St. John of Capistrano, O.F.M.

THE MIRROR OF CLERICS

Speculum clericorum

From the Latin of the Venice edition of 1580

English translation

Contributed to Mind of the Church by a friend of the library who wishes to remain anonymous

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About this translation

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The Mirror of Clerics of Blessed John of Capistrano, of the Family of the Friars Minor of the Observance

(fol. 1r)

This is a sermon to the clergy, delivered at the Synod of Trent in the year 1439, on the 22nd day of the month of April, in the cathedral church.

Let the priests also that come to the Lord be sanctified, lest I strike them. Exodus 19.

Most serene Prince, most clement Father and most worthy Prelate, Alexander, illustrious Duke of Masovia, and Lord Bishop of Trent; and you, venerable Fathers, eminent Doctors, most excellent prelates, Priors, Provosts and Lords Canons, parish priests, chaplains and all the other clerics here present from whatever place: *a chosen generation, a royal priesthood.*

It is not that I think eloquence or fluency stands at my side, or that skill in speaking waits upon me, for I know full well that I am ignorant and unlearned before so great a Majesty and so many Fathers. Yet I count it the greatest gift granted me today, and I reckon myself most fortunate to be heard before such great learning, and to be listened to so patiently as I prattle my little words; so that, shaken with fear and confounded with amazement, I cry out with trembling voice, stammering with Elizabeth: *And whence is this to me, that the mother of my Lord should come to me?* (Luke 1). And whence, I say, could I say this is given to me, that I have presumed to open my mouth before so many and such worthy Fathers? My boldness, then, is not to be checked; rather it is to be commended forthwith to your most kindly and venerable clemency and patience, trusting in the supreme power of God, from whom comes down *every best gift and every perfect gift, as from the Father of lights* (James 1); from whom likewise every splendour of rhetorical eloquence, every manner of poetic speech, and every variety of graceful delivery has taken its beginning, as Cassiodorus witnesses on the Psalter, and as Gratian, borrowing it, recalls in the Decretum, dist. 37, c. *Legimus*,

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at the verse *Denique*, where Ambrose on the Epistle to the Colossians is added, saying: "Every account of heavenly knowledge or of earthly creation is in Him who is their head and author, and whoever knows Him should seek nothing further, for He is perfect virtue and wisdom." In Daniel, finally, and in Solomon, God shows unbelievers that He is the author of all wisdom.

Let us therefore run back to that living fountain of all wisdom, goodness and grace, Christ Jesus, *in whom are hid all the treasures of the wisdom and knowledge of God,* as the Apostle says to the Colossians (ch. 2); and with him let me say what he writes in 2 Corinthians 3: *And such confidence we have through Christ towards God; not that we are sufficient to think anything of ourselves, as of ourselves, but our sufficiency is from God, who also hath made us fit ministers of the new testament, not in the letter but in the spirit; for the letter killeth, but the spirit quickeneth.* In keeping with which the author and captain of life, Jesus Christ, says to His apostles and faithful (John 6): *It is the spirit that quickeneth; the flesh profiteth nothing. The words that I have spoken to you are spirit and life.*

Therefore, with the same Apostle to the Hebrews (ch. 4), let me say: *Having therefore a great high priest that hath passed into the heavens, Jesus the Son of God, let us hold fast our confession*; and further on: *Let us go therefore with confidence to the throne of grace, that we may obtain mercy and find grace in seasonable aid.* And with Philo, in the person of Solomon, I shall call upon the divine protection together with you,

through the prayer of Wisdom, chapter 9, saying: *God of our fathers, and Lord of mercy, who hast made all things with thy word, and by thy wisdom hast appointed man, that he should have dominion over the creature that was made by thee, that he should order the world according to equity and justice, and execute justice with an upright heart: give me wisdom, that sitteth by thy throne*; and further on: *Send her out of thy holy heaven, and from the throne of thy majesty, that she may be with me, and may labour with me, that I may know what is acceptable with thee. For she knoweth and understandeth all things, and shall lead me soberly in my works, and shall preserve me by her power; so shall my works be acceptable.*

Having made, then, such an excuse as I could, or rather an accusation of myself, together with a humble invocation of God, I now return to the theme set forth for what is to be said: *Let the priests also that come to the Lord be sanctified, lest I strike them*, as above. These were the words reverently set forth in the first place before your Excellencies.

The First Part

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Divine Wisdom, intending to instruct her ministers in brief words and weighty catholic discourses, so *that, denying ungodliness and worldly desires, we should live soberly and justly and godly in this world, looking for the blessed hope and coming of the glory of the great God and our Saviour Jesus Christ*, as the Apostle says to Titus (ch. 2), wishes that those who are called to the table of the Lord should spend their lives in the shining brightness of an exemplary pattern of praiseworthy and moral living, every filth and uncleanness of vice driven out; that they may be held as worthy pages of the most high King, accepted into His service; and that, living honourably as the salt of the earth for themselves and for the rest, and enlightening others with radiant discernment as the light of the world, they may understand from the sublime Teacher, Christ Jesus, what He thundered not only to the apostles and disciples, but also to all their successors, priests and clerics, saying (Matthew 5): *You are the salt of the earth. But if the salt lose its savour, wherewith shall it be salted? It is good for nothing any more but to be cast out and to be trodden on by men.*

Truly trodden underfoot by men, like the vilest dung, is the unclean and sordid clergy, soaked in the filth of vice and entangled in the chains of crime, so that it is thought to be of no worth any longer either to itself or to others; for, as Gregory says, "When a man's life is despised, it follows that his preaching is scorned."

Let the priests that rule well be esteemed worthy of double honour, especially they who labour in the word and doctrine, as the Apostle says (1 Timothy 5). For worthy priests do enjoy a double honour: real and personal, that is, temporal and at the same time spiritual, and finally the passing together with the eternal. For though they dwell on earth and are subject to necessity along with mortal creatures, they nonetheless strive earnestly to converse in heaven with the angels, that they may be acceptable to the King as understanding ministers. Wherefore, as the sun rising upon the world in the high places of God, so let the light of the clergy shine before men, that, beholding their good works, they may glorify the Father who is in heaven (Matthew 5).

You are the light of the world, and so on. For as light does not illumine itself alone, but spreading its rays all around, lights up whatever is in view, so the luminous life of upright and just clerics, by the brightness of its holiness, enlightens and gladdens those who look upon it. He, therefore, who is set over the care of others ought to show in himself how others ought to conduct themselves in the house

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of the Lord, as in c. *Cum in cunctis*, Extra, *De electione*. Rightly, then, on behalf of the most high God the Angel solemnly declares and admonishes Moses, saying, as above: *Let the priests also*, and so on. In these sacred words three things are briefly indicated. The first is the glorious ministry of exalted dignity, in the

words *Let the priests also that come to the Lord*. The second is the precious workshop of surpassing purity, in the words *be sanctified*. The third is the ruinous reproach of extreme punishment, in the words *lest I strike them*.

As to the first: priests are ministers of the sacraments, of the divine works and of the affairs of Christ Jesus, according to what the Apostle says (1 Corinthians 4): *Let a man so account of us as of the ministers of Christ and the dispensers of the mysteries of God. Here now it is required among the dispensers that a man be found faithful.* For priests (*sacerdotes*) are so called as giving what is sacred (*sacra dotes*). From the very name, then, holiness and justice are signified, according to the Psalmist (Psalm 131): *Let thy priests be clothed with justice, and let thy saints rejoice.* They are also called *sacerdotes* as giving something sacred (*sacrum dantes*) to divine worship, because they confect and administer the divine sacraments.

Presbyter, moreover, is Greek, and in Latin means "elder," not on account of age, but on account of the honour and dignity which they receive when they are consecrated, as Isidore says in *Etymologies* 7, c. 12, and as is found in the Decretum, dist. 21, c. 1, at the verse *Presbyter*. For among those who were called priests in the Old Testament, the first was Melchisedech, who offered bread and wine in an acceptable sacrifice before God (Genesis 14); about whom the Apostle treats at length to the Hebrews (ch. 7), showing that the Lord Jesus Christ, the supreme Priest and Pontiff, was prefigured not through Aaron but through Melchisedech, *without father, without mother, without genealogy, having neither beginning of days nor end of life, but likened unto the Son of God, continueth a priest for ever.* On this the Doctors treat sufficiently in c. *Translato*, Extra, *De constitutionibus*, and dist. 21, c. *Cleros*, and c. *In novo*.

These, then, are they who are now called presbyters, and who were then called princes of the priests, and now are named bishops. Yet all present-day presbyters, the whole clergy, and the priesthood took their beginning from Christ Jesus as from their supreme head, who appointed the twelve apostles as greater priests and the seventy-two disciples as lesser priests, and chose Peter as supreme Priest (dist. 21, § 1, at the verse *Simpliciter*). We rightly call them presbyters, therefore, on account of dignity rather than age. And we call them priests

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on account of wisdom, holiness and grace. For these reasons they are rendered deservedly worthy of veneration.

Humble reverence is known to be owed to the priestly or clerical order under seven aspects: first, under the aspect of dignity; second, under the aspect of mediation; third, under the aspect of headship; fourth, under the aspect of benefit; fifth, under the aspect of nobility; sixth, under the aspect of authority; seventh, under the aspect of example.

First, I say, reverence is owed to the clergy under the aspect of dignity. For there is found in the whole world no dignity greater than the summit of the pre-eminent dignity of the priesthood. For if something is found in that in which it seems less likely to be, then much more is it found in that in which it seems more likely, as in *Topics* 2. But it seems less likely to be found in the summit of imperial dignity than in the lesser ranks below it, and yet it is found there; for so it is that the Emperor, who is first and greatest among the kind of kings and princes of the world, promises and shows humble reverence, due fidelity and ready obedience, under an oath of binding obligation, to that great priest who is first and greatest in the order and kind of priests, namely the Supreme Pontiff. This is clear in the Decretum, dist. 63, c. *Tibi domino*: "To you, Lord Pope John, I, King Otto, cause to be promised and sworn, by the Father and the Son and the Holy Spirit," and so on, where the form of the Emperor's oath to the Pope is set out; and in dist. 22, c. 1, it is written of the institution made by Christ for Peter, namely that Christ entrusted to blessed Peter, the key-bearer of eternal life, the rights of the earthly and of the heavenly empire together.

For God made two great lights in the firmament of heaven: the greater light to rule the day, and the lesser light to rule the night (Genesis 1); each indeed great, yet one greater than the other. In the firmament of heaven, that is, for the strengthening of the universal Church militant, God made two great lights, that is, He instituted two dignities, which are the pontifical authority and the royal power. But that which rules the days, that is, spiritual things, is the greater; that which rules carnal things is the lesser; so that the difference between pontiffs and kings may be recognised to be as great as that between the sun and the moon, as in c. *Solitae*, Extra, *De maioritate et obedientia*.

Rightly, then, does Clement V write of the subjection of emperors and kings to the Pope, in the Clementines, title *De iureiurando*, where, also indicating the form of the oath of due fidelity, he says: "The Roman princes, professors of the orthodox faith, venerating with fervour of faith and promptness of clear devotion the holy Roman Church, whose head is Christ our Redeemer, and the Roman Pontiff, Vicar of the same Re-

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deemer, have not thought it unworthy to bow their heads to the same Roman Pontiff, from whom they receive approbation of their person for assuming the summit of imperial highness, as well as anointing, consecration and the crown of the empire, and to bind themselves by the bond of an oath to him and to the same Church, which transferred the empire from the Greeks to the Germans."

Since, therefore, the Emperor is subject to the Pope as to the most singular Vicar of Jesus Christ, as in c. *Quanto* and c. *Inter corporalia*, Extra, *De translatione*, and the Pope is the greatest of priests, indeed is called Supreme Pontiff and greatest Priest, as Isidore says in *Etymologies* 7, c. 12, as cited in the Decretum, dist. 21, c. *Cleros*, at the verse *Pontifex*, then much more are the other kings and princes subject to him. Indeed, Gregory says still more, writing to Hermann, bishop of Metz, as found in the Decretum, dist. 96, c. *Quis dubitet*: "Who would doubt that the priests of Christ are to be reckoned the fathers and masters of kings and princes and of all the faithful? Is it not known to be a wretched madness if a son should try to subjugate his father, or a disciple his master, and with wicked obligations subject to his own power the one by whom he believes he can be bound and loosed not only on earth but also in heaven?"

And Pope Gelasius wrote to the Emperor Anastasius, as found in the same distinction, c. *Duo quippe*, how blessed Pope Innocent excommunicated the Emperor Arcadius because he consented to Saint John Chrysostom's being driven from his see. Blessed Ambrose also, though a saint, yet not bishop of the universal Church, excommunicated the Emperor Theodosius the Great and shut him out of the church for a fault that did not seem so grave to other priests. He also shows in his writings that gold is not so much more precious than lead as the priestly order is higher than royal power, writing thus near the beginning of his *Pastoral*: "The honour and sublimity of bishops, brethren," he says, "can be matched by no comparisons. If you compare it to the splendour of kings and the diadem of princes, it will be far lower, as if you were to compare the metal of lead to the gleam of gold; seeing that you behold the necks of kings and princes bowed to the knees of priests, and, having kissed their right hands, they believe themselves to be strengthened by their prayers." There the Gloss draws a notable conclusion, namely that a prince can be excommunicated even by any bishop (dist. 63, c. 1, after the middle; and C. 11, q. 3, c. *Si autem nobis episcopis*).

For priests are called sometimes gods, sometimes angels, as Gregory says writing to Maurice, and it is found

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in the Decretum, C. 2, q. 1, c. *Sacerdotibus*: "In the divine utterances priests are sometimes called gods, sometimes angels." For to Moses it is said of one who is to be brought to the oath: *Bring him to the gods*, that is, to the priests; as in Exodus 22, where the text says: *If the thief be not known, the master of the house shall be brought to the gods, and shall swear*; and below: *The cause of both parties shall come to the gods.* Hence the Psalm also said: *I have said: You are gods*; and elsewhere it says: *Touch ye not my anointed, and do no*

evil to my prophets. Gregory adds: "And again it is written: *Thou shalt not speak ill of the gods,* that is, of the priests" (Exodus 22). And the prophet Malachi says (ch. 2): *For the lips of the priest shall keep knowledge, and they shall seek the law at his mouth, because he is the angel of the Lord of hosts.*

The wicked cleric, however, the Lord calls a devil, saying (John 6): *Have not I chosen you twelve, and one of you is a devil?* For although He was speaking principally of Judas, it is fittingly understood of all the wicked, about whom enough is said in dist. 40, c. *Multi,* where John Chrysostom says: "Many are priests, and few are priests: many in name, and few in deed"; and below: "The wicked priest gains from his priesthood a crime, not a dignity." And C. 1, q. 1, c. *Christus,* where Augustine says: "What did Christ do for us, who bore His betrayer with such great patience that He gave him the first Eucharist, consecrated by His own hands and commended by His own mouth, just as to the other apostles?" and so on; "Christ, who chose His betrayer, whom He named a devil," and so on.

Therefore, venerable Fathers, not with Judas, but with Peter and the other holy apostles and disciples of Christ, take your share of the journey, and preserve with due honour the dignity of so great a summit, so that by your most perfect holiness you may deserve to be venerated even by kings and princes. And let this suffice concerning the reverence owed under the first aspect.

Second, I said that reverence is owed to the clergy under the aspect of mediation. For the priest is a mediator between God and men, as it were placed to reconcile the mortal race of men with God; and truly so, that as Christ Jesus was made mediator for the reconciliation of the human race with God, and of the angelic nature with man, as the Apostle says to the Colossians (ch. 1): *Because in him it hath well pleased the Father that all fulness should dwell,* and *through him to reconcile all things unto himself, making peace through the blood of his cross, both as to the things that are on earth and the things that are in heaven.* From this the same Apostle also says to the Galatians (ch. 3): *Why then was the law? It was set because of trans-*

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gressions, until the seed should come to whom he made the promise, being ordained by angels in the hand of a mediator. Now a mediator is not of one; but God is one. Hence also he says below, to Timothy (1 Timothy 2): *I desire therefore first of all that supplications, prayers, intercessions and thanksgivings be made for all men, for kings and for all that are in high station, that we may lead a quiet and a peaceable life in all piety and chastity. For this is good and acceptable in the sight of God our Saviour, who will have all men to be saved and to come to the knowledge of the truth. For there is one God and one mediator of God and men, the man Christ Jesus, who gave himself a redemption for all*: that is, sufficiently, but not efficiently, because the acts of active things do not operate except in a disposed and receptive matter, as the Philosopher says in *On the Soul* 3.

Taught, then, by the example of Christ, and instructed by His teaching, holy priests and clerics ought to be mediators for restoring the covenants of peace between the human race and God; as is written of Aaron (Ecclesiasticus 45): *He exalted Aaron his brother,* namely Moses' brother; and below: *He made an everlasting covenant with him, and gave him the priesthood of the nation, and made him blessed in glory.* And of Noah it is written (Ecclesiasticus 44): *Noah was found perfect, just, and in the time of wrath he was made a reconciliation.* And in the same place it is said of Abraham: *There was not found the like to him; therefore by an oath,* and so on. And of Aaron it follows (Ecclesiasticus 45): *He chose him out of all men living, to offer sacrifice to God, incense and a good savour, for a memorial, to make reconciliation for his people.* Hence also it is written (Joel 2): *Between the porch and the altar the priests, the Lord's ministers, shall weep and shall say: Spare, O Lord, spare thy people, and give not thy inheritance to reproach, that the heathen should rule over them. Why should they say among the nations: Where is their God? The Lord hath been zealous for his land, and hath spared his people*; as if to say: through the devout prayers of holy priests the Lord is appeased and spares the peoples.

Be such, then, most excellent Fathers, that your prayers may be worthy to win a hearing with God. For as Christ is mediator by nature, so the priest is mediator by grace. Whence Moses also said (Deuteronomy 5): *I was the mediator and stood between the Lord and you.* From which the Lord Jesus Christ Himself declares to His apostles (John 15), saying: *You have not chosen me, but I have chosen you, and have appointed you that you should go and should bring forth fruit, and your fruit should remain, that whatsoever you shall ask of the Father in my name, he may give it*

(fol. 5r)

you. Now God's choosing is the preparation of divine grace, like predestination, by which *he chose us in him before the foundation of the world, that we should be holy and unspotted in his sight in charity*, as the Apostle says (Ephesians 1); which the Master of the Sentences explains well enough in Book 1, distinctions 40 and 41. The end of election, moreover, ought to be holiness; hence Moses writes (Numbers 16): *Whomsoever the Lord shall choose, the same shall be holy.* To this end, namely, priests have been called and chosen as ministers of the Lord: not only that they themselves may be holy, but that they may also sanctify and cleanse others. Hence it is said to the sons of Levi (2 Paralipomenon 29): *The Lord hath chosen you to stand before him, and to minister to him.* Hence too the Lord Jesus says (John 12): *If any man minister to me, let him follow me*, namely by justice and holiness; *and where I am*, namely by nature, *there also shall my minister be*, namely by grace. *If any man minister to me*, namely by holiness of life, *him will my Father honour*, namely with the honour of eternal glory, in which the highest honour is shown to the faithful of Christ. And so the second reverence due to the clerical order is clear.

Third, I said that reverence is owed to the clergy under the aspect of headship. For every priest is as a prince among the people, that is, the chief in leadership of the spiritual life; just as the head is the principal part of the organic, physical body, from which for the most part the bodily and vital senses are drawn, namely sight, hearing, taste, smell and touch. In like order, as from the head of the whole body of the Church militant, the people ought to draw the vital, that is, the spiritual, senses; so that the priest, making a banquet, should call his people together and invite them to the dinner, saying:

First, of sight, with the Psalm: *Come and see the works of the Lord, who is terrible in his counsels over the sons of men*; as if to say: let them consider with the eye of the mind, through the visible works of the most high God, how deep in understanding and how much to be searched out are His invisible mysteries, hidden under the veil of visible things. Of which the Apostle says (Romans 1): *For the invisible things of him from the creation of the world are clearly seen, being understood by the things that are made; his eternal power also and divinity, so that they are inexcusable*: all, that is, who refuse to contemplate such things.

Second, of hearing, let him say with the same Psalm: *Come, children, hearken to me; I will teach you the fear of the Lord. Understand, ye senseless among the people, and you fools, be wise at last. He that planted the ear, shall he not hear? Or he that formed the eye, doth he not consider?*; as if to say: every secret and hidden thing is manifest before God. According to which the Apostle says (Hebrews 4):

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For the word of God is living and effectual, and more piercing than any two-edged sword, and reaching unto the division of the soul and the spirit, of the joints also and the marrow, and is a discerner of the thoughts and intents of the heart. Neither is there any creature invisible in his sight; but all things are naked and open to his eyes, to whom our speech is.

Third, of taste, let him say with the same Psalm 33: *O taste and see that the Lord is sweet; blessed is the man that hopeth in him.* And truly He is sweet, and sweet above honey and the honeycomb and all sweetness. From which the Prince of the Apostles, Peter, says (1 Peter 2): *Wherefore laying away all malice and all guile and dissimulations and envies and all detractions*; as if to say that in these there is great bitterness,

which if you wish to avoid, *as newborn babes, desire the rational milk without guile, that thereby you may grow unto salvation; if so be you have tasted that the Lord is sweet.* Hence, at the sweetness of the Spirit of God, incomprehensible in this life, Philo cried out with great wonder (Wisdom 12): *O how good and sweet is thy spirit, O Lord, in all things!* And the Lord Jesus said (Matthew 11): *For my yoke is sweet and my burden light*: the yoke, namely, of humility and obedience, and the burden, namely, of charity and diligence.

Fourth, of smell, let him say with the bride, that is, the faithful soul (Canticle 1): *Let him kiss me with the kiss of his mouth,* as if for taste, *for thy breasts are better than wine, smelling sweet of the best ointments. Thy name is as oil poured out; therefore young maidens have loved thee. Draw me; we will run after thee to the odour of thy ointments.* To the odour of ointments, then, that is, of the kinds of God's sanctifications (for they are of many and divers sorts, as the Apostle says, 1 Corinthians 12: *There are diversities of graces, but the same Spirit,* and so on), let the priest call the people together and say that word of Ecclesiasticus 39: *Hear me, ye divine offspring, and bud forth as the rose planted by the brooks of waters.* For the rose holds either whiteness or redness, and with either of them, fragrance as well. When it holds whiteness, it signifies chastity: *O how beautiful is the chaste generation with charity* (Wisdom 4). When it holds redness, it signifies charity: *My beloved is white and ruddy, chosen out of thousands* (Canticle 5). This he says of Christ, who was ever white with chastity, ever ruddy with charity, chosen out of thousands by surpassing holiness; for He is the Holy of Holies, sanctifying all things, *and of his fulness we all have received, and grace for grace* (John 1).

(fol. 6r)

Fifth, of touch: humbly acknowledging himself unworthy of such great benefits and divine gifts, let him, prostrate on the ground, associate his people with the Magdalene at the feet of the Lord, rolling forward, as it were, to wash His feet with tears of compunction and to wipe them with her hair; that is, with the superfluous goods bestowed on him by God divided among the poor of Christ, let him serve the poor with the kiss of devotion, with a cheerful face and a look of compassion, as the Lord Jesus Christ Himself, who reckons as given to or denied to Himself whatever is given to or denied, for love and reverence of Him, to His poor members as to His brethren; according to what is said in Matthew 25: *Amen I say to you, as long as you did it to one of these my least brethren, you did it to me*; and below: *As long as you did it not to one of these least, neither did you do it to me.*

So, called back to true penance, the people will hear with the Magdalene: *Thy sins are forgiven thee*; and, raised from the feet of the Lord, they will be lifted in His arms to His breast, embraced for the kiss of His mouth, and will say with the contemplative soul: *His left hand is under my head, and his right hand shall embrace me* (Canticle 2 and the last chapter). And thus, as a good prince, captain and shepherd, he will lead his people to the pastures of the blessed. For the sheep will hear the voice of such a shepherd and will follow him, imitating his good works, when they see him ready to lay down his life for his sheep.

That saying is to be understood not only of the punishment of death, but also of all the carnal motions and senses, both interior and exterior, that must be brought under the law of the spirit; according to what the Apostle says to the Galatians (ch. 5): *And they that are Christ's have crucified their flesh with the vices and concupiscences.* And in Hebrews 11, among the kinds of martyrdom, he reckons fighting manfully against temptations, when he says: *They were stoned, they were cut asunder, they were tempted, they were put to death by the sword; they wandered about in sheepskins,* that is, in the skins of the badger, which have rather hard hairs and which the saints used for a hair shirt. It follows: *in goatskins, being in want, distressed, afflicted, of whom the world was not worthy.* Thus the Apostle proves that the penitential life is reckoned among the kinds of martyrdom. In this way also the good shepherd is understood to lay down his life for his sheep (John 10). In this way too, taken in the moral sense, is understood that saying of John 12: *He that loveth his life,* namely his animal appetites, *shall lose it,* because, passing away in such a state, he will be condemned to the torments of hell; *and he that hateth his life in this world,* namely by resisting worldly

vanities, sensual motions and carnal desires, *keepeth it unto life eternal*,

(fol. 6v)

because by so persevering to the end he will be saved (Matthew 24). Hence also the Lord said (Matthew 11): *From the days of John the Baptist until now, the kingdom of heaven suffereth violence, and the violent bear it away.*

To this plundering, then, and prey of the heavenly kingdom, the good shepherd and captain of the people, every priest having cure of souls, goes before the army, so that, as a prince, he may excel in knowledge and holiness as he excels in honour and dignity. For good prelates make good subjects, and conversely bad ones make bad; as is figured in Judges 2, where, while Joshua lived, the children of Israel prospered; but when others arose who knew not the Lord, the children of Israel did evil in the sight of the Lord, and were afflicted with many plagues.

So, as is clear, the priest is prince and head among the people. Hence, as all the members of the body are subject to the head and serve it as their prince, so all the members of the Church ought to be subject and obedient to the clerical order, that the preservation of the whole spiritual edifice subject to it may be the better secured; according to that word of the Apostle to the Romans (ch. 13): *Let every soul be subject to higher powers; for there is no power but from God, and those that are, are ordained of God. Therefore he that resisteth the power resisteth the ordinance of God; and they that resist purchase to themselves damnation. For princes are not a terror to the good work, but to the evil*; and so on, as the Apostle says in that place, and he pursues it at sufficient length there.

For ecclesiastical prelates are also called princes, as in c. 1, § *Praefatis*, *De iureiurando*, in the Clementines, where it says: "on the part of princes, both ecclesiastical and secular." So too the Church sings of Peter and Paul: "Glorious princes of the earth: as in life they loved one another, so in death they were not divided." Hence, as all the members of the body are exposed for the preservation of the head, so all the faithful of Christ ought to expose themselves for the preservation of such an order. For it is not lawful for the members to withdraw from the head, as in c. *Cum non liceat*, Extra, *De praescriptionibus*; and so it is not lawful for the peoples to withdraw from obedience to their prelates.

For the Apostle says (1 Corinthians 12): *For as the body is one and hath many members, and all the members of the body, whereas they are many, yet are one body, so also is Christ. For in one Spirit were we all baptised into one body, whether Jews or Gentiles, whether bond or free; and in one Spirit we have all been made to drink. For the body also is not one member, but many*; and below: *Now you are the body of Christ, and members of member. And God indeed hath set some in the Church,*

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first apostles, secondly prophets, thirdly doctors; after that miracles, then the graces of healing, helps, governments, kinds of tongues, interpretations of speeches. Are all apostles? Are all prophets? Are all doctors? Are all workers of miracles? Have all the grace of healing? Do all speak with tongues? Do all interpret? But be zealous for the better gifts. And I shew unto you yet a more excellent way, and so on.

For just as, if the head is sick, there can still be hope of health (though when the head is ailing the other members of the body are more easily infected, as Gregory says, as cited in the Decretum, C. 6, q. 1, c. *Sunt plurimi*, § *Verum*; in c. *Ex merito* it is said otherwise: "If the head aches, the other members languish"; to which add C. 2, q. 7, c. *Sicut*, he says; and the Doctors note this on the said c. *Cum non liceat*), which is taken from Isaiah 1 where he says: *The whole head is sick and the whole heart is sad. From the sole of the foot unto the top of the head there is no soundness therein*; as if to say: when the head is infected, the feet too are very easily infected. Yet while the union of head and members is preserved, the health of the whole body and its members can be recovered, according to C. 1, q. 1, c. *Ventum*. But if the head is cut off from the body, there

is no hope of reunion or of natural life. So, although the clerical order be sick and languid, yet if it is united to its members, that is, if it has the obedience of its subjects, there can be hope of reform and of the correction of a corrupted life. But if the head has been cut off from the members, that is, if obedience has been withdrawn from that order by its subjects, the whole body of the Church will suffer destruction.

This was seen not long ago in the kingdom of Bohemia, where more than three hundred thousand persons fell by the sword on account of the Hussite heresy, because of which they withdrew obedience from the prelates of the Church. So too many thousands perished because they scorned to obey the precepts and counsels of Moses and Aaron (Exodus 33), where twenty-three thousand men perished, put to death by the tribe of Levi, which obeyed Moses. So too Dathan and Abiram, refusing to obey Moses and Aaron, were swallowed up with their families and tents and possessions and the animals belonging to them, *and they went down alive into hell, the earth closing upon them, and they perished from among the people* (Numbers 16). Hence also the Psalm says: *The earth opened and swallowed up Dathan, and covered the congregation of Abiram.* Hence too the peoples ought to keep what Moses commanded (Exodus 22), saying: *Thou shalt not speak ill of the gods, and the prince of thy people thou shalt not*

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curse, understanding this of priests, as we have already said above. And so the third aspect is clear.

Fourth, I say that reverence is owed to the clergy under the aspect of benefit, or usefulness. Here it should be known that one usefulness is real, another spiritual. By real I mean temporal, that is, of temporal goods; by spiritual, that of eternal goods. Real or temporal usefulness can avail but little, because it passes with time; hence such goods are called transitory. According to what the Psalm says: *Be not thou afraid when a man shall be made rich, and when the glory of his house shall be increased. For when he shall die he shall take nothing away, nor shall his glory descend with him.* Hence also in 1 Maccabees 2, Mathathias, recalling the high works of God done for the fathers, said: *Remember the works of the fathers*; and below: *And fear ye not the words of a sinful man, for his glory is dung and worms. Today he is lifted up, and tomorrow he shall not be found, because he is returned into his earth, and his thought is come to nothing. You therefore, my sons, take courage and behave manfully in the law, for by it you shall be glorious*: that is, when you have done what has been commanded you by the Lord your God, in it you shall be glorious. See how great a difference he marks between true glory and supposed glory.

Hence also the Psalm says: *They have slept*, namely through death, *their sleep, and all the men of riches have found nothing in their hands.* And note how strikingly he says "men of riches," not "riches of men," because the covetous withdraw themselves from God and subject themselves to temporal riches, which cannot be theirs for ever, since they must necessarily be left behind at the end, and are very often snatched from them against their will. Hence the Lord said (Luke 12): *The land of a certain rich man brought forth plenty of fruits*; and below: *Soul, thou hast much goods laid up for many years: take thy rest, eat, drink, make good cheer. But God said to him: Thou fool, this night do they require thy soul of thee; and whose shall those things be which thou hast provided? So is he that layeth up treasure for himself, and is not rich towards God.* And in Luke 16, speaking in parable of the rich man and the poor man, He said: *And it came to pass that the beggar died and was carried by the angels into Abraham's bosom. And the rich man also died, and he was buried in hell.* See, then, how deceitful and perishable temporal riches are. Hence Solomon also said (Proverbs 10): *Treasures of wickedness shall profit nothing*; and to show that the true riches are the spiritual virtues, he adds: *but justice shall deliver from death*, that is, eternal death, understanding under the name of justice all the virtues; for justice is called every vir-

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tue, according to the Philosopher in *Ethics* 2. Gregory too, on Luke, in the parable of the seeds, part of which fell among thorns, *and the thorns growing up with it choked it*, namely the seed (Luke 8), says: "Those alone,

then, are true riches which make us rich in virtues. If, therefore, dearly beloved, you desire to be rich, love true riches. If you seek the height of true honour, make for the heavenly kingdom. If you love the glory of dignities, hasten to be enrolled in that supernal court of the angels. The words of God which you take in with the ear, keep in the mind; for the word of God is the food of the mind."

With such riches, then, let the clergy hasten to enrich its people, by ministering the sacraments of the Church, namely:

Baptism, because *unless a man be born again of water and the Holy Ghost, he cannot enter into the kingdom of heaven* (John 3).

Confirmation, whose ministry belongs to bishops (*De consecratione*, dist. 5, c. *Manus*, c. *Ut ieiuni*, and c. *Novissime*). For although it is not a sacrament of strict necessity, contempt of it brings damnation, as the Master of the Sentences says in Book 4, dist. 7.

Penance, to which Christ testifies that He came to call sinners (Matthew 9 and Luke 5); who also threatened the impenitent (Luke 13): *Unless you do penance, you shall all likewise perish.*

The Eucharist, because the Lord said (John 6): *Amen, amen I say unto you: except you eat the flesh of the Son of man and drink his blood, you shall not have life in you. He that eateth my flesh and drinketh my blood hath everlasting life, and I will raise him up in the last day.* Understand this soundly, according to the determination of the Church.

Extreme Unction (James, last chapter): *Is any man sick among you? Let him bring in the priests of the Church, and let them pray over him, anointing him with oil in the name of the Lord. And the prayer of faith shall save the sick man, and the Lord shall raise him up; and if he be in sins, they shall be forgiven him.*

The order of matrimony, of which the Apostle says (1 Corinthians 7): *It is good for a man not to touch a woman. But for fear of fornication*, that is, to avoid it, *let every man have his own wife, and let every woman have her own husband*: that is, as it is lawful to have in either sex. To this point is c. *Cum inhibitio*, *De clandestina desponsatione*.

The priestly order, the conferring of which and of the other ecclesiastical orders belongs to each bishop in his own diocese (dist. 67, c. *Uno*, and dist. 24, c. *Episcopus*); on which matters fully in c. *Cum nullus* and in c.

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Eos, *De temporibus ordinationum*, in the Sixth Book.

The end, fruit, benefit and usefulness of these seven sacraments, then, is to work virtue, grace and glory; of which the Psalmist says (Psalm 83): *How lovely are thy tabernacles, O Lord of hosts*; and below: *Thy altars, O Lord of hosts*; and below: *For the lawgiver shall give a blessing; they shall go from virtue to virtue; the God of gods shall be seen in Sion*; and below: *For God loveth mercy and truth; the Lord will give grace and glory.* And so the fourth aspect is clear.

Fifth, I said that reverence is owed to the clergy under the aspect of nobility. Here it should be known that nobility is taken in one way positively, and in another way properly. Nobility taken positively, according to human laws, is a quality conferred by one holding sovereignty, by which someone is shown to be accepted above honest commoners, as the most illustrious Doctor of laws, Lord Bartolus of Sassoferrato, gathers on the law *C. De dignitatibus*, book 12. But taken properly, as Jerome says in the letter to Celantia, "The only nobility with God is freedom, not to serve sins; the highest nobility with God is to be illustrious in virtues." And so nobility is referred to virtue. For virtue alone is what rightly ennobles a man, according to what is noted in c. *Venerabilis*, Extra, *De praebendis*, where the text says: "Considering, therefore, that not nobility of birth but of virtues, and honesty of life, make a man pleasing to God and a fit servant." Hence Jerome too says in his letters: "With God the more acceptable is not he whom nobility of birth or worldly dignity

commends, but he whom devotion of faith and a holy life commend." And Chrysostom on Matthew says: "He is illustrious, he is sublime, he is noble, who disdains to serve vices and strives not to be overcome by them. For what did it profit Cain to have been begotten of the noble Adam? What Ham, of Noah?" As if to say: nothing.

Hence too in ancient times none but men noble in virtue and approved were chosen and admitted to the government of the commonwealth, as is clear of Saul (1 Kings 9), of whom it is written in that place: *Saul was a choice and goodly man, and there was not among the children of Israel a goodlier person than he.* But when Saul had departed from the observance of the law of God and had transgressed, the word of the Lord came to Samuel, saying: *It repenteth me that I have made Saul king, for he hath forsaken me and hath not executed my words in deed.* And Samuel said to Saul: *Because thou hast rejected the word of the Lord, the Lord hath also rejected thee from being king over Israel* (1 Kings 15). And in the place of the wicked Saul David was chosen to reign instead of Saul, although Saul in his lifetime perse-

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cuted David to the death. So too it was afterwards decreed in the archives of the Romans that none should be placed in the offices of the commonwealth, such as decurions, councillors and the like, unless they had first been made noble by the gift of virtues (*Digest, De decurionibus,* law *Spurii,* at the beginning; and *Digest, De muneribus et honoribus,* the last law, and the law *Honor*). To this point is what is noted in c. *De multa,* Extra, *De praebendis,* where it is also held that knowledge ennobles a man; to which also is added *Code, De acquirenda possessione,* law *Licet*.

Likewise the ecclesiastical order is said to ennoble, as Johannes Andreae notes on c. *Eo libentius,* Extra, *De servis non ordinandis,* and on the said c. *Venerabilis,* Extra, *De praebendis*. For all clerics are called kings, because in virtues and holiness they justly rule themselves and others (1 Peter 2): *But you are a chosen generation, a kingly priesthood, a holy nation, a purchased people, that you may declare his virtues who hath called you out of darkness into his marvellous light.* Hence Jerome also says to a certain Levite of his, as found in the Decretum, C. 12, q. 1, c. *Duo sunt genera Christianorum*: "There is one kind," he says, "which, bound over to the divine office and given to contemplation and prayer, ought to cease from all the din of temporal things, as are clerics"; and below: "For these are kings, that is, ruling themselves and others by virtues, and so they have a kingdom in God. And this the crown on the head signifies: they have this crown from the institution of the Roman Church as a sign of the kingdom that is awaited in Christ. The shaving of the head is the laying aside of all temporal things"; where the Gloss says: "And the hairs that remain signify that we ought to keep some things for our sustenance. For to serve God is to reign."

So too clerics are called soldiers of the Church, and are said to serve as soldiers in the Church (dist. 61, c. *Quid proderit per singula stipendia clericos militasse*; and C. 1, q. 3, c. *Salvator,* about the middle), where it says: "For if the aforesaid soldiers of the Church are so struck down on account of a crime of this kind, no wise man will deny that those who are not soldiers of the Church ought much more damnably to be struck down for this cause of selling or buying." So too in C. 1, q. 7, c. *Qui in qualibet,* it is written: "Those who at any age have been baptised or rebaptised elsewhere than in the Catholic Church are by no means to be permitted to approach the ecclesiastical warfare." The Gloss also gathers the foregoing, namely that clerics are called soldiers (C. 23, q. 1, c. *Militare*); which is clearly taken from the words of the Apostle (2 Timothy 2), when he says: *Thou therefore, my son, be strong in the grace which is in Christ Jesus*; and below: *Labour as a good soldier of Christ Jesus. No man, being a soldier to God, entangleth himself with secular businesses, that he may please him to*

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whom he hath engaged himself. For he also that striveth for the mastery is not crowned except he strive lawfully. And in 2 Corinthians 10 he says: *For walking in the flesh, we do not war according to the flesh; for*

the weapons of our warfare are not carnal. The Gloss too says (C. 1, q. 3, c. *Salvator*) that the weapons of clerics are tears and prayers; C. 23, last question, c. *Convenior*, where Ambrose is cited as having said: "I shall be able to grieve, I shall be able to weep, I shall be able to groan; against arms, soldiers, and the Goths too, my tears are my arms. For such are the defences of a priest." And in C. 23, last question, c. *Reprehensibile*, it is said that it belongs to the soldiers of Christ to serve Christ and to give themselves to prayer, and that the camps of the soldiers of Christ are the churches. Dist. 54, c. *Nullus*, where the text says: "For he who is to be enrolled in the divine warfare ought to be free from others, so that he may be drawn away by the bonds of no necessity from the camp of the Lord, in which his name is enrolled." And so the fifth aspect is clear.

Sixth, I said that reverence is owed to the clergy under the aspect of authority. For so great and so lofty is the authority of the priest that none greater can be found under heaven. Hence it can rightly be said: *There is no power upon earth that can be compared with him* (Job 41). For not to the angels, nor to the heavenly powers, nor to any blessed spirits whatever, has so great a mystery and such a ministry been entrusted, but to priests alone. Hence blessed Thomas, in the solemnity of so great a mystery, says: "To sacred solemnities let joys be joined"; and below: "He gave to the frail the food of His body"; and below: "Thus He instituted this sacrifice, whose office He willed to be committed to priests alone, to whom it so belongs that they should receive and give to the rest." In saying "alone," he excluded all others. Hence there neither was nor ever will be any holy man or holy woman who had or will have such and so great a force and power as to be able to transubstantiate bread into the body and wine into the blood of Jesus Christ, except priests alone, consecrated according to the order of the holy Roman Church.

Hence Ambrose, in the book *On the Sacraments*, as found in the Decretum, *De consecratione*, dist. 2, c. *Panis*, where it follows: "It is bread, the usual bread, on the altar before the words of the sacraments; when consecration is added, from bread it becomes the flesh of Christ"; and below: "If, then, there is such power in the word of our Lord Jesus Christ that what was not began to be, how much more is it effective to make things that were both to be and to be changed into something else?" And below: "And so from bread is made the body of Christ, and wine mixed with water in the chalice becomes the blood"; on which matters we have said much in our treatise on the same sacrament. Let it suffice, however, to pursue what is to the purpose,

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namely that although the transubstantiation of bread and wine into His own body and blood is brought about by the principal and proper power of the word of God, our Lord Jesus Christ, by whom all things were made, yet this is done through the ministry of priests entrusted to them, when the Lord Jesus Christ said to His apostles, for themselves and for their successors: *Do this for a commemoration of me.* Among the evangelists, Luke alone expressed these words (ch. 22), and Paul reports them (1 Corinthians 11). For in the uttering of these words He consecrated His apostles priests, as the Doctors commonly hold, both theologians and canonists: the theologians on *Sentences* 4, dist. 17 and 18; the canonists on dist. 21, c. *In novo*; dist. 50, c. *Considerandum*; and on c. *Fideli* and c. *Significasti*, Extra, *De electione.* And Johannes Andreae and the modern followers treat it fully on c. *Presbyter*, Extra, *De sacramentis iterandis vel non*, where they teach fully that, although someone may have been consecrated a priest by a bishop and the power of binding and loosing not have been conferred, which is conferred by the uttering of those words, *Receive ye the Holy Ghost; whose sins you shall forgive, they are forgiven them, and whose sins you shall retain, they are retained* (John, last chapter), which authority Christ gave His apostles after the resurrection, although He had made them priests before the passion on the night of the supper: hence, if the aforesaid words, *Receive ye the Holy Ghost*, and so on, have been omitted by the bishop (on which see also C. 24, q. 1, c. *Loquitur Dominus*, about the beginning, and C. 1, q. 1, c. *Ut evidenter*), the priests so consecrated will be able to celebrate, but not to absolve or bind, until at suitable times what was lacking is supplied.

Finally, so great is the force of the priestly character that, once a man has been consecrated according to the rite of the holy Roman Church, whether he be criminal, excommunicate, schismatic, heretic, apostate, degraded, or, so to speak, renegade, provided due matter, form and intention concur with the order of priesthood, if he celebrates he confects; and although it is to his own ruin and damnation, yet it is the true body and blood of Christ, as Thomas and the other theologians affirm on *Sentences* 4, dist. 13, although the Master disagrees in the text, and, with reverence, not rightly, according to all the moderns; as the canonists also hold, such as Johannes Andreae and his followers on c. *Degradatio, De poenis,* in the Sixth Book. The same is held by the Gloss on *De consecratione,* dist. 4, c. *Non in vobis* and the following chapter, and by the Archdeacon on *De consecratione,* dist. 2, c. *Quid sit*. To this point what is noted in C. 1, q. 1, c. *Inter catholicam*, and c. *Ut evidenter*, and c. *Dominus declara-*

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vit, and c. *Christus*, and c. *Non nocet*, and c. *Dictum est*, and c. *Quod quidam*, § *De his*, § *Ex his verbis*, and § *Sciendum*, and c. *Per Isaiam*, with many like passages, is quite sufficient.

But a layman, however holy, or a woman, would accomplish nothing by celebrating, since the layman would not have the character of order, and the woman is in no way able to receive it (dist. 23, c. *Sacratas*). Hence it is not granted to women either to preach or to teach publicly (dist. 23, c. *Mulier*, and C. 33, q. 5, c. *Mulierem*).

Recognise, then, O priest, and acknowledge it, and show honour and reverence to your power, which, with reverence be it said, is greater than was the power or authority of the glorious Virgin. For although she was seen to have none like her before, nor to have any after, since the holy Mother of God has been exalted above the choirs of angels to the heavenly kingdoms, yet Christ came down into the womb of the Virgin in one way, when the blessed Virgin said, *Behold the handmaid of the Lord; be it done to me according to thy word* (Luke 1): for He came poor, little, passible, mortal, *taking the form of a servant, being made in the likeness of men and in habit found as a man. He humbled himself, becoming obedient unto death, even to the death of the cross*, as the Apostle says to the Philippians (ch. 2). But into the hands of the priest He comes down with the fulness not only of grace and blessing, but also with the fulness of beatitude and triumphal glory: impassible, immortal, rich, immense, King of kings and Lord of lords, most mighty, surrounded by the armies of the angels and the heavenly hosts of the blessed.

Hence Gregory, in the Easter homily, as found in the Decretum, *De consecratione,* dist. 2, c. *Quid sit sanguis*: "For who of the faithful," he says, "could have any doubt that at the very hour of the immolation, at the voice of the priest, the heavens are opened, and that at that mystery of Jesus Christ the choirs of angels are present?" (that is, with all priests consecrating, worthily or unworthily, says the Gloss). It follows in the text: "that the highest things are joined with the lowest, that one thing is made of the invisible and the visible." "At one and the same time and moment," he says, "it is both caught up into heaven by the ministry of angels, to be joined to the body of Christ, and seen before the eyes of the priest on the altar. So great is the unity of the Church in Christ that the bread of the body of Christ is one everywhere, and the chalice of His blood is one. For the chalice which the catholic priest consecrates is no other than that which the Lord gave."

Venerate, then, O priests, this great authority of yours, that you may be held worthy ministers of it in the sight of the most high Redeemer. And let this suffice for the sixth aspect of clerical reverence.

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Seventh, I said that reverence is owed to the clergy under the aspect of example. For, as Gregory says, "Every action of Christ is our instruction." And the Lord said to Moses: *Look, and make it according to the pattern that was shewn thee in the mount* (Exodus 15). And the Lord Jesus Himself said to His apostles (John 13): *I have given you an example, that as I have done to you, so you do also.*

For when Christ Jesus, knowing the wickedness of the priests, scribes and Pharisees, who had already resolved on His passion and determined to put Him to death, nonetheless preached to the crowds and the disciples that the clergy and the priesthood were to be honoured, and commanded that obedience be shown them, anointing and stinging at once, when He said (Matthew 23): *The scribes and the Pharisees have sitten on the chair of Moses. All things therefore whatsoever they shall say to you, observe and do; but according to their works do ye not, for they say and do not.* See the clemency of the Saviour: He draws near to death, He knows the betrayer and seller of His blood and life, He knows the priests thirst for His blood and greedily seek His death, and yet He preaches that reverence and obedience be shown them.

Weigh, then, and consider, O priest of God most high, with what tender diligence you ought to keep and guard your state, order, rank and dignity, and what kind of example you ought to take care to show to those who come after and to those now present. Consider that Christ Jesus, suffering and crucified for us, gave us an example of patiently bearing with one another and of anticipating one another in honour; according to what the Prince of the Apostles says (1 Peter 2): *For unto this are you called, because Christ also suffered for us, leaving you an example that you should follow his steps.*

Consider, Fathers, that *we are made a spectacle to the angels*, to God *and to men* (1 Corinthians 4). For the eyes of all peoples look to you, nay, to us, since I am one of yours, devoted to you. For we are set in the eyes of men as a mark for the arrow, whose works the common folk, one by one, contemplate. Therefore to each of us is said what the Apostle says to Titus (ch. 2): *In all things shew thyself an example of good works, in doctrine, in integrity, in gravity, sound speech that cannot be blamed, that he who is on the contrary part may be afraid, having no evil to say of us.* To this, 1 Peter 2: *Dearly beloved, I beseech you as strangers and pilgrims to refrain yourselves from carnal desires which war against the soul.*

And let this suffice for the seventh aspect of clerical reverence; and so we have finished with the first part.

The Second Part

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Coming to the second principal part, which I said contains the precious workshop of surpassing purity, in the word *be sanctified*: *Let the priests also that come to the Lord be sanctified*, says the Angel, *lest I strike them*, as in the theme above. A workshop (*ergasterium*) is a place where some work is done; for in Greek *erga* means works, and *sterium* a working station. Hence a workshop is a place where with labour we work some good. For every virtue is sought and kept with labour, since virtue is concerned with what is difficult, as in *Ethics* 2. Holiness, then, as the perfection of the virtues, must be sought with difficulty and labour, and gained with the sweat of blood.

For *sanctitas* is the same as *sancita aetas*, a sanctioned age; for *sancire* is the same as to confirm, to make or judge holy. And we call *sanctum* what is anointed with blood (*sanguine unctum*), for the ancients consecrated all things with blood; from which the Apostle says to the Hebrews (ch. 9): *And almost all things, according to the law, are cleansed with blood; and without shedding of blood there is no remission.* The saints, then, must sweat even unto blood, that they may be sanctified by the Lord their God. From which the same Apostle said to the Hebrews (ch. 12): *Laying aside every weight and sin which surrounds us, let us run by patience to the fight proposed to us, looking on Jesus, the author and finisher of faith, who, having joy set before him, endured the cross, despising the shame, and now sitteth on the right hand of God. For think diligently upon him that endured such opposition from sinners against himself, that you be not wearied, fainting in your minds. For you have not yet resisted unto blood, striving against sin*; as if to say: it behoves the saints always in the present life to fight against vices.

So too he says to the Galatians (ch. 5): *For the flesh lusteth against the spirit, and the spirit against the flesh.* And it is needful to fight not only against the flesh, but also against the wicked spirits and every kind of

worldly vanity; from which the same Apostle says to the Ephesians (last chapter): *Finally, brethren, be strengthened in the Lord and in the might of his power. Put you on the armour of God, that you may be able to stand against the deceits of the devil. For our wrestling is not against flesh and blood,* namely only, *but against principalities and powers, against the rulers of the world*

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of this darkness, against the spirits of wickedness in the high places. And John in his first canonical epistle, ch. 2, says: *I write unto you, young men, because you are strong, and the word of God abideth in you, and you have overcome the wicked one. Love not the world, nor the things which are in the world. If any man love the world, the charity of the Father is not in him. For all that is in the world is the concupiscence of the flesh and the concupiscence of the eyes and the pride of life, which is not of the Father, but is of the world. And the world passeth away, and the concupiscence thereof; but he that doth the will of God abideth for ever.*

Surely you know, venerable Fathers, that without heavy labour no rewards are given. Let us, then, with tears and sweat implore the greatest gift of holiness from the Lord our Saviour, who daily thunders to us from the height of heaven, saying: *Be holy, because I am holy, the Lord your God* (Leviticus 19); *Sanctify yourselves and be ye holy, because I am the Lord your God. Keep my precepts and do them; I am the Lord that sanctify you* (Leviticus 20); and below: *You shall be holy unto me, because I the Lord am holy, and I have separated you from other people, that you should be mine.* And in Leviticus 21 He says of the priests: *They shall be holy to their God, and shall not profane his name; for they offer the burnt-offering of the Lord and the bread of their God, and therefore they shall be holy.*

Holy, therefore, that is, free from every vanity, covetousness or lewdness; pure, steadfast, chaste, devout, whole, sincere and spotless in the ministry of Christ, let us serve the Lord, as *he chose us in him before the foundation of the world, that we should be holy and unspotted in his sight in charity*, as the Apostle says (Ephesians 1).

Seven kinds of holiness, then, briefly stated, fittingly belong to holy priests. The first is fitness for receiving orders, that he be not a bigamist, unfit or irregular. The second is sobriety in eating, that he be not a glutton, a drunkard or a jester. The third is honesty in living with others, that he be not dissolute, a wanderer or a courtier. The fourth is wisdom for instructing, that he be not unskilled, ignorant or criminal. The fifth is chastity in continence, that he be not lustful, a fornicator or carnal. The sixth is compassion in giving help, that he be not covetous, stingy or a trader. The seventh is gravity for perseverance, that he be not slippery, unstable or ruinous.

First, I say, fitness for receiving orders belongs to the holiness of clerics. Here it should be known that the unfit, such as bigamists, are forbidden to be promoted to sacred orders: namely those who have had two wives in effect, whether both in law at different times, or at the same time one in law and the other in fact, or both in fact; or one only, but known by another,

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at whatever time and in whatever manner; or a lawful wife who was an adulteress (C. 31, q. 1, c. *Quod*; C. 1, q. 1, c. *Aperiant*; dist. 32 throughout). This is treated fully in c. *Nuper*, c. *A vobis* and c. *Debitum*, Extra, *De bigamis*, with many concordances.

Of the fit, and of what kind those to be promoted ought to be, the Apostle says (1 Timothy 3): *It behoveth therefore a bishop to be blameless, the husband of one wife, sober, prudent, of good behaviour, chaste, given to hospitality, a teacher, not given to wine, no striker, but modest, not quarrelsome, not covetous, but one that ruleth well his own house, having his children in subjection with all chastity. But if a man know not how to rule his own house, how shall he take care of the Church of God? Not a neophyte,* that is, new in the faith,

lest, being puffed up with pride, he fall into the judgment of the devil. Moreover he must have a good testimony of them who are without, lest he fall into reproach and the snare of the devil. Deacons in like manner chaste, and so on. It should be known that, although the Apostle seems to have laid down the said rule for bishops, as he also writes to Titus (ch. 1), *For a bishop must be*, and so on, yet the aforesaid rule extends to all who are to be ordained, as Ambrose proves, as found in the Decretum, dist. 24, c. *Cognoscamus*, and Augustine likewise, dist. 21, c. *Apostolus*.

There are also some irregulars who, where death or mutilation of members has followed by way of the avenger of blood, have voluntarily involved themselves in it by word, deed, counsel or favour (dist. 50, c. *Si quis viduam*; dist. 51, c. *Aliquantos*); and even if death or mutilation follows from an act of justice, as in the said c. *Aliquantos*, and dist. 50, c. *Si quis post*; and this is treated fully by the Doctors on c. *Sententiam sanguinis*, Extra, *Ne clerici vel monachi saecularibus negotiis se immisceant*. And the Apostle says (2 Timothy 2): *No man, being a soldier to God, entangleth himself with secular businesses.* And let this suffice for the first, for we shall set out the rest in what follows.

The second kind of clerical holiness is sobriety in eating, that he be not a glutton, a drunkard or a jester. Of this the Lord Jesus made His disciples wary, saying (Luke 21): *And take heed to yourselves, lest perhaps your hearts be overcharged with surfeiting and drunkenness and the cares of this life, and that day come upon you suddenly. For as a snare shall it come upon all that sit upon the face of the whole earth*, that is, upon all given over to earthly things. And the Apostle says, *sober*, and below, *not given to wine*, and so on, as above. For a gluttonous and drunken cleric who, when admonished, does not desist, is judged

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to be suspended from office and benefice, as in c. *A crapula*, Extra, *De vita et honestate clericorum*, where the text says: "Let them temper wine for themselves, and themselves with wine." On which words Johannes Andreae gathers by argument that clerics who drink wine without water are not excused from venial sin. For it is shameful for a cleric to pour out the breath of wine upon those standing by; from which Solomon says (Proverbs 20): *Wine is a luxurious thing, and drunkenness riotous; whosoever is delighted therewith shall not be wise.* About which the Apostle also says (Ephesians 5): *Be not drunk with wine, wherein is luxury.* Blessed Thomas treats this matter sufficiently in II-II, q. 149 and 156.

Every dishonourable and reprobate game is also forbidden to clerics, such as dice, gaming, theatricals, mimes, actors and the like, on which matters there is full treatment in c. *Cum decorem* and in the penultimate chapter, Extra, *De vita et honestate clericorum*. And that such cannot be promoted is clear in dist. 33, c. *Maritum*, and dist. 51, c. 1, and c. *Praeterea*. It is also forbidden to communicate with such (*De consecratione*, dist. 2, c. *Pro dilectione*). For not only do clerics mingle in such things sin mortally, but also if they presume to give anything of the goods of the Church to actors (dist. 86, c. *Donare*, and c. *Qui venatoribus*), unless simply as alms, that is, giving something as to the poor. For clerics who use and spend their goods badly are robbers, since whatever is over belongs to the poor (C. 18, q. 1, last chapter, and C. 12, q. 2, c. *Gloria episcopi*, and c. *Si illi*), which Thomas also holds in II-II, q. 185. And so the second is clear.

The third kind is called honesty in living with others, that he be not dissolute, a wanderer or a courtier. This honesty in clerics is ordered in three ways. First, in word (1 Corinthians 15): *Evil communications corrupt good manners.* Second, in deed (1 Corinthians 14): *But let all things be done decently and according to order among you.* Third, in adornment, namely twofold, interior and exterior. The interior adornment of clerics is fittingly set out as the habits of the virtues brought into act, lest, sitting ill in the chair, they do injury to the chair, or to the see (dist. 40, c. *Multi*).

The exterior adornment of clerics ought to consist principally in four things. First, in the custody and bridling of all the exterior senses, namely sight, hearing, taste, smell and touch (C. 6, q. 1, c. *Ex merito*; dist. 41, § last). Second, in dress: that they wear no garments slashed or laced, nor of varied colour, nor red, nor green,

nor too long or too short, nor of silk, but of wool; not too costly, nor too cheap, closed at the top; that they wear no buck-

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les at all, nor belts having gold or silver ornament, nor rings, unless it belongs to them by reason of the office of their dignity. On which matters there is enough in the penultimate chapter, Extra, *De vita et honestate clericorum*, where it is also forbidden them to use sleeves sewn on, shoes with pointed toes, bridles, saddles, breastplates and gilded spurs, and so on; on which also dist. 41, § 1, touches, although they are excused if they conform in their dress to the customs of their country, always keeping honesty (argument from dist. 4, c. *Erit*, and dist. 30, c. *Si quis virorum*).

Third, in food and drink, in which it is fitting to keep what Augustine teaches (dist. 41, c. *Quisquis*), namely what befits the place, the time and the persons. At their meals six things especially are to be observed. First, that the life of the absent be not gnawed; that is, that there be no detractions, murmurings or rash judgments against those present or absent. Hence Augustine is read to have painted over his table these two verses:

Whoever loves to gnaw with words the life of those away, Let him know this table is unworthy of him.

On which the Gloss on dist. 44, c. *Convivia*. Second, that those present be not mocked, as in the said c. *Convivia*. Third, that empty tales of secular business be not recited, as in the same place. Fourth, that the words of the sacred reading be listened to, as in the same place. Fifth, that food and drink be taken for the exercise of virtue and for the sustenance of nature, as in the same place, whence the verse:

Live not that you may eat, but eat that you may live.

That is: do not live to eat, but eat to live. Sixth, that at the beginning and at the end due praises be rendered to God (dist. 44, c. *Non liceat*, and c. *Pro reverentia*, and *De consecratione*, dist. 5, c. *In omnibus*, and *De consecratione*, dist. 2, c. *Panis*, and c. *Calix*, and c. *Didicimus*).

Fourth, in a fitting tonsure, as in c. *Si quis clericus* and the following chapter, Extra, *De vita et honestate clericorum*; which if he does not wear, he ought to be excommunicated, as in the said c. *Si quis clericus*. From which it is clear that one not wearing it sins mortally, because the penalty of excommunication ought not to be imposed except for mortal sin (C. 11, q. 3, c. *Nemo episcoporum*). Likewise clerics bearing arms ought to be excommunicated, as in c. 2, Extra, *De vita et honestate clericorum*. Yet for a just cause they may bear arms to strike terror into the wicked, although they ought not to strike, as the Gloss says on the said c. 2, which gives as an example of a just cause if they make a journey through dangerous places (argument from C. 23, q. 3, c. *Maximianus*). The same can be said, namely that they are excused, if for the defence of the city

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or of the ecclesiastical or temporal commonwealth they should take up arms to strike terror, as above. Hence monks too are excused if, with the leave of the abbot, they keep arms within the enclosure of the monastery, as in c. *Ne in agro*, § *Praefatae*, *De statu monachorum*, in the Clementines. Otherwise, those bearing arms, if after the third warning they have not desisted, lose the privilege of the canon *Si quis suadente diabolo* (C. 17, q. 4; and c. *In audientia* and c. *Contingit*, Extra, *De sententia excommunicationis*); that is, those who strike such persons do not incur the sentence of excommunication of that canon, and so on. And so let these three kinds of dissoluteness and wandering pass. As for courtiers, unless they are otherwise irregular, if they have been absolved from the censure they are tolerated; otherwise not (dist. 71, c. 1, 2 and 3, and dist. 46, c. *Clericus*, with like passages).

The fourth kind of clerical holiness is called wisdom for instructing, that he be not unskilled, ignorant or criminal. For every priest having cure of souls ought to possess a threefold competent skill.

First, in sacred letters, for preserving the truth of the faith and instilling it into his subjects, as in c. *Ut quisque*, Extra, *De vita et honestate clericorum*, where the text says: "and to admonish his parishioners to send their sons to church to learn the faith, whom he himself is to teach with all chastity"; on which there is enough in the Decretum, dist. 36, c. 1, § *Oportet*, and c. *Qui ecclesiasticis*, with the following. To this point is Malachi 2: *For the lips of the priest shall keep knowledge, and they shall seek the law at his mouth*; and Hosea 4: *My people have been silent, because they had no knowledge: because thou hast rejected knowledge, I will reject thee, that thou shalt not do the office of priesthood to me.* And this is alleged in c. *Nisi cum pridem*, § *Pro defectu*, Extra, *De renuntiatione*. Curates are also commanded to instruct their subjects in the faith, by carefully teaching them the form of confession, the Lord's Prayer and the Creed, as in c. *Deus qui*, Extra, *De poenitentiis et remissionibus.*

Second, in secular letters, for defending the truth of the faith, as in the aforesaid laws, and dist. 37, c. *Legimus*, § *Sed econtra*, and the following chapter.

Third, in secular affairs, because the curate is judge of the souls and bodies of his subjects in what pertains to salvation (dist. 36, § 1, in the Gloss 1, and in the Gloss on *Cum enim*, and through the whole distinction and the four following). And the Doctors note sufficiently on the said c. *Nisi cum pridem* that, although to know all things is impossible for mortals, and belongs to God alone (Extra, *De iudiciis*, c. *Novit ille qui nihil ignorat*; and C. 26, q. 5, § 1, and dist. 21, c. *Erubescant*), and although to remember everything and to err in nothing at all belongs rather to divinity than to humanity, as in the law 2,

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Code, De veteri iure enucleando; and although an eminent knowledge in a pastor is much to be desired, yet a competent one in him is to be tolerated (Extra, *De electione*, c. *Cum nobis olim*, and c. *Venerabilis*, Extra, *De praebendis*, and the said c. *Nisi cum pridem*, *De renuntiatione*). Otherwise he will be culpable and to be condemned if he did not know what he ought to have known and judged badly (argument from C. 11, q. 3, c. *Quicumque*, and the last law, *Code, De poena iudicis qui male iudicavit*, and c. *Quamvis*, Extra, *De regulis iuris*, where the text says: "It cannot be the pastor's excuse that the wolf ate the sheep and the pastor did not know"). There the Gloss says that the pastor or prelate is bound to inquire into and correct the excesses of his subjects; otherwise their blood will be required at his hands (Ezekiel 3): *but I will require his blood at thy hand.* To the same come the notes on c. *Irrefragabili*, Extra, *De officio ordinarii*, and c. *Cum ad monasterium*, § last, Extra, *De statu regularium et monachorum*, and c. *Qualiter et quando*, § penultimate, Extra, *De accusationibus*, with like passages. And so the fourth kind is clear.

The fifth kind of clerical holiness is said to be chastity in continence, that he be not lustful, a fornicator or carnal. Here it should be known that all clerics, even those constituted in minor orders, are bound to live continently and chastely if they wish to persevere in the clerical order, as in c. *Ut clericorum mores*, Extra, *De vita et honestate clericorum*, where the text says: "that the morals and acts of clerics be reformed for the better, let all strive to live continently and chastely." For under the name of clerics are included also those constituted in minor orders, and even those having only the first tonsure, as in the Clementine 2, *De vita et honestate clericorum*, in the Gloss, and Extra, *De praebendis*, c. 2, in Gloss 1; on which see more widely the Archdeacon on dist. 54, c. *Ex antiquis*. Those constituted in minor orders may, however, if they wish, take wives and keep matrimonial continence with them; but, having contracted marriage, they are to be deprived of ecclesiastical benefices, as in c. *Diversis fallaciis*, Extra, *De clericis coniugatis*, and in c. *Quoad a te*, under the same title.

But those promoted to sacred orders are presumed by that very fact to have tacitly vowed continence, and so are understood to be perpetually bound to the observance of chastity (dist. 28, c. *Diaconi*, and c. *Quia sunt culpae*, with the two following chapters; dist. 32 throughout; and c. *Sane* and c. *Si quis clericorum*, Extra, *De clericis coniugatis*). And a cleric constituted in sacred orders, if he has in fact presumed to take a wife with

effect, is to be deprived of order and ecclesiastical benefice; and the woman, if she was free, is reduced to the servitude of the Church (dist. 32, c. *Eos*); and if she was a slave, she ought to be sold (dist. 81,

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c. *Quidam clerici*). And the sons born of them are reduced to the servitude of the Church (C. 15, last question, c. *Cum multae*). And such a cleric in sacred orders contracting marriage is excommunicate by the very fact, as in the Clementine *Eos qui*, *De consanguinitate et affinitate*; nor can he be absolved unless they are first effectually separated, as in the said c. *Eos qui*. Into such excommunication fall also all who knowingly have lent help, favour, consent or participation in such a marriage; for one who takes part in a criminal crime incurs the same sentence, as in c. *Nuper* and in c. *Si concubinae clericorum*, Extra, *De sententia excommunicationis*. If such a cleric wishes to be separated from such a spouse, he ought to abjure her in the form given in C. 35, q. 6, c. *Ab ista die*, and Extra, *Qui clerici vel voventes*, c. *Ex litterarum*. If, however, it were suspected that the cleric would perjure himself, the oath ought not to be required of him, but he should otherwise be cautiously compelled to the observance of chastity, as in c. *Clericos*, Extra, *De cohabitatione clericorum et mulierum.*

For although chastity may be urged upon those not bound to continence, it cannot be commanded. Hence when the apostles said to the Lord Jesus Christ, *If the case of a man with his wife be so, it is not expedient to marry*, Jesus said to them: *All men take not this word, but they to whom it is given. For there are eunuchs who were born so from their mother's womb, and there are eunuchs who were made so by men, and there are eunuchs who have made themselves eunuchs for the kingdom of heaven. He that can take, let him take it* (Matthew 19); as if to say: by precept I bind no one to vow and keep perpetual chastity, but I counsel it; as the Apostle says (1 Corinthians 7): *Now concerning virgins, I have no commandment of the Lord; but I give counsel, as having obtained mercy of the Lord.* To which add C. 28, q. 1, c. *Sic enim*. But those whom the counsel pleases, and who so vow, tacitly or expressly, are bound to keep perpetual continence. For what is voluntary from the beginning is afterwards made necessary (*Code*, *De actionibus et obligationibus*, law *Sicut initio*); and "what has once pleased cannot afterwards displease," as in the rule of law *Quod semel*, *De regulis iuris*, in the Sixth Book. Hence the Psalm says: *Vow ye*, namely by counsel, *and pay to the Lord your God*, namely by precept. For it is difficult to keep continence (dist. 28, c. *De his*, and C. 33, q. 5, c. *Tunc salvabitur*, § *Item qui sitit*).

For clerics constituted in sacred orders it is fitting of necessity to keep perpetual continence. Hence the Apostle also says (1 Timothy 3): *It behoveth a bishop*, and so on; he adds, *chaste*; and below, *having his children in subjection with all chastity*. And what he said above, *the husband of one wife*, is understood to mean that he be not a bigamist (dist. 82, c. *Proposuisti*), of which we spoke above. And the Apo-

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stle says (1 Thessalonians 4): *For God hath not called us unto uncleanness, but unto sanctification. Therefore he that despiseth these things despiseth not man, but God, who also hath given his Holy Spirit in us.* Continence befits the clergy, especially those constituted in sacred orders, for many reasons, which I noted in c. *Quod a te*, Extra, *De clericis coniugatis*, where I wrote out sixteen reasons, and so on. And let this suffice for the fifth.

The sixth kind of clerical holiness ought to be compassion in giving help, that he be not covetous, stingy or a trader. From which the Apostle says (1 Timothy, last chapter): *But godliness with contentment is great gain. For we brought nothing into this world*; and below: *For the desire of money is the root of all evils, which some coveting have erred from the faith and have entangled themselves in many sorrows. But thou, O man of God, fly these things.* On which word Peter of Tarentaise says: "Covetousness is what commits sacrileges and thefts, practises robberies and plunders, wages wars and murders, buys and sells simoniacally, asks and receives unjustly, trades and lends at usury wickedly, presses with tricks, threatens with frauds, breaks

agreements, violates oaths, corrupts testimony and perverts judgment."

These things are opposed to holiness, and they sit the more shamefully in clerics the more specially they ought to be separated from the rest of the polluted people; for they have been called into the lot of the Lord. Hence Ambrose, *On Flight from the World*: "He whose portion is God ought to care for nothing but God"; and this is the text of the Decretum, C. 12, q. 1, c. *Cui portio*. Jerome also writes to Nepotian: "Let the cleric who serves the Church of Christ first interpret his own name, and, having grasped the definition of the name, strive to be what he is called. For if *cleros* in Greek is called *sors*, 'lot,' in Latin, they are therefore called clerics, either because they are of the lot of the Lord, or because the Lord Himself is the lot, that is, the portion, of clerics. And whether he is the portion of the Lord, or has the Lord for his portion, he ought to show himself such that he possesses the Lord and is possessed by the Lord"; and this is the text of the Decretum, C. 12, q. 1, c. *Clericus*.

Hence, as the Lord dispenses His gifts freely, so clerics too ought freely to dispense the divine mysteries to their subjects, and also the temporal goods to the poor (Matthew 10): *Freely have you received, freely give* (C. 1, q. 1, c. *Gratia*). Pope Leo says: "Grace, if it is not given or received freely, is not grace." And Ambrose in the *Pastoral*, as found in C. 1, q. 1, c. *Reperiuntur*: "Very many are found who wish to buy the grace of the Holy Spirit by a traffic of gifts, when they give a price for it to receive the sublimity of the pontifical order, forgetful of the words of Peter, who said to Simon: *Keep thy money to thyself, to perish with thee, because*

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thou hast thought that the gift of God may be purchased with money" (Acts 8).

Let not the clergy, then, be covetous or stingy, but munificent, generous and liberal; for accursed is the miserly steward whose Lord is generous. Hence the Apostle also says (1 Timothy 3): *It behoveth a bishop to be given to hospitality*; and to the Romans (ch. 12): *Communicating to the necessities of the saints, pursuing hospitality.* And Jerome, writing to Damasus, as found in the Decretum, C. 16, q. 1, c. *Quoniam*, which is the last chapter: "Since whatever clerics have belongs to the poor, and their houses ought to be common to all, they ought to be watchful in receiving pilgrims and guests"; and the same says: "For apostolic men and evangelisers of Christ, to be unwilling to give a share in necessary uses is to commend themselves." The Gloss says: "in necessary things in word," that is, in food and clothing (C. 10, q. 2, c. *Episcopus*). And Ambrose, in the book *On Duties*, as found in the Decretum, C. 12, q. 2, c. *Aurum*, says: "The Church has gold not to keep, but to pay out and to help in necessities"; and below: "Will not the Lord say, when so many needy died of hunger, and you had gold, you should have ministered nourishment? Why were so many captives led into captivity, and, not redeemed, slain by the enemy? It would have been better to keep living vessels than vessels of metal." And Jerome says in the following chapter: "It is the glory of a bishop to provide for the resources of the poor; it is the shame of priests to be eager for their own riches."

And the same says (dist. 88, c. *Negotiatorem*): "Flee as a plague a trading cleric, and one who from poverty has become rich and from obscurity glorious." Therefore let not the cleric be a trader. For, if after the third warning he does not desist from trading, whether by himself or through merchants, he loses the clerical privilege in respect of goods, as in the last chapter, Extra, *De vita et honestate clericorum*. And what businesses are lawful or unlawful for clerics I have sufficiently noted in the penultimate chapter, Extra, *De vita et honestate clericorum*. To this come the notes on c. *Sicut*, and more fully on c. 1 and c. 2 and throughout, Extra, *Ne clerici vel monachi saecularibus negotiis se immisceant*. And so let the sixth kind pass.

The seventh kind of clerical holiness is gravity or maturity for perseverance, that he be not slippery, unstable or ruinous. From which the Apostle says, *not a neophyte*, and so on; as if to say: because one new in the faith easily goes backward, and having become an apostate has laboured to no purpose. Proverbs 6: *A man that is an apostate, an unprofitable man, walketh with a perverse mouth; he winketh with the eyes, presseth with the foot, speaketh with the finger; with a wicked heart he deviseth evil, and at all times he soweth discord. To*

such a one his destruction shall presently come, and he shall suddenly be destroyed, and shall no longer have any remedy.

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The cleric, therefore, ought to be grave and mature, and to be free of every stain as regards birth, so that he be legitimately born; for the illegitimate are forbidden even by the law of the Old Testament (Deuteronomy 23), because such sons are wont to be imitators of their father's crime (C. 6, q. 1, c. *Si quis cum militibus*, and dist. 56, c. *Si gens*). To these are added the notes on c. *Innotuit*, Extra, *De electione*, and on c. *Per venerabilem*, Extra, *Qui filii sint legitimi*, and on c. 1 and throughout, Extra, *De filiis presbyterorum*.

Age and quality of life are also taken into account, on which matters there is enough in c. *Cum in cunctis*, Extra, *De electione*, and in c. *Generalem*, *De aetate et qualitate*, in the Clementines, and in c. *Nihil est*, Extra, *De electione*, where the text says: "There is nothing that harms the Church of God more than that unworthy prelates are taken up to the government of souls"; and below: "We decree that the same be punished with this penalty, when his negligence has been established, especially if he has approved a man of insufficient knowledge, or of dishonest life, or of unlawful age," and so on. And so let the seventh kind pass, and with it the second principal part of our sermon, briefly cut short for the sake of brevity.

The Third Part

Coming, then, last of all to the third and final part, which I said contains the ruinous reproach of extreme punishment, when the Angel says, *lest I strike them*: *Let the priests also*, he says, *that come to the Lord be sanctified, lest I strike them*, as above; as if to say: if they fall away from holiness, they will be struck with punishment.

See, then, how holily, how justly, how kindly the heavenly physician bestows His medicine upon mortals. For first, as a lofty orator, He wins the goodwill of His hearers, when He calls them by the name of the ministry, *priests*. He makes them teachable, that they may attend to whom they minister, namely the most high God, when He adds, *that come to the Lord*. He makes them attentive to diligence in their ministry when He adds, *be sanctified*; and He strives so finely to establish them in holiness when He adds, threatening, *lest I strike them*; as if to say: hold this as the most firm conclusion of my speech, that unless you persevere in continual holiness, I will strike you by command of the supreme King. To you, therefore, is this word, O priests. See what you are doing, to what you are called,

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what you intend, what you teach, what you work at, where you sit; lest you sit *in the chair of pestilence*, or in the seat of Satan, and, cast down with Lucifer into the snare of hell, you rush into the everlasting abyss, where there is no redemption nor any hope of salvation.

You know, most excellent Fathers, that our first fathers, namely our first parents, were struck when they were cast out of the paradise of pleasure (Genesis 3). In the time of the flood all flesh that moved upon the earth was consumed: all men, and all things wherein there is the breath of life on the earth, died; and God destroyed all the substance that was upon the earth, from man even to beast, both creeping things and fowls of the air; they were destroyed from the earth, and only Noah remained, and they that were with him in the ark; and this because all flesh had corrupted its way upon the earth (Genesis 6 and 7). The Tower of Babel was struck, together with its builders, in the confusion of tongues, and the speech of the whole earth was confounded (Genesis 11). Chodorlahomor, king of the Elamites, was struck, with four other kings, in the woodland vale (Genesis 14). Sodom and Gomorrha were struck, with the cities round about (Genesis 19); and this because the men of Sodom were very wicked, and sinners before the Lord beyond measure (Genesis 13). The king of Sichem was struck, with all the inhabitants of Sichem, in revenge for the rape of Dina,

daughter of Jacob, by Simeon and Levi (Genesis 34). The Egyptians were struck with ten plagues, which are noted in these verses:

Blood, frog and gnat, the fly, the dying beast, the sore, The hail, the locust, night, the death that slays the firstborn.

On these, Exodus 7 up to chapter 14, in which is described the striking of Pharaoh with all his army, upon whom the Lord brought back the waters of the sea, and not even one of them remained. The children of Israel were struck by the tribe of Levi, and there fell that day about twenty-three thousand men, because they had made and adored a molten calf (Exodus 32). Dathan and Abiram were struck, with all their families and their tents, and with fourteen thousand seven hundred men who refused to obey Moses the servant of God; whereupon the earth opened and swallowed up Dathan and Abiram, and fire burned and devoured the rest (Numbers 16). Again, eighty-five thousand of the army of the king of the Assyrians were struck, because they had spoken against God (4 Kings 19). A hundred and twenty-seven thousand of the army of the same king were struck, because they spoke ill

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of God (3 Kings 20). The Elamites were struck, and all died who looked unworthily upon the ark of the Lord (1 Kings 6). Oza was struck and died, because he had put forth his hand to the ark of the Lord and held it, lest it should fall, because the oxen kicked and made it lean (2 Kings 6). The Doctors say that Oza died because on the night before he had slept with his wife, and so, as one unclean, had presumed to touch the ark of the Lord with his hand. How much more, then, ought unclean priests to fear, who sleep not with wives but with harlots, and presume to handle unworthily the most holy body and blood of the Lord! Let them beware, then, and tremble, lest the Angel of the Lord strike them, as he has already struck so many others. *Wash yourselves, be clean, take away the evil of your devices from my eyes*, says the Lord; *cease to do perversely, learn to do well*, and so on (Isaiah 1). *Be ye clean, you that carry the vessels of the Lord* (Isaiah 52).

But to bring our purpose back to the strokes of canon law: we find that the excesses of priests are likewise struck in seven ways, namely: first, by suspension; second, by interdict; third, by excommunication; fourth, by deposition; fifth, by imprisonment; sixth, by flogging; seventh, by degradation.

First, I say, the excesses of clerics are struck by suspension. Here it should be known, and it is worth considering, that one suspension is as to oneself only; another is not only as to oneself but also as to others. As to himself only, every criminous person is suspended, that is, one subject to mortal sin; and such a one, intruding himself into the divine sacraments, whether actively or passively, sins mortally. Hence blessed Thomas on *Sentences* 4, dist. 24, says that one in mortal sin, if he receives or ministers the ecclesiastical sacraments, not only sins mortally, but comes deservedly to be punished as a blasphemer and deceiver. Indeed he says more in the third part of the *Summa*, q. 64, art. 6: that one in mortal sin, by touching the sacraments and intruding himself into divine things, even without solemn vesture, sins mortally, unless in case of necessity he were baptising in danger of death, or unless by chance he were gathering the body of Christ from the ground. For this the words of the Apostle are quite sufficient, when he says (1 Corinthians 11): *But let a man prove himself, and so let him eat of that bread and drink of the chalice. For he that eateth and drinketh unworthily eateth and drinketh judgment to himself, not discerning the body of the Lord*, that is, not distinguishing the sacred from the profane;

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which it is fitting to understand generally of all the sacraments, although more of that which is greatest of all, namely of the body and blood of our Lord Jesus Christ (*De consecratione*, dist. 2, c. *Nihil*), where the text says: "Nothing in sacrifices can be greater than the body and blood of Christ, nor is any offering better than this. But this excels all, which is to be offered to the Lord with a pure conscience, and received with a pure

mind, and venerated by all; and as it is better than the others, so it ought rather to be worshipped and venerated." Hence Moses said (Deuteronomy 16): *Thou shalt follow justly after that which is just, that thou mayst live and possess the land which the Lord thy God shall give thee.* If, then, not justly, one sins mortally; according to what Solomon says (Proverbs 15): *The victims of the wicked are abominable to the Lord; the vows of the just are acceptable. The way of the wicked is an abomination to the Lord; he that followeth justice is beloved by him.* Thomas says even more on *Sentences* 4, dist. 19: namely that one in mortal sin, if he preaches, sins mortally; although our Richard there seems to understand this of when the sin is manifest.

Another is called suspension as to oneself and as to others, by which are suspended all heretics, schismatics, simoniacs, excommunicates and notorious fornicators, as the Doctors note sufficiently on c. *Sicut*, c. *Vestra* and c. *Quaesitum*, Extra, *De cohabitatione clericorum et mulierum*. For although any criminal, even one degraded, can, as I said, confect (C. 15, last question, last chapter; and the notes on the said c. *Vestra*, to which make the notes on c. 1, Extra, *De summa Trinitate et fide catholica*), yet such persons, cut off or suspended as to themselves and as to others, because they damnably intrude themselves into divine things, we ought to shun, so that, overcome by shame, they may correct and amend their excesses (dist. 32, c. *Nullus*, and c. *Praeter haec*, § *Verum*; dist. 81, c. *Si qui sunt presbyteri concubinas habentes*), where the text says: "Whoever, then, while he asserts himself to be a Christian, scorns to obey the Apostolic See, incurs the sin of paganism" (C. 24, q. 2, c. *Sane*; Extra, *De electione*, c. *Quia diligentia*; C. 1, q. 1, c. *Si quis a simoniacis* and c. *Reperiuntur*; Extra, *De simonia*, c. *Tanta* and c. *Quotiens*, and c. *Accusatum*; Extra, *De sententia excommunicationis*, c. *Si quem*; and C. 3, q. 4, c. *Engeltrudam*; C. 24, q. 3, c. *Inter haeresim*; C. 7, q. 1, c. *Novatianus*); and blessed Thomas treats it in II-II, q. 39, and there is a good Gloss on c. 1, Extra, *De schismaticis*. The notes on c. *Ex tenore*, Extra, *De praescriptionibus*, and on c. *Cum non liceat* under the same title, and on c. *Vestra* and c. *Quaesitum*, Extra, *De cohabitatione clericorum et mulierum*, are quite sufficient.

It is to be noted that if the aforesaid suspended persons damnably intrude themselves into divine things, they become irregular, from which irregularity they cannot be absolved except by the Pope, as

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in c. *Si celebrat*, Extra, *De clerico excommunicato ministrante*, and in c. *Cum aeterni*, *De sententia et re iudicata*, in the Sixth Book. Of the manifold suspension the Gloss, Master Johannes Andreae, treats abundantly enough on c. *Cupientes*, § *Si scienter*, at the word *suspensi*, *De poenis*, in the Clementines.

Hence blessed Thomas Aquinas and Lord Bonaventure on *Sentences* 4, dist. 13, and more clearly Bonaventure on 4, say that the masses of certain persons are forbidden to be heard, in punishment of their sin, because they are not worthy to confect, and if they confect they are not worthy to be heard; and this is the first reason. The second reason is that, confounded, they may return to the grace of penance. The third reason is that others may be drawn back from imitating them; because when one is corrected very many are amended, and the punishment of one passes to the rest as an example. These three reasons are also well gathered on the said c. *Vestra*, *De cohabitatione clericorum et mulierum*. And Lord Bonaventure says that to shun such persons, suspended as above, is a work of justice, mercy and prudence; and so these three correspond to the aforesaid three reasons.

He says too that the sacrament of the Eucharist raises a man to a spiritual state, to which fornicators, who are wholly carnal, are not raised. Indeed the text says (C. 32, q. 2, c. *Connubia*) that at the time when the conjugal acts are performed, the presence of the Holy Spirit is not given, even if he who performs the office of generation should seem to be a prophet; where the Gloss says: because there is a certain stupor there, and the man becomes wholly fleshly.

Innocent, however, on the said c. *Quaesitum*, *De cohabitatione clericorum et mulierum*, says, and all commonly follow him, that simoniacs and notorious fornicators, in case of necessity, as at the point of death,

can administer two sacraments only, namely baptism and the Eucharist; and it is lawful to receive these two sacraments from such persons in such a case (dist. 32, c. *Praeterea*, § *Verum*). It is lawful also for such persons to touch, but not to confect, nor to receive. Nor do we believe it lawful, he himself says, to receive extreme unction or other sacraments from persons of this kind; for since they are prohibited generally, and these two are specially granted, the consequent understanding is clear that the others are denied (dist. 25, c. *Qualis*); to which makes what is found in c. *Nonne*, Extra, *De praesumptionibus*. And Innocent notes this more extensively on c. *Fraternitatis*, beyond the middle, Extra, *De haereticis*.

What is found in C. 1, q. 1, c. *Sacerdotes* also suffices well, where are reported the words of the Lord saying to Moses (Leviticus 21): *He that hath a blemish shall not offer bread to his God, nor shall he approach to minister to him: if he be blind, if he be lame, if he have a little or great or crooked nose, if his foot or if his hand be broken, if he be crookbacked, if he be blear-*

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eyed, if he have a pearl in his eye, or a continual scab, or a dry scurf in his body, or a rupture: whosoever of the seed of Aaron the priest hath a blemish, he shall not approach to offer sacrifices to the Lord, nor bread to his God; and below: *nor approach to the altar, because he hath a blemish, and he must not defile my sanctuary.*

Hence too is drawn the title of the Decretals *De corpore vitiatis*, that is, *non ordinandis*. Here it should be known, as the Gloss says on the last chapter, that some are defective in body of their own will, some by chance. If of their own will, distinguish: either no just cause intervened, and then he who is to be ordained is repelled, and one already ordained is deposed (dist. 55, c. *Qui partem*, and c. *Si quis a medicis*; and dist. 33, c. *Maritum*). Or a just cause intervened, and then he is not prohibited from order, for instance through fear of leprosy or some like cause, as in c. *Ex parte M.*, unless it produces deformity, since then in every case he is repelled (argument from dist. 55, c. *Lator*, and c. *Si evangelica*, and c. *Exposuisti*, *De corpore vitiatis*). If by chance: in the greater members he is repelled and deposed if it produces deformity, as in the said c. *Si evangelica*; but in the lesser members he is not hindered, if the deformity is slight and it happened without his fault, as in the last chapter, *De corpore vitiatis*. If with his fault he fell into such a slight deformity, he is tolerated out of mercy, as in c. 1, *De corpore vitiatis*.

Add further the Gloss, that if any were born deformed, or were mutilated against their will, or by accident while giving attention to a lawful matter, if the deformity is not so great that it can cause scandal or render him unfit for carrying out the ecclesiastical ministry, he is tolerated out of mercy (dist. 55, c. *Si quis absciderit*, and c. *Eunuchus*, and c. *Si quis pro aegritudine*, and c. *Praecepta*; and Extra, under the same title, c. *Significavit*, with the other chapters alleged above). And Innocent says that even if he fell by his own fault into a slight deformity, he is tolerated out of mercy in the orders received, namely by dispensation of the bishop, as in c. 1 under the same title. Hostiensis, however, on the said c. 1, in the last Gloss, at the end, says that such a dispensation ought to be made not by the bishop but by the Pope (dist. 50, c. *Non confidat*), which is safer.

The lame man is also tolerated, unless he be such that he cannot stand at the altar without a staff (dist. 45, c. *Disciplina*, and *De consecratione*, dist. 1, c. *Nullus episcopus aut presbyter*). As for the blind man, or one having a blemish in the eye, it is left to the judgment of the bishops to determine how great the blemish or defect is; so that if the blemish is great he is not admitted; if small, so that he can minister without scandal, he is tolerated, as in c. *Cum de tua*, at the end, under the same title. To which make the notes on c. *De causis*, Extra, *De officio delegati*, and *Digest*, *De iure deliberandi*,

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law 1, § 1. As for lunatics and epileptics, while the defect lasts they are not admitted; and even if they have been promoted, they ought wholly to cease from the office of the mass, unless they were wholly freed, or unless, falling, they had beside them some priest who could supply their defect (C. 7, q. 2, c. *In litteris*; C. 7, q. 1, c. *Illud*). As to how long a time it can be presumed whether and how far they have been freed, some say that it is for a year (argument from dist. 35, c. *Communiter*). Others say that it is for thirty days (C. 7, q. 2, § last). It is sounder, however, to leave it to the judgment of the judge, by argument from what is noted on the said c. *De causis, De officio delegati*.

From these things, then, it is to be weighed with what diligence priests ought to take care to be free from spiritual stains and carnal companionships, when such great providence is to be exercised concerning bodily stains. Nor let clerics believe that, if they have not lived chastely, they are excused from the penalties imposed on fornicators on account of the Extravagant of Pope Martin V, since it grants the clergy no relaxation, but provides only about the shunning of such suspended persons, and so on. And let the foregoing suffice for the first stroke.

Second, I said that the excesses of clerics are struck by interdict: as when a land is interdicted, or some church, or all the churches (Extra, *De verborum significatione*, c. *Cum in partibus*); or when for a just cause there is cessation from divine services, as in c. *Quamvis* and in c. *Si canonici, De officio ordinarii*, in the Sixth Book. And Innocent treats it on c. *Dilectis filiis decano*, and so on, Extra, *De appellationibus*; and the matter is treated sufficiently in c. *Cum medicinalis* and in c. *Alma mater*, *De sententia excommunicationis*, in the Sixth Book.

Here it should be known that sometimes a person is suspended from office, sometimes from benefice, and sometimes from both (C. 2, q. 5, c. *Presbyter*; Extra, *De purgatione canonica*, c. *Inter sollicitudines*). Sometimes a person is interdicted by name, Extra, *De privilegiis*, c. *Cum et plantare*, § *Excommunicatus*, and c. *Ut privilegia*; and Extra, *De praebendis*, c. *In Lateranensi*; and Extra, *De clerico excommunicato*, c. *Proposuit*; and in the Clementine 1, *De vita et honestate clericorum*; and in the Clementine 1, *De sepulturis*. And such an interdict is nothing else than separation from certain sacraments, from all divine offices and from ecclesiastical burial, as Extra, *De sponsalibus*, c. *Non est vobis*, and *De poenitentiis et remissionibus*, c. *Quod in te*; and Extra, *De his quae fiunt a maiori parte capituli*, c. *Quae sunt*; and Extra, *De officio delegati*, c. *Sane*.

In the time of a general interdict, however, it is lawful for clerics, every day, in churches and monasteries, to celebrate masses and to recite the other divine offices in a low voice, but with the doors shut, the excommunicate and interdicted excluded, and the bells not rung; yet so that they admit no others, even if they come from elsewhere,

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unless they have obtained a special privilege (*De privilegiis*, c. *Licet*, in the Sixth Book). So that both the canons and the clerics of churches in which daily distributions are assigned to those who are present at the canonical hours, if they do not come, lose them, just as if the interdict were not in force, if they are not present at the divine offices. But on the feasts of the Nativity of the Lord, Easter and Pentecost, and of the Assumption of the glorious Virgin, the bells may be rung and, with the doors open, the divine offices celebrated with a loud voice, the excommunicate being wholly excluded but the interdicted admitted; to whom, out of reverence for the said solemnities, and that they may the more easily be inclined to the grace of humility and the desire of reconciliation, participation in divine things is permitted on the aforesaid days; yet so that those through whose excess an interdict of this kind was pronounced shall by no means approach the altar. The foregoing is expressly contained in the said c. *Alma mater*.

Chrism can also be confected in the time of a general interdict on the day of the Supper, as in c. *Quoniam, De sententia excommunicationis*, in the Sixth Book. Some ecclesiastical sacraments, but not all, may also be

ministered to the interdicted in time of interdict (Extra, *De sententia excommunicationis*, c. *Responso*). Hence baptism may be conferred, and confirmation, not only on little children, as in the said chapter *Responso* and the said chapter *Quoniam*. The benefit of absolution may also be given to penitents, not only at the point of death but also when they are in full health, provided they were not excommunicated; for these cannot be admitted except at the point of death, or unless they were such that by their fault or fraud the sentence of interdict was pronounced, or who gave counsel, help or favour, unless they have first made satisfaction, or have given suitable security for making satisfaction; or, if they cannot do this, unless they swear that they will make satisfaction when they can, and that they will give counsel and help towards satisfaction being made by those who are bound, and will labour for it as far as they can; and yet the interdict ought not to be relaxed on account of any of the aforesaid, as in the said c. *Alma mater*.

The Eucharist may also be ministered to the dying, as in the said c. *Quod in te*. Extreme unction is denied, as in the same place. The promotion of laymen of an interdicted place to orders is denied; it is granted, however, to clerics not interdicted. Marriages may also, according to Innocent, be contracted in time of interdict, since they are lawfully contracted even among unbelievers, although marriages of unbelievers are not ratified by the Church (dist. 26, c. *Deinde*; C. 28, q. 1, § *Item illud*; Extra, *De divortiis*, c. *Quanto*, and c. *Gaudemus*). The nuptial blessing, however, ought not to be given in the time

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of interdict, as Hostiensis says in the *Summa*, where the blessing is treated (dist. 23, last chapter; and Extra, *De secundis nuptiis*, c. 1 and c. *Vir*; and C. 35, q. 5, c. *Nulli*; and C. 32, q. 2, § 1; and C. 30, q. 5, c. 1, and c. *Sponsus*).

Ecclesiastical burial is also denied to laymen in time of interdict; and if those dying from the community of the interdicted have received penance, because such persons are interdicted, even if they have not sinned against God, on account of which the interdict was laid (Extra, *De poenitentiis et remissionibus*, c. *Quod in te*; C. 27, q. 4, c. *Miror*; C. 24, q. 3, c. *Si habes*). But those who are excommunicated among the interdicted, even if they are absolved from that excommunication, still remain interdicted until the interdict is lifted. If, however, signs of penance appeared in the dying, and afterwards the interdict has been lifted, then the bodies of such persons are to be transferred to the church or the sacred cemetery (argument from Extra, *De sententia excommunicationis*, c. *Cum illorum*). And if they were buried near the church while the interdict still stood, they are not afterwards to be exhumed, by argument from what is noted on c. *Sacris*, Extra, *De sepulturis*. And for such penitents among the interdicted it is lawful to receive mortuary offerings and to pray (C. 11, q. 3, c. *Hoc quicumque*). But if they have died impenitent, one is not to pray for them, nor ought mortuary offerings to be received (dist. 88, last chapter).

To clerics, however, who are not shut out by such a general interdict, ecclesiastical burial is not denied, yet with the bells not rung and all solemnity ceasing, as in the said c. *Quod in te*; and so is understood the word there set down, "with silence."

Those, however, who knowingly celebrate otherwise in an interdicted place, from wherever they are and wherever they have come, incur suspension and irregularity (Extra, *De clerico excommunicato ministrante*, c. *Postulastis*, last §), where it is also held that such a one is to be removed from his benefice. To this make the notes on Extra, *De electione*, c. *Cum inter*, and on c. *Is qui*, *De sententia excommunicationis*, in the Sixth Book.

Likewise one becomes irregular who ministers in an order not received, as in c. 2, Extra, *De clerico non ordinato ministrante*, and in the following. Hence clerics who exercise the office of an order which they do not have are to be deposed, or perpetually suspended from the order which they had; unless, after being suspended for two or three years according to the provision of the bishop, they are mercifully tolerated; yet they can never be promoted further to greater orders, as in c. 1 and c. 2 under the same title, and argument

from C. 11, q. 3, c. *Privilegium*, and C. 25, q. 2, c. *Sic decet*. Nor can such a one be dispensed so that he may ascend to further orders, except by the Pope, according to Raymond, Goffredus and Vincentius. Hostiensis, however, held in the *Summa* that the bishop can dispense; but in the Gloss he var-

The text continues from the end of Part 6: "…but in the Gloss he var-"

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-ies. Innocent, however, on c. *Dilectus*, Extra, *De temporibus ordinationum*, holds that the bishop can dispense; and the Gloss on the said c. 2 also holds this. To this makes what is held in c. *Nuper*, Extra, *De sententia excommunicationis*: what the Pope does not specially reserve to himself. It is safer, however, to have the dispensation from the Pope. But he will without doubt provide more wholesomely for himself if he chooses to pass over to the regular life, says the text in the said c. 2 at the end. These things are well to be noted and attended to by curates, lest in solemn Masses they make clerics constituted in minor orders chant the epistles with the vesture of a subdeacon, and so minister in an order not received; for such a one would become irregular, as above. To the foregoing make what is held in dist. 23, c. *Subdiaconus*, and dist. 74, c. *Si qui clerici*. But if without solemnity, in a private Mass, and without vesture, he reads the epistle where this is the custom, or if at Matins he reads a lesson or sings a responsory, he does not become irregular, as appears from the notes on c. *Ut quisquis*, Extra, *De vita et honestate clericorum*, and C. 11, q. 3, c. *Si quis episcopus in concilio*. But where it is not tolerated by custom, those ministering even without solemnity in an order not held become irregular, as in the said c. *Si quis episcopus*, and through Innocent where cited above. And so let the second stroke pass.

Thirdly, I said, the excesses of clerics are struck by excommunication. Here it is to be known that of excommunications some are from the law, others from the judge. Of those which are from the law, some are reserved to the Pope or the Apostolic See; others are granted to ordinaries or lower prelates. To the Pope, or the Apostolic See, all those written below are reserved, namely:

First, in the *Decretum*, C. 17, q. 4, c. *Si quis suadente diabolo*: all are excommunicated by the very deed who lay violent hands on clerics, and they cannot be absolved except at the point of death, unless by the authority of the Apostolic See. The cases are excepted which we set down below among the excommunications relaxed to bishops. And it is to be noted that although religious and clerics living in common can be absolved by their superiors, yet for enormous offences, as of death, or mutilation, or shedding of blood, or the laying of hands on a prelate, the Pope alone absolves, as in c. *Cum illorum*, Extra, *De sententia excommunicationis*, and in c. *Religioso*, same title, in the Sixth Book. And those are excommunicated who detain clerics or injuriously seize them, even if they are detained by their garments, or by their horse, or the like.

Secondly, in the *Decretals*: if anyone burns or breaks into a church

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or a religious place or cemetery, or any other thing whatever, even profane, as a house, a vineyard, or a crop, and the like, after denunciation of it has been made by the bishop, the Pope alone absolves, as in c. *Conquesti* and in c. *Tua*, Extra, *De sententia excommunicationis*. For such persons are punished by the civil law with capital punishment, as in l. *Capitalium*, § *Nonnunquam*, ff. *De poenis*, and ff. *De incendio, ruina, naufragio*, l. *Qui aedes*, where the text says: "Let the incendiary be given to the fire." To which is added C. 23, last question, c. *Pessimam*.

Thirdly, if anyone has been excommunicated by name by the Pope, with his accomplices, participants, helpers and favourers in the crime, or those who comply with and obey him, as appears of the deposed Emperor Frederick in c. *Significavit* and in c. *Si concubinae*, Extra, *De sententia excommunicationis*.

Fourthly, if anyone has falsified Apostolic letters, or knowingly made use of falsified ones, as in c. *Ad falsariorum* and in c. *Dura*, Extra, *De crimine falsi*.

In the Sixth Book the first are these, namely: the first is of the electors, senators or other rulers of the City of Rome, without the special licence of the Apostolic See, as in the chapter *Fundamenta*, § *Ut ergo*, *De electione*, in the Sixth Book.

The second is of those elected, taken up or named to the aforesaid government, if they consent to the aforesaid election without the special licence of the Apostolic See, as in the aforesaid chapter and §.

The third is of those who obey such rulers thus intruded, as in the same place.

The fourth is of those who give the said electors help, counsel or favour in the foregoing, or concerning the foregoing, publicly or secretly, as in the same place. And note that in the aforesaid constitution it is forbidden that any Emperor, King or Prince, Marquis, Duke, Count or Baron, or anyone else of notable pre-eminence, power or outstanding excellence or dignity, or his brother, son or grandson, be elected for a time or in perpetuity, or anyone else beyond the space of a year, etc.; and violators of the foregoing cannot be absolved from the aforesaid excommunication except by the Pope, or by his special licence, as in the aforesaid c. *Fundamenta*, § *Contemptores*. Hence these cases of such an election are to be reckoned among the cases reserved to the Apostolic See.

The fifth: if anyone has pursued any Cardinal of the holy Roman Church, from which many grave penalties are imposed, by no one ex-

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cept by the authority of the Apostolic See can he be absolved, as in c. *Felicis*, *De poenis*, in the Sixth Book.

The sixth: if anyone has given licence to oppress, or has oppressed by himself of his own motion, or has used such licence by oppressing any ecclesiastical judge, or anyone joined to him in any way in persons or in things, whether those who pronounce or those who observe, or those for whom the sentence of excommunication, suspension or interdict was pronounced, or those who will not communicate with such excommunicates, they incur the sentence of excommunication by the very deed, unless they revoke the licence itself while the matter is still entire, or restore what was taken away, or make satisfaction for the oppression. If they remain in this with hardened mind for two months, they cannot be absolved except by the authority of the Apostolic See, as in c. *Quicumque*, *De sententia excommunicationis*, in the Sixth Book.

The seventh: whoever cuts up, disembowels, dismembers or boils the body of any dead person for the sake of carrying it to any burial whatever cannot be absolved without the licence of the Apostolic See; and by the same bond those who command, counsel and the like are bound; and such a body ought to lack ecclesiastical burial, as in the Extravagant of Boniface VIII which begins *Detestandae feritatis abusus*.

The eighth, in the *Clementines*: if an inquisitor of heretical depravity, or an ordinary, has omitted to proceed against heretics, adherents, believers, defenders, receivers, accomplices or favourers of heretics, out of hatred, love, favour or gain; or if he imputes the crime of heresy to anyone, or with depraved mind has imputed to anyone that he made an impediment to him in the office of the inquisition of heretical depravity, he is excommunicated, and cannot be absolved except by the licence of the Apostolic See, as in c. *Cupientes*, *De poenis*, in the *Clementines*.

The ninth: if any religious presumes to minister the Eucharist, extreme unction, or the solemnization of marriages without the special licence of the parish priest; or if he presumes to absolve those excommunicated by the canon or by a man, whether through provincial or synodal statutes, in cases not granted; or if he absolves from guilt and penalty, he is excommunicated, and cannot be absolved without the authority of the Apostolic See, as in c. *Religiosi*, *De privilegiis*, in the *Clementines*.

The tenth: if any religious, or secular cleric, by vow, oath, or any promise whatever, induces anyone to choose burial in his church, or not to change one already chosen, he is excommunicated, and cannot be

absolved except by the authority of the Apostolic See,

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as in the chapter *Cupientes*, *De poenis*, in the *Clementines*.

The eleventh: if anyone has carried out persecution against any bishop, so that he has rashly or injuriously struck, seized or banished him, or commanded this to be done, or has held it ratified when done by another, or was the companion of the doer, or has given them counsel or favour, or knowingly defended the doer, he incurs the sentence of excommunication by the very deed, and cannot be absolved without the licence of the Apostolic See, as in c. *Si quis suadente diabolo*, *De poenis*, in the *Clementines*, where many, various and grave penalties are imposed on those offending in any of the foregoing; and certain cities are interdicted besides, in which such crimes are perpetrated; and all the officials of the same city who are guilty in the foregoing or any of them, by whatever name they are called, incur the above-said sentence of excommunication by the very deed.

The twelfth: if anyone compels any priest to celebrate in an interdicted place, or calls excommunicates or interdicted persons to hear, or causes them to be called, or causes the bell to be rung; or commands that such persons, when warned, shall not go out of the churches; or if the interdicted or excommunicated themselves, when warned, have not gone out and have presumed to remain in the churches, whereby the divine offices are hindered, all such are excommunicated, nor are they absolved except by the licence of the Apostolic See, as in c. *Gravis*, *De sententia excommunicationis*, in the *Clementines*.

The thirteenth: if anyone presumes to carry or send iron, horses, arms, timber, victuals and any other merchandise whatever, with which the Saracens can attack Christians, to Alexandria or other places of the Saracens of the land of Egypt, or from their own ports, that they may be carried to them; or to permit them to be carried out; or to furnish them help or favour, he incurs the sentence of excommunication by the very deed, and if he is captured let him become the slave of the captor (Extra, *De Iudaeis*, c. *Ita quorundam*, and c. *Ad liberandum*, and in a certain Extravagant of Nicholas IV which begins *Olim tamen in generali*), in which he also added, and decreed the like concerning all lands subject to the Sultan; nor can such excommunicates be absolved unless they have paid out of their own goods, to be turned to the aid of the said Holy Land, as much as they carried or sent to the said parts, or permitted to be carried or exported from their ports; and besides the aforesaid penalties they are perpetually infamous and intestable in every way, so that they may not make a will, nor receive anything from another's testament or from an intestate, nor succeed by testament, nor be admitted

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to administer public offices; and all legal acts are wholly forbidden to them; and after this has been established, they ought to be publicly denounced, and all their goods are to devolve to the treasury. And although the said constitution of Nicholas IV seemed to be revoked by the proem of the Sixth Book, yet Boniface VIII, within a year after the publication of the Sixth Book, renewed it by a certain Extravagant of his which begins *Contra illos*; and afterwards Clement V not only renewed and confirmed it by a certain Extravagant of his which begins *Multa mentis*, but also reserved to himself and to the Apostolic See the absolution from the same excommunication, except at the point of death; which is also confirmed and enlarged in the annual constitution, etc.

There are also many cases of excommunication whose absolution is reserved to the Apostolic See in the annual constitution, promulgated in successive times on Holy Thursday wherever the Roman Curia resides. The first of these is of heretics, by whatever name they are called, and of their favourers, receivers and defenders.

The second is of pirates, corsairs, robbers of the sea, and their favourers, receivers and defenders.

The third is of those who impose new tolls in their lands by their own authority.

The fourth is of those who falsify not only Apostolic bulls or letters, but also supplications containing grace or justice, signed by the Supreme Pontiff, or by the vice-chancellor, or those acting in his place, or in the office of vice-chancellor of the holy Roman Church by mandate of the same Supreme Pontiff; or who sign under the name of the Pope or of the vice-chancellor, or of those ruling the said office; or who emend any supplications in a false manner after they have been signed; concerning which the Doctors make notes on c. *Ex litteris, De fide instrumentorum*.

The fifth is of those who hinder or seize persons bringing victuals or other things necessary for the use of the Roman Curia, or that they may not be brought to the Curia itself; or who hinder or disturb those carrying them; and of those who do, or defend those doing, such things, of whatever order, pre-eminence, state and dignity they are, even if they shine with pontifical, royal or queenly or any other ecclesiastical or worldly dignity.

The sixth is of those who rashly and wickedly seize or despoil

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and detain, beat, mutilate or kill any persons coming to the Apostolic See, or even going back from it, or who command such things to be done.

The seventh is of those who by themselves or through others beat, mutilate or kill, or despoil of their goods, any ecclesiastical or secular persons having recourse to the Roman Curia in their causes and affairs and prosecuting them in the same Curia, or their procurators, agents of business, advocates or promoters, or even auditors, or judges deputed in the said causes or affairs, on the occasion of such causes or affairs, of whatever pre-eminence, dignity, order, condition or state they may be, ecclesiastical or secular.

The eighth is of those who mutilate, wound, kill, seize, detain or plunder pilgrims to Rome and pilgrims coming to the holy City, namely Rome, for the sake of devotion and pilgrimage, and staying in it, or going back from it; and of those who give them help, counsel or favour in these things; whose goods also are perpetually confiscated.

The ninth is of those who invade with hostility, or occupy or detain under any title or colour, past, present or future, the kindly City, the kingdom of Sicily-Trinacria, the islands of Sardinia and Corsica, the land on this side of the Faro, the Patrimony of blessed Peter in Tuscany, the Duchy of Spoleto, or any other land or places or rights belonging to the Roman Church; and of their adherents, favourers and defenders, or those giving them help, counsel or favour in these things, with whatever dignity they shine, notwithstanding anything whatsoever.

The tenth is of simoniacs giving or receiving in an order or benefice, secretly or openly, of whatever state or condition they be, with whatever ecclesiastical or secular dignity they shine, as in the Extravagant of Pope Martin V which begins *Damnabile scelus*, and in the Extravagant of Pope Eugene IV which begins *Cum detestabile scelus*; in which, besides the reserved excommunication, they impose many other grave penalties. And Boniface VIII in a certain Extravagant of his excommunicated all who by pact or by promise, secret or open, receive anything through him for any justice or grace, for himself or for another, in judicial causes or in letters to be obtained from the Apostolic See; or who knowingly use letters thus obtained, or graciously granted; and absolution is reserved to the Pope.

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The eleventh is of those going to the Holy Land, even for the sake of devotion or from a vow, without the licence of the Apostolic See, as appears in the constitution of the Supreme Penitentiary.

The twelfth is of any persons professed in any religious order of the mendicant orders, if they pass over to any monastic order, the order of the Carthusians excepted; and the like of those receiving one so passing over, as appears in the constitution of Constance.

The thirteenth is of any persons commanding, helping, counselling, favouring, consenting to, or participating with anyone of the aforesaid in any of the cases mentioned above; for one who participates in a criminous crime falls into the same sentence, as in c. *Nuper*, and in c. *Si concubinae*, and in c. *Significavit*, with the like, Extra, *De sententia excommunicationis*; and in c. *Sicut dignum*, and in the chapter *Ad audientiam*, Extra, *De homicidio*; and C. 11, q. 3, c. *Qui consentit*, with the like. And it is to be noted that in all of them absolution is granted at the point of death; but if they survive, unless they present themselves as soon as they can, they fall back into the same; and so with any other temporary impediment, as in c. *Eos qui*, *De sententia excommunicationis*, in the Sixth Book, and in the chapter *Si quis suadente diabolo*, *De poenis*, in the *Clementines*, with the like.

The excommunications, however, whose absolution is granted to bishops or lower prelates are those written below, namely. First, as regards the striking of clerics, for the sake of a kind of artificial memory, verses are set down which Hostiensis collected on c. *Cum illorum*, Extra, *De sententia excommunicationis*, which are these, namely:

Absolvit Papa solus clericum ferientem. Decem et septem tamen ex hoc excipe casus, Regula, mors, sexus, hostis, puer, officialis, Deliciosus, inopsque, senex, aegerque, sodalis, Ianitor, astrictus, dubius, commune, levis ictus, Debilis, etc. Absolvi tamen sine summa sede merentur; Atroces vero soli Papae reservantur.

(The Pope alone absolves one who strikes a cleric. Yet except from this seventeen cases: rule, death, sex, enemy, boy, official, the delicate, the poor, the old man, the sick, the companion, the doorkeeper, the one bound, the doubtful, the common, the light blow, the weak, etc. These deserve to be absolved without the highest See; but the atrocious are reserved to the Pope alone.)

The explanation of the aforesaid three verses after the first two is this: that for each word one case is taken which is reserved to the bishop, or to an equal or greater, as to the authority already granted for such.

The first is in the word *regula* (rule), in which it is concluded that if a regular strikes a regular, although he incurs the sentence of excommunication by the very deed,

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yet he can obtain the benefit of absolution through his abbot, or his equal prelate; and if the discretion of the abbot, or consequently of his prelate, should not suffice for his or their correction, the provident care of the diocesan bishop is to be applied, as in the chapter *Monachi*, Extra, *De sententia excommunicationis*. Nevertheless, if an enormous blow has intervened, with death, or mutilation of a limb, or shedding of blood, or the laying of hands on a prelate, those so striking are to be sent to the Apostolic See for the benefit of absolution, as in c. *Cum illorum*, Extra, *De sententia excommunicationis*. And so under this head very many cases are included in which offenders are absolved short of the Apostolic See.

The first is of religious of the same cloister who have struck one another, because they can be absolved by their prelate, unless their excess has been difficult and enormous, as we said above through the said c. *Cum illorum*.

The second is of cloistered persons of different cloisters, of whom the offender is absolved by his own abbot, and by that of the one who suffered the injury, as in the said c. *Cum illorum*, and there through Hostiensis, and argument from Extra, *De officio ordinarii*, last chapter.

The third is of a religious striking a secular cleric, who is absolved by the bishop, as in c. *Religioso*, *De sententia excommunicationis*, in the Sixth Book; and understand by the bishop of the cleric struck, if the

same is the bishop of the cleric struck and of the place where the misdeed was committed; otherwise he is absolved by the bishop in whose territory he wounded the cleric, for the aforesaid reason, namely lest such a religious have occasion of wandering, as in the said c. *Religioso*, and in the said c. *Cum illorum*; and also because by reason of the offence one comes under the court of the judge in whose territory the offence was committed, as in the last chapter, Extra, *De foro competenti*, and in c. 1, Extra, *De raptoribus*, and in the Authentic *Qua in provincia*, C. *Ubi de crimine agi oportet*.

The fourth is of a novice, whether striking or struck, because the absolution of the aforesaid can be made in the same manner as above, as in the said c. *Religioso*, and in the said c. *Cum illorum*, and in the said c. *Monachi*.

The fifth is of a novice who in the world had incurred the sentence of excommunication; for coming to religion he can be absolved by the prelate of that religion in the cases mentioned above, as in the said c. *Cum illorum*. It is to be noticed, however, that if he does not persevere in religion, by the law itself the condition is understood to be inherent in such an absolution, that he falls back into the same

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sentence of excommunication. It is safer, however, that he be warned by the one absolving, as Hostiensis says on the said c. *Cum illorum*.

The sixth case is that if regulars do not have a prelate to whom they can have recourse, for example because he is dead, or because he is excommunicated, or because he is not a priest, and so of the like, whether the religious be exempt or not, whether men or women, they ought to have recourse to the diocesan in the cases mentioned above to obtain the benefit of absolution; an excellent argument in the said c. *Religioso, De sententia excommunicationis*, in the Sixth Book, and the notes of Hostiensis, Vincentius and Innocent on the said c. *Monachi*.

The seventh case is of nuns who have struck one another: for they can be absolved by the bishop in whose diocese the monasteries are founded, as in c. *De monialibus*, Extra, *De sententia excommunicationis*. The same holds of any prelate having similar authority, by argument from the like, as in the said c. *Cum illorum*.

The eighth is also of nuns striking their lay brothers or lay sisters, as in the said c. *De monialibus*.

The ninth is of nuns striking clerics, as in the same place.

The tenth is of nuns striking monks or friars, chaplains of the same monastery, argument in the said c. *De monialibus*. And it is to be noted that the foregoing apply as well to exempt nuns as to non-exempt, and as well to the professed as to novices or the unprofessed, argument in c. *Ad abolendam*, at the end, Extra, *De haereticis*, and in c. *Irrefragabili*, § *Retineri*, Extra, *De officio ordinarii*. Which the Gloss understands thus: if the bishop absolves as delegate of the Pope by virtue of the said Decretal *De monialibus*; but if you wished to absolve them by that right by which he can absolve other women, as in c. *Mulieres*, Extra, *De sententia excommunicationis*, then he would absolve not as delegate but as ordinary. And if the monasteries were in different bishoprics, such bishops ought to agree with one another, and either may absolve, or one delegate his place to the other, which is more fitting, by argument in the said c. *Cum illorum, De sententia excommunicationis*, and in the said last chapter *De officio ordinarii*, and the notes of the Gloss and Innocent on the said c. *De monialibus*.

The eleventh is of the Hospitallers of Saint John of Jerusalem, to whom it is granted that in all cases in which prelates of other religious orders can absolve concerning the laying of violent hands on clerics, their prior, who ought to be a priest, can absolve them, as in c. *Canonica*, Extra, *De sententia excommunicationis*. But if such a prior were not a priest, he would not have such authority,

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because, as the Gloss says in the same place, this office is not committed to laymen, although religious, just as neither is the office of preaching, as in c. *Cum ex iniuncto*, Extra, *De haereticis*. For the keys of the Church also are committed not to laymen but to priests (C. 24, q. 1, c. *Quicumque*; and dist. 21, c. *In novo testamento*; and dist. 96, c. *Bene quidem*).

The twelfth is of the lay brothers of any religious orders whatever, although not clerics, that in the cases mentioned above they can be absolved by the prelates of those religious orders, or by the bishop to whom they are subject, argument in the said c. *Cum illorum*. For such lay brothers also are privileged, just as clerics and ecclesiastical persons, so that those striking them fall under the canon of the sentence pronounced, as in c. *Non dubium*, and in c. *Parochianos*, and in c. *Ex tenore*, Extra, *De sententia excommunicationis*.

The thirteenth is of the lay brothers of secular churches, who have handed themselves and their goods over to divine service, since they have now become ecclesiastical persons, as the Gloss says on the said c. *Non dubium*. To which makes C. 17, q. 4, c. *Quisquis*, and C. 12, q. 1, c. *Duo sunt*, where mention is made of clerics and lay brothers without distinction; on which passage I treated at more length in the repetition of the c. *Omnis utriusque sexus*, verse *Si quis autem alieno sacerdoti*, among the cases reserved to bishops, verse *Tertiusdecimus est de conversis*, etc.

The fourteenth is of the brothers and sisters of the Third Order of Saint Francis, who are called Brothers of Penance in the rule given to them and confirmed by Pope Nicholas IV, in which the form of their profession is given, so that they change their habit and state; and yet they are not exempted from the jurisdiction of the diocesans; therefore they can be absolved by the said diocesans in the cases mentioned before; and I treated this fully, with many arguments, in the aforesaid verse *Si quis autem*; although Joannes Andreae, on c. *Cum ex eo*, *De sententia excommunicationis*, in the *Clementines*, seems to assert the contrary. But my most illustrious Doctor, the lord Pietro degli Ubaldi of Perugia, brother of the most illustrious and most famous Doctor Baldo, and also of the lord Angelo of Perugia, holds what I said above, whom all his disciples commonly follow. And these fourteen cases pass with the first word of the first verse.

The second word is called *mors* (death); this is because at the point of death any striker of clerics can be absolved, as in the said c. *Si quis suadente*, C. 17, q. 4. It is, however, to be enjoined on him by his confessor that, if he escapes from the danger of death, he ought to present himself to the Apostolic See,

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or to one having the authority of the same See, to receive its mandate for the benefit of absolution (Extra, *De sententia excommunicationis*, c. *A nobis* 2); and the same in the other cases following, when the impediment ceases; otherwise, if when the impediment ceases they do not present themselves, they fall back into the same sentence, as in c. *Eos qui*, *De sententia excommunicationis*, in the Sixth Book. In like manner those absolved by the Apostolic See or by legates also fall back, on whom it is enjoined that they present themselves to the ordinary or another for penance, and that they make competent satisfaction to those injured, unless they do this as soon as they conveniently can, as in the said c. *Eos qui*; on which matter it is also treated in c. *Non dubium*, same title.

The third word is *sexus* (sex); that is, because women striking clerics can without distinction be absolved by their ordinaries, as in c. *Mulieres*, Extra, *De sententia excommunicationis*.

The fourth word is *hostis* (enemy), because those striking clerics by reason of enmities can be absolved by their ordinaries, as in c. *De cetero*, Extra, *De sententia excommunicationis*. It ought, however, to be enjoined on them that when the enmities cease they present themselves to obtain the full benefit of absolution, as in the said c. *Eos qui*, *De sententia excommunicationis*, in the Sixth Book.

The fifth word is *puer* (boy). That is, because boys below the years of puberty, namely below fourteen years, if they strike clerics after they are capable of malice, although they incur the sentence of excommunication,

can yet be absolved by their ordinaries, even if after the years of puberty they ask for absolution, as in c. 1, Extra, *De sententia excommunicationis*, and in the last chapter of the same title. It is to be attended to, however, that if they struck before they were capable of malice, or not with the intent of injuring or avenging, they do not incur it; but if they struck after puberty, as in the fifteenth or sixteenth year and upwards, with intent to injure or avenge, if they are still weak in body, or suffer a defect of discretion, they can be absolved by the bishop with an oath and a command to present themselves when the impediment ceases, as in the said c. *Eos qui*, *De sententia excommunicationis*, in the Sixth Book, and in the said last chapter, Extra, *De sententia excommunicationis*.

The sixth word is *officialis* (official). That is, if any official, in driving back a crowd rushing upon his lord, for example the Pope, a legate, the Emperor or a King, or another lord to whom crowds flock, — for then, if an official deputed to drive back the crowds, lest they crush or harm the lord, injures a cleric not from deliberation or intent to injure but by a kind of accidental chance, he is not to be sent to the Apostolic See, but he can be absolved by the ordinary,

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as in c. 3, § 1, Extra, *De sententia excommunicationis*. For will and purpose distinguish misdeeds, as in c. *Cum voluntate*, Extra, *De sententia excommunicationis*, and in l. *Qui iniuriae*, at the beginning, ff. *De furtis*. For God looks to the heart and to the spontaneous will more than to acts (C. 15, q. 1, c. 1; and C. 14, q. 5, c. *Si quid*). And granted that some fault of the said official intervened, nevertheless he can be absolved by the diocesan, as in the said c. 3, § 1.

There follows the second verse, whose first word is *deliciosus* (the delicate), in which it is included that if anyone of delicate constitution, so much so that he cannot sustain the labour of going to the Apostolic See, has struck a cleric, or laid violent hands on a cleric, he can be absolved by the diocesan for caution, with the imposition that he ought to send a messenger to the Apostolic See, and obey the commands of the same See, as in c. *Mulieres*, § 1, Extra, *De sententia excommunicationis*; it rests, however, in the judgement of the discreet bishop to discern whether such a one can sustain the labour, as the Gloss says on the said c., § 1, and an excellent argument in ff. *De verborum obligationibus*, l. *Continuus*, § *Cum ita*, and in c. *De causis*, Extra, *De officio delegati*. But if danger is not feared, the Pope is to be consulted before he is absolved, according to the common determination of the Gloss and the Doctors on the said c. *Mulieres*, § 4.

The second word of the second verse is *inops* (the poor). That is, that if anyone, burdened with poverty so much that he did not have the expenses for the journey, has laid violent hands on a cleric, he can be absolved by the diocesan, with this condition: that if he comes to better circumstances, so that he can have the expenses, he ought to present himself to the Apostolic See, as in c. *Quod de his* and in c. *Quamvis*, Extra, *De sententia excommunicationis*, and argument from Extra, *De testibus*, c. *Si qui testium*.

The third word of the second verse is *senex* (the old man); that is, because if anyone beyond the sixtieth or seventieth year, in the judgement of the bishop, labouring under the heaviness of old age and the inability to travel, has struck a cleric, he can be absolved by the bishop, satisfaction having been made, according to their means, to those to whom it is established that injuries were done by them, as in c. *Ea noscitur*, Extra, *De sententia excommunicationis*.

The fourth word of the second verse is *aeger* (the sick); that is, that if a sick man is bound by the censure of the aforesaid canon for the laying of violent hands on a cleric, if the sickness is perpetual he can without distinction be absolved by the bishop; but if the sickness is temporary, he can be absolved for caution, with a promise and oath that

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when the impediment ceases he ought to present himself to the Apostolic See, as in c. *Quod de his*, and in the chapter *Quamvis*, and in the chapter *Ea noscitur*, Extra, *De sententia excommunicationis*.

The fifth word is *sodalis* (the companion). That is, because by reason of companionship one who strikes a fellow cleric can be absolved by the bishop, on account of their constant living together, from which they are easily provoked, and, coming to words, proceed to unlawful deeds, as in the chapter *Cum illorum*, same title.

There follows the third verse, whose first word is *ianitor* (the doorkeeper); this is because if the porter of the palace of any lord or magistrate, under pretext of his office, has maliciously injured a cleric, he can be absolved by his bishop, unless perhaps he had gravely wounded the same cleric, as in the said chapter 3, at the beginning, *De sententia excommunicationis*, and in the chapter *Cum illorum*, same title.

The second word of the third verse is *astrictus* (the one bound), namely by the bond of paternal or of another's power, as one who is not his own master, like a son of the family, or the slave of another. For such persons, if they have laid violent hands on a cleric, can be absolved by the bishop, as in the said c. *Mulieres*. The Gloss, however, distinguishes there between those who have reached puberty and those who have not, so that those who have reached puberty are bound to present themselves to the Apostolic See, while those who have not can be absolved by the bishop, as in chapter 1 and the last chapter, Extra, *De sententia excommunicationis*, and as we said above. Concerning the slave, however, it is so determined that if without the fault of his masters he has laid violent hands on clerics, and the absence of the slave would be grievous and harmful to the masters, he can be absolved by the bishop; otherwise they are to be sent to the Apostolic See, as in the chapter *Relatum*, Extra, *De sententia excommunicationis*; since God is to be deferred to more than men, says the text there; otherwise it is said in the words of Peter, prince of the Apostles: "We ought to obey God rather than men," Acts 5. To which C. 11, q. 3, c. *Quisquis metu*, and Extra, *De voto et voti redemptione*, c. *Ex multa*, and C. 22, q. 1, c. 1 and c. 3.

The third word is *dubius* (the doubtful); that is, because if anyone doubtful whether he is a cleric has struck a cleric, since previously he did not know him to be a cleric, and had he known it he would not have struck him at all — hence, since he did not have the will and purpose for this, he can be absolved by the bishop, as in the aforesaid c. *Cum voluntate*, *De sententia excommunicationis*, and in c. *Cum desideres*, § of the second question, same title, and in c. *Si vero* 2, same title.

The fourth word is *commune* (the common); this is because if clerics living in common under the same roof and in the same house strike

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one another, apart from shedding of blood, mutilation, death, or laying of hands on a prelate, they can be absolved by the bishop, as in c. *Quoniam*, near the end, Extra, *De vita et honestate clericorum*, and in c. *Quod de his*, and in c. *Quamvis*, and in c. *Cum illorum*, Extra, *De sententia excommunicationis*. The Gloss, however, on the said c. *Quoniam*, understands this of canons regular; but by equal reason it can be understood of other priests and clerics living in common at the disposition of the bishop, as the Doctors say on the said c. *Quoniam*. For they commonly understand that that text speaks without distinction of secular clerics who live in common on the goods of the Church after the manner of canons regular or of other religious, so that such enjoy this privilege by reason of their common life. For community is wont to stir up discord. It is evident, moreover, for another reason, because the Pope there writes to all bishops. It is evident also, thirdly, because the text there speaks not of regulars but of other clerics, when it says, "you may fix the number of clerics," and below, near the end, it says, "you shall have full power of reconciling and of imposing penance, unless perhaps the atrocity of the deed requires a graver penalty." For this also makes the text in c. *Ex tenore*, Extra, *De sententia excommunicationis*; and the Gloss of Joannes also holds this on C. 15, q. 1, c. *Decimas*, and C. 17, q. 4, c. *Nullus*. Moreover, canons regular obtain a fuller privilege, because they can be absolved by their superiors, as in c. *Canonica* and in c. *Monachi*, Extra, *De sententia*

excommunicationis, and as we said above; but clerics living in common are absolved only by bishops, as in the aforesaid c. *Quoniam*, because it is committed to bishops in the superscription of the same Decretal.

The fifth word is *levis ictus* (the light blow); that is, because if the injury done to clerics, even by any seculars, is light, as because water was thrown on the back of a cleric, or because a cleric was held by his clothes, or because the horse on which the cleric sits was held by the bridle or otherwise, and the like, so that he inflicted not an enormous but a moderate and light injury, he can obtain the benefit of absolution from the bishop, as in the chapter *Pervenit*, Extra, *De sententia excommunicationis*, and there fully through Joannes Andreae, and Extra, *De praescriptionibus*, last chapter, in the first Gloss.

The sixth and last word is *debilis* (the weak); that is, because the weak or invalids laying violent hands on clerics can be absolved by bishops by reason of their health or weakness, as in c. *Ea noscitur*, Extra, *De sententia excommunicationis*. It ought, however, to be enjoined on them that when the im-

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-pediment ceases they present themselves to the Apostolic See, to receive humbly the mandate of the same See, as in the aforesaid c. *Quod de his*, and in the chapter *Quamvis*, at the end, and the chapter *De cetero*, same title; otherwise he would fall back into the same sentence of excommunication, as in the aforesaid chapter *Eos qui*, *De sententia excommunicationis*, in the Sixth Book.

It is evident, therefore, from the foregoing, that not merely seventeen, but indeed thirty cases are now excepted from the rule of that c. *Si quis suadente diabolo*, C. 17, q. 4, and from the verse saying, "The Pope alone absolves one who strikes a cleric." But besides the aforesaid cases there are still more concerning the striking of clerics which are granted to bishops, of which five are contained in c. *Si vero*, § 2 and § 3, which is c. 3, Extra, *De sententia excommunicationis*. These are namely:

The first is, if anyone repels or injures a cleric who is using force against him, if he repels force with force at once; that is, understanding that if he defends himself with the moderation of blameless self-defence, he is not excommunicated, since it is lawful to defend oneself modestly (Extra, *De homicidio*, c. *Significasti*, where the text says: "Although all laws and all rights permit force to be repelled with force at once"). And it follows: because this must yet be done with the moderation of blameless defence, not to take vengeance but to ward off injury. It is proved also in the said c. *Si vero*, and in c. *Ex tenore*, same title, and ff. *De iustitia et iure*, l. *Ut vim*; and ff. *De vi et vi armata*, l. 1, § *Vim vi*; and ff. *Ad legem Aquiliam*, l. *Scientiam*, § *Qui cum aliter*; and C. *Unde vi*, l. 1; and dist. 1, c. *Ius naturale*. The text makes for it in c. *Ut famae*, at the end, Extra, *De sententia excommunicationis*, and C. 23, q. 3, c. *Non inferenda*, and ff. *Ad legem Aquiliam*, l. *Si ex plagis*, § *Tabernarius*. Nor does one seem to be excommunicated who, by exceeding the measure not on purpose, has struck a cleric, argument from Extra, *De restitutione spoliatorum*, c. *Olim*, at the end, and in c. *Perpendimus*, *De sententia excommunicationis*. And so the Gloss says on the said c. *Significasti*, *De homicidio*, where the matter of defence is fully treated. For the safer caution, therefore, such a one, defending himself and striking a cleric, is absolved by the bishop, as above, or even by another priest in the absence of the diocesan; because since the maker of the canons has not specially retained its absolution to himself, by that very fact he seems to have granted the faculty of relaxing it to others, as the text says in c. *Nuper*, § *In secundo*, Extra, *De sententia excommunicationis*.

The second is of one who has laid violent hands on a cleric found acting shamefully with his wife, as in the said c. *Si vero*, § *Nec ille*, *De sententia excommunicationis*.

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The third is of one who has struck a cleric acting shamefully with his mother.

The fourth is, if he has found him so with his sister, namely in the first line, according to the sounder understanding.

The fifth is, if he has found him so with his daughter. Of these four cases the text speaks in the said § *Nec ille*, where Innocent says that such persons, finding and striking as above, are not excommunicated. That text, however, does not say that they are not excommunicated, but says that such a one is not to be compelled to come to the Apostolic See; therefore, with reverence and indulgence to Innocent, it is safer that such a one be absolved by the bishop.

The sixth case also is of one who has struck or killed a cleric or priest who, despising the clerical habit, has shamelessly mixed himself up in tyranny and enormity, and so has apostatized, not wearing the habit nor the tonsure. For on account of the demerit of such an apostate, and in hatred of the clerical excess and for the correction of like clerics, such a striker does not incur the sentence of excommunication. A somewhat heavier penance, however, ought to be enjoined on him than if he had committed such things against laymen, as in the chapter *Cum non ab homine*, Extra, *De sententia excommunicationis*, and in c. *In audientia*, same title, and in the last chapter *De vita et honestate clericorum*; because if, warned a third time by the bishop, he does not desist from dishonesty of life, he loses the clerical privilege, as also appears in c. *Contingit* and in c. *Perpendimus*, *De sententia excommunicationis*; and so also is understood c. 1, Extra, *De apostatis*.

The seventh case is of one deprived of his limbs, who is not able to come to the Apostolic See on account of a perpetual impediment; for such a one is absolved by the bishop, as in c. *Ea noscitur*, and in c. *Mulieres*, and in c. *Quamvis*, Extra, *De sententia excommunicationis*.

The eighth case is of a public official who seizes and detains a cleric attacking another with injury, that he may restrain him from inflicting injury on another. For although, if he acts with that intention and purpose alone, he does not fall into excommunication, nor sin, but rather merits (C. 23, q. 3, c. *Fortitudo*, with very many chapters following), yet this is true when the prelate of such a cleric, who ought to restrain him, is absent; and such an official who has seized a cleric must resign him as soon as he can into the hands of his prelate; and if he has not done so he will be excommunicated. But if, when the bishop is present, the official has seized such a cleric, and at the request

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of the bishop has handed him over, he will be able to obtain the benefit of absolution from the aforesaid bishop, according to what is noted on c. *Ut famae*, § *Laici vero*, and on c. *Nuper*, and on c. *Universitatis*, Extra, *De sententia excommunicationis*. The text, however, in the said c. *Universitatis*, at the end, concludes that even if by the mandate of a superior a layman presumes to lay violent hands on a cleric, unless he does this for the sake of regular discipline against one incorrigible, both the one commanding and the one striking are excommunicated, and must go to the Apostolic See. And so the aforesaid chapters are understood. The enormity of the injury, however, ought to be judged at the discretion of the ordinary from the circumstances of places, causes, times and persons, according to what is noted on c. *De causis*, Extra, *De officio delegati*, and fully enough in the *Institutes*, *De iniuriis*, § *Atrox*; and Extra, *De poenitentiis et remissionibus*, c. *Deus qui*; and ff. *De verborum obligationibus*, l. *Continuus*, § *Cum ita*; and in c. *Sicut dignum*, Extra, *De homicidio*, where the text says, near the beginning of the chapter, that in the excesses of individuals not only the quantity and quality of the offence, but the age, knowledge, sex and condition of the offender are to be attended to; and not only according to the foregoing, but according to the place and time in which the offence is committed, penance ought to be imposed on each.

Besides the aforesaid thirty-eight cases of excommunication, from which those bound can be absolved short of the Apostolic See, there are also many cases relaxed to bishops, so that those bound by them can be absolved by the bishop.

The first was formerly of heretics, believers, favourers or receivers, and the like, as in c. *Ad abolendam*, and in c. *Excommunicamus*, and in c. *Sicut ait*, Extra, *De haereticis*. Today, however, the absolution of such persons is reserved to the Apostolic See, as we said above.

The first, therefore, is when anyone makes a schism and tries to withdraw obedience from the holy Roman Church, asserting that it is not to be obeyed as the head, nor to be reckoned as the head (dist. 19, c. *Nulli fas*).

The second is when the rulers of a city make undue exactions upon clerics or churches: if, when warned, they refuse to desist, both they themselves and their favourers are to know that they are subject to excommunication; nor can they be absolved until they have made competent satisfaction, as in c. *Non minus*. And during their obstinacy the constitutions and sentences which have been promulgated by such persons or by their mandate are to be held void and null, never to be of force at any time,

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as in c. *Adversus*, Extra, *De immunitate ecclesiarum*. To which make the notes on c. *Ad probandum*, Extra, *De re iudicata*, and on c. *Excommunicamus*, § *Credentes*, Extra, *De haereticis*, and C. 3, q. 4, c. *Nullus*.

The third is of one who, not elected by two parts of the Cardinals, conducts himself as Pope; who with all accepting him is excommunicated, as in c. *Licet*, Extra, *De electione*.

The fourth is when any master or scholar negotiates with any citizen of Bologna about the hiring of a lodging, without the tenants having been asked, unless the time of the hiring has elapsed, as in c. *Ex rescripto*, Extra, *De locato*.

The fifth is of monks, canons regular, archdeacons, deans, provosts, rural deans, cantors, and other clerics having parsonages, or also any priests whatever, who read or hear the laws or physic, namely medicine, as in c. *Non magnopere*, and in c. *Super specula*, Extra, *Ne clerici vel monachi*. This sentence, however, does not bind one having a parish church, not being a priest, as in c. *Statutum*, same title, in the Sixth Book.

The sixth is of one participating in a criminous crime, whether he participated before the pronouncement of the sentence of excommunication or after, as in c. *Si concubinae clericorum*, and in c. *Noverit*, and in c. *Nuper*, and there more fully, Extra, *De sententia excommunicationis*.

The seventh is of those who make statutes against ecclesiastical liberty, and of the writers, magistrates, consuls, rulers and counsellors of the places where statutes and customs of this kind have been issued or observed; and of those who have caused them to be observed, or have judged according to such statutes or customs, or who have presumed to write the things so judged, reducing them into public form, as in c. *Noverit* and in c. *Gravem*, Extra, *De sententia excommunicationis*.

The eighth is of those who knowingly receive ordinations or alienations of ecclesiastical things from schismatics who are excommunicated; and such ordinations or alienations are void and null, as in c. 1, Extra, *De schismaticis*, and C. 9, q. 1, c. *Ordinationes irritas*, because they have no execution unless they have been dispensed with, as in c. 2 and the last chapter, Extra, *De schismaticis*. And concerning alienations, that they are void, is proved also in C. 12, q. 2, c. *Alienationes*, and c. *Si quis de rebus*.

The ninth is of those who secretly speak with, or send writing or a messenger to, any Cardinal while they are in the conclave for the election of the Pope, as in c. *Ubi periculum*, § *Nulli*, *De electione*, in the Sixth Book.

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The tenth is of the lords, rulers and officials who, at the said time of the election of the Pope being at hand, have not diligently observed what is contained in the aforesaid constitution, in c. *Ubi periculum*, § *Praeterea*, verse *Quod si praemissa*.

The eleventh is of those who oppress any clerics or any other ecclesiastical persons to whom the election belongs in any churches or monasteries or other pious places, because, when asked or otherwise induced, they refused to elect the one for whom they were asked; or their blood relations, by despoiling the churches themselves, monasteries or other places, benefices or other goods of theirs, by themselves or through others,

or by otherwise unjustly persecuting or oppressing them, as in c. *Sciant cuncti, De electione,* in the Sixth Book.

The twelfth is of those usurping the regalia, the custody or guardianship, under title of advocacy or defence, in churches, monasteries or any other pious places, or presuming to occupy the goods of the churches, monasteries or places themselves when vacant, as in c. *Generali, De electione,* in the Sixth Book.

The thirteenth is of clerics or monks, or ecclesiastical persons, who procure the aforesaid to be done in their places, as in the said c. *Generali*, verse *Clericos*.

The fourteenth is of those who have been called to direct nuns in the elections of an abbess, unless they wholly abstain from those things through which discord can arise or be fostered among them concerning the making of the electors themselves, as in the chapter *Indemnitatibus*, § *Postremo, De electione,* in the Sixth Book.

The fifteenth is of those who procure that conservators given intrude themselves into things pertaining to the same; nor can they be absolved from the sentence of excommunication unless they first satisfy in full concerning the expenses the one whom they thus unduly harass, as in the last chapter, § *Ut autem, De officio delegati,* in the Sixth Book, at the verse *Pars vero*.

The sixteenth is of those who have extorted by force or fear an absolution from any excommunication, or its revocation, or of a suspension, or even of an interdict, as in c. *Absolutionis, De his quae vi metusve causa fiunt*. For such an absolution so extorted is of no moment, and the one extorting it is decreed to incur a new excommunication, as in the same place.

The seventeenth is of those who fraudulently feign some case, on account of which some judge may go, or send to some woman,

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for the sake of giving testimony, as in c. *Mulieres, De iudiciis,* in the Sixth Book.

The eighteenth is of those who compel prelates or chapters or other ecclesiastical persons to submit to laymen, or to alienate immovable goods or the rights of churches, as in c. *Hoc consultissimo*, § *Laici vero, De rebus ecclesiae non alienandis*, in the Sixth Book.

The nineteenth is of laymen usurping to themselves the goods and rights of churches, if, when lawfully warned, they have not desisted and made competent restitution, as in the said c. *Hoc consultissimo*, last §.

The twentieth is of those exacting any toll, or safe-conduct fee, or tax from churches or ecclesiastical persons, by themselves or through another, in their own name or another's, for their own persons or things which they carry, or cause to be carried, or transmit, not for the sake of trading. Those who have done the contrary, if they are individual persons, are excommunicated; but if a college or corporation of a city, castle or any other place, the city, castle or place itself incurs by the very deed the sentence of interdict; nor do they obtain absolution from such excommunication or relaxation of the interdict until they have fully restored what was exacted, and have made competent satisfaction for the transgression, as in c. *Quamquam, De censibus*, in the Sixth Book.

The twenty-first is of those who hinder those who complain before ecclesiastical judges, ordinary or delegated, in causes which pertain to them, from obtaining justice; or whoever compels the impetrators of Apostolic letters, or others having recourse to the ecclesiastical court in causes which by law or ancient custom pertain to it, to desist, or to litigate about them in the secular court, by oppressing the ecclesiastical judges, or the impetrators, or the litigants or those wishing to litigate before them, or by oppressing their kinsfolk, or by seizing their things or the ecclesiastical things of such persons, or in any other way. And all who give counsel, help or favour to the foregoing are by the very deed excommunicated, nor ought they to be

absolved unless satisfaction has first been made in full to the judge and to the party for the injuries, damages, expenses and interest, as in c. *Quoniam, De immunitate ecclesiarum,* in the Sixth Book.

The twenty-second is of any temporal lords forbidding their subjects to sell anything to prelates or clerics or ecclesiastical persons, or to buy anything from them, or presuming to grind corn for them, bake bread, or render other services, as in c. *Eos qui, De immunitate ecclesiarum,* in the Sixth Book. Two others

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cases of excommunication are contained in c. *Clericis,* same book and title; which, however, were taken away by the *Clementine Quoniam, De immunitate ecclesiarum*. Two others also are contained in the single chapter *De schismaticis,* in the Sixth Book; which also are void, because those Cardinals of the Colonna are not living, and also because the house of Colonna was restored to its honours and dignities by Benedict XI. There is also another concerning the deposed Emperor Frederick, and those obeying and favouring him, as in c. *Ad apostolicae, De sententia et re iudicata,* in the Sixth Book. But because this too is void, I do not care to count it.

The twenty-third is of those presuming to invent a new habit, or an order of a mendicant religion, or to make or receive profession, except in religious orders approved by the Apostolic See; or acquiring any house or place anew, or alienating what has been acquired, without the special licence of the Apostolic See, as in the single chapter *De religiosis domibus,* in the Sixth Book.

The twenty-fourth is of religious, tacitly or expressly professed, who in the schools or elsewhere rashly put off the habit of their religion, or go to any studies of letters whatever, unless licence to go to study has first been granted to them by their prelate with the counsel of their convent or of the greater part of it, as in c. *Ut periculosa, Ne clerici vel monachi,* in the Sixth Book; where the lord Joannes Andreae, the lord Pietro d'Ancarano and all their followers expressly hold that by the very fact that a religious appears in the sight of seculars without the habit of his own religion, namely rashly presenting himself, he is excommunicated. For the habit is so joined to the bones of monks or religious that, being in any place whatever, or resting in bed, they ought constantly to use it, as the text of the *Decretum* says, C. 20, q. 1, c. *Vidua,* and dist. 23, c. *Sanctimonialis,* where the Gloss says, "even in bed and in sickness." Joannes Andreae and his followers, however, say on the said c. *Ut periculosa* that they do not think it to be the mind of that text that a monk putting off his habit in his cell, or while he enters the bath in secret, or lying without the habit, is bound by that constitution, namely that he incurs excommunication by the very deed; but he incurs it only when he shows himself to the sight of men without the habit of his own religion; which is notable. Of this I spoke more fully elsewhere, namely on c. *Omnis utriusque sexus,* verse *Si quis autem,* Extra, *De poenitentiis et remissionibus.*

The twenty-fifth is of the Doctors or Masters who knowingly teach the laws or physic to those religious who have put off the habit of their religion,

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as in the said c. *Ut periculosa,* last §, *Ne clerici vel monachi,* in the Sixth Book.

The twenty-sixth is of those who knowingly hand over to ecclesiastical burial heretics, believers, receivers, defenders or their favourers; nor can they be absolved unless with their own hands they publicly exhume and cast out the bodies of such damned persons; and that place is to lack burial perpetually, as in c. *Quicumque, De haereticis,* in the Sixth Book.

The twenty-seventh is of secular rulers, or their officials, who intrude themselves into the cognizance of the crime of heretical depravity, or who presume to free from prison those detained for such a crime, or presume to oppose and bring impediment to the office of the inquisition of heretical depravity; and also those who knowingly have given help, counsel or favour in the foregoing incur excommunication; which if they endure

with hardened mind for a year, from then on they ought to be condemned as heretics, as in c. *Ut inquisitionis negotium*, *De haereticis*, in the Sixth Book.

The twenty-eighth is of those who procure anyone to be killed by the Assassins of Christians, if death has intervened, even if death has not followed. And the like of receivers, defenders or concealers of assassins, as in c. 1, *De homicidio*, in the Sixth Book.

The twenty-ninth is of clerics who let, or grant under another title, any house to manifest foreign usurers for exercising usury. Otherwise, if they are patriarchs, archbishops or bishops, they incur suspension by the very deed; if they are lesser secular clerics, they incur excommunication; if it is a college or corporation, they incur interdict. And if they endure such a sentence for a month, from then on the lands themselves are interdicted as long as the usurers stay there. If they are not laymen, they ought to be compelled by the ordinaries by ecclesiastical censure (*De usuris*, chapter 1 and chapter *Quamquam*, in the Sixth Book).

The thirtieth is of those granting reprisals against persons, whether generally or specially, as in c. *Et si pignorationes*, *De iniuriis et damno dato*, in the Sixth Book.

The thirty-first is of the temporal lords or rulers who do not cause to be observed the constitution issued against the pursuers of Cardinals, or of anyone of their household, or of the Pope, as in c. *Felicis*, last §, *De poenis*, in the Sixth Book. A term of one month, however, is fixed after knowledge of the foregoing has been had; and the officials of the aforesaid are also included

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if they have been likewise negligent. And it is to be noted that pursuers and participants cannot be absolved except by the authority of the Apostolic See, as we said above.

The thirty-second is of those giving licence to kill, seize, or otherwise oppress ecclesiastical judges on occasion of a sentence pronounced by them, etc. For within two months they can be absolved by bishops, but after two months they are absolved only by the Pope, as in c. *Quicumque*, *De sententia excommunicationis*, in the Sixth Book; and I spoke above among the cases reserved to the Apostolic See.

The thirty-third is of those absolved at the point of death, or by reason of another impediment, if, when the danger or impediment ceases, they do not present themselves as soon as they can, as in c. *Eos qui*, *De sententia excommunicationis*, in the Sixth Book; and I touched on it above; where it is to be known that one who has relapsed into the same requires absolution from one having the authority.

The thirty-fourth is of those absolved by the Apostolic See or by its legates, on whom it is enjoined, when absolved, that they present themselves to the ordinaries or to others to receive penance from them, and make satisfaction to those who suffered injury, or to those to whom they were obliged. For if they do not observe what is enjoined as soon as they conveniently can, they fall back into the same sentence, as in the said c. *Eos qui*, *De sententia excommunicationis*, in the Sixth Book.

The thirty-fifth is of those who bury corpses in cemeteries or churches in time of interdict in cases not granted, as in the chapter *Eos qui*, *De sepulturis*, in the *Clementines*.

The thirty-sixth is of those who bury the publicly excommunicated, not absolved, as in the same place.

The thirty-seventh is of those who bury those interdicted by name, not absolved, as in the same place.

The thirty-eighth is of those who bury manifest usurers when no security has been given for restitution, nor restitution made, as in the same place, joined with c. 1 and 2, *De usuris*, in the Sixth Book. And in these four cases those burying are bound if they have knowingly and rashly buried the aforesaid, as in the said c. *Eos qui*; from which excommunication they ought not to be absolved unless they have first, at the discretion of the diocesan bishop, made competent satisfaction to those to whom injury was done through the foregoing,

as in the said chapter *Eos qui*.

The thirty-ninth is of any religious who presume to appropriate to themselves the tithes of newly cultivated land, or other tithes owed to churches and not pertaining to them, or by contrived frauds or pretexts to usurp them;

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or who, from the animals of their household servants and their shepherds, or of others mingling their animals with their flocks; or from animals which in many places they buy in fraud of the churches, and hand back to the sellers when bought, or to others, to be held from bishops; or who from the lands which they hand over to others to be cultivated do not permit, or forbid, the tithe to be paid to the churches, unless after a request has been made to them about this by those whom it concerns they have desisted from the foregoing within a month. And if within two months they have not made competent amends to the damaged churches for those things which they have presumed to usurp or retain against the foregoing, they are suspended from their offices, administrations and benefices until they have restored and made satisfaction. And if they do not have administrations or benefices, they incur the sentence of excommunication, by no means to be absolved before worthy satisfaction, as in c. 1, *De decimis*, in the *Clementines*.

The fortieth is of monks and canons regular not having any administration, who, without the special licence of their prelates, presume to betake themselves to the courts of secular princes in order to inflict any damage whatever on their prelates or monasteries, as in chapter 1, which begins *Ne in agro*, § *Quia vero*, verse *Nos eorum*, *De statu monachorum*, in the *Clementines*.

The forty-first is of monks holding arms within the enclosure of the monastery without the special licence of their abbots, as in the aforesaid chapter and §, verse *Praefatae quoque sententiae*.

The forty-second is of those hindering the visitations of nuns, if when warned they have not desisted, as in c. *Attendentes*, last §, *De statu monachorum*, in the *Clementines*.

The forty-third is of certain women who are commonly called Beguines, professing no approved rule, yet adhering at pleasure to certain religious, and rashly presuming concerning the supreme Trinity, the divine essence, the articles of faith and the ecclesiastical sacraments, and introducing opinions contrary to the Catholic faith. Hence both they themselves and any other women taking up or following their state incur the sentence of excommunication by the very deed, as in c. 1, *De religiosis domibus*, in the *Clementines*.

The forty-fourth is of any religious fostering such women in the aforesaid state, or even inducing them to it, or giving counsel, help or favour to it, as in the said c. and §. To which closely come the things that are held in C. 18, q. 2, c. *Perniciosam*.

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The forty-fifth is of those who knowingly contract marriages in the prohibited degrees of consanguinity or affinity, or with nuns or religious, or clerics constituted in sacred orders, as in c. *Eos qui*, *De consanguinitate et affinitate*, in the *Clementines*.

The forty-sixth is of the religious themselves, tacitly or expressly professed in any of the approved religious orders, and of the nuns themselves likewise tacitly or expressly professed, and by equal reason of the clerics themselves constituted in sacred orders, as in the said c. *Eos qui*, together with the Gloss and the laws there alleged; where it also adds a precept to the prelates of churches that they publicly denounce as excommunicated those whom it is established have so contracted, or cause them to be denounced, until they are separated from one another and deserve to obtain the benefit of absolution.

The forty-seventh is of inquisitors of heretical depravity, bishops, or commissaries of chapters deputed for this when the see is vacant, who under pretext of the office of inquisition have by any unlawful means

extorted money from anyone, or knowingly attempted to apply the goods of churches, on account of the offence of clerics, on occasion of the said office, to the treasury or to the church; and they cannot be absolved except at the point of death, until they have fully satisfied those from whom they extorted it for the money so extorted, as in c. *Nolentes*, *De haereticis*, in the *Clementines*.

The forty-eighth is of officials and rulers of cities or counties, or consuls, counsellors or judges, who make, dictate or write statutes that usuries are to be paid, or that, when paid, they are not to be demanded back and restored; and of those presuming to judge according to the aforesaid statutes, as in the chapter *Ex gravi*, *De usuris*, in the *Clementines*: they will incur the same sentence unless they have deleted statutes of this kind from the books of their communities, if they have power over this, within three months; or if they have presumed in any way to observe the statutes themselves, or customs having their effect, as in the said c. *Ex gravi*.

The forty-ninth is of mendicant religious who newly receive houses for dwelling, or any places whatever, or alienate those received, under any title, as in c. *Cupientes*, *De poenis*, in the *Clementines*, joined with the single chapter *De religiosis domibus*, in the Sixth Book, and the single chapter *De excessibus praelatorum*, in the Sixth Book, and the Gloss on the said chapter *Cupientes*.

The fiftieth is of religious presuming to utter anything

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in their sermons or elsewhere, so that their hearers withdraw in any way from the payment of the tithes owed to the churches, as in the said c. *Cupientes*, § *Illos etiam religiosos*.

The fifty-first is of religious who knowingly neglect to make conscience for those confessing to them about paying tithes; who ought to remain suspended by the very fact from the office of preaching until they have made conscience to those confessing (if they have the faculty conveniently to tell them this); thereafter to incur the sentence of excommunication by the very fact, if they have presumed to preach with the aforesaid negligence, as is premised, not purged, as in the said c. *Cupientes*, § *Qui vero scienter*.

The fifty-second is of any religious whatever, both exempt and not exempt, of whatever order, who do not observe the interdict which they see or know the cathedral or mother church of the place observes, whether the interdict was laid by the authority of the Apostolic See, or by the authority of the ordinaries, or through the statutes of provincial councils, or interdicted by their authority, or a cessation from divine services is proclaimed. The same holds also of general cessations from divine services of cities, lands and other places, which by custom or otherwise chapters, colleges or convents of secular or regular churches claim for themselves, as in c. 1, *De sententia excommunicationis*, in the *Clementines*.

The fifty-third is of the Friars Minor who in time of interdict admit to divine services the brothers or sisters of the Third Order of Saint Francis, or those called "of Penance," as in c. *Cum ex eo*, *De sententia excommunicationis*, in the *Clementines*, where the text says at the end that if they have done so, they are to know that they are subject by that very fact to the sentence of excommunication, from which they cannot obtain the benefit of absolution through anyone other than the Roman Pontiff, or, satisfaction having first been made, through the bishops of the places, whom we will to act by Apostolic authority in this matter.

The fifty-fourth is of those opposing or attacking the letters of a Pope elected but not yet crowned; concerning whom it was decreed that he can exercise his office, and therefore those attacking or opposing such letters incur the sentence of excommunication by the very deed, as in the Extravagant of Benedict XI which begins *Quia nonnulli*.

The fifty-fifth is of those entering the monasteries of Saint Clare otherwise than as is contained in the rule, as appears in the privilege of Gregory IX, given in the tenth year of his pontificate,

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the absolution of which excommunication Eugene IV and Nicholas V reserved to themselves, and granted to me once only, etc.

The fifty-sixth is of those entering the monasteries of nuns of the Order of Preachers outside necessary cases, as the Preachers themselves assert; although I have not seen the privilege with my own eyes, yet I have had it from trustworthy persons that the absolution is committed to their General, and the General himself can commit it to whom he pleases.

Fourthly and principally, I say, the excesses of clerics are struck by deposition. Here it is to be known that whenever a cleric is incorrigible, he can be deposed for any crime whatever (dist. 81, c. 1, where there is a good Gloss; and in c. 2, *De re iudicata*, in the Sixth Book, in the Gloss of Joannes Andreae on the word *gravissima*, which begins *Unde dixit*). For if that is in, in which it seems less to be, it is much more in that in which it seems more to be, as in the second book of the *Topics*. But it seems to be less in an Emperor than in a cleric, since the Emperor ought to be set over almost all Christians in temporal things (C. 7, q. 1, c. *In apibus*); and yet even the Emperor is deposed for any crime whatever, if he is incorrigible. Hence he is deposed also if he is less useful (C. 15, q. 6, c. *Alius*, and the notable Gloss on dist. 40, c. *Si Papa*, where the Gloss says that if the Pope is notoriously criminous, and simoniacal, or an adulterer, and when warned is incorrigible, so that the Church is scandalized by it, the Pope can be accused and consequently deposed; because contumacy, namely of incorrigibility, is called heresy (dist. 81, c. *Si qui sunt presbyteri*). Hence also the contumacious, namely the froward and rebellious, is called an unbeliever (dist. 27, c. *Nullus*). If, however, the Pope is detected straying from the faith, even if his heresy were secret, he could be accused of it and consequently deposed, as in the said c. *Si Papa*, together with the Gloss placed there, and more fully in the Extravagant of the sacred Council of Constance which begins *Frequens*. If therefore such things are decided of the Pope and the Emperor, how much more is the like to be concluded of the other lesser prelates and clerics!

It is to be held, therefore, that not only wherever a canon expresses it, as for theft, for perjury, for homicide, can one be deposed, as in c. *Cum non ab homine*, and there fully through Joannes Andreae; likewise for the crime of usury (C. 14, q. 3, c. *Clerici*; and C. 14, q. 4, c. 1 and 2, and there through the Gloss and the Archdeacon); but also every notorious crime, or one civilly proved, brings deposition on one who is incorrigible after due warnings. So ought the Gloss on dist. 48, c. *Quando multa*, to be understood, where the Gloss says that a crime civilly proved brings deposition. To which makes dist. 24, last chapter, where the text says: "Those who have confessed or been detected are to be cast out of the clergy."

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For one who at the time of ordination keeps silent about his crime is deposed (dist. 50, chapter *Ex poenitentibus*, and the Gloss on the said last chapter, dist. 24). The Gloss, however, on c. *Ex tenore*, Extra, *De temporibus ordinationum*, fully distinguishes between one to be promoted and one promoted; for one to be promoted is more easily hindered than one promoted is cast down (C. 15, q. 1, last §). But concerning the promoted the Gloss says, according to Huguccio and Tancred, four things are to be considered. The first, namely, the quantity of the crime, that is, whether it be enormous or moderate. The second is the quality of the crime, that is, whether it be secret or manifest. The third is the manner of publication, namely whether it be public through the evidence of the deed, or through the sentence of a judge, or through spontaneous confession made in court; in these three ways a crime becomes notorious, as in the last chapter, Extra, *De cohabitatione clericorum et mulierum*. The fourth is the satisfaction of the penitent, namely whether he has done true penance or feigned. If the crime is enormous and manifest, so that quantity and quality of the crime agree together, he is deposed, and is never restored afterwards, however much penance he has done (dist. 50, c. *Miror*). But if the crime is enormous and secret, then he is to be warned to abstain, but not compelled,

because he has the Lord alone as avenger, since hidden sins do not have punishment (C. 32, q. 5, c. *Christiana*); and penance having been done, he will be able to use his office and ascend to greater orders, as in the said c. *Ex tenore*, and in c. *Ex tuae*, Extra, *De simonia*; except for those guilty of homicide, as in the last chapter, *De temporibus ordinationum*, where such crimes are exemplified, namely when it says, "who through the guilt of adultery, perjury, homicide, or false witness," and below it says, "except those guilty of homicide," etc.; where the Gloss says: "So it appears that a homicide, however secret, cannot minister even after penance has been completed," as in c. *Inquisitionis* 1, response, Extra, *De accusationibus*, and C. 1, q. 7, c. *Si quis omnem*. But if the crime was moderate and secret, penance or part of it having been completed, he will be able to remain in his office, and to be promoted to greater orders, more strongly than in the other case (dist. 50, c. *De his vero*, verse *Qui autem*). If moderate and manifest, if he has been convicted in court, or has confessed for fear of proofs, in that case he is deposed (dist. 81, c. *Si quis clericus*). But if it is public through the evidence of the deed or spontaneous confession, then, penance having been done, he can be dealt with mercifully, according to what has seemed good to his bishop, sometimes more, sometimes less (C. 15, q. last, c. *Si quis presbyter*; and dist. 50, c. *Presbyterum*). And understand all this when he has done true penance, not feigned; because if feigned,

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he is not restored (dist. 50, c. *Ut constitueretur*). Innocent also holds the foregoing on the said c. *Ex tenore*, who also says that in enormous and secret crimes he does not believe the dispensation of the ordinary to be necessary, but the absolution of the priest by the power of the keys suffices, argument C. 6, q. 1, c. *Illi*, by which, although it be meritorious humility if he abstain. And these things are true unless the crime be such that it hinders the execution of the office after sentence; concerning which fully in c. *Nisi cum pridem*, § 1, through Innocent in his Gloss which begins *Quale est simonia*, where he puts on a level with enormous crimes simony, apostasy and schism. But on the said c. *Ex tenore* he says that enormous and moderate crimes can be gathered from c. *At si clerici*, Extra, *De iudiciis*, and dist. 80, c. 1, and dist. 50, the said c. *Sacerdotes*, and c. *De his vero*. In the said c. *At si clerici*, moreover, it is gathered that the enormous and greater crimes are understood from adultery upwards. In these matters, however, a discreet judge will judge which are to be judged enormous crimes, and consequently bringing the deposition of clerics, according to what is noted on c. *De causis*, Extra, *De officio delegati*, and in the *Institutes*, *De iniuriis*, § *Atrox*, and through Joannes Andreae on c. *Si clericos*, *De sententia excommunicationis*, in the Sixth Book, and there also through the Archdeacon, and through Panormitanus on c. 1, *De officio ordinarii*, in the *Clementines*. The notes on the chapter *Cum illorum*, Extra, *De sententia excommunicationis*, make for this.

Fifthly and principally, I say, the excesses of clerics are struck by imprisonment. Here it is to be known that prison is sometimes given as a penalty according to the canons, as in c. *Quamvis*, *De poenis*, in the Sixth Book; and sometimes it is deputed for custody, as in the said c. *Quamvis*, and in l. 1 and the last law, C. *De custodia reorum*, where the text says: "Those whom prison holds enclosed, we decree by open definition that either a swift penalty remove them when convicted, or long custody shall not wear them down when they are to be freed." To the same, ff. *De poenis*, l. *Aut damnum*, § *Solent*. One can, moreover, be punished with the penalty of prison perpetually or for a time, as in the said c. *Quamvis*. Hence, when it is not expressed in the sentence, it is stood by what is expressed; but if anyone has been condemned to prison simply, he is understood to be detained perpetually, as in l. *Servus*, C. *De poenis*. Dist. 50, c. 1, makes for it, where the text says: "Lest, when such things are not decided but punishment is delayed temporally, vengeance be believed to be put off." To the same, ff. *De postulando*, l. *Puto*, § 1, and Extra, *De constitutionibus*, c. *Ex litteris*, near the end, and in the penultimate chapter, § *Si qui autem*, Extra, *De haereticis*, where the text says: "But if any of the aforesaid, after they have been caught, have refused to return to doing worthy penance, they are to be thrust into perpetual prison." The text says the like concerning a certain forger in c. *Novimus*, last §, Extra, *De verborum significatione*, where the text beautifully says: "You shall shut him up in perpetual prison to do

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penance, to be sustained on the bread of sorrow and the water of anguish, that he may lament what he has committed, and not further commit what is to be lamented"; where the Gloss says: this is true penance (*De poenitentia*, dist. 3, at the beginning); and expound "that he not commit" to mean that he have the purpose and will never to commit the like again. For anyone who receives penance ought to be of that purpose and will; otherwise it would not be true penance. So says the aforesaid Gloss, and well; concerning which I treated fully in the *Treatise on Penance*, second part, article on contrition, where I discussed the duration of contrition.

But if it be asked for what crimes the penalty of prison is imposed, it is answered that for any capital crime of which a cleric has been convicted, or which he has confessed in court, especially if he appears incorrigible, as because when warned he does not desist, he can justly be committed to prison, according to what is noted on c. *Si quis episcopus*, dist. 50. Hence if he has falsified a writing or spoken false testimony, being deposed from the honour of office he is to be thrust into a monastery, and there, as long as he lives, he is to receive lay communion only, says the text in the said c. *Si quis episcopus*. Likewise one who falsifies Apostolic letters or the seal of a prince, as in c. *Super eo* and in c. *Ad audientiam*, Extra, *De crimine falsi*. Likewise apostate clerics, who when warned can be induced neither by threats nor by blandishments to take up again the clerical habit, are imprisoned under heavy custody, so that only life is reserved for them in their misery, until they come to their senses from the wickedness of their presumption, as in c. *A nobis*, Extra, *De apostatis*; which is understood of clerics constituted in sacred orders, or of those professed tacitly or expressly in any of the approved religious orders, as the Gloss says on the said c. *A nobis*, and better in c. *Tuae fraternitati*, same title. To which makes the penultimate chapter, Extra, *De regularibus*, and C. 20, q. 3, c. *Eos qui semel*. Likewise heretics are imprisoned, as in c. *Ut inquisitionis* 1, response, *De haereticis*, in the Sixth Book, and in c. 1, § *Sane*, *De haereticis*, in the *Clementines*, and there through Paulus de Liazariis. Likewise in many cases a monastery is deputed as a prison; as, for example, if a woman has been publicly caught or condemned in adultery, she is thrust into a monastery to do perpetual penance, if her husband has not been willing to receive her when amended, since within two years he can receive her if he wishes; but if he does not wish, or the husband dies in the meantime, then let the woman be tonsured and receive the monastic habit, to wear it perpetually, as in the Authentic *Ut nulli iudicum*, § *Si vero*, collation 9. Hence was taken the

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aforesaid Decretal *Gaudemus*. And so sometimes, on account of his fault, one is compelled to enter a monastery to perform penance, as in c. *Si ille*, dist. 50, and dist. 81, the said c. *Dictum*, and the chapter *Si quis clericus*; and C. 16, q. 6, c. *De lapsis*; and C. 33, q. 2, c. *Admonere*; and C. 27, q. 1, c. *Si quis rapuerit*. Likewise a monastery is given as a prison for a priest confessor who has presumed to reveal the sins of penitents by word or sign or any other way, as in c. *Omnis utriusque sexus*, at the end, Extra, *De poenitentiis et remissionibus*. Likewise clerics caught in robberies or other great crimes ought to be thrust into strict monasteries to perform perpetual penance, as in c. *Tuae*, Extra, *De poenis*. Likewise a cleric who has confessed to or been convicted of adultery is committed to prison (dist. 81, the said c. *Si quis clericus*), and so for like causes (same distinction, c. *Sacerdotes*, with many chapters following). Likewise on account of the mutilation of limbs, or homicide, a cleric is bound, to be detained in the workhouse of perpetual condemnation (C. 23, last question, c. *His a quibus*). Likewise according to the quality of the crime, the honour or the means of the accused, the proconsul judges whether the accused himself is to be sent to prison, or handed over to a soldier, or entrusted to sureties or to himself (ff. *De custodia et exhibitione reorum*, l. 1; and Joannes Andreae notes on c. *Constitutus*, on the Gloss which begins *In potentia*, Extra, *De appellationibus*). And whether the prison is to be safe or strict is committed to the judgement of a good man to decide, as Paulus de Liazariis notes on c. 1, *De haereticis*, in the *Clementines*.

As to who may lawfully seize or imprison clerics, it is to be said that bishops, abbots and other prelates having ordinary or delegated jurisdiction can seize and detain for a just cause, as Innocent says on c. *Ut famae*, near the end, Extra, *De sententia excommunicationis*; and he gives the example of abbots. The like holds also of others having similar authority. Innocent also says in the same place that even lesser prelates who do not have jurisdiction, and even perhaps subjects and companions, can seize their companion or subject whom they hold suspected, and present him to the judge having the authority to take cognizance of the crime, as in the Authentic *Ut iudices sine quoquo suffragio*, § *Necessitatem*, and argument C. *De decurionibus*, l. *Generali*, and in the Authentic *De defensoribus civitatum*, § *Nos igitur*, and § *Et interius*, and argument ff. *De his quae in fraudem creditorum*, l. *Ait praetor*, § *Si venditorem*.

Innocent also says in the same place that any cleric could seize, and for a short time detain, a cleric his servant, if he held him probably suspected, argument ff. *De poenis*, l. *Respicien-*

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-dum, § *Furta*. Understand it, however, so that he present him as soon as he conveniently can to be judged by the superior, argument C. *De sportulis iudicum*, Authentic *Ut litigantes iurent*, § *Et hoc quoque iubemus*, and in the laws alleged above. For laymen, however, whether they be judges or have other power over clerics, it is not lawful to seize clerics, because they cannot renounce the clerical privilege either tacitly or expressly, as in the chapter *Si diligenti*, Extra, *De foro competenti*. Innocent says more on the said c. *Ut famae*: that even if laymen are judges delegated by ecclesiastical prelates, and seize clerics, they do not escape the sentence of excommunication (C. 17, q. 4, chapter *Si quis suadente*; and in the chapter *Universitatis*, Extra, *De sententia excommunicationis*), even if the cleric consented to such capture, as in the chapter *Contingit*, Extra, *De sententia excommunicationis*. Of this, however, I have already treated above; and it is held sufficiently in the chapter *Nuper*, Extra, *De sententia excommunicationis*, and in the chapter *Cum episcopus*, *De officio ordinarii*, in the Sixth Book, and in the chapter *Si clericos*, *De sententia excommunicationis*, in the Sixth Book; and the Archdeacon notes on dist. 45, on the *Summa*, at the end, and C. 2, q. 8, chapter 2. Nor does it matter whether a cleric is held enclosed in fetters or chains, or by walls (ff. *Ex quibus causis maiores*, l. *Succurritur*, and Gloss 1 on the said chapter *Nuper*), where Innocent says: "It does not seem to be force whether he is shut in prison, or bound with ropes, or surrounded by guards, so that he cannot go where he wishes."

But whether a layman can imprison a cleric having the administration of his goods by the commission of that layman, if the cleric does not render a full account of the administration — the Gloss on c. *Dilectis filiis*, Extra, *De appellationibus*, at the beginning, argues that it is so, by c. 2, Extra, *Ne clerici vel monachi*. The contrary, however, is true, because laymen have no authority or jurisdiction over clerics, even if the clerics subject themselves of their own accord, as in the said c. *Si diligenti*, *De foro competenti*, and in the said c. *Contingit*, *De sententia excommunicationis*. And so also the Gloss affirms on the said c. *Dilectis*, *De appellationibus*, and on the said c. 2, *Ne clerici vel monachi*, where it assigns the reason: because it is forbidden to laymen to call clerics away from the divine offices (C. 21, q. 3, chapter *Cyprianus*; dist. 88, last chapter). Hence if they have done the contrary, they ought not to bring away advantage from their own offence (ff. *De regulis iuris*, l. *Non fraudantur*, § *Nemo*; and argument in c. *Quia frustra*, Extra, *De usuris*; and C. 16, q. 1, c. *Lege*, with the like). It is also to be known that sometimes perpetual prison is changed for someone, as for one condemned for heresy who was a religious, as in c. *Accusatus*, at the end, *De haereticis*, in the Sixth Book, and in c. 1,

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De haereticis, in the *Clementines*.

Sixthly and principally, I say, the excesses of clerics are struck by beating. Here it is to be known, first, that a bishop ought never to beat anyone with his own hands. Hence the Apostle says, 1 Timothy 3: "A bishop must

be blameless," and below, "not a striker, but modest." It is forbidden also in the *Decretum*, dist. 86, c. *Non liceat*; and C. *De episcopis et clericis*, Authentic *Sed neque propriis manibus*. For it is special in a bishop to beat no one with his own hands, to whom holiness leaves the glory of pardoning (C. *De episcopis et clericis*, l. *Si quis in hoc genus*). But when a lawful cause is present, the bishop can do through another what he cannot do by himself. Hence he can commit to a cleric to strike a cleric moderately, as is noted on C. 5, q. 5, c. *Illi qui*, where the Gloss raises the question whether clerics ought to be subjected to beatings to give testimony; and it says that it seems so, as here, and below in the same place, because according to c. *Presbiteri* and dist. 45, the said c. *Cum beatus*. Some, however, say that lesser clerics can be tortured, but not greater. Others say that all suspects can be tortured; for even free men who waver are tortured, as Extra, *De accusationibus*, c. *Super his*, and ff. *De quaestionibus*, l. *De minore*. And the Church of the Virgin can correct some, as C. 33, q. 5, c. 1. This is certain: that lesser clerics are without distinction subjected to beatings for any crime whatever (dist. 35, the said c. *Ante omnia*, where a drunken cleric is subjected to corporal punishment); and the Gloss on dist. 40 says, "let him receive forty strokes less one." Greater clerics, however, are not subjected to beatings except for enormous crimes, as the Gloss says on the said c. *Illi qui*, and on dist. 45 in the *Summa*, where the Gloss examines spiritual and corporal striking. It calls spiritual striking a correction delivered in indiscreet speech, which is forbidden (dist. 45, last chapter); it calls corporal striking that which is done by the hand; and such, if it is done from anger or hatred, or that one may be feared the more, is forbidden (dist. 41, chapter 1). But if it is done for the sake of correction, it is lawful to one who has power over him (dist. 45, chapter *Cum beatus*). Let the bishop beware, however, lest he subject a cleric to a layman to be beaten; because if a layman beats a cleric, even by the commission of a prelate, both the layman and the prelate who commands are excommunicated, as in the chapter *Universitatis*, Extra, *De sententia excommunicationis*, unless the cleric were wholly incorrigible, as in the chapter *Cum non ab homine*, and in the chapter *At si clerici*, Extra, *De iudiciis*. An abbot, however, and like prelates, or even lesser ones, for the sake of correction or of regular discipline, can lawfully,

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with their own hand, or even through other clerics or monks, beat or cause to be beaten with modesty their offending clerics, as in the said chapter *Universitatis*, and in the chapter *Cum voluntate*, § *Si vero*, *De sententia excommunicationis*, where the text says: "But if those who obtain it by reason of office in the church, or also other senior clerics, out of zeal of devotion, should strike lightly, for the sake of correction, boys or youths constituted in minor orders disturbing the divine office; and those who under pretext of prelacy or of mastership strike their subjects and scholars, they do not incur the sentence of excommunication." Which is also to be said of those who have thought fit to correct in like manner some of their household or kinsfolk of the lower grades, that they may be restrained from their insolences and formed in knowledge and good morals. Hence the Gloss on dist. 45, chapter *Cum beatus*, says: there are also other persons who have the coercion of beatings, but moderate, as a lord, the father of a family, a master, and a husband, as C. 23, q. 4, c. 1, and C. 7, q. 1, chapter *Sicut*. And the Gloss adds there that if a father, with the intent of correcting, beats his son, even one constituted in sacred orders, he is not excommunicated, because that hand is not injurious, since he does not act with intent to injure, according to what is noted on c. 1 and on the said c. *Cum voluntate*, last §, *De sententia excommunicationis*; where the Gloss understands the same of all the persons named in that §, namely that even if they exceed the measure of correction or regular discipline, they do not fall under the canon of the chapter *Si quis suadente*, C. 17, q. 4, which requires that the violence be done knowingly, maliciously and deliberately. But the hands of the aforesaid persons are not malicious but rather charitable, although they may accidentally have exceeded the measure; therefore they do not fall under it, according to what is noted on the said chapter *Cum voluntate*, at the beginning and at the end. And where it was said above of lesser and greater clerics, understand the lesser as regards the minor orders; and understand the greater clerics as those constituted in sacred orders; and such greater ones ought not to be subject to beatings except for greater, or graver and mortal, faults, as the text says in the said

chapter *Cum beatus*. Hence clerics even constituted in sacred orders are subjected to beatings if they steal (C. 12, q. 2, chapter *Fraternitas tua*, and there through the Gloss and the Archdeacon), where the Gloss also says: this is general, that those are chastised with beatings who are poor, as in ff. *De iurisdictione omnium iudicum*, l. *Si quis id quod*, § *In servos*; hence we say, one who cannot pay,

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let him pay in his body, as in the said § *In servos*, and ff. *De in ius vocando*, last law; and C. 12, q. 2, chapter *Episcopus*, § *Libertus*; and C. 14, q. 6, chapter *Si res aliena*. Likewise a cleric who is a calumniator is subjected to beatings by the ecclesiastical judge, as in chapter 1, Extra, *De calumniatoribus*. Likewise clerics constituted in minor orders, as in the said chapter *Ante omnia*, and in the chapter *Episcopus*, in the Gloss on *aut verberetur*, dist. 35. Likewise one who injures the judge, by committing false testimony in a cause, or something else similar, can be chastised with beatings by the bishop, as is noted in chapter 1, Extra, *De crimine falsi*. Likewise one who has composed a defamatory libel and could not prove it is according to the canons subjected to be chastised with beatings (C. 5, q. 1, chapter 1, and there it is noted in the *Summa*; and C. 5, q. 5, chapter *Illi qui*); according to the laws, however, one who has composed a defamatory libel is punished with death if he does not prove it (C. *De famosis libellis*, l. 1; and C. 5, q. 1, chapter *Si quis famosum*, and there a good Gloss in the *Summa*).

Of the aforesaid beatings it is also treated in C. 5, q. 5, c. *Non omnis*; and *De poenitentia*, dist. 1, *Aut facta*, verse *Causa*; and C. 17, q. 4, chapter *Nullus clericorum*. And Hostiensis touches on it in the chapter *Cum in decorum*, Extra, *De aetate et qualitate*; and Joannes Andreae in the chapter *Si clericos*, *De sententia excommunicationis*, in the Sixth Book, and in the said chapter *Universitatis*. And blessed Thomas Aquinas touches on parents and masters in the *Secunda Secundae*, question 65, article 3. And of a husband beating his wife it is treated in C. 7, q. 1, chapter *Sicut alterius*, and there the Gloss, and C. 33, q. 2, chapter *Placuit*, with the like. And note that wherever a cleric is subjected to beatings, it ought always to be understood that he is beaten short of the shedding of blood (C. 23, q. 8, chapter *Saepe*, and the following chapter; and Extra, *Ne clerici vel monachi*, chapter *Sed nec procuratores*, and c. *Clericis*, and c. *Sententiam sanguinis*; and c. *In archiepiscopatu*, Extra, *De raptoribus*).

Seventhly and lastly, I say, the excesses of clerics are struck by degradation. Here it is to be known that degradation is the grave, solemn and last penance of clerics; concerning which it is handed down fully enough in the chapter *Degradatio*, *De poenis*, in the Sixth Book, where the form of degradation is given: namely that the cleric to be degraded, clothed in sacred vestments, holding in his hands a book, vessel or other instrument or orna-

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-ment pertaining to his order, as if he were to minister solemnly in his office, is brought into the presence of his bishop; and the bishop publicly takes from him singly, whether they be vestments, chalice, book or any other things which were handed to him by the bishop in his ordination according to the custom of those ordaining clerics, beginning with the vestment or ornament which was given or handed to him last, and descending step by step; the degradation continues as far as the first vestment, which is given in the conferring of the tonsure; and then his head is shaved or shorn, so that the tonsure or clerical state of vestments does not remain in him; saying: "We take from you such a priestly or clerical vestment, and deprive you of the priestly or clerical honour," and so of the like; saying lastly: "By the authority of God almighty, the Father and the Son and the Holy Spirit, and our own, we take from you the clerical habit, and depose, degrade, despoil and strip you of every order, benefice and clerical privilege." And this is called the actual degradation of clerics.

Verbal degradation, however, is the same as deposition, which, as regards clerics constituted in minor orders, can be done through the sentence of their own bishop alone, depriving them of order or benefice, as in the

said chapter *Degradatio*. But of clerics existing in sacred orders the degradation cannot be done by their own bishop, unless in the degradation of a priest the bishop joins to himself six other bishops, and in the degradation of a deacon three (C. 15, q. 7, c. *Felix*, and c. *Si autem*, and better in c. *Si quis tumidus*), where the text says: "By three neighbouring bishops, if it is a deacon who is accused; if a priest, by six; if a bishop, by twelve; with priests let him be heard." Understand it, however, as is said in c. *Felix*, at the end: that a bishop is heard by twelve, a priest by six, and a deacon by three, with his own bishop, that is, besides his own bishop (C. 15, q. 7, c. *Presbyter*). And what is said of the deacon is understood the same of the subdeacon, as in the chapter *Miramur*, Extra, *De servis non ordinandis*. And the Gloss on chapter 1, C. 15, q. 7, says that if it is a matter of a crime tending to deposition from order, then the presence of bishops is necessary; but if it is a matter of deposition from a benefice, then the bishop alone suffices, with the presence of his clerics (C. 18,

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q. 2, chapter *Si quis*; C. 16, q. 7, c. *Inventum*; and Extra, *De iudiciis*, chapter *At si clerici*; and in the chapter *Sicut*, Extra, *De cohabitatione clericorum et mulierum*, with the like). In the case of heresy, however, one's own bishop, having called together abbots and other prelates and religious persons, and lettered men of his diocese, whom it shall seem expedient, can degrade priests and clerics, as in chapter 1, *De haereticis*, in the Sixth Book. But the vicar of a bishop, or a bishop-elect not yet confirmed, cannot degrade, as in the chapter *Transmissam*, Extra, *De electione*; and Joannes Andreae notes it in the chapter *Romana*, in the third Gloss, *De appellationibus*, in the Sixth Book.

For what causes, however, a cleric can be degraded, Goffredus notes in the chapter *Novimus*, Extra, *De verborum significatione*: as for the crime of falsity and for heresy, as in the said chapter *Novimus*, and in the chapter *Ad falsariorum*, and in the chapter *Ad audientiam*, Extra, *De crimine falsi*, where one who falsifies letters of the Pope or the seal of a King ought to be deposed and degraded and handed over to the secular court. Likewise one who plots against the prince, as the moderns note in the chapter *Petitio*, Extra, *De iureiurando*. The chapter *Novimus* says that for any crime, provided it be damnable and harmful, a cleric can be handed over to the secular court, and for no crime that is not damnable and harmful ought he to be handed over. But in c. *Excommunicamus*, Extra, *De haereticis*, he gathers three cases, namely of heresy, of calumny or contumely on account of which the bishop has been deposed, and of the crime of falsity. He alleges the penultimate chapter *De haereticis*, and C. 11, q. 1, c. *Si quis sacerdotum*, and the said c. *Ad falsariorum*. The Gloss also gathers the aforesaid three cases on the said c. *Si quis sacerdotum*. It is to be held, however, as a rule, that for any damnable and harmful crime, if he is incorrigible, he is to be degraded and handed over to the secular court, according to what is noted on c. *Cum non ab homine*, Extra, *De iudiciis*. Hence the manner of proceeding, according to Innocent on the said chapter *Novimus*, will be this: namely that first a sentence of deposition be pronounced against such a one; secondly, that the degradation or despoiling be done; thirdly, it is to be said to the secular judge that he receive the one deposed and despoiled into his court; for whom, however, when handed over, the one handing him over ought effectually to intercede, namely by interposing prayers with the secular court, that it moderate the sentence concerning him short of the danger of death, as in the said chapter *Novimus*.

These things have been written in brevity, as a kind of mirror-like compendium for clerics,

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and thus (as you know) recited as it were cursorily; which, and our other little works, and whatever things written, composed, dictated, preached or recited, always and everywhere to be corrected, emended or supplied, I humbly and devoutly commit, with reverent prayer, to fervent charity and to the just discretion of all who judge more rightly and more truly. To the praise and glory of almighty God, who is praiseworthy and blessed for ever and ever. Amen.

The End of the Mirror of Clerics of Blessed John of Capistrano.