufficient time in the practice of the faith is a normal requirement (which may be more precisely determined by local diocesan regulation). It is a most prudent caution (if not otherwise prescribed) for the pastor or priest not to baptize a convert in a possible Pauline privilege case (especially a divorced person) before approbation by the local Ordinary or curia verifies the presence of all necessary requisites for the use of the privilege.

b) A prospective convert who is under instructions, being in this case already validly married, must not keep company with another person, or, if marriage has been attempted a second time, must separate from this new partner. The Catholic must be strongly admonished about his obligations and the dangers involved. If separation is not possible in the circumstances, a petition for a temporary brother-sister arrangement may be made. It should be noted that any intercourse engaged in by the baptized party after baptism (being adultery), unless condoned, affords the unconverted spouse cause for just departure and renders the Pauline privilege inapplicable. If the party wishing to enter the Church has been baptized in a sect subsequent to the original marriage, conditional baptism will follow the norms of prudence mentioned above for approbation before the interpellations are sought. Where there has been an attempted marriage with a baptized party, the impediment of crime is to be investigated and dispensation sought. Oftentimes factors in a Pauline privilege case may change the situation into another category of dissolution in favor of the faith (Petrine privilege) or into a sacramental unconsummated marriage case. Likewise it is not a Pauline privilege as such if the prospective convert is the unbaptized party wishing to marry a Catholic and if the original spouse of the prospective convert was subsequently baptized in a sect. In every case, all danger of scandal must be avoided. The pastor or priest is not to inform a convert of the possibility of a dissolution, Pauline or otherwise, until all the facts are in, or promise any favorable outcome, since such cases often consume much time and investigation.

c) The Pauline privilege case usually requires such documentation as the following: the formal petition, the certificates of marriage and divorce (if obtained), affidavits or testimonies from the convert and the

non-convert parties and from their witnesses to prove the non-baptism at the time of the marriage and that the convert was not responsible for the departure, the certificate of baptism if received after the marriage, the answer to the interpellations or the dispensation from them.

132 – D. - PETRINE PRIVILEGE CASES.

All cases of marriage which are not clearly dissoluble under the terms of the Pauline privilege must then, to be dissoluble, come under the vicarious and ministerial or instrumental power, the fullness of Apostolic power, committed to Peter and his successors.⁴³¹ Whenever there is question of the baptism of one of the spouses, the marriage becomes subject to the Church. All instances in which a valid marriage is dissoluble for the purpose of allowing one party either to embrace the Catholic faith or to preserve the same are called "privilege of the faith" or "favor of the faith" cases. This obviously pertains to the Pauline privilege. However, other situations have developed in which valid bonds have been dissolved in favor of the faith and which derive their dissolubility from the supreme vicarious power of the Roman Pontiffs. Authors and the Code itself do not always employ the generic terms "privilege of the faith" and "favor of the faith" in the same way, referring sometimes to the Pauline privilege and at other times to non-Pauline cases and even to both together. For practical purposes the following cases, since they are not, or at least not clearly, contained under the Pauline privilege, are listed under the so-called Petrine privilege. Like the Pauline, the Petrine privilege is a favor and not a right, and thus the Church may impose certain regulations for the granting of the favor—which in every case means the dissolution of a natural bond or non-sacramental marriage.

133. – 1. - *Apostolic Constitutions*. Certain papal provisions which were once made for particular places have been extended by the Code to other regions also in the same circumstances.⁴³² Local diocesan curias are not usually apt to consider a case solely on the basis of the Constitutions but rather on some other grounds.

a) "*Altitudo*" of Paul III. (June 1, 1537) This provision concerns a polygamous convert⁴³³ who does not remember which of his wives he married first, i.e., with whom he first gave true marital consent. In this case he is permitted to retain whichever one he chooses. There are no interpellations required. If the convert remembers the wife he first lawfully married, he must retain her and dismiss the others. The polygamy may be successive as well as simultaneous.⁴³⁴ The person he chooses may even be in the third degree of consanguinity, which is thus dispensed by the Constitution. Even if another spouse desires to receive baptism and the one chosen does not, the convert may still choose the latter. If the one chosen is unbaptized, there is implicitly granted a dispensation from disparity of worship.⁴³⁵ Although the guarantees (*cautiones*) are to be

made *ad cautelam*, there must at least be absent any danger of sinning for the convert party and a firm resolve to provide for the Catholic education of the children and the conversion of the unbaptized spouse.⁴³⁶ Renewal of matrimonial consent in the usual form is always made, at least *ad cautelam*. This Constitution is hardly applicable in countries like the U.S.A. where civil ceremonies and records usually can identify the first spouse.

b) "*Romani Pontificis*" of Pius V. (Aug. 2, 1571) This Constitution deals with polygamists⁴³⁷ whether simultaneous or successive,⁴³⁸ i.e., who have exchanged marital consent with more than one person. It permits them upon conversion to choose any one of their wives who has been or who is willing to be baptized and to retain her to the exclusion of the others, even though she was not the first one who was lawfully married. The reason required is the very great difficulty for the convert to be separated from the chosen partner with whom he is living and who is willing also to be baptized or already has been baptized, especially if it is difficult to locate the first wife. There are no interpellations.⁴³⁹ The wife chosen should be baptized previous to the renewal of marital consent; this latter renewal must be made in the canonical form.⁴⁴⁰ The Constitution does not include any dispensation from consanguinity in the third degree. If, however, the first wife spontaneously declares that she is willing to be baptized or has already been baptized, recourse should be had to the Holy See; it has been indicated that this Constitution applies also in such a case.⁴⁴¹

c) "*Populis*" of Gregory XIII. (Jan. 25, 1385) In the case of anyone, whether polygamist or not, who has contracted marriage in infidelity, faculties are granted for both fora to dispense from the interpellations when it appears from a summary and extrajudicial process either that it is impossible (physically or morally) to interpellate the absent party according to law, or that the latter has failed to reply within the stated time, even though it afterwards becomes known that the former unbaptized spouse was prevented from declaring his will or even was converted and baptized before the second marriage took place. Dispensation from the interpellations is not *ipso iure* from the Constitution but is granted to local Ordinaries, pastors and Jesuit confessors approved in the place (and all missionaries having the general care of souls, according to some) to be exercised only that the convert party might enter into marriage with a Catholic. The new marriage must be in the canonical form. As in "*Altitudo*" and "*Romani Pontificis*" the other canonical procedures in common with a Pauline case are to be followed.

134. - 2. - Doubtful cases.

a) "In a case of doubt, the privilege of the faith enjoys the favor of the law."⁴⁴² In other words, a certain juridic preference is granted to con-

tract a new marriage with a Catholic in every case where such a union would result *in favor of the (Catholic) faith*, and where, notwithstanding insoluble doubts, it is at least *certain* that the former marriage can be *dissolved* by the ministerial or vicarious power of the Apostolic See. This privilege is applicable when any doubt arises as to whether all the conditions requisite for the Pauline privilege or the Constitutions or the dissolution of some type of natural bond are fulfilled. However, if the good faith of the convert party does not require the dissolution, then the norm of validity and stability of a previous marriage⁴⁴³ is maintained, i.e., that a marriage is presumed to be valid and that a doubt is to be solved in favor of the validity of a marriage until the contrary is established.

b) When the baptisms of both parties to a consummated marriage are in doubt the favor of the faith privilege does not apply. Reserved to the Holy Office are cases in which the baptism of a non-Catholic party in a marriage with an unbaptized person is involved in an insoluble doubt.⁴⁴⁴ Recourse is indicated in practice when the Catholic baptism in a case is doubtful. No impediments to the new marriage, whether certain or doubtful, are removed by this privilege, but rather by the prescribed modes of dispensation. Likewise, there can be no sanation or suppliance of consent, but consent must be renewed by the parties themselves in the canonical form.

c) The doubt respecting the status of the original marriage must be one that is proved to be morally insoluble after diligent investigation, study and consultation have been made,⁴⁴⁵ i.e., when moral certainty cannot be attained. The doubt may respect the existence of a marriage contracted in infidelity or its validity, the verification of the conditions for a Pauline privilege, the fact or validity of the baptism of one party only, the person or identity of the first spouse in a polygamous union, the dissolution of a marriage contracted in infidelity, the sufficiency of the reasons for a departure, the sincerity of a reply to the interrogations or the adequacy of the reasons for dispensing from them, etc.

d) In certain cases—so-called “*aut-aut*” cases—the insoluble doubt or doubts may present a dilemma each horn of which opens an entirely distinct avenue of dissolution. Such case may or may not involve the Pauline privilege or the Constitutions. The doubt regards which authority is to be operated under in the case as a source for possible dissolution. However, in every case, no matter what the possibilities or the elements involved, the existing bond must be from any point of view chosen clearly dissoluble by the power of the Apostolic See.

135. — 3. - *Other natural bond cases.*

a) All things being equal, a marriage entered into between an unbaptized party and a baptized non-Catholic may be dissolved upon the desire

of the unbaptized party to embrace the Catholic faith and to marry (or validate a union with) a Catholic, the non-Catholic party having already remarried after civil divorce.⁴⁴⁶

b) Dissolution of the natural bond is possible likewise in a marriage between a baptized non-Catholic and an unbaptized partner when the non-Catholic party, subsequent to the breakup of the union, now wishes to embrace the faith and marry (or validate a union with) a Catholic person.⁴⁴⁷

c) Marriage contracted with a dispensation from disparity of worship between a Catholic party and an unbaptized person may be dissolved, upon the breakup of the first marriage, to allow the Catholic spouse (or even the unbaptized party after coming into the Church) to marry anew a Catholic party.⁴⁴⁸

136. - 4. - Requirements.

a) Privilege of the faith cases that come under the Petrine privilege follow most of the procedures and observe the cautions already noted for Pauline privilege cases, such as securing adequate proofs, witnesses and testimonies or affidavits, promises not to keep company or live as husband and wife, instructions and delay of baptism. As with a Pauline case, the regulations and procedures laid down by the Ordinary and his curia must be observed. Since it is a privilege or favor that is being sought, there is no *right to demand* even a consideration of the case by the Church and thus the latter may establish certain requirements as conditions for accepting a case and pursuing its course. Petrine privilege cases must be sent to the Holy See who judges the facts, especially the proof of non-baptism. In a successful case the dissolution of the first marriage takes place when the rescript is granted and its conditions fulfilled. A usual condition is that the unbaptized party is to be baptized before the second marriage is contracted.

b) The pastor or priest handling a case must make an informal investigation to ascertain if there is truly a case present and that the proper certifications can be satisfactorily secured before submitting a case to the local curia. Sound judgment must be made that the unbaptized party is not using entrance into the Church as a means of removing the impediment of ligamen to a prospective union with a Catholic. True sincerity is present usually if the party wishes to enter the Church even though there is given no likelihood (even unlikelihood) that a new marriage can take place. A case is prejudiced if marriage is attempted nevertheless during the course of instructions or while the case is being considered by the competent authorities. There must be a grave reason for petitioning the favor of dissolution and the absence of resulting scandal or amazement.

XIX. SEPARATION OF SPOUSES

137. — A. — NOTION.

1. - Marriage is defined as "living together in undivided partnership." Thus, married couples are obliged to preserve the common bond of conjugal cohabitation unless a justifying reason excuses them.⁴⁴⁹ Normally conjugal life requires and obliges to the habitual sharing of bed, board and home (*communio tori, mensae et cohabitationis*) for the full attainment of the primary and secondary purposes of marriage. Severance of this conjugal life, saving the bond itself, is called imperfect divorce or *separation*. Separation is total or complete if it includes the threefold sharing; it is partial if it is from bed alone (mutual consent to abstinence from intercourse is not pertinent to this context). The common law of the Church refers only to complete separation.

2. - Complete separation is either of itself *perpetual*, and then there is no obligation to resume the common life, or *temporary* only, which of itself must cease upon the cessation of its cause. The principal and practically only cause for perpetual separation is the adultery of one party. Mutual consent to complete and perpetual separation is seldom permissible because of the danger of incontinence and scandal. Only the Holy See may authorize this in the case of couples desiring a higher life of perfection.

138. — B. — PERPETUAL SEPARATION.

1. - *Cause*. Either party by reason of adultery on the part of the other has the right, though the marriage bond remains intact, to terminate the community life even permanently, unless he consented to the crime, or was the cause of it, or condoned it expressly or tacitly, or himself committed the same crime. There is a tacit condonation if the innocent party, after learning of the adultery, of his own accord receives the other with conjugal affection; condonation is presumed unless the injured party within six months expels or deserts the adulterer, or brings a legal action against him.⁴⁵⁰

2. - *Requisites*. The crime of adultery must be a) *formal* or committed with a free deliberate will and not through any force, fraud or ignorance; b) *consummated* or effected by perfect copulation and not merely attempted or begun by kisses, touches, embraces, etc.; consummated sodomy, bestiality, etc., are equivalent to adultery; ^{450a} c) *morally certain*, at least by sufficient signs or presumptions which leave no room for prudent doubt; d) *committed after baptism*, since the sacrament totally wipes away the crime; e) *unapproved*, in that consent to the crime has not been given expressly or tacitly, e.g., by not preventing it when this

could be done without great inconvenience or difficulty; f) *unprovoked* or caused directly and proximately, e.g., by frequent *unjust refusal* of the marital debt, by desertion, failure to provide, etc.; g) *uncondoned*, once the crime has become known, e.g., condoned by a request for or by a free rendering of the marriage debt, or by the continuance of a peaceful marital life with display of affection; h) *uncompensated*, in that the other party does not commit a similar crime.

3. - Authority.

a) The innocent party *may* terminate the conjugal life either in pursuance of an ecclesiastical decree upon proof of the fact or on his own private authority, provided that the crime is certain and public, i.e., either commonly known or committed in such circumstances as easily to give rise to such knowledge, or even if it is occult when grave inconvenience or hardship would result. Outside of cases of direct argument, such as admission of guilt, witnesses, etc., the authority of the external forum, i.e., the local Ordinary, should always be involved. A doubtful right to separate is to be submitted to the judgment of the local Ordinary.

b) "We forbid all married persons to go to civil tribunals in order to obtain separation from bed and board, unless they have previously consulted ecclesiastical authority. If anyone should attempt this, let him know that he has offended gravely and that he is to be punished according to judgment of the bishop."⁴⁶¹

4. - *Effect*. The innocent party who has departed lawfully, whether in pursuance of a judicial decree or on his own authority, is never bound to admit the adulterous party again to conjugal life; but he may either receive or recall the party (who is to return), unless the latter has in the meantime with his (the innocent party's) consent embraced a state of life inconsistent with marriage,⁴⁶² such as religious vows or sacred orders. Other effects of separation are the same as mentioned below for temporary separation.

139. - C. - TEMPORARY SEPARATION.

1. - *Causes*. The reasons mentioned in the common law⁴⁶³ which would justify separation of spouses for a time are not taxative or exhaustive but exemplificative or categories of causes. Thus the delinquent spouse gives reason by: a) *joining a non-Catholic sect*, which involves a formal adscription to some sect⁴⁶⁴ (spiritual adultery), but not if one spouse is a non-Catholic before the marriage took place; b) *educating the children as non-Catholics*, which is directly against the *bonum proles* and a kind of spiritual adultery; c) *living a criminal and ignominious life*, which is to be understood as an habitual state or condition, such as a drunkard, jailbird, homosexual, etc.; d) *causing grave spiritual or bodily danger to the other*

spouse, which danger to the *soul* would be continual or frequent provocation to serious sin, e.g., stealing, adultery, prostitution, (according to many) conjugal onanism, and to the *body* would be serious hatred, serious and grave threats, disease such as is contagious in the use of marriage (e.g., syphilis) or presents an immediate danger (e.g., violent dementia), but not other diseases which rather should be occasions for solace and aid than separation; e) *cruelty*, such as beatings, serious and frequent quarrels, contumelies, squandering of the family funds, denial of sustenance, etc.

2. - *Authority*. These and other causes of similar nature are so many lawful reasons for the other party to depart, on the authority of the local Ordinary, or even on his own authority, if the grievances are certain and there is danger in delay.⁴⁵⁵ Separation must be practically the only way to avoid sin in these cases, especially in the use of marital relations.

3. - *Effect*. In every case when the cause for the separation has ceased to exist, the common marital life is to be restored; but if the separation was decreed by the local Ordinary for a definite or an indefinite period, the innocent party is not bound to the common life unless by another decree of the Ordinary or upon expiration of the period.⁴⁵⁶ When separation is effected, the children are to be educated under the care of the innocent party, or, if one of the parties is a non-Catholic, under the care of the Catholic party, unless in either case the local Ordinary decrees otherwise for the good of the children themselves, always without prejudice to their Catholic education.⁴⁵⁷ By a lawful separation granted by sentence of an ecclesiastical judge or by a decree of the local Ordinary, whether for an indefinite time or perpetual, a wife acquires her own proper domicile.⁴⁵⁸ The woman and the children have a right to continued support. The civil law must be taken into consideration in each case, as it is not always the same as canon law.

140. — D. - CAUTIONS.

1. - Cases of separation should normally be referred to the local Ordinary, or to the diocesan separation court where this exists. Particular diocesan law or regulations may specify further requirements in this matter. If the parties have already separated with or without recourse to civil authority and without ecclesiastical authorization the obligation need not be insisted upon nor the parties disturbed, if they are in good faith and no benefit can be expected from the admonition and if no great scandal exists. Civil separation or separate maintenance (or even civil divorce) may be necessary in a particular case in order to secure certain civil effects for the injured party. Such a process may be instituted only with the permission of the local Ordinary. The civil laws and the civil rights of parties as they exist in each State or civil jurisdiction are to be

consulted, at least for the protection of the innocent party and the children. Pastors and confessors should take reasonable caution in separation cases to avoid the danger of a civil suit for alienation of affections being brought against them.

XL. XX. CIVIL DIVORCE AND MARRIAGE

A. - It is never permitted Christians to seek a perfect civil divorce for the purpose of entering a new marriage while still bound by the impediment of *ligamen*. For the purpose of settling certain civil effects it may be permitted—because necessary— that Catholics seek a separation or partial divorce, or even a complete divorce, provided that ecclesiastical permission to separate for a canonical cause has been obtained, that there is grave difficulty from which they expect to be freed by seeking such civil divorce, and that there is no other way to remove the hardship or disadvantage.⁴⁵⁹ Civil divorce proceedings may be authorized in an individual case as long as it is clear that this is only for maintaining civil effects and to safeguard a party from injury, e.g., to regulate substantial property rights. Sometimes where a dissolution of a previous marriage bond has been granted by competent ecclesiastical authority it will be necessary to seek permission to secure a civil divorce in order that a second marriage in the Church become also recognized in civil law.

B. - Since the marriage cases of Catholics depend solely upon ecclesiastical authority, the permission of the local Ordinary (or the diocesan divorce court) is necessary in order to invoke the civil law. The effects desired from the civil law are gained in some civil jurisdictions by a decree of separate maintenance or separation; consequently the ecclesiastical permission to go to civil court will be given only to this extent and not for a complete or perfect civil divorce.

C. - When civil law requires it, it is not forbidden parties to present themselves before a non-Catholic minister acting only as a civil officer, merely for the purpose of performing the civil act of marriage for the sake of the civil effects.⁴⁶⁰ However, American civil law everywhere recognizes pastors and qualified ministers of religion as authorized to officiate at marriages which are thus valid in civil law. Some civil jurisdictions require particular formalities, such as registration as an officiating minister, residence, etc., as well as witnessing of the marriage license. There is hardly ever an occasion for parties to a marriage to present themselves to a civil officer or justice of the peace, and still less to go before a non-Catholic minister, in order to secure the civil effects of their marriage. A case could arise—and a merely civil ceremony permitted by the local Ordinary—whereby the original valid marriage, meanwhile dis-

solved by a civil divorce in the sight of the state, is to be resumed, and thus a new civil ceremony is in order for its civil effect. Although there is no penalty in the common law for attempting marriage before a civil officer or justice of the peace, some dioceses prohibit such an act under censure. A Catholic attempting marriage before a non-Catholic minister as such incurs an automatic excommunication reserved to the local Ordinary,⁴⁶¹ and also a similar excommunication if he dares to attempt marriage after obtaining a civil divorce or merely attempts marriage with a divorced person.⁴⁶²

142.

XXI. LEGITIMATION OF OFFSPRING

A. - NOTION. - Children are called legitimate or illegitimate inasmuch as the parents from whom they spring are validly joined in marriage or not. Illegitimate children are called *natural*, if no impediment existed which would have prevented their parents validly contracting marriage; *spurious*, if it is otherwise; *sacrilegious*, if at least one of the parents is bound by solemn profession or by a sacred order; *adulterine*, if one of the parents is already validly married; *incestuous*, if the parents are related within the forbidden collateral degree of consanguinity or affinity; *nefarious*, if within the forbidden degrees of the direct line. *Legitimacy* is a juridical quality conferred on a child born in wedlock; it produces definite effects in law, based upon the natural dignity deriving from the natural law. *Legitimation* is an institution of positive law or a concession of a lawful superior which attributes to a child born out of wedlock at least some, if not all, of the juridical effects of legitimacy; being one of the inseparable effects of marriage, it pertains exclusively to an ecclesiastical tribunal. Permission should be secured in order to approach the civil court for the merely civil effects.

B. - LAW.

1. - Those children are legitimate who are conceived in or born of a valid or of a putative marriage, unless at the time of conception the use of the marriage previously contracted was forbidden on account of solemn religious profession or of the reception of a sacred order.⁴⁶³ Foundlings are usually to be regarded as legitimate unless their illegitimacy has been proved (legitimation *ad cautelam* may be advisable in a case of promotion to orders). The father is he who is shown to be such by the existence of a recognized marriage, unless the contrary is proved by sufficient evidence. They are presumed to be legitimate who were born at least six months after the day on which the marriage was celebrated or within ten months from the day on which conjugal relations were suspended.⁴⁶⁴

2. - By the subsequent valid or putative marriage of the parents, whether it is a validation or the original contract, even if it is not consummated, the offspring is legitimated or made legitimate, provided the parents were qualified to contract a valid marriage with each other at the time either of the child's conception or of the pregnancy or of the child's birth.⁴⁶⁵ Legitimation by means of a dispensation from an invalidating impediment does not apply when the children are sacrilegious or adulterine.⁴⁶⁶ The fact of the subsequent marriage of the parents is to be added in the margin of the baptismal register of the children who are recorded there as of unknown father or of unknown parents or of parents not joined in wedlock.⁴⁶⁷ Notification of the celebration of the marriage is to be sent to the place of baptism.

3. - Children legitimated by a subsequent marriage are to be considered, as regards canonical effects, as the equivalent of legitimate children, unless the contrary is expressly provided.⁴⁶⁸ Children legitimated by subsequent marriage may be admitted to the seminary.⁴⁶⁹ Solemn profession removes the irregularity of defect of birth but not the illegitimacy itself.⁴⁷⁰ A particular rescript from the Holy See may effect legitimation, as does a radical sanation.⁴⁷¹

XXII. CONJUGAL ACT: RIGHT AND OBLIGATION

143. - A. - RIGHT.

1. - The primary end or purpose of marriage, the procreation of offspring, is achievable by the conjugal act; thus the prime obligation in marriage is the proper use of this act. As the fulfilment or exercise of the marital contract it is an obligation contained in the duty of marital fidelity (*bonum fidei*). In the fullest sense the conjugal act refers to marital intercourse which is of itself apt for generation.⁴⁷² In the wider sense of including also the various actions which are necessary to conjugal intercourse which is to take place or which has been performed it is sometimes called the use of marriage (*usus matrimonii*).

2. - The right and duty of marital intercourse is both of natural institution and of divine law and its fulfilment or observance may also be meritorious. "Let the husband render the debt to his wife, and likewise the wife to her husband. The wife has not the disposal of her own body, but the husband; and likewise the husband has not the disposal of his own body, but the wife. Do not deprive each other, except by agreement for a time, that you may devote yourselves to prayer; and then come together again, that Satan may not tempt you through your incontinence."⁴⁷³ "That mutual familiar intercourse between the married themselves, if the blessing of conjugal fidelity is to shine with becoming splen-

dor, must be distinguished by chastity, so that husband and wife bear themselves in all things with the law of God and of nature, and endeavor always to follow the will of their most wise and holy Creator with the greatest reverence towards the work of God." ⁴⁷⁴ "For if the motive for the marriage act be a virtue, whether of justice that they may render the debt, or of religion that they may beget children for the worship of God, it is meritorious." ⁴⁷⁵ "Every act whereby a precept is fulfilled is meritorious, if it be done from charity. Now such is the marriage act." ⁴⁷⁶

144. — B. - OBLIGATION TO RENDER THE DEBT.

1. - Each spouse has from the very beginning of marriage the equal right and duty with respect to the acts proper to conjugal life.⁴⁷⁷ There is an obligation binding in strict and commutative justice to render the marriage debt when it is justly requested. The object and end of the marital contract is something serious; the right to the body of one's spouse is precisely what is transferred in marriage and to deny its exercise or fulfilment is a serious vexation to the petitioner. There is thus a grave obligation to accede to a request that is made seriously, reasonably and lawfully, whether expressly or tacitly. It admits of lightness of matter, and therefore it seems to be no great injury to refuse on one or another occasion, especially if the request is frequent or remiss. However, there may be an obligation at least in charity if otherwise the petitioner would be in danger of incontinence, such as pollution, or of some other great harm. If a spouse only grudgingly accedes to a request or makes intercourse too unpleasant, too difficult or too infrequent, there is an implicit denial. To cause oneself to become sterile is a violation of the right to the use of marriage and against justice.

145. — C. - OBLIGATION TO REQUEST THE ACT. - Although a spouse has a strict right to the conjugal act, he has not a strict obligation in justice to request it, as he is free to exercise his right or not. There are times, however, when charity or some other virtue will require that the debt be requested. Such occasions arise when one partner is perceived to be in danger of incontinence, or out of a sense of shame will not make the request, or when it is useful to prevent dissension or to foster marital love and affection. It is the husband who normally makes an explicit request, whereas the wife requests implicitly, e.g., by showing certain signs of affection. The spouses by mutual and free consent may lawfully abstain from the act temporarily for some physical or spiritual benefit. Perpetual abstinence would be rare and only for a very grave cause.

146. — D. - LIMITATIONS.

1. - The right to the marital debt (and the correlative obligation to render it) is not unlimited. The area in which the right is inoperative is

often difficult of precise determination because there are often physical, moral or spiritual conditions of individuals involved and even the necessity of medical advice. A graver cause must exist to deny the debt absolutely than to restrict it or to put it off for a period. Examples of causes recognized as sufficient justification to deny the debt are: a) if one spouse is guilty of adultery (likewise sodomy or bestiality) such as suffices for a cause for separation, or if a spouse has given sufficient cause for legitimate separation from bed and board; b) if one partner is affected by loss of reason or perfect drunkenness, etc., as long as the condition endures, unless it becomes expedient to render the debt in order to avoid serious harm or hardship, such as beatings, incontinence, etc.; if both spouses should become insane, intercourse is unlawful because of the inability properly to procreate and educate offspring; likewise when only one spouse becomes insane, especially the mother, if there is danger to the offspring; c) if the request is immoderate or too frequent, as this can be harmful, especially to the man; intercourse more than two or three times a night even in early married life is considered immoderate and unlawful but not if it is not more than once a week, especially early in marriage; d) if immoral means are used, such as onanistic or sodomistic intercourse, or unlawful circumstances attend the act, such as others being present or liable to be scandalized; e) a *certain* impotency or inability to copulate (not merely an inability to generate) which renders the use of marriage unlawful and which has arisen subsequently to the marriage, since any probable hope of accomplishing true intercourse safeguards the use of the right.

2. - Difficulties which can arise and which are intrinsic to marriage are not of themselves sufficient cause to deny the debt, such as the large number of children already born, past experience of a difficult pregnancy or birth, fear of another miscarriage, etc. The serious danger or hardship to either party or to the offspring must be also extrinsic to the marriage, as in cases of serious illness, grave danger of abortion, serious heart trouble, probably communication of a contagious disease or of infection especially from frequent intercourse, a certain and grave danger of death in a new pregnancy (which danger should be certified from several prudent and expert medical and moral sources), the weeks immediately following childbirth, failure of a husband to provide for the present children, etc.

147. — E. - LAWFULNESS.

1. - *conjugal act itself*. Conjugal intercourse as instituted and designed by God for the propagation of the human race is lawful when apt for generation and in accordance with the *bonum prolis* and the *bonum fidei*.⁴⁷⁸ If performed for the proper end and in due circumstances, it is an act of the virtue of conjugal chastity and can be meritorious. Whatever

takes place among spouses which is in consonance with the end of marriage and thus favors generation is thereby free from all sin. Whatever is opposed and positively impedes generation is always a grave sin. Whatever takes place between spouses and which is outside the purpose of marriage, neither favoring nor impeding it, of itself never exceeds more than a venial sin. Meanwhile, if the attainment of the primary end is impossible, the secondary ends supply a norm of morality—fostering of mutual love and the alleviation of concupiscence.

2. - *the intention of the spouse.*

a) The intention of the spouse in performing the act of intercourse must be for a good end which is conformable to the end of the act itself. Positively to exclude the primary end of marriage, to intend to take measures to impede its achievement is a grave sin. To intend explicitly a secondary end of marriage and only to abstract from the principal end is lawful, since implicitly the latter is included. However, it is an inordinate use of a lawful thing and outside the purpose of marriage to intend principally and solely the pleasure of the act so that the primary end is positively excluded or postponed (in the intention); this is at least a venial sin.⁴⁷⁹

b) A desire which is merely inefficacious that no conception will take place, because of a condition of poverty of resources, infirmity or some other honest reason, is not sinful, as long as no unlawful means are employed to prevent conception and the act itself is apt to generate. It is grave sin for a spouse to engage in intercourse with an adulterous desire, i.e., to act under the consideration that another than the spouse is present or to desire to have intercourse with that person and consent to such a desire. To think of one's spouse as possessing the beauty or other features of someone else is not sinful, at least seriously, but it is dangerous because risking consent to adulterous thoughts or desires.

c) Intercourse is lawful even though it is foreseen that an unprovoked abortion or miscarriage will result later, since this is accidental to the good purpose of the act. It is also lawful for those who are sterile or who are advanced in years to engage in intercourse, as long as they can perform the act itself or enjoy the hope of doing so. Likewise if the seed is lost before or during copulation, since generation is accidental to the human action performed.

3. - *Circumstances.*

a) The natural position for intercourse is of itself obligatory. The parties face each other with the man taking the superior position stretching his body over that of the woman (*incubus*), while the woman assumes the usual supine position (*succuba*). It is sinful to change the natural position without justification, but not seriously sinful, if the act performed

is still apt to generate. It is lawful and not sinful for a sufficient reason to assume other than the natural position, e.g., during advanced pregnancy, because of some difficulty or a condition of frigidity, illness, obesity, etc., even if accidentally some seed is thereby lost. The couple will be justified in assuming any position which is most effective for them at any particular time.

b) It is of grave obligation that the act be performed in a secret place lest scandal be given. If the requisite privacy is perchance invaded, intercourse may be terminated immediately, even though seed is accidentally lost outside the vagina. Parents who live in straightened housing circumstances should be especially vigilant with regard to the presence of children, even though below the age of reason.

c) There is no prohibition of time regarding the conjugal act, even before approaching Holy Communion, although in an individual case abstinence at certain times may be advisable. When serious harm would result, the action would be unlawful. It is lawful but not advisable to copulate during the menstrual period. Danger of harm is always present in the few weeks after birth and thus the action is unlawful in the measure of the harm involved. During a condition of pregnancy moderate use is always indicated, but it is unlawful to use the right when there is a danger of abortion or of harm to the child or mother resulting.⁴⁸⁰

4. - *Accessory acts.*

a) Whatever is necessary or useful for complete copulation between spouses is in itself always lawful. Actions which do not constitute but are somewhat more or less connected with the act of intercourse, although gravely sinful for the unmarried, are not sinful at all or at least not seriously so for the married, since of their nature they are ordered to the marital act. These are the acts of lovemaking or love play. This requires that there develop an individual adjustment in marital relations, which must be learned and acquired principally through experience in married life, as it is not instinctive or automatic. The accessory acts, as well as the conjugal act itself, should be expressions of mutual conjugal love and not merely sexual releases or physically satisfying activities. They require an appreciation of differences of sex and personality, demand patience, tact and cooperation, and suppose a giving of the whole self or personality in a shared love with all that each can contribute to its fulfilment in moderation and the virtuous control of selfish exploitation or of the defect of perfunctory performance of a duty. The man, who is usually more quickly aroused sexually and more aware in this area, should extend and prolong his lovemaking so that the spouse, who is normally less sexually excitable and aware but more desirous and appreciative of expressions of love and affection, can attain her full measure of lawful satisfaction at

about the same time. Mutual respect and love, and a sense of delicacy will carry the couple through the normal experience of adjustment in marital relations regarding what is mutually useful, and satisfying.

b) As long as there is no danger and intention of losing seed outside of marital intercourse, all imperfect venereal acts of lovemaking, whether mutual or solitary, are lawful, such as looks, touches, embraces, kisses, conversations and other sexually stimulating acts. Spouses should refrain from truly obscene actions, such as rectal penetration, application of the mouth or tongue to the genitals, etc., because these frequently present a danger of pollution, cause a lessening of conjugal shame, and make it easier for a venial to become a mortal sin. Merely to touch or to penetrate the rectum (mouth or other part) without danger of pollution, or to begin intercourse in such manner with the intention of consummating or completing it in the vagina, is probably not more than a venial sin; it is no sin at all if it is a necessary means in the individual case and with sufficient reason is undertaken to secure the lawful exercise of marital rights.

c) Although the woman is not obliged to do so, she may immediately after her husband's ejaculation in the vagina or immediately after his withdrawal upon ejaculation obtain her own complete satisfaction through her own or her spouse's efforts performed by means of touches or in some other manner. This is considered to be the natural complement of the conjugal act and to possess a moral union with the male insemination. It is commonly held that the woman may not do this if the husband withdraws in an onanistic manner, since the woman's satisfaction is then not obtained to complete true copulation but rather directly intended to procure pollution or orgasm. It is controverted but in practice there is no serious sin if a woman seeks her own complete satisfaction before the ejaculation of the husband but at least after the latter's penetration of the vagina. There would be no sin at all if there were good reason for doing so. However, the husband cannot complete his own act if the woman should withdraw or terminate the intercourse before insemination has been effected, since this would be pollution.

d) Morose delectation (and also desires) enjoyed with respect to intercourse with one's own spouse, regarding acts performed in the past or to be accomplished in the future, is no sin at all, or at most a venial sin, as long as there is no danger of pollution taking place or it does not regard seriously forbidden actions. Whatever is libidinous and opposed to the generation of offspring is gravely unlawful even for the married. Voluntary pollution had outside of marital intercourse, as well as whatever can induce the proximate danger of it, either in the man or the woman, is a grave sin against chastity and also against commutative justice.⁴⁸¹ Likewise gravely sinful is any sodomitic or rectal intercourse, i.e., insemination in the rectal orifice, which is an unnatural sin and against conjugal

fidelity. Regardless of the good intentions of the woman, vaginal lotions may not be used immediately after intercourse has taken place and insemination accomplished, since conception is thereby rendered impossible or unlikely. They may be used only if truly requisite for health; however, it is commonly taught that at least two or three hours must elapse (even longer if they are to be used for a lighter reason), and some twelve hours must have passed before applying a uterine lotion. It is required and suffices in confession that the sinner declare that he is married when confessing these sins.

5. - *Cautions.* A confessor or priest in the external forum must beware of hasty and minute questions concerning the various ways of accomplishing intercourse and of lawful or unlawful actions between spouses, since they are not always necessary for the integrity of confession or the effectiveness of counselling by the priest and may give rise to scandal. Questioned on such matters he should reply as briefly as possible and by the general principles of moral theology instead of descending to particulars and details. The instruction that is needed in a particular case may indicate that the penitent or spouse be referred to someone else who is prudent and expert or experienced in such matters. The Instruction of the Holy Office on the attitude to be maintained in these matters should be kept in mind.⁴⁸²

XXIII. CONJUGAL ACT: ABUSES

148. - A. - ARTIFICIAL INSEMINATION.

1. - *Notion.*

a) Artificial insemination (*fecundatio artificialis*) is the injection by art of the male seed into the uterus of a woman and which takes place outside of perfect copulation. Artificial insemination of a woman by donor insemination, i.e., with the seed of a third party, even though it is done with the consent of the husband, is intrinsically evil, since the offspring is had in marriage but not of the marriage.⁴⁸³ This type is not further considered here, but only the process in which the husband is the donor.

b) When there is not a substitution for or a replacement of the natural act of intercourse but merely an artificial aid to its achievement, this may be called in a wide sense artificial insemination. Thus, it may be necessary or very useful in a certain case before intercourse takes place for the vagina of the woman to be dilated by means of an instrument in order, during the normal performance of coition, better to retain the male member and its ejaculate and thus provide for its reaching the uterus. Likewise, in another situation, after the spouses have achieved perfect intercourse in the normal manner in the vagina, a physician with the aid of a

syringe or instrument injects into the uterus the seed already ejaculated into the vagina, without extracting it from the latter, so that fecundation, which otherwise would not have taken place, follows.

c) Artificial insemination in the proper and strict sense is accomplished in several ways. 1) During normal intercourse the husband withdraws at the point of climax and ejaculates the seed into some receptacle whereupon a physician collects it in an instrument and injects it into the vagina or even the uterus. Similarly, the man may ejaculate into a condom during intercourse in order to provide seed for the physician's action.⁴⁸⁴ 2) By a solitary pollution procured outside of intercourse, whether by voluntary masturbation or involuntary nocturnal emission, the husband deposits seed in a receptacle for subsequent injection. 3) A physician draws off seed immediately from the testicles (epididymis or seminal vesicles) by means of a surgical puncture (aspiration of seed) and subsequently artificially injects it into the woman.

2. - Morality.

a) In the case of artificial insemination taken in the wide sense, natural and perfect intercourse is accomplished between the spouses; rather than opposing or frustrating nature its purposes in a natural manner are more effectively aided.⁴⁸⁵ For sufficient reason a woman may cooperate in this practice.

b) Artificial insemination in the proper sense is contrary to the order of nature and intrinsically evil. Any other method of transmission of seed between spouses, even though biologically possible, than conjugal intercourse in the usual manner is not permitted by nature and thus is unlawful, unjustifiable and immoral.⁴⁸⁶ A woman must resist in the same manner as required in the case of condomistic intercourse. A marriage is not considered to be consummated in this way, as there is no true conjugal act.⁴⁸⁷

c) The malice of artificial insemination has been made clear by the Teaching Authority of the Church.⁴⁸⁸ "Therefore, when this act, in its natural form, is from the beginning and permanently impossible, the end and object of the marriage contract suffer from an essential defect. This is what We said on that occasion [29 sept. 1949]: 'It should not be forgotten that it is only that form of procreation of new life which corresponds to the will and the plan of the Creator that brings with it, in an amazing degree of perfection, the realization of the purposes intended. At the same time it is in conformity with the corporal and spiritual nature and the dignity of the spouses and with the normal and happy development of the child.'"⁴⁸⁹

149. — B. - COPULA DIMIDIATA.

1. - Notion. Intercourse is called *copula dimidiata* when there is only a very slight penetration of the vagina, at best a half or third, and nothing

impedes further penetration. This, then, differs from the case when the seed is deposited merely at the orifice or between the labia, which is not true copulation, even imperfect intercourse.

2. - *Morality.*

a) The practice of this imperfect penetration without sufficient justification is at least a venial sin. It is not the perfection of the union of two in one flesh. It would be gravely sinful if the idea and intention in undertaking such a practice was totally to impede generation. Even though nothing is done to impede generation itself, a fear of procreating offspring, a desire to render conception more difficult or less likely are insufficient justifications and cause the practice to be venially sinful. A proportionate cause is present if a woman cannot bear full penetration because of some defect or infirmity in the genital organs or the pain caused thereby, or because of a form of vaginism which affects her at the time, etc.

b) A confessor may not encourage or permit this practice as a remedy against some form of onanism, since sin may not be encouraged. Scandal is more apt to arise in the area of sex morality than in any other and such a practice easily leads to a diminution of offspring and the practice of birth prevention. A confessor may not state something to be lawful, which is unlawful.⁴⁹⁰

150. - C. - AMPLEXUS RESERVATUS.

1. - *Notion.* The practice consists in coition which takes place with the intention of abstaining from insemination either within or outside of the vagina. The parties have developed sufficient control over the sexual functions that both can restrain their orgasm (*continentia amorosa*). The promoters of *amplexus reservatus* (also called *copula inchoata* or *reservata*) have recommended it as freeing the spouses to enjoy the physical pleasure of the conjugal act and of achieving the secondary ends of marriage, especially when there is need to restrict the bearing of children such as in a danger of a further pregnancy and when abstinence (*continentia ascetica*) is too difficult and the use of the sterile periods insecure.

2. - *Morality.*

a) It cannot be held that *amplexus reservatus* is simply lawful, unobjectionable from the viewpoint of Christian morality and law and commendable for all.⁴⁹¹

b) Even though this practice is not unassailable it is not agreed whether or not it is immoral in itself. Some hold that it is in itself, by reason of its object, not immoral; only the purpose for which it is practiced or the circumstances in which it takes place will make it immoral. As long as it is done by mutual consent, for a good purpose not opposed

to the primary marital end and for present motives which are proportionately serious to risk the danger of pollution, e.g., health, poverty, etc., it is an incomplete venereal action permitted to spouses. It is conceded that this practice cannot be indiscriminately recommended because of the tendency to indulge in pleasure alone, the ever-present ease of pollution and the temptation to practice onanism and forget the primary duty of marriage. Others label *amplexus reservatus* simply and of itself unlawful and immoral, at least venially. The essential order to generation is lacking from the intention of restraining insemination and the dangers noted above cannot be divorced from this practice.

c) As a practice or system of conjugal relations *amplexus reservatus* is not clearly proved to be immoral in itself. However, because of the moral dangers noted above and the lessening of the true Christian outlook on marital life which readily result from the purposes and the pleasure involved, justification for it in an individual case would usually be most difficult, such as the absence of the proximate dangers listed, the right purpose, grave cause, founded expectancy of restraint from seeking mere pleasure.

151. — D. - CONJUGAL ONANISM: NATURAL ONANISM.

1. - *Notion.* Conjugal onanism in general is vaginal copulation sought in such a way as positively to impede generation which cannot result, although there is a flow of seed. In the proper and strict sense conjugal onanism is achieved by a human action alone, i.e., by withdrawal, without the use of artificial means or devices, and thus it is a natural onanism.⁴⁹³

2. - *Morality*

a) *malice.* Onanism and every other manner of intercourse whereby the natural order to generation established by God is destroyed is intrinsically against nature and thus gravely evil, directly also against the good of fidelity.⁴⁹³ The way is opened up to many evil effects, such as injury to bodily health, nervous and emotional disturbances, especially on the part of the woman in whom also concupiscence is not satiated but rather increased through temptation to seek carnal pleasure elsewhere; discord, deceitfulness and loss of a sense of respect and piety ensue; family life is affected since children strengthen the bond between spouses, and the children themselves benefit by being reared together. Sometimes onanistic parents suffer in the children they do have or, on the other hand, later in life when they find that it is impossible to have offspring. Catholic teaching has been explicit on the malice of onanism.⁴⁹⁴

b) *cooperation.*

1. - Cooperation is the giving of help to another for the performance of an act, or to act with another. Cooperation is *physical*, when by a physical

action one helps another to perform an external action; it is *moral*, when influence is brought to bear upon the action by command, counsel, exhortation, confirmation, etc. (In the case of onanism the principal cooperation is physical, by the voluntary supplying of the necessary physical means of intercourse whereby the abuse is occasioned.) *Formal* cooperation is knowingly and willingly giving help in the performance of another's action inasmuch as this has a determined morality. Cooperation is *material* when there is a physical participation in the action of another without any intention of participating in and without any participating in its morality.

ii. - A spouse is under no obligation to render the debt to an onanistic partner, as the marriage contract did not surrender the right to the body for practices which frustrate the end of marriage. *Formal* cooperation in onanism is never permitted and is equally a grave sin, since it includes the approval of the sin of another or it wishes or intends the sin committed by another. It is a sin against chastity and against charity by scandal. The cooperation may be explicit by agreeing to the onanistic action or directly inducing it, or implicit by knowingly giving cause for it or indirectly inducing it by insistent complaints about the number of children, the difficulties of pregnancy or birth, etc., so that the husband takes the opportunity to practice onanistic intercourse.

iii. - *Material* cooperation in onanism may be lawful under due conditions, as long as the action is not intrinsically evil. The conditions are: a) there must be a proportionately grave cause, since the woman (or a man cooperator) is bound out of charity to impede the sin of another. The certain fear of discord or strife, of adultery on the man's part, of incontinence on the part of the woman, the serious difficulty for the woman of otherwise constantly abstaining from the conjugal act are examples of sufficient cause for material cooperation, since the woman has a strict right to place the action of intercourse. b) the cooperation must be only passive, in that the woman in no way gives consent to or approval of the onanistic intent or action of the spouse. The woman may feel and enjoy the sensible pleasure attached to the act and even be pleased at its result which is the failure to generate (which, however, is easily a dangerous frame of mind in the circumstances), but she must firmly detest the unlawful means used and be prepared to bear and to do all she can to eliminate the sinful methods. She may not show external repugnance to the sinful action and have internal consent, since all sin must be internally detested. Passive cooperation in onanism for a just and grave cause allows the woman the internal and external acts which would be lawful for her if intercourse were performed in the right way. The action of natural onanism is lawful in the beginning and performed in the natural manner; its evil comes from the intention of the onanist and from the withdrawal with loss of seed outside the vagina, and thus there is

nothing intrinsically evil on the part of the action itself of intercourse until interrupted and frustrated. c) the onanistic spouse must be prudently warned and admonished of the proper manner of performing natural intercourse as often as, and up to the point when, there is a founded hope that the warning will be beneficial,⁴⁹⁵ since charity obliges to this attempt. The wife is not bound to do this on every occasion, but on the other hand on more than one occasion, as long as there is hope of correction. The admonition may be omitted entirely if it is prudently judged that it will be of no avail since no one is bound to the useless; charity would not bind the woman to her own grave disadvantage to impede the sin on only her husband's part.⁴⁹⁶ The action of a confessor with penitents involved in withdrawal is considered under artificial onanism.

152. — E. - CONJUGAL ONANISM: ARTIFICIAL ONANISM.

1. - *Notion.* Conjugal onanism whereby generation is positively impeded by the use of artificial means or devices is called artificial onanism (onanism in the improper sense, also called neo-Malthusianism, anticonceptionism, contraception, birth control, etc.). In this practice or method the man uses condoms, sheathes, caps, rubbers or safes, etc., either over the whole penis or only the glans penis; the woman during intercourse employs diaphragms (pessaries), jellies, caps, suppositories, sponges, tampons, false vaginas, foam, etc., inserted into the vagina to close off the mouth of the uterus to the entrance of the male sperm. Connected with artificial onanism but consequent to intercourse is the use of vaginal lotions, powders, antiseptic douches, etc., to expel or destroy the seed after it has been properly placed in the vagina. The morality of this latter practice has been considered above.

2. - *Morality.*

a) *malice.* Artificial onanism is a grave sin⁴⁹⁷ whose malice is greater than that of withdrawal, since artificial means are employed to frustrate nature. The act in itself is wrong or vitiated from its very beginning, even outside the intention, since generation is precluded and becomes impossible. It is a grave sin against chastity.

b) *cooperation.*

1. - *Formal* cooperation in condomistic intercourse or artificial onanism is never permitted. (Cooperation in sodomistic intercourse is judged by the same norms.) *Material* cooperation in artificial onanism, since it is intrinsically wrong and evil in its beginnings, cannot be permitted in the sense that the woman can ever assume a passive attitude i.e., omit positive resistance, except when overcome by force or subjected to the fear of a very great evil. She is always obliged to offer continuous and active resistance to such an onanistic husband as a virgin is obliged to resist by

force one who attacks her virtue.⁴⁹⁸ Only when oppressed by force or faced with the gravest actual danger, e.g., loss of life, can she cease to offer positive resistance (and provided there is no proximate fear of consent to the intrinsically evil intercourse or of willingly having any part in it). Threats of adultery, cruelty, desertion, divorce, or perversion of the Catholic religious education of the children, etc., are serious dangers but not the very grave actual dangers listed by the theologians, such as serious beatings or woundings, the inability to offer further resistance, etc., as sufficient to cease positive resistance to intercourse which, e.g., uses a contraceptive device.⁴⁹⁹

ii. - A woman must positively resist the introduction into her vagina of a sponge or of some such instrument able to impede the seed from reaching the uterus (like the insertion of douches, powders, etc.), nor may she do these things by herself, since it would be active cooperation in an act ordained to an evil end. There can be no cooperation in the occlusion of the vagina, and the use of a false vagina is intrinsically evil from the beginning, since the seed is not received in the due place or *cas debitum*. If the woman, against the husband's will, uses an occlusive pessary or some other birth control instrument or device to impede generation, the husband can in no way cooperate. He must exert his marital authority to forbid such action and, as far as possible, to remove and destroy the artifacts.

iii. - If from the beginning of intercourse the woman uses a cervical cap or some such device or bung to stop up the cervical canal, and if the seed is received in this as in an envelope, such action is morally equivalent to condomistic intercourse. If the seed, however, is deposited in the natural vagina but its further progress to the uterus is cut off by such means, it is not clear and definitely agreed, that this (although sinful) is intrinsically wrong from the beginning and thus that cooperation by the husband entirely forbidden. Since the definition of true intercourse does not contain the mouth of the uterus as an essential element, and since the artificial occlusion of the uterus temporarily is likened to the condition resulting during pregnancy or the permanent condition induced by total hysterectomy, doubt exists in the case as to the intrinsic evil of intercourse from the beginning. Thus in practice the husband may not be held to more than the conditions laid down for material cooperation in natural onanism.

c) *confessional treatment.*

i. - Penitents are to be seriously admonished to abstain from onanism in the future, when they spontaneously confess it as a sin and are conscious of its serious malice.⁵⁰⁰ By fatherly and opportune instruction and advice they should be brought to a firm resolve here and now to desist from the practice in the future, to do what they can to eliminate the temptation, in particular by destroying all contraceptive devices possessed, and to

have confidence in God's wise Providence, especially in face of an increasing family. More often penitents who bring up the matter or who ask questions have some realization of its sinfulness. When onanism has been mutually agreed to, neither partner is disposed for absolution without a serious promise to cease, without a basis for hope of correction; they are habitual sinners. In a case only of cooperation, if the onanism cannot be prevented, the penitent should be disposed to cooperate only materially under the proper conditions. A man is to be more severely dealt with in this case than a woman, since he can more easily avoid this than the woman can. On the other hand, a woman is more apt to consent to partial or total continence. However, a woman should be questioned by the confessor whether she directly or indirectly induced the practice of onanism.

ii. - With all onanists there must be a warning given of the sin and instruction about its serious malice, even if there appears to be no probable hope of success in dissuading the penitent, and even if the penitent claims that he is not convinced of the evil of the practice or of the Church's teaching in this matter. In practice the questioning would be omitted only in the extraordinary case of a dying penitent who may be left in good faith, and there is no good to be gained by enlightening him and no future occasion of the sin or danger to the common good that is prudently judged. The common good of souls in a society permeated with the abuse of birth prevention requires that this practice be not allowed even to those who may perhaps be in good faith, and the confessor's silence can be a scandal to the faithful; rumor of indulgence, of connivance at or apparent approval of this practice is destructive of good morals. A confessor who exhausts the other means of dissuading a party from the practice of onanism to no avail, cannot advise withdrawal as a lesser evil (due to the scandal involved), but he may discreetly (*caute*) insinuate the notion of periodic continence, as noted below.

iii. - If the confessor has basis for suspecting the presence of the sin of onanism, although the penitent has not accused himself of it, he must regularly question in a prudent and discreet manner, in terms which are general but yet sufficient to ascertain the facts. There must be a cause (either on the part of the individual or widespread conditions in a locality) for suspecting the presence of the sin, since it is wrong to interrogate even married penitents indiscriminately and confession is made difficult and even scandalous.⁵⁰¹

153. XXIV. CONJUGAL ACT: PERIODIC CONTINENCE

A. - PHYSICAL ASPECT.

1. - Medical research in recent times has discovered a periodic rhythm of fertility and sterility in the menstrual cycle of the woman. In the normal

monthly cycle of menstruation the period of fertility or conception is eight days; the remaining days of the cycle, the sterile period, comprise a period of days before and a number of days following the first day of menstruation. Thus in every normal cycle there is a tidal movement characterized by a period of infertility or sterility, one of fertility, and a further space of infertility. The verification of this commonly recognized rhythmic cycle varies in practice in the concrete case with different individuals and in changed circumstances. Leeway has to be allowed for an absence of a constant cycle-length. For this reason, in any acceptable system followed to ascertain the rhythm of the periods, accurate data must be kept over a long period of time, great restraint and perseverance is required of the spouses, and the consultation of competent medical judgment should be made.

2. - By isolating the days (the ovulation period) in her own cycle during which intercourse would likely result in conception, a woman can determine or forecast on which days she is unlikely to become pregnant. Employing the Ogino-Knaus method of computation she would have to keep a record or chart over a considerable period of time to determine the pattern and changes in her ovulation period. Thus it would show in the generality of cases that the fertile period for conception would extend from the tenth through the sixteenth day after the menstruation begins. The body temperature method charts the rhythm of body temperature as it responds to ovulation taking place in the woman. A higher level temperature which is maintained or high peak climbed in contrast to other readings recorded on a chart during the cycle indicates a period of ovulation and thus of fertility. Body temperature readings must be charted over a sufficient time area so that individual variants might be noted and interpreted. Basal temperature is taken, i.e., a reading upon waking from a complete rest and before taking any food. A test tape method also may indicate the period of ovulation, inasmuch as the cervical mucous is usually exuded at this period and a segment of test tape applied to the cervical area will have its color changed from yellow to green.

3. - The rhythm system, the system of periodic continence, or the "safe" period (i.e., safe from incidence of conception) requires an appreciation of individual biological and psychological factors that can vary in individuals and of the fact that with every method employed to compute the cycle of fertile and infertile periods there is not complete reliability. There is no absolute and fool-proof guarantee in the individual case, at the present time.

B. - MORAL ASPECT.

1. - As regards the conjugal act spouses are free to choose whatever time they wish to use their marital right or also to abstain by mutual

consent. Thus they are not obliged to perform this act only during the fertile period, neither are they obliged to refrain during the sterile period.⁵⁰² God has endowed the nature of woman with both periods. Deliberately to limit the use of marital relations exclusively to the sterile periods in order to avoid conception (i.e., to practice periodic continence or rhythm) is, according to the common teaching of theologians, morally lawful *in actual practice*⁵⁰³ if there is mutual consent, sufficient reason and due safeguards against attendant dangers. It is also common teaching that this practice of family limitation without good and sufficient reason involves a degree of moral fault. This fault certainly could be mortal if serious injustice is done or there exists grave danger of incontinence, divorce, serious family discord, etc.

To use anovulant drugs with immediate contraceptive purpose or sterilization intent is illicit.^{503a} It is a safe opinion which may be followed in practice at present which allows the use of anovulants under sound and prudent counsel to establish a spontaneous regular cycle (such as is necessary for the use of rhythm), for justifiable therapeutic purposes, to postpone a menstruation for proportionate reason, and in similar instances. However, the priest must be aware of the advances in medical discovery and the greater insights of moralists in this complex area which may indicate newer and more acceptable means of accomplishing legitimate ends.

2. - The two conditions required for the use of rhythm are: 1) mutual consent or willingness of the spouses to practice rhythm, lest the right be violated of one spouse reasonably requesting the debt; 2) their ability properly to observe periodic continence or the absence of danger of incontinence due to the practice, since it is not permitted to enter into a proximate occasion of sin. In addition to the conditions for use, there must also be sufficient justification or cause for adopting the rhythm plan. The justifying reason must be a just and grave cause, not necessarily an extreme case or only to avoid sin, but a serious motive that is in the category of medical, eugenic, economic or social indication.⁵⁰⁴

3. - Justifying *medical* reasons are: a desire to space too frequent births which are harmful to the mother, lack of strength to carry a child in a woman debilitated by serious surgery or disease, avoidance of a dangerous pregnancy which according to prudent and competent Catholic medical advice risks the life or the permanent impairment of the health of the mother, the unlikelihood of a sickly husband surviving to support the child, etc. Justifying *eugenic* reasons are: the real danger or great probability of producing infected or defective offspring, by passing on serious physical disease or mental deficiencies, etc. Justifying *economic* reasons are: poverty of the parents or notably straightened economic circumstances which present great difficulty in feeding and educating more numerous progeny according to a reasonable norm, etc. Justifying *social*

reasons are: poor housing conditions which would be overtaxed beyond measure by more children, the need of the mother to work to support the family, a foreseeable absence of the husband which would render his care of a family impossible, the incapability of the mother of caring for children or more children, etc. Such reasons may justify temporary use of periodic continence or even permanent use if the conditions or causes endure. Other reasons that may also justify are: it is clearly the only way to arrest the use of onanistic methods in marital intercourse, it is the only way an innocent party can secure the marital debt from a spouse stubbornly opposed to more children, or to prevent the morally certain lapse into sins of incontinence on the part of one spouse, or there is present a cause which justifies not rendering the debt at all and thus its use may be limited to the sterile period. Insufficient reasons are: selfishness which seeks the satisfaction and pleasure of marital relations without their burdens or which desires the comforts and luxuries of life which would be jeopardized by offspring, human respect or worldly ambition which shrinks from numerous offspring, etc.

4. - Spouses who are justified in practicing periodic continence fulfill the other ends of marriage, viz., mutual love and fidelity and the alleviation of concupiscence. Unlike onanism, there is no physical hindrance or frustration placed against the normal process of conception. On the other hand, to limit intercourse of set purpose to the sterile or unfertile periods in order to avoid conception and to do so without sufficient justification, is certainly sinful. It is more commonly taught that the sin is grave, since the reasons which would allow a practice that leaves unfulfilled the primary purpose of marriage must be grave. Moreover, theologians, following the address of Pius XII, are more inclined to hold for a positive obligation upon married couples to procreate and not merely to refrain from positively impeding generation with the intention nevertheless to accept conception should it eventuate, thus ruling out a small-family or no-family attitude without the above mentioned justifications. An habitual and unjustified intention to employ rhythm exclusively in marital relations during the whole of life or of the child-bearing period or for a long period of time seems to be a grave neglect in itself of a prime duty of the married state.⁵⁰⁵ Sinfulness would be lessened in the case of those who already have offspring. However, since the gravity of the positive obligation to procreate or the gravity of unjustifiable rhythm practice has not been clearly established, *in practice* it cannot be imputed to spouses as seriously sinful *in itself*, although in the concrete case extrinsic circumstances may often make it seriously sinful.

5. - Although periodic continence may be lawful in a particular case, it retains certain drawbacks, since, unlike total abstinence mutually undertaken out of a motive of virtue, this system is legitimately employed because of the constraint of certain circumstances or causes and not because

it is desired in itself. The fullest expression of conjugal love is subjected at times to severe limitations and restraints. Dependence must be had upon records, observations, consultations, etc., which tend to make conjugal relations a matter of statistics and more consciously physical in character than spiritual. Fear of miscalculation and consequent pregnancy can produce tensions, irritability and resentments, even the temptation to use contraceptive devices. Younger married couples, who are especially prepared physically and emotionally for parenthood, generally do a great disservice to their marital happiness and future by restricting their relations only to the unfertile periods.

C. - ROLE OF THE PRIEST.

1. - The priest and the confessor may lawfully suggest the practice of periodic continence to those who have a just cause; moreover such penitents who practice it are not to be disturbed. Rhythm may be insinuated with due discretion (*caute*) also in the case where there is no other means of dissuading parties from onanism.⁵⁰⁶ Periodic continence is not a matter for public discourse or sermonizing or indiscriminate recommendation or explanation (even in the classroom), but rather for informal theological instruction for individuals or groups who need it or who ask for it with cause. In no case should the priest or confessor give an accurate and detailed instruction in rhythm but he should refer the parties to a competent Catholic physician or to approved literature.⁵⁰⁷

2. - The office of the priest requires that he promote the ends and purposes of marriage and of the sacrament. He must not be the promoter of its frustration and the advocate of sterility. The practice of periodic continence is not an automatic guarantee against conception in every case. There is always the danger of lessening respect for marriage, of endangering the primary end and of encouraging an attitude that this is but one form of birth control, since the impeding of offspring is likewise accomplished, and thus that onanism is lawful. The priest should not appear to approve or recommend this system of marital relations, as though it were good under all circumstances or as though it were the Church's method of birth control. He should merely judge or give advice that in given justifiable circumstances the Church presents no objection. The large family is still the ideal of the Church and total abstinence is the only method in proper circumstances which she positively endorses.⁵⁰⁸

154.

XXV. DUTIES OF SPOUSES.

A. - TO EACH OTHER.

1. - Married couples owe each other mutual love,⁵⁰⁹ mutual help and solace,⁵¹⁰ and a common life or cohabitation.⁵¹¹ These are obligations

which are of themselves grave, but allow of lightness of matter and in certain circumstances and for proportionate causes do not oblige in whole or in part. It would be a sin against charity for one spouse to hold the other in contempt or hatred, or to sadden or anger the other with injurious words or deeds; likewise to deprive the other in any way of those things which are necessary for a decent maintenance of life and respectable condition. They are bound to preserve conjugal fidelity both internally and externally, and to render mutual aid in the carrying out of their respective duties and functions, in bearing the burdens of marriage, especially in times of adversity. Unless a legitimate reason excuses, they are to dwell together and share the same domestic or family life. The wife retains the domicile of her husband and is bound to follow the husband wherever he fixes his residence, unless reasonably excused.

2. - In the society of the family the husband is the head and the woman has been given to him as helpmate and associate, thus owing him due reverence and obedience in all good and lawful things.⁵¹² Husband and wife are absolutely equal as persons with consequent equal rights; also with respect to the marriage contract. But they have different roles to fulfill in the procreation and education of offspring, which roles are interdependent rather than equal. In these functional differences the headship of the husband is more in terms of the common good of the family unit. He must protect and provide, and in this function he is aided by the wife, just as the wife is aided in her role of maintaining a comfortable home and of supervising the daily rearing of the children. The relationship is a partnership and companionship with each contributing according to ability the best performance of their respective roles for the common welfare, physical, material, spiritual. Patience, forbearance, kindly consideration and even at times substitution in another's role are the hallmarks of conjugal love and fidelity. Both must edify by example and correct by counsel and friendly persuasion. The common goods or fortune as well as individual possessions must not be dissipated or injured, nor domestic peace and comfort disturbed by word or action or negligence.

B. - TO THEIR CHILDREN.

1. - Parents have the serious duties of teaching their children what is necessary for them,⁵¹³ to correct them when necessary or expedient,⁵¹⁴ and to give them good example. The fatherly power or authority (*patria potestas*) over the offspring, which by nature belongs to the father and subordinately to the mother, requires that provision be made for the well-being and rearing of the children. Civil authority may further detail this obligation in regard to its extent and responsibility affecting the public good. It should also supply public aids for the parents in fulfilling

their duties and should safeguard the children from parental neglect, but it may not supply for or supplant parental authority or rights. Ecclesiastical authority may further specify the spiritual obligations of the parents toward their children.

2. - The parental duty to care for their children (even illegitimate) so that they might take their proper place as individuals, as citizens of the community and as sons of God and members of the Church, is a serious office. They must provide for the physical, mental and spiritual life and development of the offspring, certainly until the attainment of maturity and self-sufficiency. They are to provide for the future reasonable opportunity of the children to live decently, as children are not for the enrichment of the parents but vice versa.⁵¹⁵ In their choice of state of life, children are free and independent of their parents, although the parents should in all piety and prudence be consulted and their advice respected. According to their capacity and experience parents are bound to counsel their children about their future; they sin if they force a state of life upon them or if without sufficient cause bring about the abandonment of their choice.

3. - "The priest, therefore, should admonish parents to be to their children guides in the virtues of justice, chastity, modesty and holiness. He should also admonish them to guard particularly against three things in which they but too often transgress. In the first place they are not by words or actions to exercise too much harshness towards their children. . . . For there is danger that the spirit of the child may be broken, and he become abject and fearful of everything. Hence the pastor should require parents to avoid too much severity and to choose rather to correct their children than to revenge themselves upon them. Should a fault be committed which requires reproof and chastisement, the parent should not, on the other hand, by undue indulgence overlook its correction. Children are often spoiled by too much leniency and indulgence on the part of their parents. . . .

"Finally, to avoid what is most shameful in the instruction and education of children, let them not propose to themselves aims that are unworthy. There are many whose sole concern is to leave their children wealth, riches and an ample and splendid fortune; who encourage them not to piety and religion, or to honorable employment, but to avarice and an increase in wealth, and who, provided that their children are rich and wealthy, are regardless of their good name and eternal salvation. Can anything more shameful be thought of or expressed? Of such parents it is true to say that, instead of bequeathing wealth to their children, they leave them rather their own wickedness and crimes for an inheritance; and instead of conducting them to heaven, they lead them to the eternal

torments of hell. The priest should thus impress upon the minds of parents salutary principles and should exhort them to imitate the virtuous example of Tobias,⁵¹⁶ that having properly trained up their children to the service of God and to holiness of life, they may in turn experience at their hands abundant fruit of filial affection, respect and obedience.”⁵¹⁷

MATRIMONY

¹ *Catechism of the Council of Trent.*

² Cf. c. 1081.

³ The distinction is required because certain things condition the making of the marital contract, and certain duties and rights are associated with the contract once made. These definitions are valid for every marriage; for the sacrament, cf. 13 below.

⁴ P. Lombard, *IV Sent.*, d. 27, cap. *Sunt ergo*. Cf. also *Summa Theol., Suppl.*, q. 44.

⁵ Thus the unions of Adam and Eve in Paradise and of Joseph and Mary were true marriages.

⁶ *Catechism of the Council of Trent*: "It should be taught that, although a perfect marriage has all the following conditions, namely, internal consent, external compact expressed by words, the obligation and bond which arise from the contract, and the marriage debt by which it is consummated; yet the obligation and bond expressed by the word 'union' alone have the force and nature of marriage."

⁷ Cf. Gen. 1:27; 2:3, 18; Mt. 19:3-6; Mk. 10:2-9; Trent, Denz. 969.

⁸ Cf. *Summa Theol., Suppl.*, q. 41, a. 1; *III Cont. Gent.*, c. 122.

⁹ Cf. Denz. 36; 241; 537; *Summa Theol., loc. cit.*, a. 3.

¹⁰ Cf. *Summa Theol.*, II-II, q. 152, a. 2, ad 1; *Suppl.*, q. 41, a. 2; *III Cont. Gent.*, c. 136.

¹¹ I Cor. 7:9.

¹² *Summa Theol., Suppl.*, q. 41, a. 3.

¹³ c. 1013, 1. Cf. Pius XI, Ency. *Casti Connubii*.

¹⁴ S. Off. 1 apr. 1944. Denz. 2295.

¹⁵ Cf. n. 11 above.

¹⁶ *Catechism of the Council of Trent*: "If to these we add other causes which induce to contract marriage, and, in choosing a wife, to prefer one person to another, such as the desire of leaving an heir, wealth, beauty, illustrious descent, congeniality of disposition, such motives, because not inconsistent with the holiness of marriage, are not to be condemned. We do not find that the Sacred Scriptures condemn the Patriarch Jacob for having chosen Rachel for her beauty, in preference to Lia."

¹⁷ Cf. Florence, Denz. 702; *Summa Theol., Suppl.*, q. 49. Other goods or benefits are extrinsic and accidental to marriage.

¹⁸ Cf. c. 1015, 1.

¹⁹ Consequently, between baptized parties a valid matrimonial contract cannot exist, unless it is by that fact a sacrament. Cf. c. 1012, 2; Pius IX, *Syllabus*, 8 dec. 1864, props. 66, 73 (Denz. 1766; 1773).

²⁰ c. 1015, 2.

²¹ *Ibid.*, 3. "Legitimate" is also used only in the sense of "according to the law," however, in cc. 232, 2, 2^o; 331; 1, 1^o; 1075, without the specific meaning of *legitimum* of c. 1015, 3.

²² *Ibid.*, 4. If one or both parties to the marriage begin to doubt its validity, it still remains putative until there is moral certainty of the nullity.

²³ PCI 26 ian. 1949; Cf. Codex Or., *de matrimonio*, c. 4, 4.

²⁴ cc. 1094; 1098.

²⁵ PCI 16 oct. 1919, n. 17.

²⁶ Concubinage is distinguished from common law marriage, which is entered into without any kind of ceremony and in which a man and a woman live together as man and wife and present themselves as such to others. Many States recognize as valid such a marriage.

²⁷ cc. 1104-1107.

²⁸ Eph. 5:22-32; Trent, Denz. 969; 970; 971; c. 1012; Cod. Or., *de Matr.*, c. 1, 1; Pius XI, Ency. *Casti Connubii* (31 dec. 1930); Leo XIII, Ency. *Arcanum* (10 feb. 1880); cf. also n. 19 above.

²⁹ Cf. *Summa Theol.*, *Suppl.*, q. 42, a. 1, ad 1; q. 49, a. 2, ad 7.

³⁰ S. Off. 20 iun. 1860; 20 sept. 1848.

³¹ *Ibid.*, 11 aug. 1949; "In view of the peculiar nature of the sacrament of matrimony, whose ministers are the contracting parties themselves and in which the priest acts as witness *ex officio*, the priest can assist at the marriages of Communists. . . ." Cf. Pius XII, Ency. "*Mystici Corporis*"

³² c. 1088, 1; S. Off. 30 iun. 1949.

³³ c. 1033.

³⁴ Trent, Denz. 974; 982; cc. 1038; 1119; 1960; Pius XI, *loc. cit.*; Leo XIII, *loc. cit.*

³⁵ Cf. cc. 1036, 3; 1125.

³⁶ Cf. c. 1961; Leo XIII, *loc. cit.*; Pius XI, *loc. cit.*; Pius XII, *Allocution to the Rota* (6 oct. 1946): "Marriage is by the will of the Creator a sacred thing. Hence, if there is question of a union between baptized persons, it remains by its nature outside the competency of the civil authority. But even between non-baptized persons, marriages legitimately contracted are in the order of nature a sacred thing, so that civil tribunals have not the power to dissolve them, and the Church in such cases has never recognized the validity of decrees of divorce. Nevertheless, simple declarations of nullity of these same marriages—relatively rare in comparison with decrees of divorce—can in certain circumstances be justly pronounced by civil tribunals, and hence be recognized by the Church.

As regards the merely civil effects of marriage even between baptized persons, the civil authority is undoubtedly competent to pass judgment, as everyone knows. (c. 1016) But the competence of the Church in matrimonial questions is far broader and deeper, because upon her depends by divine institution what concerns the protection of the conjugal bond and the holiness of marriage."

³⁷ Cf. S. Off. 23 iun. 1938 on Chinese civil form of marriage.

³⁸ c. 1013, 2; cf. S. Off. 20 iun. 1866; 17 aug. 1898.

³⁹ Gen. 2:24; Trent, Denz. 969.

⁴⁰ *Summa Theol., Suppl.*, q. 65, a. 1; ad 8-9; Leo XIII, *loc. cit.*; Pius XI, *loc. cit.*

⁴¹ *Summa Theol., loc. cit.*, corpus; q. 2; *IV Cont. Gent.*, c. 124. This is why it is possible for the bill of divorce of the Old Testament (Deut. 24:1-4).

⁴² Trent: "If anyone says that it is lawful for Christians to have several wives at the same time and that this is not forbidden by any divine law, let him be anathema." Denz. 972; S. Off. 20 iun. 1866: "It is a most certain principle that a marriage celebrated by a man with a woman at a time when they are infidels (*tempore infidelitatis*), is null and void by both natural and divine law, if there is living another woman to whom he has bound himself by a previous marriage."

⁴³ *Ad Rom.* 7:3; *I ad Cor.* 7:39; cc. 1142-1143.

⁴⁴ Mt. 19:6; Mk. 10:9.

⁴⁵ There is a threefold indissolubility distinguishable: a) as to *bond*, inasmuch as the spouses cannot contract a new marriage while the preceding marriage perdures; b) as to *bed*, inasmuch as the spouses are bound to render each other the conjugal debt; c) as to *board* or dwelling, inasmuch as the spouses are bound to share the same table, dwelling and other temporal goods necessary for the proper family living.

⁴⁶ Cf. *Summa Theol., Suppl.*, q. 67, a. 1; *III Cont. Gent.*, c. 123.

⁴⁷ Cf. *Summa Theol., loc. cit.*, a. 2.

⁴⁸ Mt. 5:31-33; 19:3-12; Mk. 10:2-12; Lk. 16:18; I Cor. 7:10-11; ad Rom. 7:2-3; cc. 1013, 2; 1129, 1; Trent, Denz. 975; 977; Pius VII, Brief (8 nov. 1803): "The decision of law tribunals and of Catholic assemblies by which the nullity of marriages is chiefly declared, and the dissolution of their bond attempted, can have no strength and absolutely no force in the sight of the Church. . . . Those pastors who would approve these nuptials by their presence and confirm them with their blessing would commit a very grave fault and would betray their sacred ministry. For they should not be called nuptials, but rather adulterous unions" (Denz. 1600-1601); Pius IX (cf. n. 19 above), prop. 67: "By natural law the bond of matrimony is not indissoluble, and in various cases divorce properly so-called can be sanctioned by civil authority" (Denz. 1767); Leo XIII, *loc. cit.*; Pius XI, *loc. cit.*; Pius XII, *Allocution to the Rota* (3 oct. 1941): "It is superfluous . . . yet it is not inappropriate to repeat that sacramental

marriage which has been consummated is indissoluble by the law of God, so that it cannot be dissolved by any human power (c. 1118); whereas other marriages, though they are intrinsically indissoluble, have not absolute extrinsic indissolubility, but, granted certain necessary prerequisites (We are speaking, as you know, of cases which are relatively rare) can be dissolved, not only in virtue of the Pauline privilege, but also by the Roman Pontiff in virtue of his ministerial power."

⁴⁹ Innocent XI, *damnati S. Off.* 4 mart. 1679: "Intercourse with a married woman, with the consent of her husband, is not adultery, and so it is enough to say in confession that one has committed fornication."

⁵⁰ c. 1081, 1.

⁵¹ Cf. Pius XI, *loc. cit.*

⁵² *Ibid.*; Leo XIII, *Arcanum*: "Marriage has God for its author, and was from the very beginning a kind of foreshadowing of the Incarnation of His Son; and therefore there abides in it something holy and religious, not extraneous but innate, not derived from men but implanted by nature."

⁵³ c. 1081; cf. *Summa Theol., Suppl.*, q. 45, aa. 1, 3; q. 48, a. 1.

⁵⁴ c. 1086, 1.

⁵⁵ Cf. cc. 1136; 1088, 1.

⁵⁶ c. 1088, 2.

⁵⁷ c. 1099.

⁵⁸ c. 1088, 1.

⁵⁹ PCI 30 iun. 1949; *Cod. Or.* c. 79.

⁶⁰ Cf. *S. Off.* 9 dec. 1947.

⁶¹ c. 1090.

⁶² c. 1091.

⁶³ c. 1089.

⁶⁴ c. 1091.

⁶⁵ PCI 31 maii 1948; cf. *Cod. Or.* cc. 80-82.

⁶⁶ c. 1082.

⁶⁷ Cf. *IV Sent.*, d. 27, q. 2, a. 2, ad 2.

⁶⁸ Cf. *Rota* 17 mart. 1926; 30 iul. 1927; 31 iul. 1933.

⁶⁹ *Ibid.*, 22 ian. 1944.

⁷⁰ c. 1083, 1.

⁷¹ *Ibid.*, 2.

⁷² *Ibid.*, 1^o.

⁷³ *Ibid.* 2^o.

⁷⁴ c. 1084.

⁷⁵ c. 1086, 2; *S. Off.* 11 mart. 1886: "Marriages are valid which are entered into when the contractants are solely in error that the bond of consummated marriage can be dissolved in the case of adultery or for other causes. However, if they are entered into under this expressed condition, they are to be considered as invalid."

⁷⁶ Cf. *Rota* 23 mart. 1956.

⁷⁷ c. 1014.

⁷⁸ Cf. S. Off. 9 dec. 1874.

⁷⁹ c. 1085.

⁸⁰ cc. 1093; 1139, 1; Cod. Or. c. 84.

⁸¹ c. 1087.

⁸² Cf. Rota 24 mart. 1926.

⁸³ Cod. Or. c. 78 requires that the unjust pressure be induced precisely to extort marital consent.

⁸⁴ This must be distinguished from the reluctance or resistance which, in some mission areas, is shown by the bride as part of the ritual or ceremonial of marriage.

⁸⁵ c. 1086, 1.

⁸⁶ *Ibid.*, 2. The intention to contract marriage but not to receive the sacrament does not invalidate the contract, as the sacrament is inseparable with the Christian contract by the institution of Christ and does not depend on the contractant's intention, unless he positively excludes the contract itself if it is the only way to exclude the sacrament. To enter marriage as a joke is equivalent to feigning consent (S. C. Conc. 14 dec. 1889).

⁸⁷ c. 1092, 4^o.

⁸⁸ *Ibid.*, 3^o.

⁸⁹ *Ibid.*, 1^o, 2^o.

⁹⁰ There is a question here not of a desire or purpose of maintaining temporary or perpetual continence, but of a *condition* whereby (especially when there is a mutual pact) the parties to the marriage intend to bind themselves in justice not to seek or to render the natural marital debt. Pius XII, *Allocution to Italian Midwives* (26 nov. 1951): "If at the time of the marriage at least one of the couples intended to restrict the marriage right, not merely its use, to the sterile periods, in such a way that at other times the second party would not even have the right to demand the act, this would imply an essential defect in the consent to marriage, which would carry with it invalidity of the marriage itself, because the right deriving from the contract of marriage is a permanent, uninterrupted and not intermittent right of each of the parties, one to another. On the other hand, if the act be limited to the sterile periods insofar as the mere use and not the right is concerned, there is no question about the validity of the marriage."

⁹¹ Rota 18 iul. 1958: "Some authorities hold that when a condition is made excluding acts which are of themselves suited to the generation of offspring, there arises only a presumption, though a very strong one, that the contract is substantially invalid; they distinguish between a condition of not binding oneself and a condition of not fulfilling the obligation; that is, between a condition which excludes or limits the right or obligation and a condition which excludes or limits only its use; and so

they regard as valid a marriage which is contracted with a condition excluding the use of the right. On the contrary, it should be held that a condition excluding truly conjugal acts necessarily vitiates the marriage, and that when such a condition is proved, the nullity of the marriage also is by that very fact directly proved. It is objected: Since a right is distinct from its use, . . . so too in the contract of marriage, the right in the body can be given and accepted with a condition excluding its use for conjugal acts. This difficulty is solved as follows: By the contract of marriage there is not conferred a *ius in re* or right in the body, that is, ownership of the body simply as such; but what is conferred is the right to the use of the body, and to a very determinate use, i.e., for truly conjugal acts. Therefore, just as you cannot have a right to the use of a thing without the right to use that thing, so the right to the use of the body for conjugal acts cannot be transferred without the right to use the body for those same acts; and a condition which excludes those acts or the use of the right to those acts, excludes consent and consequently the right to those acts. So one who contracts marriage with a condition excluding the use of the right to conjugal acts, transfers a right to the use, without the right to use; that is, he transfers the right and excludes the right to one and the same thing, which is a contradiction. Since the right which is given and accepted in marriage is the right to a use, and to a very determinate use, and consequently cannot be conceived without the right to use, the distinction between the *ius radicale* and the *ius utile seu expeditum* in regard to marriage, involves a contradiction."

⁹² Cf. *Summa Theol., Suppl.*, q. 49, a. 3. Cf. Rota, 11 apr. 1927; 23 mart. 1956.

⁹³ Cf. S. Off. 6 apr. 1843; 24 ian. 1877.

⁹⁴ Baptized Orientals are forbidden to contract marriage with any condition whatever (Cod. Or. c. 83).

⁹⁵ S. C. Sac., Instruction (14 iun. 1941): "9. It is also the purpose of the investigation to eliminate a very shocking abuse which nowadays in some localities affects marriages contracted with a canonical form by evil-minded persons. Occasionally in the great cities you will find people who, in defiance of canon law, attempt to marry with some suspensive or voiding condition which may afterwards be adduced as an excuse for repudiating the marriage and contracting a fresh one. Therefore, in places where it is considered expedient, the bishops may require parish priests to probe more deeply into the mind of the parties, by making appropriate investigations, by putting questions such as those in nn. 15 and 16 of Appendix I, or by any other methods adapted to local conditions. Discovering a case of the kind, the parish priest must try by all possible means to dissuade the parties from introducing such conditions and intentions, and to withdraw any that have been made. If it appears permissible for the parties to marry with a lawful condition depending on

some past, present or future event, the parish priest must consult the Ordinary and accept his decision, as explained in Appendix I, n. 17."

⁹⁶ Trent: "Those who shall attempt to contract marriage otherwise than in the presence of the parish priest, or of another priest with the authorization of the parish priest or the Ordinary, in the presence of two or three witnesses, the holy Synod renders absolutely incapable of thus contracting marriage, and declares that contracts of this kind are invalid and null, inasmuch as by the present decree it invalidates and annuls them." Denz. 992.

⁹⁷ S. C. Conc., Decree (2 aug. 1907): "The above marriages are valid, which are contracted in the presence of the pastor or Ordinary of the place, or a priest delegated by either of the two, and at least two witnesses." Denz. 2067.

⁹⁸ c. 1094. Cod. Or. c. 85: "Those marriages alone are valid which are contracted with a sacred rite, before the pastor, or the Hierarchy of the place, or by a priest to whom the faculty of assisting at the marriage has been given by either and at least two witnesses, according to the prescriptions of the canons which follow and saving the exceptions in cc. 89, 90."

⁹⁹ Cf. *Summa Theol.*, *Suppl.*, q. 45, a. 5.

¹⁰⁰ c. 451, 1, 2; cf. also *The Administration of Baptism*, no. 15.

¹⁰¹ c. 451, 2, 1^o.

¹⁰² c. 471.

¹⁰³ c. 472, 1^o, 2^o.

¹⁰⁴ c. 465, 4; PCI 14 iul. 1922; and the same substitute vicar or a supply priest in the pastor's absence due to sudden cause, as long as the Ordinary to whom his name has been given makes no other provision (c. 465, 5; PCI *ibid.*); a substitute for a religious vicar can do likewise after approval by the local Ordinary and before approval by his religious superior (PCI *ibid.*).

¹⁰⁵ c. 475. None of the above substitutes can validly assist if the pastor or local Ordinary has excepted this power (c. 474).

¹⁰⁶ Unless the personal pastor enjoys the privilege of exclusiveness, the pastor of the territory enjoys cumulative power with him.

¹⁰⁷ cc. 476; 1096, 1; PCI 13 sept. 1933; 31 ian. 1942.

¹⁰⁸ S. C. Conc. 25 ian. 1908.

¹⁰⁹ c. 1368.

¹¹⁰ S. C. Conc. 3 feb. 1926.

¹¹¹ c. 1095, 1, 1^o; cf. Cod. Or. c. 86, 1, 1^o; also PCI Cod. Or. 8 iul. 1952 on c. 86, 1, 2^o.

¹¹² c. 1095, 1, 2^o.

¹¹³ S. C. Sac. 13 mart. 1910. He may also validly witness in an oratory under his jurisdiction but not in his territory.

¹¹⁴ *Ibid.*, 3^o. The formula in the *Ritual* is not necessary for *validity*.

¹¹⁵ c. 1102, 1. Thus marriage before a completely intoxicated priest would be invalid due to lack of form (Rota 31 ian. 1929).

¹¹⁶ c. 209. PCI 26 mart. 1952: "Whether the prescription of c. 209 is to be applied in the case of a priest who, lacking delegation, assists at a marriage. Affirmative." Cf. *The Administration of Penance*, no. 54.

¹¹⁷ c. 1095, 2.

¹¹⁸ c. 103, 2.

¹¹⁹ c. 1096, 1. An episcopal delegate "*ad universitatem negotiorum*" does not have delegation to assist at marriage (PCI 25 ian. 1943).

¹²⁰ A diocesan requirement that delegation be committed to writing is not for validity but only for the proof of the grant.

¹²¹ PCI 20 maii 1923

¹²² Cf. Rota 23 dec. 1931.

¹²³ c. 1094.

¹²⁴ S. C. Sac. 12 mart. 1940.

¹²⁵ S. Off. 6 maii 1742.

¹²⁶ c. 1099, 1. A blessing is also required for validity in the form for Orientals (Cod. Or. cc. 85; 90).

¹²⁷ Cf. cc. 1070, 2; 1014; also *The Administration of Baptism*, no. 30.

¹²⁸ c. 1099, 2; Cod. Or. c. 90, 2; even if they belong to an atheistic sect (PCI 30 iul. 1934). Also exempted are those baptized in a non-Catholic or dissident Oriental sect (S. C. Conc. 28 mart. 1908). Although exempted from the canonical form, the parties are not exempted from the obligation to be physically present in person or by a proxy designated by the principal (cc. 1088, 1; 1089, 1; PCI 31 maii 1948; S. Off. 30 iun. 1949).

¹²⁹ The effective date of the *motu proprio* "*Decretum Ne Temere*" of Pius XII (1 aug. 1948) abrogating the second comma of c. 1099, 2, viz.: "*item ab acatholicis nati, etsi in Ecclesia catholica baptizati, qui ab infantili aetate in haeresi vel schismate aut infidelitate aut sine ulla religione adoleverunt, quoties cum parte acatholica contraxerint.*" It should be noted that these same persons were still bound by the impediment of disparity of worship when they married an unbaptized party (PCI 29 apr. 1940).

¹³⁰ PCI 20 iul. 1929; 25 iul. 1931.

¹³¹ *Ibid.*, 20 iul. 1929.

¹³² *Ibid.*, 17 feb. 1930.

¹³³ S. Off. 7 ian. 1947.

¹³⁴ The effective date of the *motu proprio* "*Crebrae allatae*" of Pius XII (22 feb. 1949) establishing the Oriental Code on marriage. It had already been declared that a Latin rite woman who in virtue of c. 98, 4 declared she wished to transfer *in matrimonio ineundo* to the Oriental rite of the man, was still bound to the form for the celebration of marriage (PCI 29 apr. 1940; c. 1099, 1, 3°); thus the observance of the form preceded the change of rite.

¹³³ c. 1097, 2; Cod. Or. c. 86, 3; PCI Cod. Or. (3 maii 1953) declared that the "*nisi aliud particulari iure cautum sit*" of the Latin Code is abrogated.

¹³⁶ Cod. Or. c. 88, 3.

¹³⁷ PCI Cod. Or. 8 ian. 1953.

¹³⁸ *Ibid.*, 3 maii 1953.

¹³⁹ Cod. Or. c. 85.

¹⁴⁰ PCI Cod. Or. 3 maii 1953.

¹⁴¹ S. C. P. F. (N.R.O) decree "*cum episcopo*"; S. C. E. O. *motu proprio* "*Cum data fuerit*" (1 mart. 1929).

¹⁴² S. C. E. O. 12 apr. 1945.

¹⁴³ Cf. S. Off. 14 iul. 1950 (private case).

¹⁴⁴ Cod. Or. c. 86, 1, 2^o; PCI Cod. Or. 8 iul. 1952. A Latin pastor is similarly restricted.

¹⁴⁵ Cf. n. 138 above.

¹⁴⁶ Cod. Or. cc. 86; 87. By their quinquennial faculties (S. C. E. O. 16 maii 1957), outside their patriarchates Metropolitans and other Ordinaries (except Vicars General) of the Oriental rites, who have no Superior below the Holy See, can dispense their own subjects from the canonical form of marriage in contracting mixed marriages, if the non-Catholic party cannot be persuaded to appear before the competent pastor and it is to be feared that he will cause the Catholic party to adhere to a non-Catholic sect if the prescription of observing the form is urged in the case. But they cannot grant the dispensation unless at least the Catholic party duly gives the guarantees and it is normally certain that all the children will be educated as Catholics. The Apostolic Delegate has the faculty to permit the marriage 1) of two Catholics of mixed rite in the rite of the woman, 2) of a Catholic and a non-Catholic in a rite other than that of the Catholic, 3) of two Catholics of the same rite in another rite.

¹⁴⁷ c. 1097, 1, 2^o; Cod. Or. c. 88, 1, 2^o. All these lawfully constituted pastors have equal right of assistance.

¹⁴⁸ c. 1097, 2. A light reason excuses.

¹⁴⁹ Cod Or. c. 88, 2. (Ruthenians in the U.S.A. customarily celebrate marriage before the pastor of the bride; likewise, in everything they are subject to the Latin pastor of the place where they have no pastor of their own and no priest of another rite is designated to provide for Eastern rite Catholics. S. C. E. O. 30 maii 1955) If one of the parties pertains to the rite of the assisting priest, although the marriage is valid, for lawfulness the permission of the Apostolic Delegate or the Holy See is required, if the assisting priest is not of the groom's rite. If neither of the parties pertains to the rite of the assisting priest and there is no formally erected parish of the Oriental rite in the place or if there is merely a priest of another rite delegated to provide for the Eastern rite

Catholics of the place, although any priest may validly assist in virtue of his own jurisdiction for marriage, for lawfulness the permission of the Apostolic Delegate or the Holy See is required (S. C. E. O. 10 dec. 1956).

¹⁵⁰ c. 1097, 1, 3^o; Cod. Or. c. 88, 1, 3^o.

¹⁵¹ c. 92; cf. The Administration of Baptism, nos. 16-18.

¹⁵² c. 1097, 1, 3^o; Cod. Or. c. 88, 1, 3^o.

¹⁵³ Cod. Or. c. 86, 3.

¹⁵⁴ c. 1097, 1, 1^o; Cod. Or., c. 88, 1, 1^o.

¹⁵⁵ c. 1097, 3.

¹⁵⁶ S. Off. 19 aug. 1891; S. C. Sac. 12 mart. 1910. In some dioceses, in mixed marriages when the Catholic party is a recent convert, one non-Catholic witness may be permitted.

¹⁵⁷ S. Off. 11 aug. 1949.

¹⁵⁸ c. 1098.

¹⁵⁹ PCI 25 iul. 1931; 3 maii 1945; S. C. Sac. 24 apr. 1935.

¹⁶⁰ c. 1098.

¹⁶¹ *Ibid.*

¹⁶² Rota 7 dec. 1926.

¹⁶³ *Ibid.*, 30 ian 1925.

¹⁶⁴ PCI 10 nov. 1925.

¹⁶⁵ *Ibid.*, 10 mart. 1928; 25 iul. 1931.

¹⁶⁶ An Instruction of S. C. P. F. (23 iun. 1830) indicated a way in which a marriage before two witnesses may be performed: to make in the church (or if impossible, the home) before a group of people acts of faith, hope, charity and contrition; exchange marital consent before the witnesses; offer up prayers of thanksgiving.

¹⁶⁷ c. 1103, 3.

¹⁶⁸ c. 1104.

¹⁶⁹ c. 1105.

¹⁷⁰ c. 1106.

¹⁷¹ c. 1107.

¹⁷² c. 1100; Cod. Or. c. 91. This prescription does not affect validity.

¹⁷³ c. 1095, 1, 3^o. Even the assisting priest of c. 1098 should employ the essential ceremonies.

¹⁷³ a Paul VI, motu proprio, *Sacram Liturgiam*, 5, 25 ian. 1964.

¹⁷⁴ S. C. Rit. 30 iun. 1896.

¹⁷⁵ S. Off. 1 sept. 1841; S. C. Rit. 30 iun. 1896.

¹⁷⁶ c. 1102, 1, 2; PCI 10 mart. 1928. A Latin priest lawfully assisting at the marriage of a Catholic Oriental and a non-Catholic whether baptized or not must observe c. 1102, 2; a priest of the Oriental right will follow c. 85 of his own Code (PCI Cod. Or. 8 ian. 1953).

¹⁷⁷ S. Off. 9 feb. 1948.

¹⁷⁸ c. 1102, 2.

¹⁷⁹ PCI 10 nov. 1925.

¹⁸⁰ Rit. Rom., Tit. VII, cap. 2: *Ritus celebrandi matrimonii sacramentum; Supplementum ad usum cleri Am. Sept. Foed., The Marriage Ceremony; The Ceremony for a Mixed Marriage; Collectio Rituum* (1954), Tit. IV, cap. 1: *Ordo celebrandi matrimonii sacramentum; Ritus assistendi in matrimoniis mixtis; Collectio Rituum* (1961): *Ordo celebrandi matrimonii sacramentum; Priest's Ritual* (1962): *Rite for the Celebration of Marriage between Catholics* (p. 256): *The Ceremony for a Mixed Marriage* (p. 273); *Practical Handbook of Rites, Blessings and Prayers* (1961), Part One, Section X, p. 255; p. 266.

¹⁸¹ S. C. Rit. 27 aug. 1836.

¹⁸² Cf. S. Off. 1 sept. 1841; S. C. Rit. 15 sept. 1881.

¹⁸³ John XXIII, *motu proprio "Rubricarum instructum"* (25 iul. 1960); S. C. Rit., *General Decree of Promulgation* (26 iul. 1960), n. 342, 1.

¹⁸⁴ *Ibid.*, n. 378 (cf. also c. 1108, 2).

¹⁸⁵ *Ibid.*, n. 379.

¹⁸⁶ *Ibid.*, nn. 380; 343c.

¹⁸⁷ *Ibid.*, n. 381d.

¹⁸⁸ c. 1101. This blessing read during the Mass must be in Latin only (Letter of Apostolic Delegate, 20 iun. 1956).

¹⁸⁹ S. C. Rit. (cf. n. 183 above), n. 381b.

¹⁹⁰ *Ibid.*, c. (cf. also c. 1143). Cf. *Collectio Rituum* (1961): *Preces Recitandae extra Missam Super Conjuges ex Apostolicae Sedis Indulto quando benedictio nuptialis non permittitur; Practical Handbook, loc. cit.*, p. 270; *Priest's Ritual* (1962), p. 270.

¹⁹¹ *Ibid.*, a; *Collectio Rituum* (1961): *Benedictio Nuptialis extra Missam; Practical Handbook* (1961): *loc. cit.*, p. 268; *Priest's Ritual* (1962), p. 268; Paul VI, *motu proprio, Sacram Liturgiam*, 5, 25 ian. 1964.

¹⁹² c. 1102, 2.

¹⁹³ c. 1108, 3.

¹⁹⁴ *Ibid.*, 1; cf. Cod. Or. cc. 97; 98.

¹⁹⁵ c. 1109, 1, 2.

¹⁹⁶ *Ibid.*, 3.

¹⁹⁷ c. 1103, 1; S. C. Sac., *Instruction "Sacrosanctum"* (29 iun. 1941), n. 11, b.

¹⁹⁸ c. 1103, 3. For registration of a marriage of conscience cf. no. 59 above.

¹⁹⁹ c. 1103, 2; S. C. Sac. (cf. n. 197 above), n. 11, b,c,d,e.

²⁰⁰ c. 1019, 1.

²⁰¹ c. 1022; cf. Cod. Or., cc. 13-21.

²⁰² Tit. VII, c. 1, n. 8.

²⁰³ c. 1024. For the exceptional method cf. c. 1025.

²⁰⁴ PCI 3 iun. 1918.

²⁰⁵ c. 1023.

²⁰⁶ c. 1024.

²⁰⁷ On emigrants to America, cf. S. C. Sac. 4 iun. 1921.

²⁰⁸ c. 1026—unless the local Ordinary judges it advisable that it should be made.

²⁰⁹ c. 1104.

²¹⁰ c. 1028. This includes also the Military Vicar of the Military Vicariate.

²¹¹ c. 1030.

²¹² c. 1029.

²¹³ c. 1027.

²¹⁴ c. 1031, 1.

²¹⁵ *Ibid.*, 2.

²¹⁶ *Ibid.*, 3.

²¹⁷ S. C. Sac., Instruction "*Sacrosanctum*" (29 iun. 1941), concerning the norms to be observed by a pastor in making the investigation before admitting parties to marriage, nn. 2, 3.

²¹⁸ c. 1019; Cod. Or. c. 9. When it is impossible to obtain the normal attestations of freedom to marry, it is left to the local Ordinary to accept other proofs, not excluding supplementary affidavits (PCI 3 iun. 1918). Thus, when records are unobtainable, the priest should refer the matter to the local Ordinary rather than decide on his own. Diocesan forms often include a form of supplementary or suppletory oath.

²¹⁹ Cf. n. 217 above.

²²⁰ Letter of the Apostolic Delegate to the U.S.A. bishops (4 iun. 1942).

²²¹ c. 1020, 1.

²²² "*Sacrosanctum*," n. 4a.

²²³ c. 1020, 2.

²²⁴ "*Sacrosanctum*," n. 8.

²²⁵ *Ibid.*; PCI 3 iun. 1918.

²²⁶ "*Sacrosanctum*," cf. Appendix I.

²²⁷ Cf. nos. 40, 41, 50 above.

²²⁸ c. 1021, 1; Cod. Or. c. 11, 1.

²²⁹ "*Sacrosanctum*," n. 4, c, α ; S. C. Sac. 6 mart. 1911.

²³⁰ Cf. c. 779; also *The Administration of Baptism*, no. 63.

²³¹ c. 1021, 2.

²³² c. 1033.

²³³ c. 1066. A serious reason would be danger of an attempted civil marriage, of scandalous concubinage, of serious harm to the innocent party, of complete defection from the faith, etc.

²³⁴ c. 1065. The norms of cc. 1065-1066 are applied to those who join or favor the Communist party and who publish, propagate or read books, periodicals, daily papers, or sheets which promote the doctrine or action of Communists, or who write in them; for those who profess the materialistic and anti-Christian doctrine of Communists, and especially those who defend or propagate it, [militant Communists] the norms governing the

impediment of mixed marriage are applied (S. Off. 1 iul. 1949; 11 aug. 1949).

²³⁵ cc. 2335; 684; S. Off. 20 aug. 1894; III Baltimore, n. 247.

²³⁶ c. 1034. Cod. Or. c. 24.

²³⁷ c. 88, 1.

²³⁸ In lieu of parents, guardians or adopting parents must give consent. If the parents disagree, the father's consent should ordinarily prevail, unless civil law requires the consent of both parents. Consent is required generally only for the first marriage of minors.

²³⁹ "Sacrosanctum," n. 4a.

²⁴⁰ The *request* for information and necessary documentation is made directly by pastor to pastor; the *transmission*, however, of the same is made through the diocesan chancery.

²⁴¹ Pius XI, Encyclical "Casti Connubii."

²⁴² cc. 1033; 1018.

²⁴³ c. 1035. Cod. Ord. c. 25.

²⁴⁴ c. 1036, 3. Cod. Or. c. 26, 3.

²⁴⁵ c. 1036, 1-2. Cod. Or. c. 26, 1-2.

²⁴⁶ c. 1042. Cod. Or. c. 31, 1, which are more extensive. It is of faith that the Church can establish diriment impediments and has not erred in doing so (Cf. Trent, Denz. 974).

²⁴⁷ These are dispensable by the local Ordinary for a just and reasonable cause, even in the case of mixed marriages, observing however cc. 1061-1064 (Paul VI, motu proprio, *Pastorale Munus*, I Fac. 19, 30 nov. 1963). The Apostolic Delegate can dispense or commute all simple private vows, even those reserved to the Holy See, provided the rights of a third party are not thereby injured.

²⁴⁸ It is probable that only all other *diriment* impediments are major in view of Cod. Or., c. 31, 2: "All other diriment impediments are of major grade." Cf. c. 1054 on falsity in petition.

²⁴⁹ c. 16, 1; S. Off. 11 mart. 1868.

²⁵⁰ c. 15.

²⁵¹ Cf. c. 1069. However, marriage is not forbidden in a case of doubtful impotency (c. 1068, 2).

²⁵² c. 15.

²⁵³ c. 1037. Cod. Or. c. 27: "An impediment is considered to be public which arises from a public fact or which can be proved in another way in the external forum; otherwise it is occult."

²⁵⁴ PCI 25 iun. 1932.

²⁵⁵ c. 1058. Cod. Or. c. 48.

²⁵⁶ c. 1307, 1.

²⁵⁷ c. 1308, 1.

²⁵⁸ *Ibid.*, 3.

²⁵⁹ c. 1058, 2.

²⁶⁰ Cf. *Administration of Penance*, no. 67.

²⁶¹ c. 1309.

²⁶² Cf. n. 247 above.

²⁶³ c. 1309.

²⁶⁴ c. 1059. Cod. Or. c. 49.

²⁶⁵ c. 1060. Cod. Or. cc. 50-54. Pius XI, Ency. "*Casti Connubii*":
They, therefore, who rashly and heedlessly contract mixed marriages, from which the maternal love and providence of the Church dissuades her children for very sound reasons, fail conspicuously in this respect, sometimes with danger to their eternal salvation. . . . If the Church occasionally on account of circumstances does not refuse to grant a dispensation from these strict laws (provided that the divine law remains intact and the dangers mentioned above are provided against by suitable safeguards) it is unlikely that the Catholic party will not suffer some detriment from such a marriage. Whence it comes about not infrequently, as experience shows, that deplorable defections from religion occur among the offspring, or at least a headlong descent into that religious indifference which is closely allied to impiety. This then is also to be considered, that in these mixed marriages it becomes much more difficult to imitate by a lively conformity of spirit the mystery of which we have spoken, namely, that close union between Christ and His Church. Assuredly also will there be wanting that close union of spirit which, as it is a sign and mark of the Church of Christ, so also should be the sign of Christian wedlock, its glory and adornment. For, where there exists diversity of mind, heart and will, the bond of union of mind and heart is wont to be broken, or at least weakened. From this comes the danger that the love of man and wife will grow cold and the peace and happiness of family life, resting as it does on the union of hearts, will be destroyed."

²⁶⁶ S. Off. 28 dec. 1949: "Whether, in adjudicating matrimonial cases, baptism conferred in the sects of the Disciples of Christ, the Presbyterians, the Congregationalists, the Baptists, the Methodists, when the necessary matter and form were used, is to be presumed invalid because of the lack of the requisite intention on the part of the minister to do what the Church does or what Christ instituted, or whether such baptism is to be considered valid, unless the contrary is proved in the particular case. In the negative to the first part; in the affirmative to the second part."

²⁶⁷ PCI 30 iul. 1934.

²⁶⁸ Formal Communists, i.e., Communists in the full sense of the term who profess the materialistic and anti-Christian doctrine of the Communists and especially those who defend or propagate it, are Communist-apostates and the guarantees or promises (*cautiones*) must be required of them before marriage; whether they also must be dispensed from the impediment of mixed religion is controverted depending on whether the Communists are considered a religious or atheistic sect or not (cf. nn. 267; 233-234 above). Material Communists, i.e., mere affiliates of the Communists without subscribing to their doctrine, are Communist-aggre-

gates and the guarantees may be required of them in the prudent judgment of the local Ordinary. Cf. S. Off. 1 iul. 1949; 11 aug. 1949.

²⁶⁸ * The local Ordinary, when a just and serious case urges, may dispense from the impediments of mixed religion and disparity of worship, even in a case of the use of the Pauline Privilege, under the usual conditions (Paul VI, motu proprio, *Pastorale Munus*, I Fac. 20, 30 nov. 1963).

²⁶⁹ c. 1061, 1.

²⁷⁰ S. Off. 14 ian. 1932. The guarantees are of divine law and thus they cannot be remitted; good faith is not acceptable and the pastor must secure them, even if with regard to those who are in good faith there is danger of a material sin becoming formal (cf. S. Off. 3 iun. 1871).

²⁷¹ S. Off. 16 ian. 1942. In validating a marriage, in which process the non-Catholic refuses to make or sign the promises, the local Ordinary is to be consulted before proceeding further. A sanation from the Holy Office may be applicable.

²⁷² *Ibid.*, 10 maii 1941.

²⁷³ Cf. Rota 26 ian. 1948; 4 apr. 1951; 26 feb. 1952.

²⁷⁴ c. 1063. In the U.S.A. this need to appear before a civil functionary is non-existent, as all pastors are recognized by civil law as empowered to perform marriages. The parties are to be warned of this prohibition.

²⁷⁵ c. 2375.

²⁷⁶ c. 2319, 1, 1°. Cf. *The Administration of Penance*, Appendix I, *Reserved Cases*, no. 154. In some dioceses to contract a civil ceremony even before a civil officer, e.g., justice of the peace, is a reserved sin.

²⁷⁷ c. 1062. The Catholic must be warned of this obligation in receiving a dispensation to marry.

²⁷⁸ c. 1064.

²⁷⁹ c. 1067. Cod. Or. c. 57; cf. legislation on this impediment previous to the Oriental Code.

²⁸⁰ c. 34, 3, 3°.

²⁸¹ Sufficient discretion to effect true matrimonial consent is presumed after puberty (c. 1082, 2).

²⁸² cc. 1133-1135. By quinquennial faculties the bishops may grant a sanation "for marriages invalidly contracted because of some impediment of ecclesiastical law . . . in case there is great inconvenience in requiring a renewal of consent from the party who is ignorant of the nullity of the marriage; provided, however, that the former consent continues to exist and that there be no danger of divorce. The party who knows of the impediment is to be informed of the effect of the sanation, and the usual entry is to be made in the baptismal and marriage records."

²⁸³ The new infant is covered at birth with the amnion or thick pelucid membrane containing the amniotic fluid in which the fetus floats suspended by the umbilical cord. This membrane must be broken and the infant released.

²⁸⁴ S. Off. 12 feb. 1941.

²⁸⁵ c. 1068. The Holy See has condemned as contrary to the natural law direct sterilization (Pius XI, Ency. "*Casti Connubii*"; S. Off. 21 mart. 1931) and artificial insemination (S. Off. 26 mart. 1897; 24 iul. 1929; Pius XII, Allocutions 29 sept. 1949; 29 oct. 1951).

²⁸⁶ Cf. Rota 25 oct. 1945. However, the Holy Office (28 Sept. 1957) has stated that in a case of double vasectomy, marriage, according to c. 1068, 2, is not to be impeded.

²⁸⁷ An occlusion severing the connection between the vagina and the uterus, and which is intrinsic to the vagina, e.g., by a transverse membrane, constitutes impotency, but often it is remediable and thus temporary. Cf. Rota (Appellate Tribunal of Bologna) 5 aug. 1954.

²⁸⁸ c. 1069. "*Sacrosanctum*" (cf. n. 217 above): "6. The impediment of the bond of an existing marriage calls for some special remarks because of its importance. Pastors must take great care lest any persons break the law, knowingly or unknowingly, by entering upon a fresh marriage with the bond of the previous marriage still binding them, even though the invalidity of the first marriage is not only very doubtful but certain. They must know that by canon 1069, 2 the nullity of any marriage can be established only by a canonical proof.

²⁸⁹ Cf. nos. 17-18 above.

²⁹⁰ Cf. cc. 1120-1127.

²⁹¹ A petitioner may wish to convalidate a subsequent union and thus be declared free of the bond of the previous marriage because of the death of the previous partner or because of a defect or impediment in the first marriage. On the other hand, the petitioner may have married a divorced person and now wishes to be freed on the basis of the latter's previous valid and extant bond, or the petitioner has married a second time—the first partner dying after this second marriage was entered into—and now desires freedom from the second marriage.

²⁹² Or the sworn testimony, according to the norms of law, of two reliable witnesses (or one first-class witness) who knew the deceased, were cognizant of the fact of his death and agree on circumstances of its occurrence (cf. S. Off. 13 maii 1868).

²⁹³ S. Off., *loc. cit.*

²⁹⁴ *Ibid.*, 22 mart. 1865.

²⁹⁵ PCI 26 iun. 1947.

²⁹⁶ cc. 2356; 984, 5^o; 985, 3^o; 1075, 1^o (also 693, 1; 855; 1240, 1, 6^o; 2314); Baltimore, n. 124; cf. also c. 1053 an automatic dispensation from crime.

²⁹⁷ c. 1070. Cod. Or. c. 60.

²⁹⁸ Cod. Or. c. 60, 1. The impediment existed also prior to the present Oriental Code of 2 maii 1949 (cf. S. Off. 18 maii 1949; 17 apr. 1950).

²⁹⁹ PCI 29 apr. 1940; c. 1099, 2; cf. no. 48 above.

³⁰⁰ cc. 750-751.

³⁰¹ Cf. n. 266 above. There must be certainty also that the marriage has not been validated or sanated.

³⁰² c. 1071. Cf. nos. 87-88 above.

³⁰³ The non-Catholic Jewish party may practice the Jewish religion or not (cf. S. Off. 7 iul. 1943; 4 iul. 1952). In cases of Jews and Mohammedans there must be no danger of a subsequent religious rite or a ritualistic circumcision, or, for the Mohammedan, of polygamy. Faculties from the S. C. P. F. for the missions are more ample. The local Ordinary, when a just and serious case urges, may dispense from the impediments of mixed religion and disparity of worship, even in a case of the use of the Pauline Privilege, under the usual conditions (Paul VI, motu proprio, *Pastorale Munus*, I Fac. 20, 30 nov. 1963).

³⁰⁴ S. Off. 16 apr. 1931 (S. C. P. F. 20 maii 1931); 30 iun. 1932.

³⁰⁵ c. 1072. Cf. also cc. 132; 214.

³⁰⁶ The present Oriental Code (c. 62) extends this same impediment also to the subdiaconate, although in the Oriental Church (with the exception of the Armenians) it is not a sacred or major order.

³⁰⁷ S. C. Sac. 27 dec. 1930; 9 iun. 1931.

³⁰⁸ c. 132, 2.

³⁰⁹ Cf. S. Poenit., decree "*Lex Sacri Coelibatus*," 18 apr. 1936. Local Ordinaries cannot dispense by c. 81 (PCI 26 ian. 1949).

³¹⁰ cc. 1043-1045.

³¹¹ cc. 2388, 1; 985, 3^o; 188, 5^o.

³¹² cc. 646, 1, 3^o; 670-671.

³¹³ c. 1073. Cod. Or. c. 63. The simple vow of the Jesuit has this invalidating effect on marriage.

³¹⁴ Local Ordinaries cannot dispense by c. 81 from reserved vows (PCI 26 ian. 1949).

³¹⁵ cc. 1043-1045.

³¹⁶ Cf. cc. 646, 1, 3^o; 669, 1.

³¹⁷ c. 640.

³¹⁸ cf. cc. 211; 648.

³¹⁹ cc. 2388, 1; 985, 3^o; 646, 1, 3^o.

³²⁰ c. 1074. Cod. Or. c. 64.

³²¹ Cf. c. 2353. Cf. Rota 8 ian. 1948.

³²² cc. 2353; 2354, 1.

³²³ c. 1075, 1^o. Cod. Or. c. 65, 1^o.

³²⁴ It is most probable that the promised marriage must be a valid contract, i.e., according to the canonical form, and not a promise of merely a civil marriage (cf. Rota 30 apr. 1957).

³²⁵ *loc. cit.*

³²⁶ S. Off. (24 iun. 1959) answered a private query supporting this position.

³²⁷ *loc. cit.*, 2^o.

³²⁸ *Ibid.*, 3^o.

³²⁹ Cf. c. 2209, 1-3.

³³⁰ cc. 1043-1045. The penalties of cc. 2354; 985, 4^o; 2356; 2357, 2 are applicable to delinquents in crime.

³³¹ c. 1053; PCI 26 mart. 1952.

³³² c. 1076. Marriage must not be allowed if before the birth of the woman who is to be married illicit and secret intercourse occurred which may give rise to a doubt that she may be the daughter or sister of the intended groom (PCI 3 iun. 1918).

³³³ Cf. *Summa Theol.*, II-II, q. 154 a. 9.

³³⁴ Cod. Or. c. 66.

³³⁵ Cf. c. 1014.

³³⁶ cc. 1043-1045.

³³⁷ "*Sacrosanctum*" (cf. n. 217 above): "5. 6) To prevent mistakes which sometimes enter into the computation of the degrees of consanguinity and affinity when a dispensation is sought from the Holy See, a genealogical tree should accompany the petition. γ) Equivocal description of the degree must be avoided in the petition, as would happen if spouses, barred by a double impediment, e.g., of consanguinity in the second degree collateral (a major impediment) and in the third degree collateral (a minor impediment), were to be described as bound by a 'second-third' or a 'second and third' degree of consanguinity without further explanation; these terms could be understood to mean that there is a single—and minor—impediment of the 'second degree mixed with the third,' and a dispensation thus obtained would be invalid. δ) It is, of course, evident that for a valid dispensation from a major impediment a canonical or just cause is required, actually existing and proportioned to the gravity of the impediment. These causes, as described by approved authors, are mentioned in the Instruction of S. C. P. F. (9 maii 1877). and in the Instruction of this Sacred Congregation (1 aug. 1931). These canonical causes must be expressed in the petition for a dispensation, whether it is sought from the Holy See or from an Ordinary possessed of the faculty, and (it must be duly noted) under pain of nullity of the dispensation (cc. 38; 41) the true existence of the cause must be verified before the dispensation is executed. ε) Moreover it is worthy of note that advanced age, which is often presented on behalf of a woman petitioner who is not a widow, means the twenty-fourth year completed." S. C. Sac, (1 aug. 1931): "And therefore they (the bishops) should regard as insufficient the causes which are usually alleged for other impediments even of the major class, namely, the smallness of the place, the 'super-adult' age of the woman, the want of a dowry, and others of the same kind; except in cases where these, although individually insufficient, yet when taken cumulatively constitute so grave a reason as to make the dispensation advisable."

³³⁸ c. 1052. PCI (8 iul. 1948) stated that the dispensation is valid also for another impediment of the same species in an equal or lower degree, which in good or bad faith was omitted from the petition.

³³⁹ c. 2357.

³⁴⁰ cc. 2358; 2359.

³⁴¹ Cf. c. 97, 2.

³⁴² *Ibid.*, 1.

³⁴³ S. Off. 31 ian. 1937.

³⁴⁴ c. 97, 3.

³⁴⁵ c. 1077.

³⁴⁶ Cf. Cod. Or. cc. 67-68.

³⁴⁷ Cf. also cc. 1042, 2, 2^o; 1054.

³⁴⁸ cc. 1043-1045.

³⁴⁹ Cf. c. 2357.

³⁵⁰ c. 1078. Cod. Or. c. 69.

³⁵¹ PCI 12 mart. 1929.

³⁵² cc. 1043-1045.

³⁵³ c. 1097. Cod. Or. c. 70 states that spiritual relationship as an impediment exists between the one baptized and the sponsor, and between the sponsor and the parents of the one baptized, but not between the baptized and the minister. Cf. also *The Administration of Baptism*, nos. 53, 55. In a case of a baptized Episcopalian who acted as godmother in an Episcopalian baptism and married the godchild, the Holy Office stated that "the marriage in the case cannot be declared null on the score of an impediment of spiritual relationship, according to c. 765, 2." (S. Off. 6 oct. 1959)

³⁵⁴ cc. 1043-1045.

³⁵⁵ c. 1080.

³⁵⁶ cf. c. 80.

³⁵⁷ c. 1047; cf. above no. 82.

³⁵⁸ cc. 202; 247; 249; 251; 257.

³⁵⁹ c. 1057.

³⁶⁰ S. C. Sac. 1 aug. 1931.

³⁶¹ S. C. P. F. Instruction, 9 maii 1877; *Formulae apostolicae Datariae pro matrimonialibus dispensationibus* (1901); *Praxis apostolicarum dispensationum super impedimentis matrimonii* (1902); S. C. Sac. "Sacrosanctum," 29 iun. 1941, 5.

³⁶² c. 1043. Cod. Or. c. 33.

³⁶³ c. 1044. Cod. Or. c. 34.

³⁶⁴ PCI 12 nov. 1922. If there is no danger in delay, it is not an extraordinary means to have recourse through the Apostolic Delegate (PCI 27 iul. 1942). Cf. also Cod. Or. c. 34, 2.

³⁶⁵ The circumstance is the same as for the confessor's faculty of c. 882. Cf. *The Administration of Penance*, no. 40.

³⁶⁶ Cf. c. 1051; also cc. 1114; 1116.

³⁶⁷ Cf. c. 199. Some hold it to be probable that a priest with general delegation for all marriages in a parish or with delegation to assist at a particular marriage enjoys the powers to *dispense* in the circumstances of cc. 1044-1045, within the parish limits only and when recourse to the

pastor or local Ordinary is impossible. This priest, at any rate, may act as the priest of c. 1098, 2^o or as the confessor. Cf. also Cod. Or. c. 34, 1.

³⁶⁸ Cf. no. 87 above.

³⁶⁹ Cf. no. 60 sqq.

³⁷⁰ c. 1046. This canon contains obligations of themselves grave. The "statim" means three days, unless a just cause excuses.

³⁷¹ c. 1098, 2^o. Cf. nos. 53-55 above. Cod. Or. c. 89, 2^o states that the available priest is to be a *catholic* priest.

³⁷² Cf. c. 882; also n. 371 above and *The Administration of Penance*, nos. 39-43. Caution is urged in respect to schismatic, etc. priests in regard to marriage.

³⁷³ c. 1045, 1-3.

³⁷⁴ Cf. n. 364 above. Even though the Apostolic Delegate has faculties, the power of the local Ordinary to dispense is not restricted.

³⁷⁵ PCI 28 dec. 1927.

³⁷⁶ PCI 1 mart. 1921.

³⁷⁷ Cf. Rota 25 maii 1925.

³⁷⁸ c. 1133. Cod. Or. c. 122.

³⁷⁹ c. 1134. Cod. Or. c. 123.

³⁸⁰ c. 1135, 1. Cod. Or. c. 124, 1.

³⁸¹ *Ibid.*, 2. Cod. Or., *ibid.*, 2.

³⁸² *Ibid.*, 3. Cod. Or., *ibid.*, 3.

³⁸³ c. 1136, 1. Cod. Or. c. 125, 1.

³⁸⁴ *Ibid.*, 2. Cod. Or., *ibid.*, 2.

³⁸⁵ *Ibid.*, 3. Cod. Or., *ibid.*, 3.

³⁸⁶ c. 1137. Cor. Or. c. 126.

³⁸⁷ c. 1138, 1. Cod. Or. c. 127, 1.

³⁸⁸ *Ibid.*, 2-3. Cod. Or., *ibid.*, 2-3.

³⁸⁹ c. 1139, 1-2. Cod. Or. c. 128, 1-2. Cf. case of cessation of ligamen sanation granted (S. C. Sac. 9 feb. 1957). The Holy Office may grant a radical sanation in certain special cases when the Catholic party is clearly repentant but the other party is opposed to the Catholic baptism of future offspring.

³⁹⁰ c. 1140, 1-2. Cod. Or. c. 129, 1-2.

³⁹¹ c. 1141. Cod. Or. c. 130, 1. By their quinquennial faculties (S. C. E. O. 16 maii 1957), outside their patriarchates Metropolitans and other local Ordinaries (except Vicars General) of the Oriental rites, who have no superior below the Holy See, can radically sanate the mixed marriages of their subjects which are invalidly celebrated for lack of form, even if the non-Catholic party refuses to give the guarantees, as long as the Catholic party has duly given them and it is morally certain the entire progeny will be educated as Catholics.

³⁹¹ a Paul VI, motu proprio, *Pastorale Munus*, I Fac. 21-22, 30 nov. 1963.

³⁹² Cf. nos. 16, 19 above.

³⁹³ c. 1118. Cod. Or. c. 107.

³⁹⁴ "Although it is permitted to separate from bed on account of fornication, it is not permitted, however, to contract another marriage, since the bond of matrimony legitimately contracted is perpetual." Florence, Denz. 702. "If anyone says that the bond of matrimony can be dissolved on account of heresy, or irksome cohabitation, or by reason of the voluntary absence of one of the parties, A. S.; If anyone says that the Church errs in that she taught and teaches that in accordance with evangelical and apostolic doctrine the bond of matrimony cannot be dissolved by reason of adultery on the part of one of the parties, and that both, or even the innocent party who gave no occasion for adultery cannot contract another marriage during the lifetime of the other, and that he is guilty of adultery who, having put away the adulteress, shall marry another, and she also who, having put away the adulterer, shall marry another, A. S." Trent, Denz. 975; 977. "But if the Church has not erred or does not err, when she taught or teaches these things, and thus it is quite certain that marriage cannot be dissolved not even on account of adultery, it is clear that other and much weaker causes customarily brought forward are of much less value, and moreover are to be considered valueless." Pius XI, "*Casti connubii*."

³⁹⁵ *Summa Theol., Suppl.*, q. 61, a. 2, ad 1: "Before consummation marriage signifies the union of Christ with the soul by grace, which is dissolved by a contrary spiritual disposition, namely, mortal sin. But after consummation it signifies the union of Christ with the Church, as regards the assumption of human nature into the unity of Person, which union is altogether indissoluble." *Ibid.*, q. 67, a. 2, ad 3: "Although indissolubility belongs to the second intention of marriage as fulfilling an office of nature, it belongs to its first intention as a sacrament of the Church. Hence, from the moment it was made a sacrament of the Church, as long as it remains such it cannot be a matter of dispensation, except perhaps by the second kind of dispensation" (or miraculous dispensation). Cf. also n. 48 above.

³⁹⁶ c. 1119. Cod. Or. c. 108.

³⁹⁷ "If anyone says that a *ratum, non consummatum*, marriage is not dissolved through the solemn religious profession of one of the spouses, A. S." Trent, Denz. 976. *Summa Theol., Suppl.*, q. 61, a. 2: "Before marital intercourse there is only a spiritual bond between husband and wife, but afterwards there is a carnal bond between them. Wherefore, just as after marital intercourse marriage is dissolved by carnal death, so by entering religion the bond which exists before the consummation of the marriage is dissolved, because religious life is a kind of spiritual death, whereby a man dies to the world and lives to God." For the fulness of Apostolic power by which the Church acts, cf. n. 401 below.

³⁹⁸ The Jesuit simple vow and the subdiaconate annul only a marriage which is celebrated *after* the vow is taken.

³⁹⁹ c. 542, 1^o.

⁴⁰⁰ S. C. Sac. 7 maii 1923. This decree, supplemented by that of S. Off. (12 iun. 1942), regulates the procedures and proofs in these cases.

⁴⁰¹ Mt. 16:19: "And I will give to thee the keys of the kingdom of heaven; and whatsoever thou shalt bind on earth shall be bound in heaven, and whatsoever thou shalt loose on earth shall be loosed in heaven." 28:20: "And behold I am with you all through the days that are coming, until the consummation of the world."

⁴⁰² Cf. no. 94 above.

⁴⁰³ Legitimation of offspring which took place by an unconsummated marriage contracted after the birth is not affected by the dispensation.

⁴⁰⁴ I cor. 7: 10-16.

⁴⁰⁵ c. 1120, 1. Cod. Or. c. 109, 1.

⁴⁰⁶ Normally it is conversion to the Catholic faith, but the Church may allow the privilege to a baptized convert in a non-Catholic sect in order to free him to marry a Catholic party (cf. S. Off. 6 maii 1959).

⁴⁰⁷ c. 1120, 2. Likewise, it does not apply to a baptized non-Catholic who marries an unbaptized person.

⁴⁰⁸ S. Off. 13 mart. 1901; S. C. P. F. 16 ian. 1803.

⁴⁰⁹ S. Off. 11 iul. 1866.

⁴¹⁰ *Ibid.*, 10 iun. 1937.

⁴¹¹ c. 1124. Cod. Or. c. 113.

⁴¹² If the unbaptized party retracts his departure the marriage may be dissolved by c. 1127.

⁴¹³ Cf. c. 1123.

⁴¹⁴ S. Off. 12 iun. 1850; 22 nov. 1871; 8 iul. 1891; S. C. P. F. 5 mart. 1787.

⁴¹⁵ S. Off. 5 aug. 1795; 5 mart. 1816; 11 iul. 1866; 14 dec. 1848.

⁴¹⁶ *Ibid.*, 4 iul. 1855; 11 iul. 1866.

⁴¹⁷ *Ibid.*, 5 mart. 1787.

⁴¹⁸ *Ibid.*, 11 iul. 1866.

⁴¹⁹ c. 1121, 1. Cod. Or. cc. 110-112 cover the procedure of interpellations.

⁴²⁰ S. Off. 12 iun. 1850.

⁴²¹ c. 1121, 2; cf. Rota 5 dec. 1925. The Apostolic Delegate has the faculty to dispense in most instances, but not if one party has become insane. Special regulations cover the case of insanity. Cf. 422 for the faculty of the local Ordinary.

⁴²² S. Off. 13 apr. 1859. The local Ordinary for a serious cause may permit the interpellation of the unbaptized party before the baptism of the convert, and even dispense from the same interpellation before the baptism of the convert, provided that from at least a summary and extra-judicial process it is clear that the interpellation cannot be made or will be useless (Paul VI, motu proprio, *Pastorale Munus*, I Fac. 23, 30 nov. 1963).

⁴²³ *Ibid.*, 12 iun. 1850.

⁴²⁴ c. 1112.

⁴²⁵ S. Off. 8 iul. 1891; 26 apr. 1899.

⁴²⁶ *Ibid.*, 29 nov. 1882.

⁴²⁷ c. 1112, 1.

⁴²⁸ Cf. cc. 1123; 1124. Cod. Or. cc. 112; 113.

⁴²⁹ c. 1126. Cod. Or. c. 115.

⁴³⁰ Cod. Or. c. 112 expressly mentions a new marriage "cum persona catholica." Apostolic faculties for mission territories do not grant permission to allow marriage with a non-Catholic.

⁴³¹ Cf. n. 401 above.

⁴³² c. 1125. Cod. Or. c. 114. c. 1127 can be applied to the Constitutions. Such marriages and the faculty employed must be inscribed in the proper registers.

⁴³³ Included also is a polyandrous convert (S. Off. 5 sept. 1855.)

⁴³⁴ S. C. P. F. 14 ian. 1806.

⁴³⁵ S. Off. 30 iun. 1937.

⁴³⁶ If the unbaptized party is a Jew or a Mohammedan, there must be also absent any danger of ritual circumcision or other religious rite or invocation.

⁴³⁷ S. Off. 5 sept. 1855.

⁴³⁸ S. C. P. F. 14 iun. 1806.

⁴³⁹ *Ibid.*, 1924.

⁴⁴⁰ S. Off. 30 iun. 1937.

⁴⁴¹ *Ibid.*, 19 apr. 1952.

⁴⁴² c. 1127. Cod. Or. c. 116.

⁴⁴³ c. 1014.

⁴⁴⁴ S. Off. 10 iun. 1937.

⁴⁴⁵ *Ibid.*, 19 maii 1892.

⁴⁴⁶ Cf. *ibid.*, 5 nov. 1924, upon petition of the diocesan curia of *Helena*, Montana, U.S.A., between an unbaptized man and a baptized Anglican woman. Divorce followed the original marriage, the Anglican remarried and the unbaptized man subsequently sought admission to the Church and the favor of marriage with a Catholic woman. The Holy See has subsequently granted dissolutions of this type.

⁴⁴⁷ Cf. *ibid.*, 10 iul. 1924. The Holy See has subsequently granted dissolutions of this type. It has also dissolved such a union in order that the non-Catholic party, even without entering the Church but with the usual requirements, might validate a union with a Catholic party (*ibid.*, 3 aug. 1949; 3 iun. 1960). The present practice of the Holy Office (1962) is to discourage local Ordinaries from accepting cases involving a petition to dissolve a marriage entered into with a dispensation from the impediment of disparity of worship in order to contract anew or to convalidate a union already entered into with a non-baptized party or a baptized non-Catholic, thus also requiring another dispensation from disparity of worship or mixed religion.

⁴⁴⁸ *Ibid.*, 18 iul. 1947; 2 feb. 1955; 8 aug. 1955 in the *Fresno* cases, i.e., dissolutions granted upon petition of the diocesan curia of Monterey-Fresno, Calif., U.S.A.; also in the *Dedza* case, granted to the diocesan curia of Dedza in Nyasaland Africa.

⁴⁴⁹ c. 1128. "If anyone says that the Church is in error when she decides that for many reasons husband and wife may separate from bed and board or from cohabitation for a definite period of time or even indefinitely, let him be anathema." Trent, Denz. 978.

⁴⁵⁰ c. 1129.

⁴⁵⁰ a Cf. Rotal decision 29 nov. 1960.

⁴⁵¹ III Baltimore (1884), no. 126.

⁴⁵² c. 1130.

⁴⁵³ c. 1131, 1.

⁴⁵⁴ Including an atheistic sect (PCI 30 iul. 1934).

⁴⁵⁵ c. 1131, 1.

⁴⁵⁶ *Ibid.*, 2.

⁴⁵⁷ c. 1132.

⁴⁵⁸ c. 93, 2; PCI 14 iul. 1922.

⁴⁵⁹ The S. Poenit. by referring to approved authors (30 iul. 1892) seemed indirectly to approve this common teaching.

⁴⁶⁰ c. 1063, 3.

⁴⁶¹ c. 2319, 1^o.

⁴⁶² III Baltimore, n. 124. Cf. *Reserved Cases*, no. 154.

⁴⁶³ c. 1114; cf. Cod. Or. c. 103.

⁴⁶⁴ c. 1115; cf. Cod. Or. c. 104.

⁴⁶⁵ c. 1116. Cod. Or. c. 105. However, the subsequent marriage of the parents does not have the effect of legitimating a child begotten by them while they were bound by the impediment of age or of disparity of worship, which impediment, however, had ceased at the time of the marriage (PCI 6 dec. 1930).

⁴⁶⁶ c. 1051.

⁴⁶⁷ c. 777, 2.

⁴⁶⁸ c. 1117. Cod. Or. 106. For the exceptions cf. cc. 232, 2, 1^o; 320, 2; 331, 1, 1^o; 504; also cc. 984, 1^o; 1363, 1-2.

⁴⁶⁹ PCI 13 iul. 1930.

⁴⁷⁰ c. 984, 1.

⁴⁷¹ c. 1138.

⁴⁷² Cf. no. 94 above.

⁴⁷³ I Cor. 7: 3-5. "Marriage, in every way, must be held in honor and the marriage bed kept free from stain; over fornication and adultery, God will call us to account" (Heb. 13:4).

⁴⁷⁴ Pius XI, Ency. "*Casti connubii*."

⁴⁷⁵ *Summa Theol., Suppl.*, q. 41, a. 4.

⁴⁷⁶ *Ibid.* "The shamefulness of concupiscence that always accompanies the marriage act is a shamefulness not of guilt, but of punishment inflicted for the first sin, inasmuch as the lower powers and the members do not obey reason" (a. 3, ad 3). "And since the marriage act, by reason of the corruption of concupiscence has the appearance of an inordinate act, it is wholly excused by the marriage blessing so as not to be sin" (ad 4). "The excess of passions that corrupts virtue not only hinders the

act of reason but also destroys the order of reason. The intensity of pleasure in the marriage act does not do this, since, although for the moment man is not being directed, he was previously directed by his reason" (ad 6).

⁴⁷⁷ c. 1111.

⁴⁷⁸ Cf. Gen. 1: 28; I Cor. 7: 3; c. 1081, 2.

⁴⁷⁹ Innocent XI (S. Off. 4 mart. 1679) condemned the proposition: "opus conjugii ob solam voluptatem exercitum omni penitus caret culpa ac defectu veniali." Denz. 1159. Cf. also *Summa Theol., Suppl.*, q. 49, aa. 4-6.

⁴⁸⁰ For the unlawfulness of the use of marriage for those impeded by vow, cf. no. 83 above; for impotency, cf. nos. 96, 97 above; in a case of doubtful marriage, c. no. 98 above.

⁴⁸¹ The S. Poenit. (2 sept. 1904) has stated that a confessor is to be denounced who instructs a penitent that wives do not sin who desire to have a pollution as such out of love for an absent husband, or who promote such a pollution by touches as though performed by the absent husband, or who experience such a pollution in their desire for the absent husband.

⁴⁸² Cf. *The Administration of Penance*, no. 72.

⁴⁸³ Pius XII (29 sept. 1949), Allocution to the Fourth International Congress of Catholic Doctors: "Artificial insemination outside marriage is to be condemned purely and simply as immoral. In fact, the natural law and the positive divine law are such that the procreation of a new life may only be the fruit of marriage. Marriage alone safeguards the dignity of husband and wife—and in the present case, particularly of the wife—and their personal well-being. Marriage alone provides for the good and the education of offspring. Consequently, there is no possibility of any divergence of opinion among Catholics regarding the condemnation of artificial insemination outside marriage. A child conceived in such conditions is, by that fact alone, illegitimate. Artificial insemination in marriage with the use of an active element from a third person is equally immoral and as such is to be rejected summarily. Only the married partners have mutual rights over their bodies for the procreation of a new life and these are exclusive, non-transferable and inalienable rights. So it must be, out of consideration for the child. By virtue of this same bond, nature imposes on whoever gives life to a small creature the task of its preservation and education. Between the married partners, however, and a child which is the fruit of the active element of a third person—even though the husband consents—there is no bond of origin, no moral or juridical bond of conjugal procreation." (29 oct. 1951) Allocution to the Italian Catholic Union of Midwives: "To reduce cohabitation and the conjugal act to a simple organic function for the transmission of seed would be converting the home, the sanctuary of the family, into a mere biological laboratory. In Our address [above] . . . We formally excluded

artificial insemination from marriage. In its natural structure the conjugal act is a personal action, a simultaneous and immediate cooperation on the part of the husband and wife which by the very nature of the agents and the propriety of the act is the expression of the mutual gift which according to Holy Scripture brings about union 'in one flesh only.'

⁴⁸⁴ The same condition results from the husband depositing seed not in the vagina but at or about its mouth and which is then introduced by the physician's action.

⁴⁸⁵ Pius XII to Catholic Doctors, *loc. cit.*: "Although one may not exclude *apriori* the use of new methods simply on the grounds that they are new, nevertheless, artificial insemination is something which must not be just regarded with extreme reserve, but must be utterly rejected. With such a pronouncement one does not necessarily proscribe the use of certain artificial methods intended either to facilitate the natural act or to enable the natural act, effected in a normal way, to attain its end."

⁴⁸⁶ *Ibid.*: "The practice of artificial insemination, when it is applied to man, cannot be considered exclusively, nor even principally, from the biological and medical viewpoint while leaving aside the viewpoint of morality and law."

⁴⁸⁷ Cf. c. 1015, 1.

⁴⁸⁸ S. Off. 24 mart. 1897: "Q. Can artificial fecundation of a woman be employed? R. It is not permitted." Cf. also Pius XII as quoted.

⁴⁸⁹ Pius XII to Italian Midwives. *loc. cit.*

⁴⁹⁰ S. Off. 23 nov. 1922 to the Bishop of Haarlem, Holland:

"Q. 1. - Can a confessor be tolerated who spontaneously teaches the practice of *copula dimidiata*, and recommends it promiscuously to all penitents who fear to bear further offspring.

"Q. 2. - Is a confessor to be reproved who teaches that *copula dimidiata* may be practiced to forestall mortal sins, after he has tried to no avail every remedy to turn away from this evil a penitent who is abusing marriage.

"Q. 3. - Is a confessor to be reproved who, in the circumstances under 2 recommends *copula dimidiata* to a penitent who knows about it otherwise, or who answers a penitent asking if this manner is lawful that it is simply lawful, without any restriction or explanation."

"R. Ad I, negative. Ad II and III, affirmative."

⁴⁹¹ S. Off. 30 iun. 1952: "With grave concern the Apostolic See notes that not a few present-day writers, who deal with matters of the conjugal life, have shamelessly descended publicly and unreservedly to minute details regarding it: Moreover some of them have described, praised and recommended a certain act called *amplexus reservatus*. Lest it should fail in its duty in a matter of so great importance regarding the sanctity of marriage and the salvation of souls, . . . the Holy Office, at the express command of . . . Pope Pius XII, gravely admonishes all the aforesaid authors that they must desist from this type of activity. The bishops are

earnestly exhorted to be strictly vigilant in these matters and carefully to appoint suitable remedies. However, in their care of souls and the direction of consciences, priests should never, either spontaneously or in reply to questioning, presume so to speak as though there were no objection to *amplexus reservatus* from the viewpoint of Christian law.”

⁴⁹² Gen. 38:9.

⁴⁹³ Cf. *III Cont. Gent.*, c. 122.

⁴⁹⁴ S. Off., 21 maii 1851: “Q. What theological note is to be attached to the following propositions? 1° For upright reasons spouses are allowed to make use of marriage in the manner of Onan. 2° It is probable that this use of marriage is not prohibited by the natural law. 3° It is never expedient to question spouses of both sexes about this matter, even if it is prudently feared that the spouses, man or woman, would abuse marriage. R. Ad 1°. The proposition is scandalous, erroneous, and contrary to the natural law of marriage. Ad 2°. The proposition is scandalous, erroneous, and elsewhere implicitly condemned by Innocent XI in proposition 49^a [Denz. 1199]. Ad 3°. The proposition, as it stands, is false, too lax, and dangerous in practice.” *Ibid.*, 19 apr. 1853.”

“Q. Is the imperfect use of marriage, whether onanistically or condom-istically accomplished, as in the case, lawful? R. Negative. For it is intrinsically evil.” Pius XII to Midwives (29 oct. 1951): “In his encyclical *Casti connubi* . . . Pius XI . . . solemnly restated the basic law of the conjugal act and conjugal relations. ‘Every attempt on the part of the married couple during the conjugal act or during the development of its natural consequences to deprive it of its inherent power and to hinder the procreation of a new life is immoral. No “indication” or need can change an action that is intrinsically immoral into an action that is moral and lawful.’ This prescription holds good today just as much as it did yesterday. It will hold tomorrow and always, for it is not a mere precept of human right but an expression of a natural and divine law.”

⁴⁹⁵ S. Poenit. 27 maii 1847: “Q. 1° Can a woman be absolved, who indeed would submit to her husband, if he acts properly in conjugal intercourse, but ardently desires that he withdraw, since she fears to have offspring. 2° Can a woman be absolved who in conjugal intercourse can by her blandishments keep her husband from withdrawing and does not; since that intercourse displeases her. R. Negative.”

⁴⁹⁶ S. Poenit. 23 apr. 1822: “Since in the proposed case the woman, on her part, performs no action against nature and is involved in something lawful, the whole deordination of the act however comes from the malice of the husband who withdraws instead of consummating and loses his seed outside the *vas*; thus if a woman, after due entreaties, achieves no effect, yet the man persists, with threats of blows or death or other serious cruelties, she may (as approved theologians teach) remain passive, since in such circumstances she is simply permitting the sin of her husband and for a grave cause which excuses her, since charity, by which she

would be bound to impede the sin, does not oblige in so great inconvenience." *Ibid.*, 1 feb. 1823; *ibid.*, 3 apr. 1916: "Doubt. Can a woman lawfully cooperate with a husband who, for the purpose of indulging in pleasure, wishes to commit the crime of Onan or of the Sodomites, and who threatens her under pain of death or serious troubles, unless she complies? R.a) If in the use of marriage the husband wishes to commit the crime of Onan, namely, by losing his seed outside the *vas* after intercourse has begun, and likewise threatens his wife with death or serious troubles unless she conform to his wishes, according to the opinion of approved theologians the wife may lawfully have such intercourse with her husband in this case: to be sure, since on her part she addresses herself to a lawful thing and action, she is but permitting the sin of the husband for a serious cause which excuses her: since charity, by which she is bound to impede the sin, does not oblige in so great inconvenience." Pius XI, ency. *Casti connubii* (31 dec. 1930): "Holy Church knows well that not infrequently one of the parties permits sin rather than commits it, when for a really grave cause a perversion of the right order is reluctantly tolerated. In such a case, there is no sin, provided that, mindful of the law of charity, one does not neglect to seek to dissuade and to deter the partner from sin."

⁴⁹⁷ Cf. n. 494 above.

⁴⁹⁸ S. Off. 19 apr. 1853: "Doubt I. Is the imperfect use of marriage, either onanistically or condomistically, as in the case, lawful? R. Negative. It is intrinsically evil. Doubt II. Can a wife be knowingly passive in condomistic intercourse? R. Negative. For it would be an involvement in something intrinsically unlawful." S. Poenit. 3 iun. 1916: "Q. 1. Is a woman held to positive resistance in the case in which to practice onanism the husband wishes to use an instrument? 2. If the answer is negative, do reasons equally serious as for natural onanism (without an instrument) suffice to justify passive resistance on the part of the woman, or rather are very grave reasons entirely necessary? 3. So that this whole matter might be developed and taught in a safer manner, must a man using such instruments be truly compared to an oppressor: to whom then the woman must oppose that resistance which a virgin puts up to an attacker? R. Ad 1: Affirmative. Ad 2: Provided for in the first reply. Ad 3: Affirmative."

⁴⁹⁹ S. Poenit. 3 apr. 1916: "R. b) But if the husband wishes to commit with her the crime of the Sodomites, since this sodomistic intercourse is an act contrary to nature on the part of each spouse so copulating, this in the judgment of all Doctors is gravely evil: hence for simply no cause, not even to avoid death, can a wife lawfully behave in this matter as her impure husband does. The S. Penitentiary is very much astonished that the opposite opinion, with dishonor to human nature, could have fixed in the minds of certain priests (as reported)."

⁵⁰⁰ Pius XI *Casti connubii*: "We admonish, therefore, priests who hear confessions, and others who have the care of souls, in virtue of Our su-

preme authority and in Our solicitude for the salvation of souls, not to allow the faithful entrusted to them to err regarding this most grave law of God; much more, that they keep themselves immune from such false opinions, in no way conniving at them. If any confessor or pastor of souls, which may God forbid, lead the faithful entrusted to him into these errors or should at least confirm them by approval or by guilty silence, let him be mindful of the fact that he must render a strict account to God, the Supreme Judge, for the betrayal of his sacred trust, and let him take to himself the words of Christ: "They are blind leaders of the blind. And if the blind lead the blind, both fall into the pit." (Matt. 15:14)"

S. Off. 21 Apr. 1955: "The Supreme Sacred Congregation of the Holy Office is seriously alarmed about the ever growing practice of so-called artificial onanism, which consists in having recourse to the use of various chemical and mechanical devices to rob the natural act of generation of its power to beget new life. In its solicitude to safeguard the sanctity of married life, it directs the attention of all Ordinaries to the duty of exercising constant vigilance, lest in speech or in writing in this regard the consciences of the faithful become perverted and purity of morals be contaminated by this depraved vice. The Sacred Congregation particularly raises its voice utterly to condemn and reject as intrinsically evil the application of pessaries (sterilet, diaphragm) by married couples in the exercise of their marital rights. Furthermore, Ordinaries shall not permit the faithful to be told or taught that no serious objection may be made according to the principles of Christian law, if a husband cooperates materially only with his wife who uses such a device. Confessors and spiritual directors who hold the contrary and thus guide the consciences of the faithful are straying far from the paths of truth and moral righteousness. Further publications, public discussions, conferences, etc., about the lawfulness of such cooperation on the part of the husband are strictly forbidden and Ordinaries shall take the necessary measures that this prohibition is religiously complied with."

⁵⁰¹ S. Poenit. 10 mart. 1886: "I. When there is a founded suspicion that a penitent, who is entirely silent about onanism, has been addicted to this crime, is the confessor permitted to abstain from prudent and discreet questioning, because he foresees that many would be disturbed in their good faith and that many will abandon the sacraments? Is a confessor on the other hand bound to question prudently and discreetly? II. Is a confessor who, either from a spontaneous confession or from prudent questioning knows that a penitent is onanistic, bound to warn him of the gravity of his sin, just as in the case of his other mortal sins, and to reprove him (as the Roman Ritual says) with fatherly charity, and then only to impart absolution to him when it is clear from sufficient signs that this same man is sorry for the past and has a resolve not to act in an onanistic manner any longer? R. Ad I. Regularly negative to the first part; affirma-

tive to the second. Ad II. Affirmative, according to the doctrines of approved authors."

⁵⁰² Pius XI, Ency. *Casti connubii*: "Nor are those considered as acting against nature who in the married state use their right in the proper manner, although on account of natural reasons either of time or of certain defects new life cannot be brought forth. For in matrimony as well as in the use of the matrimonial rights there are also secondary ends, such as mutual aid, the cultivation of mutual love, and the quieting of concupiscence, which husband and wife are not forbidden to intend as long as they are subordinated to the primary end and as long as the intrinsic nature of the act is preserved."

⁵⁰³ *Theoretical* opinions on the morality of periodic continence *in itself* differ. 1) As a system of life *per se* unlawful and *per accidens* lawful, because of the will opposed to the primary end and obligation of marriage, although it may become good and lawful for some individual because of some circumstance or justifying cause. 2) It is *per se* lawful and *per accidens* unlawful, since by choosing the biologically sterile period there is no deviation from the natural order in the act and no opposition between the finality of the act and the manner in which it is performed; it becomes unlawful by intention or insufficient cause. 3) It is indifferent in itself but suggestive of evil (*male sonans*); it becomes morally good if practiced with a justifying or compensating cause; it is not intrinsically evil, since this could never be justified, nor intrinsically good, since one of the marriage goods (*bonum prolis*) is absent. 4) It is *per se* good or indifferent in the concrete and its practice is always sinless, except when it becomes the proximate occasion of sin; as indifferent in the concrete it is an imperfection but not a sin when practiced without justification, since it is a choice of the lesser of two evils in not living up to the ideals and counsels of marriage in procreating offspring. Pius XII, Address to the VIIth International Hematological Congress in Rome (12 sept. 1952): "On the other hand, to take advantage of natural temporary sterilization, as in the Ogino-Knaus method, does not violate the natural order as does the practice described above [contraception], since the conjugal relations comply with the will of the Creator. When this method is used for proportionately serious motives (and the indications of eugenics can have a serious character), it is morally justified."

^{503 a} Pius XII, *ibid.*: "Is it lawful to impede ovulation by pills used to remedy undue reaction of the uterus and the organism, when this medicine, while impeding ovulation, also renders fecundation impossible? Is its use permitted to married women who, in spite of this temporary sterility, desire to have relations with their husbands? The answer depends on the intention of the person. If a woman takes such medicine, not to prevent conception, but only on the advice of a doctor as a necessary remedy because of the condition of the uterus or the organism, she

produces indirect sterilization, which is permitted according to the general principles governing acts with a double effect. But a direct and therefore unlawful sterilization results when ovulation is stopped to protect the uterus and the organism from the consequences of a pregnancy which it is not able to sustain. Some moralists contend that it is permissible to take medicines with this latter intention, but they are in error. It is likewise necessary to reject the view of a number of doctors and moralists who permit these practices when medical indications make conception undesirable, or in other similar cases, which cannot be discussed here. In these cases the use of medication has as its end the prevention of conception by preventing ovulation. They are instances therefore of direct sterilization."

⁵⁰⁴ *Pius XII*, Address to the Italian Catholic Union of Midwives (29 oct. 1951): (36) "There are serious motives, such as those often mentioned in the so-called medical, eugenic, economic and social 'indications', that can exempt for a long time, perhaps even the whole duration of the marriage, from the positive and obligatory carrying out of the act. From this it follows that observing the infertile periods alone can be lawful only under a moral aspect. Under the conditions mentioned it really is so. But if, according to a rational and just judgment, there are no similar grave reasons of a personal nature or deriving from external circumstances, then the determination to avoid habitually the fecundity of the union while at the same time to continue to satisfy fully their sensuality, can be derived only from a false appreciation of life and from reasons having nothing to do with proper ethical laws."

⁵⁰⁵ *Ibid.*: (29) "There is then the serious question today whether and how far the obligation of ready disposition to serve motherhood can be reconciled with the ever more widely diffused recourse to the periods of natural sterility (the so-called agenic periods of the woman) which seems to be a clear expression of the will contrary to that disposition.

(31) "There are two hypotheses to be considered. If to carry out this theory means nothing more than that the couple can make use of their matrimonial rights on the days of natural sterility too, there is nothing against it, since by doing so they neither hinder nor injure in any way the consummation of the natural act and its further natural consequences. It is in this respect that the application of the theory of which We have spoken differs from the abuse already mentioned which is a perversion of the act itself. If, however, it is a further question—that is, of permitting the conjugal act on those days exclusively—then the conduct of the married couples must be examined closely.

(32) "Here two other hypotheses present themselves to us. If at the time of the marriage at least one of the couples intended to restrict the marriage right, not merely its use, to the sterile periods, in such a way that at other times the second party would not even have the right to demand the act, this would imply an essential defect in the consent to

marriage, which would carry with it the invalidity of the marriage itself, because the right deriving from the contract of marriage is a permanent, uninterrupted and not intermittent right of each of the parties one to the other.

(33) "On the other hand, if the act be limited to the sterile periods insofar as the mere use and not the right is concerned, there is no question about the validity of the marriage. Nevertheless, the mere lawfulness of such conduct on the part of the couple would have to be approved or denied according as the intention of observing those periods constantly was based upon sufficient and secure moral grounds. The mere fact that the couple do not offend against the nature of the act and are prepared to accept and to bring up the child which in spite of their precautions came into the world would not be sufficient in itself to guarantee the rectitude of the intention and the unobjectionable morality of the motives themselves.

(34) "The reason for this is that marriage obliges to a state of life which, while conferring certain rights, also imposes the fulfilment of a positive work in regard to the married state itself. In such a case one may apply the general principle that a positive fulfilment may be omitted when serious reasons, independent of the good will of those obliged by it, show that this action is not opportune, or prove that a similar demand cannot be reasonably made of human nature.

(35) "The marriage contract which confers upon husband and wife the right to satisfy the inclinations of nature, sets them up in a certain state of life, the married state. But upon couples who perform the act peculiar to their state, nature and the Creator impose the function of helping the conservation of the human race. The characteristic activity which gives their state its value is the *bonum proles*. The individual and society, the people and the state, the Church itself depend for their existence in the order established by God on fruitful marriage. Therefore, to embrace the married state, continuously to make use of the faculty proper to it and lawful in it alone, and on the other hand to withdraw always and deliberately with no serious reason from its primary obligation, would be a sin against the very meaning of conjugal life." Pius XII, Address to the VIIth International Hematological Congress in Rome (12 sept. 1958): "We stated in the discourse delivered in 1951 that married couples who make use of their conjugal rights have a positive obligation, in virtue of the natural law governing their state, not to exclude procreation. The Creator, in effect, wished human beings to propagate themselves precisely by the natural exercise of the sexual function. But to this positive law We applied the principle which holds for all others: that these positive laws are not obligatory to the extent that their fulfillment involves great disadvantages which are neither inseparable from the law itself nor inherent in its accomplishment, but which come from another source and which the law-maker did not intend to impose on men when he promulgated the law."

⁵⁰⁶ S. Poenit. 2 mart. 1853: "Q. Certain married faithful, leaning upon the opinion of expert physicians, are persuaded that there are many days in each month in which the conception of the woman cannot take place. Are they to be disturbed who do not use marriage except on those days, at least if they have legitimate reasons for abstaining from the conjugal act? R. Those concerned in the petition are not to be disturbed, as long as they do nothing by which conception is impeded."
Ibid., 16 iun. 1880.

"Q. 1. - Can spouses without mortal or venial sin so act [abstain only from the time when conception is possible]?"

"Q. 2 - Can a confessor recommend this manner of acting either to a wife who detests the onanism of her husband and who cannot correct it or to both spouses shunning numerous offspring?"

"Q. 3 - Must one beware of the danger of lessening offspring, or is this danger to be considered less than the advantage that is to be gained from avoiding sins and from the peace of consciences?"

"R. Spouses using marriage in the aforementioned manner are not to be disturbed and the confessor can insinuate to those spouses the opinion in question, but cautiously (*caute*); which spouses he shall have tried in vain with other reasons to divert from the detestable crime of onanism."

Ibid. 20 iul. 1932: "Q. Is the practice of spouses lawful who, since for just and grave causes they desire to avoid offspring by honest method, by mutual consent and for honest motive abstain from using marriage except on days on which according to certain recent theories conception cannot be had due to natural reasons. R. This has been provided for by the response of the S. Poenit. 16 iun. 1880."

⁵⁰⁷ Cf. S. Off. (16 maii 1943), Instruction "Some Norms on the Conduct of Confessors dealing with the Sixth Commandment." Cf. *The Administration of Penance*, no. 72.

⁵⁰⁸ Pius XII, *loc cit.*: (39) "But it will be objected that such abstinence is impossible, that such heroism cannot be attained. Today you will hear and read this objection on all sides, even from those who on account of their duty and ability should be able to judge differently. The following argument is brought forth as proof: 'No one is obliged to do the impossible and no reasonable legislator, it is assumed, wishes by his law to do the impossible. But, for married couples, long-term abstinence is impossible. Therefore they are not obliged to abstain. The divine law cannot mean this.'

(40) "Thus from partly true premises a false conclusion is deduced. In order to convince yourself of this, invert the steps of the argument. God does not oblige people to do the impossible. But God obliges married people to abstain, if their union cannot be fulfilled according to the laws of nature. Therefore, in this case abstinence is possible. In confirmation of this argument we have the Council of Trent which, in its chapter on the observance, necessary and possible, of the commandments, teaches

us that, as St. Augustine said, 'God does not command impossible things, but when He commands He warns us to do what can be done and to ask what cannot and He gives you help so that you can.'

(41) "... It is wronging men and women of our times to deem them incapable of continuous heroism. Today for many reasons—perhaps with the goad of hard necessity or even sometimes in the service of injustice—heroism is exercised to a degree and to an extent which should have been thought impossible in days gone by. Why then should this heroism, if the circumstances, really demand it, stop at the borders established by the passions and inclinations of nature? The answer is clear. The man who does not want to master himself is incapable of doing so. He who believes he can do so, counting merely on his own strength without seeking sincerely and perseveringly help from God, will remain miserably disillusioned."

⁵⁰⁹ Cf. Mt. 19:5; Eph. 5:25; Tit. 2:4; I Tim. 2:15; Col. 3:18.

⁵¹⁰ Cf. Gen. 2:18.

⁵¹¹ Cf. Mt. 19:5; Gen. 2:24; Eph. 5:31; c. 1128.

⁵¹² Cf. I Cor. 11:3; Gen. 2:18; Col. 3:18. Leo XIII, ency. *Arcanum divinae sapientiae* (10 feb. 1880): "The mutual duties of husband and wife have been defined and their several rights accurately established. They are bound, namely, to have such feelings for one another as to cherish always very great mutual love, to be ever faithful to their marriage vow, and to give one another an unflinching and unselfish help. The husband is the chief of the family and the head of the wife. The woman, because she is flesh of his flesh and bone of his bone must be subject to her husband and obey him; not indeed as a servant, but as a companion, so that her obedience shall be wanting in neither honor nor dignity. Since the husband represents Christ, and since the wife represents the Church, let there always be, both in him who commands and in her who obeys, a heaven-born love guiding both in their respective duties." Pius XI, ency. *Casti connubii* (31 dec. 1930): "This subjection, however, does not deny or take away the liberty which fully belongs to the woman both in view of her dignity as a human person, and in view of her most noble office as wife and mother and companion; nor does it bid her obey her husband's every request even if not in harmony with right reason or with the dignity due a wife; nor, in fine, does it imply that the wife should be put on a level with those persons who in law are called minors, to whom it is not customary to allow free exercise of their rights on account of their lack of mature judgment or their ignorance of human affairs. But it forbids that exaggerated license which does not care for the good of the family; it forbids that in this body which is the family the heart be separated from the head to the great detriment of the whole body and the proximate danger of ruin. For if the man is the head, the woman is the heart, and as he occupies the chief place in ruling, so she may and ought to claim for herself the chief place in love. Again, this subjection of wife to husband

in its degree and manner may vary according to the different conditions of persons, place and time; in fact, if the husband neglects his duty, it falls to the wife to take his place in ruling the family. But the structure of the family and its fundamental law established and confirmed by God must always and everywhere be maintained.”

⁵¹³ Cf. Deut. 11:19; Eccli. 7:25; Prov. 22:6.

⁵¹⁴ Cf. Prov. 13:13-14, 24; Eph. 6:4; Col. 3:21.

⁵¹⁵ Cf. II Cor. 12: 14; cc. 1113, 1372; *Summa Theol.*, II-II, q. 101, a. 2, ad 2.

⁵¹⁶ Tobias 4.

⁵¹⁷ *Catechism of the Council of Trent*, Fourth Commandment.

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