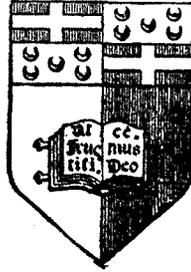


*DEUS SCIENTIARUM DOMINUS*



# MELITA THEOLOGICA

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## Recent Developments in Old Testament Literary Criticism \*

RT REV. MGR PROF. P. P. SAYDON,  
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THE object of this paper is to trace out the main developments in Old Testament studies comparing the positions now held by Catholic scholars with those held by scholars of the last generation. But fifty years is too vast a period to be covered in the short space of a paper. So I limit myself to the last ten years. The period may seem to be rather short; moreover, biblical studies and publications were seriously hampered during the dreadful years of the war, and out of this reduced literary output some have not been accessible to me. Yet, in spite of all these limitations I hope to be able to show you the progress that has been achieved, and the way in which Catholic interpreters have responded to the directions given by Pope Pius XII in the Encyclical *Divino afflante Spiritu*.

In the field of Pentateuchal criticism the last decade gave us no work that could be compared with Hoberg's *Moses und der Pentateuch* (1905) or with Sanda's work bearing the same title (1924). Only two publications deserve to be mentioned. The first is by Father A. Vaccari S.J. of Rome who, in a communication read before H.H. Pope Pius XI at a gathering of Italian Professors of Holy Scripture in the year 1937, after having remarked that certain books as Jeremias, the Greek version of Tobit and some Psalms had two slightly different editions characterized either by the different use of the divine names or by other linguistic peculiarities, propounded the theory that the Pentateuch, originally written by Moses, circulated in two forms or editions, an Elohist edition and a Yahwistic edition. In course of time a third or a mixed edition came out corresponding to our Pentateuch, marked with a varying use of the divine names, dupli-

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(\*) A paper read to the Royal University Students Theological Association on April 9, 1948.

cate narratives drawn from the two editions and other literary characteristics of the two forms. The full text of Father Vaccari's communication was never published, but a brief notice of it was given in the *Osservatore Romano* of the 23rd September, 1937 and in *Verbum Domini* 17 (1937) pp. 371-3. Father Vaccari has repeated his views in the Introduction to the 2nd edition of his Italian translation of the Pentateuch (1942). I quote his own words: "Il Pentateuco, tutto composto da Mosè, parte su suoi ricordi, parte su documenti fornitigli dalla tradizione e dal ceto sacerdotale, si propagò nella società ebraica e nella trasmissione, subendo modificazioni di forma, punto insolite nella trascrizione di opere letterarie, venne col tempo a ricevere, in due punti diversi dell'area israelitica, per esempio nel regno di Efraim e nel regno di Giuda, due forme alquanto differenti; in una di esse, tra l'altro, al primitivo Jahve fu sostituito Elohim. Più tardi quando (sotto Ezechia o Giosia) si sentì la necessità o l'opportunità di unificare le due recensioni, un redattore le fuse insieme prendendo ora da questa ora da quella, talora contentandosi di giustapporle, senza alterare le fattezze proprie di ognuna. Così si spiegherebbero quei fenomeni che fecero credere all'esistenza di più fonti differenti".

A different theory was propounded by Father Lagrange in a posthumous article *L'Authenticité Mosaïque de la Genèse et la théorie des documents* published in the *Revue biblique* of April, 1938. In this article Father Lagrange reasserts substantially the views he had previously expressed concerning the documentary theory as applied to Genesis. He maintains that Genesis is made up of three documents J, E, P. As the name Jahweh became known only after the Sinaitic revelation (Ex. 3, 14), all history written before that revelation must necessarily have been Elohist. Therefore E is earlier than J. Both documents were written either by Moses himself or at least under his direction and with his approval. Moses therefore must be considered as the responsible author of EJ in Genesis. As regards the origin of the third document which the Wellhausen school calls P, Father Lagrange is somewhat reticent. He simply expresses the opinion that any enquiry into its origin will lead to the recognition of its Mosaic origin in terms of the declaration by the Pontifical Biblical Commission (*Revue Bibl.*, 1938, 178). It is clear that Father Lagrange's theory is very different from the Wellhausen Docu-

mentary theory. Apart from the fact that Fr Lagrange, contrary to Wellhausen, gives the priority to E not to J, the three documents are expressly referred to Moses, so that the Mosaic authorship is upheld.

Another contribution to Pentateuchal studies is an investigation by Henry Cazelles into the origin and authorship of the Book of the Covenant: *Etudes sur le Code de l'Alliance* (1946). Mr Cazelles defends the unity and the Mosaic authorship of the Code, but he transposes its historical setting from the Sinaitic region to the plains of Moab, and puts forward the hypothesis that the Book of the Covenant contains the law given by Moses to the tribes of Ruben and Gad when these asked to be allowed to settle down in the land of Galaad.

On the levitical legislation in the book of Deuteronomy no special works have been published during the last ten years. In past years there has been a growing tendency to admit post-Mosaic developments consisting in the addition of new laws made in the spirit of the older ones and in the adaptation of older laws to new conditions. This is the opinion held with differences of detail, by Nikel, Heinisch, Junker and others (1). This evolutionist theory is, at least in its general lines, accepted by A. Clamer in his Commentary on the books of Leviticus, Numbers and Deuteronomy published in *La Sainte Bible* (1946, the *imprimatur* bears the date 1939). And Jos. Coppens, in his *Histoire Critique des livres de l'Ancien Testament* (1938) defines the word *substantia* in the decree of the Biblical Commission in the scholastic sense adding that the decree opens 'perspective très larges' (p. 112). This general tendency has been recognized by the Biblical Commission which in a letter to H.E. Card. Suhard, Archbishop of Paris, bearing the date 16th January, 1948, explicitly states: "Il n'est plus personne aujourd'hui qui mette en doute l'existence de ces sources (i.e. pre-Mosaic written documents and oral traditions) et n'admette un accroissement progressif des lois mosaïques dû aux conditions sociales et religieuses des temps postérieurs, progression qui se manifeste aussi dans les récits historiques" (2).

(1) This is also the opinion which I myself have expressed in a lecture on the Pentateuch (*Literary criticism of the Pentateuch* in "Domine ut videam", Malta, 1947, p. 79).

(2) *Acta Ap. Sedis* 40 (1948) 46.

It thus appears that Pentateuchal criticism is entering upon a new period of development. The substantial Mosaic authorship is upheld, but, besides the use of pre-Mosaic or Mosaic sources, an organic development in the legislation has also to be admitted.

It is, perhaps, in the historical books that literary criticism had its fullest development. Many Catholic critics, who at their time were called liberal, in an earnest endeavour to explain the difficulties and the peculiar character of these books in such a way as to safeguard the inerrancy of the Bible, have proposed the theories of the different historical *genres*, history according to appearances and implicit quotations. The defect inherent in these theories was that they were made to apply or could be applied to any book or passage which otherwise an interpreter would find it difficult to explain. The principle was sound, but its application might lead to serious abuses ending in the complete rejection of the authority of the historical books. The Biblical Commission had to intervene disallowing these theories except in the case of universally admitted difficulties and subject to the directions of the Church.

The problem was taken up again in recent years. Two important publications on the subject are the articles *Historique (Genre)* by A. Robert, and *Inspiration et Inerrance* by G. Courtaud both published in the *Supplement* to the *Dictionnaire de la Bible* in the years 1941 and 1947 respectively. According to these two writers one must distinguish between history and the conception of history which the sacred writers had. That the inspired writers did not, and could not, write a critical history according to modern standards is admitted by one and all. It must also be admitted that they intended and endeavoured to write only what they believed to be true. Sometimes they simply copied out their sources, which could contain false information, but divine providence directed them in their selections. They never related history for history's sake, but subordinated history to a religious purpose. History was for them a means for conveying religious truths, not a mere knowledge of past events. Hence history, as related by them, is necessarily fragmentary, religious, pragmatic. And the facts of history they related in the language of their time, using those literary forms of expression and those literary devices that were current in their time and that were, sometimes,

different from those of a later age. This point has been particularly emphasized by Pope Pius XII. "It is absolutely necessary, he writes, for the interpreter to go back in spirit to those remote centuries of the East, and make proper use of the aids afforded by history, archaeology, ethnology, and other sciences, in order to discover what literary forms the writers of that early age intended to use, and did in fact employ. For, to express what they had in mind the ancients of the East did not always use the same forms and expressions as we use today; they used those which were current among the people of their own time and place; and these the exegete cannot determine *a priori*, but only after a careful study of ancient oriental literature."

In the light of these principles it may be said that the sacred writers could combine together in a single narrative similar events separated from one another in time and place; they could amplify their narratives and descriptions; they could make use of hyperbolic and universal expressions both as a rhetorical device and as a means for bringing out more effectively God's intervention in the shaping of human history. It has been very wittingly said that the biblical historiographers are painters not photographers, and we all know that the painter may have sometimes to retouch a photographic image.

The literary criticism of the historical books has thus been placed on a sound basis, but it requires some time before it attains full development.

Of all the historical books Chronicles have been the most abused by critics. The author is accused of having misrepresented history by distorting facts and leaving out all that was not consistent with his ideal pattern of history. He has idealized rather than narrated the past history of Israel. His main interest is the temple, institutions and ceremonies. He has copied out his sources so slavishly and so mechanically that he did not notice that at his time the ark had long been destroyed and was therefore no longer in the Holy of Holies (2 Chr. 5, 9). Hence, it is said, Chronicles have no historical value, except in so far as they reflect the religious conditions of the time in which they were written (3).

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(3) E. L. CURTIS: A crit. and exeg. Comm. on the Books of Chronicles (ICC) 1910, p. 14.

Catholic critics defending the inerrancy of the inspired author of these books have run to the opposite extreme. Cornely, both in the larger edition of his *Introductio in U.T. libros sacros* (Vol. II, 1, pp. 330-348) and in the latest edition of the *Compendium Introductionis in S.S. libros* (1929, pp. 402-6) defends the strict historicity of the books, while Hummelauer, in his commentary on I Chr. (1905) believes that the narrative is not strictly historical, but rather paraphrastic and midrashic.

Modern non-Catholic criticism, as represented especially by O. Eissfeldt, Rothstein-Hanel, van Rad and Noordtziĳ has gone a long way from Wellhausen's theories of the history of Israel and has come to a more objective estimate of the historical value of Chronicles. The priestly character of the Chronicler's history and his dependence on the levitical legislation are no longer upheld. Contrary to the Wellhausen school the books of Samuel and Kings are no longer regarded as the only or the primary sources of Chronicles; the writer had at his disposal other sources that contained much trustworthy information unrecorded by the authors of Samuel and Kings (4).

Modern Catholic criticism is represented by J. Goettsberger, the latest and best commentator of these books since Hummelauer. In his commentary published in the year 1939 in the "Bonn Bible" Goettsberger lays down the fundamental principle that what the Chronicler intended and what he has actually done cannot be determined by any aprioristic theory, but only after a careful examination of the whole book. Consequently every single difficulty must be discussed separately on its own merits, independently of any general theory. Goettsberger denies the dependence of the Chronicler on Samuel-Kings, admitting only a dependence on common sources. Therefore the Chronicler cannot be accused of having intentionally misrepresented biblical history. The author has indeed looked at history from a standpoint different from that of Samuel-Kings, but this does not mean that he has distorted history so as to make it conform to his own point of view. Goettsberger defends the historical character of Chronicles and its sources, but he is not an apologist at all costs. He is fully aware of the numerous difficulties some of

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(4) A. BEA: Neuere Arbeiten zum Problem der Chronikbücher, Bibl. 22 (1941) 46-58.

which baffle all the efforts of interpreters. As regards the genealogies, which feature so conspicuously in the first book of Chronicles and which have provided, over forty years ago, many an argument for the theory of "implicit citations", Goettsberger says that they are like fleshless skeletons of a past history and any attempt to give flesh and life to that skeletal history is not likely to meet with success. Moreover, many proper names are hopelessly corrupt. And he concludes that if we had at our disposal the genuine documents utilized by the Chronicler we would see for ourselves that he has reproduced his sources as faithfully as any modern historian. In the light of these principles we cannot accuse the Chronicler of copying out blindly contradictory documents. The genealogies are fragmentary, but not contradictory (p. 27).

The three short stories of Tobit, Judith and Esther with which we may associate Jonah, will be treated together as they share common features. Leaving Jonah aside for the moment, the other three are generally considered to be strictly historical narratives by all the earlier Catholic writers. In more recent and in modern times the strictly historical explanation still prevails in Catholic exegesis, and it is enough to mention such names as Cornely-Merk (10th edit. 1929), Hetzenauer (*Theol. bibl.* 1908), Höpfl (*Introd.* 2nd edit. 1925), Galdos (*Tobit*, 1930), Simon-Prado (1934), G. Brunner (*Der Nabuchodonosor des Buches Judith*, 1940) among the supporters of the traditional theory. But a new theory, or rather an older one in a new form, is now gradually gaining ground. On the strength of a deeper investigation into the literary *genre* of these books and the religious conceptions of their authors considered in the light of the historical development of their characteristic doctrines modern Catholic interpreters are inclined to consider these narratives not as strictly historical but as amplifications of historical events. In all the three stories there is a historical substratum artistically worked out into a narrative resembling more or less a modern historical novel. The scope of the writers is eminently didactic, and the historical element has only a secondary importance. Writing in the *Theologische Revue* in the year 1929 J. Fischer expresses this opinion concerning the historical character of these books: "One cannot hope that one can ever demonstrate and defend the purely historical character of these books; they are best consider-

ed as midrash with a historical background and may be paralleled with our hagiographic legends" (p. 350). A similar view is expressed by A. Miller and J. Schildenberger in their commentary on these books published in the year 1940-41 in the "Bonn Bible". As regards the book of Tobit Dom A. Miller writes thus: "We have in this book a free elaboration of an existing material for a definite purpose; the dramatization of an idea by means of real events which, however, ultimately serve only as a means not as an end, and must not, therefore, be considered as strictly historical in all their details" (p. 6f). The story of Judith is described by the same commentator as "a moral lesson with a historical background" (p. 121). For the book of Esther Dom Schildenberger distinguishes two text-forms, a Greek and a Hebrew one. The Greek form is certainly an embellished representation of a historical event; and it may be inferred that the Hebrew form was also so considered by the Greek editor (p. 265).

A distinguished Catholic critic reviewing this commentary in *Biblica* (1946, p. 140) writes: "A queste sentenze nulla si può opporre da parte dei principii della cattolica ermeneutica, e dopo l'Enciclica *Divino afflante Spiritu* che raccomanda all'interprete cattolico di far attenzione ai generi letterari e di non trascurare questo mezzo nell'espore la divina Scrittura e nel mostrarla immune da ogni errore, dobbiamo essere più indulgenti verso quelli dei nostri, che per questa via si avanzassero oltre quanto s'è fatto nelle età passate".

The same view is maintained by A. Miller and A. Metzinger in the 5th edition of Höpfl's *Introduction* (1946); by the editors of the Dutch Biblical Lexicon *Bijbelsch Woordenboek* (1941-1947); by Clamer (art. *Tobie* in DTC, 1946), and, less confidently, by Bigot (art. *Esther* in DTC, 1939, and art. *Judith* *ibid.*).

The book of Jonah has provoked a lively discussion. Although the majority of Catholic critics have always upheld the historical character of Jonah's story, others have preferred to consider it as a parabolic or allegorical narrative, with or without a historical basis, intended to convey a moral lesson. So Gigot (*Special introduction to the study of the Old Testament*, 1906, II, 484-96), A. van Hoonacker (*Le douze Petits Prophetes*, 1908, 315ff), A. Condamin (DAFC art. *Jonah*), Tobac (*Les Prophetes d'Israel*, 1921, II, III, p. 580f), and others. Now the traditional opinion is slowly losing ground. Jos. Lippl, in his commentary

on the book of Jonah published in 1937 in the Bonn Bible (*Die Zwölf Kleinen Propheten*, I, 1937) defends the historical character of the narrative, but still insists strongly on its didactic purpose. T.E. Bird, in his commentary on Jonah published in 1938 in the *Westminster Version of the Sacred Scripture*, leaves the hypothesis of a non-historical literary form open, though he seems to prefer the literal historical interpretation (p. xxix). L. Dennefeld (DTC, art. *Jona*, 1938) regards the story as a non-historical narrative with a didactic purpose. A. Miller and A. Mertzinger in the 5th edition of Höpfl's Introduction define the story of Jonah as a didactic book with a historical basis.

The latest contribution to the study of the book of Jonah are two articles by A. Feuillet published in the *Revue biblique*, April and July, 1947. In the first *Le sources de Livre de Jonas* (pp. 161-186) the writer, after rejecting all the theories of Jonah's dependence on extra-biblical sources, describes the book as a non-historical narrative written by a cultured Israelite who made use of scriptural ideas and phrases, and perhaps of some folkloristic elements (such as the prophet's swallowing by the fish and his deliverance) in order to convey a definite theological doctrine. In his second article *Le sens du Livre de Jona* (pp. 340-361) A. Feuillet shows that the dogmatic and moral doctrine of the book is: (i) God's threats against the heathen nations are conditional, even if they are expressed in an absolute form, the unexpressed condition being of course implied; (ii) the particularistic spirit of the Jews of the 4th century, symbolized by the prophet's indignation against God's mercy on the repentant city of Niniveh, is strongly deprecated; (iii) God's love and care for heathen as for the Jews foreshadows the universalistic spirit of the Gospel.

Psalms-criticism has during the last twenty years raised many important problems. The Psalms are no longer considered as mere poetic compositions or as a mere expression of the Psalmists' piety. A new line of approach has been opened up by H. Gunkel who after investigating the different literary forms or categories of the Psalms, laid down the fundamental hermeneutical principle that every Psalm, be it a hymn, a prayer, or a thanksgiving, must be referred to its historical occasion and explained in the light of it. Gunkel's theory has been further developed by the Norwegian scholar S. Mowinckel whose conclusions

on the book of the Psalms may be summed up thus : the Psalter is a collection of liturgical prayers originating mostly from the pre-exilic temple; private prayers and meditations are excluded; many psalms were composed on the occasion of the Enthronement festival, which was celebrated on New Year's Day to commemorate Yahweh's sovereignty over his people.

There is much in these theories that can be accepted. Though the institution of a Coronation Feast is not, generally, recognized, it is universally admitted that the determination of the historical occasion of each Psalm is a very great help for a better comprehension of that Psalm. Therefore Catholic exegesis is now giving a greater importance to the investigation of the historical background of the Psalms. As an illustration of the new positions taken by Catholic interpreters I may mention only a few cases. In an article *Zur Datierung von Ps. 4* published in *Biblica* (1935, pp. 330-8) Lor. Dürr, after analysing the political and religious background of the Psalm, states that the "Sitz im Leben" or the historical situation of the Psalm fits the period between Esdras and Nehemiah on one side and the prophets Aggeus, Zacharias and Malachias on the other, that is between the years 521-450 B.C. E. Podechard, in a short note on *Psaume XXIV vv. 7-10* in *Memorial Lagrange* (1940, pp. 143-6) supports the opinion held by other commentators that the Psalm was written on the occasion of the solemn entrance of the ark in the old citadel of the Jebuseans. In another article on Psalm 68 published in *Revue biblique* of October 1947 the same writer, who is well known for his contributions on the Psalms in the *Revue biblique* and in the *Recherches de science religieuse*, analyses the whole Psalm, investigates the historical situation and arrives at the conclusion that the Psalm, though attributed to David in the title, must have been written during the Greek domination, very probably about the year 320 B.C. One of course may disagree with these conclusions, but the fact remains that modern Psalm-criticism is attaching a greater importance to the historical background than heretofore.

Mention has been made of a Coronation Feast and Coronation Psalms. The only Catholic interpreter who has accepted this theory is Lor. Dürr who in a monograph *Psalm 110 im Lichte der neueren altorientalischen Forschung* (Munster i. W. 1929) has tried to explain the Psalm *Dirigit Dominus* according to Mo-

winckel's theory. As an illustration of this new method I give here the main lines of Dürer's explanation. On New Year's Day a procession went out of the temple, passed by the fountain of Gihon and returned back to the temple. When the procession entered the temple, the king, surrounded by his nobles and by the glittering arms of his young warriors, ascended the throne erected at the entrance of the temple. Then a prophet standing in front of the king read the Psalm. The first verse "Dixit Dominus Domino meo : Sede a dextris meis donec ponam inimicos tuos scabellum pedum tuorum" is a proclamation of the king's sovereignty. The investiture was represented by the handing over of the sceptre which had been brought from another part of the temple. During the ceremony the prophet read the verse : "Virgam virtutis tue emittet Dominus ex Sion : dominare in medio inimicorum tuorum". The next verse, which is very obscure in the Vulgate and is differently translated, describes the king surrounded by his nobles and his army. Dürer translates thus : "Tecum sunt principes in die congregationis tue, in ornatu sacro, e sinu aurorae, splendent tibi sicut ros iuvenes tui". The kings of Israel were never invested with priestly dignity, but Dürer argues that the ideal king must be a king-priest as Melchisedech. Hence "Iuravit Dominus etc." The next two verses "Dominus a dextris tuis : confregit in die irae suae reges. Iudicabit in nationibus, implebit ruinas; conquassabit capita in terra multorum" express the prophet's wishes for a complete victory over the king's enemies. The last verse "De torrente in via bibet" is, according to Dürer, an allusion to an ancient usage of which, however we have no evidence. As Solomon was proclaimed king near the fountain of Gihon, Dürer supposes that his successors were proclaimed kings in the same place, and during the procession they drank a draught of water from that fountain. Dürer's interpretation of Psalm 110 may be considered as an unsuccessful attempt to apply the Coronation theory to the Psalms. Although there is no *a priori* argument and no theological objection against a festival intended to express in a sensible manner God's sovereignty over his people, there is still no historical evidence that such a festival was ever held by the Israelites.

Catholic contributions to the study of the Book of Job during the last decade have been very scanty. L. Dennefeld in an article *Les discours d'Elihou* published in the *Revue bibl.* of 1939 de-

fends the theory that the speeches of Elihu form part of the original book of Job. E. Kissane in his commentary on the book of Job (Dublin, 1938) tries to reconcile two opposite theories. On the speeches of Elihu he writes: "the balance of probability seems to be in favour of the view that the original draft of the book did not contain the speeches of Elihu; but there is nothing in the speeches which is not quite consistent with the hypothesis that the work was revised and emended by the author himself." And on the poem of Wisdom (ch. 28) he writes: "it is more probable that we have here an independent poem. But it does not necessarily follow that it comes from a later hand. It may have been composed by the author himself, or he may have found it already in existence, and incorporated it in his work because of its bearing on the problem of the suffering of the just. But even in this view, the chapter is probably not in its original position." The only discordant voice is that of J. Steinmann (*Job*, 1946) who regards both the speeches of Elihu and the poem on Wisdom as later additions (pp. 80-84; p. 17).

Space does not allow me to deal at length with the Wisdom Literature, but I cannot pass over some very important recent publications. A. Robert, in a series of articles *Les attaches littéraires bibliques de Prov. I-IX* (Rev. bibl. 1934, 1935) examines the literary contacts between the first nine chapters of *Proverbs* and the books of Deuteronomy, Isaias and Jeremias and establishes the dependence of the author of the first section of the book of Proverbs on those books. He then examines the literary relations between those chapters and Ecclesiasticus, Job, Malachias and Zacharias 9-14 arriving at the conclusion that these books depend on Proverbs. Consequently the date of Prov. 1-9 must be placed somewhere between the exile and the time of Malachias's ministry, or more precisely between 485-450 B.C. Following the same comparative method the Rev. A. Robert, in a contribution to the *Memorial Lagrange (Le Yahvisme de Prov. X, 1—XXII, 16; XXV-XXIX; 1940, pp. 163-182)*, examines the two Solomonic collections from the point of view of their Yahwistic conceptions, and concludes that, though the two collections may contain Solomonic elements, their final redaction is later than the exile as they show obvious signs of dependence on Deuteronomy, Jeremias and Ezechiel.

As for the book of Ecclesiastes, D. Buzy, following Pode-

chard; recognizes four different writers in this small book: 1. Qohelet or Ecclesiastes himself; the author of the fundamental part of the book; 2. an epilogist who wrote 12, 9-12 only; 3. a pious Jew who has slightly retouched Qohelet's doctrine; 4. a wise man or a group of wise men who inserted some proverbial sayings (*La Sainte Bible, Ecclesiaste*, 1946, pp. 193-7; the *imprimatur* bears the date 1941).

The interpretation of the Song of Songs proceeds along traditional lines with occasional development of details. The dramatic theory, which has recently been revived by G. Pouget-J. Guittou (*Le Cantique des Cantiques*, Paris, 1934) and Geslin (*L'amour selon la nature et dans le monde de la grace; Le Cantique des Cantiques*, 1938) has no supporters. According to D. Buzy (*La composition littéraire du Cantique des Cantiques*, Rev. bibl. 1940; *La Sainte Bible*, 1946) the Song of Songs is a collection of seven short poems running parallel to each other. There is no development of action. The general plan of each poem is the same: the yearning of the lovers for each other and the joy of their union. The general opinion, however, is that the Song of Songs is a lyrical dialogue with some dramatic movement, and is paralleled, as regards its literary form, with a love song in a papyrus in the Chester Beatty collection (Suys in *Biblica*, 1932, pp. 209-227). The allegorical meaning is viewed in its theological background. According to the graphic remark of P. Joüon (*Le Cantique des Cantiques*, Paris, 1909, p. 6) the Song of Songs is not a meteor that falls from heaven without leaving any visible traces of its provenance. It is part of a determinate literature, and literature reflects the cultural and religious standard of a people. Starting from this principle D. Buzy in an article *L'allegorie matrimoniale de Yahve et Israel* (*Vivre et Penser*, 1945, pp. 77-90) and in his commentary on the Song of Songs in *La Sainte Bible* (1946) shows that the marriage allegory had long been made familiar by the prophets, especially by Osee, Isaias II, Jérémias and Ezechiel, and it is against the background of the teaching of these prophets that the Song of Songs must be read. But while the prophets represent the people of Israel as an unfaithful wife, the Song of Songs describes the ideal marriage based on the mutual love between Yahweh and his people. This last point has been taken up and further developed by A. Robert in an article *Le genre littéraire du Cantique des Cantiques* in the

same issue of *Vivre et Penser*. The literary form is "anthological" consisting in borrowing words, phrases and ideas from earlier writers and adapting them to a different context. The Union between Yahweh and Israel is a re-marriage represented as a first marriage. The wife had been faithless to her husband, and temporarily divorced by him, but she had to acknowledge her folly and returned to him. In other words the Song of Songs is a dramatic commentary of Osee's description of Yahweh's re-union with his people (2, 19).

Of the prophetic books only Isaias and Daniel come into discussion. The main literary problems of the book of Isaias are the authorship of the second part of the book and the origin of the Servant sections and their connexion with the context. Over 40 years ago the critical theory of a Second Isaias was accepted by A. Condamin (1905), P. Vetter (1905), F.G. Gigot (1905), F. Feldmann (1907), S. Minocchi (1907) and others, while the majority of Catholic interpreters were strongly against it. After the decree of the Biblical Commission in 1908 the traditional opinion of unity of authorship dominated once more Catholic criticism of Isaias. Now, however, after a deeper investigation of the problem Catholic critics are falling back upon their former positions trying to find a conciliatory solution in conformity with the decisions of the Biblical Commission. In a general way it may be said that there is a strong tendency to give the decrees the widest possible interpretation. The Biblical Commission has simply declared that the arguments from internal evidence were not quite conclusive, without, however, rejecting the critical theory as absolutely false. This is how J. Coppens interprets the 4th and 5th responses, in which it is stated that the argument from style and language is not such as to compel a serious critic to recognize plurality of authorship, and that the various arguments, even if taken together, are not sufficient to prove that the book is to be attributed to two or more authors: "Such a response does not imply in any way, according to the rules of logic, that the critical thesis of Deutero-Isaias is false; on the contrary it implies, according to the rules of logic, that it does not lack a certain degree of probability. It cannot be inferred that the Biblical Commission has formally declared that the critical thesis is probable, but this is at least an implication which cannot be rejected" (*L'Histoire critique de l'Ancien Testament*, 1938, pp. 113f). A

similar interpretation is given by H. Höpfl in the 5th edition of his *Introductio* (1946, p. 423), by A. Feuillet in the *Supplement* to the *Dictionnaire de la Bible*, art. *Isaie*, 1947), by the editors of the Dutch Biblical Lexicon *Bijbelsch Woordenboek* (1941-1947).

Availing themselves of the liberty given by the Biblical Commission some Catholic critics do not consider the critical theory to be absolutely untenable, while others try to reach a compromise between the traditional and the critical theory. Thus J. Fischer in his commentary on the book of Isaias (*Das Buch Isaias*, Bonn, I, 1937, II, 1939) puts forward the arguments in favour of, and against, the traditional theory without, however, expressing an opinion. A. Allgeier (*Biblische Zeitgeschichte*, 1937) is inclined to accept the critical theory, though he refrains from giving it his full support. A. Feuillet (*Suppl. Dict. de la Bible*, art. *Isaie*) is decidedly in favour of the Deutero-Isaias theory. E. Kissane (*The Book of Isaiah*, Dublin, I, 1941, II, 1943) reconciles the two theories in this manner: "the same individual who collected the prophecies of Isaias now contained in i-xxxv, and added the historical section (xxxvi-xxxix), also appended this message to his fellow exiles in which he repeated for their benefit the teaching of the great prophet. In this hypothesis, the second part of the book would bear a certain analogy to the *Epistle to the Hebrews*, of which the ideas, according to many scholars, are St. Paul's, the literary form the work of another. The ideas xl-lxvi are those of Isaias, their expression and the literary form in which they were presented to the exiles in Babylon are the work of the unknown prophet who compiled the whole book". The traditional theory is upheld by G. Girotti O.P., the continuator of Sales' commentary *La Sacra Bibbia commentata* (Vol. VII, 1942) and by L. Dennefeld in *La Sainte Bible* (Tome VII 1947). In this connexion I should like to mention that in January 1940 the French publisher J. Gabalda announced the forthcoming publication of an Introduction to the book of Isaias (*Introduction au Livre de Isaie*) by Father A. Condamin S.J. who, before the decree of the Biblical Commission, had already given his support to the critical theory. But the plan of publishing the book has been abandoned.

The literary problem of the "Servant Songs" is not whether these songs are written by Isaias, but whether they form part of

the original book or are later insertions. E. Kissane (p. lxxv) maintains that they form an integral part of the whole work and that any separation from the actual context would only give a different meaning from that intended by the original writer. Other critics, however, regard the Servant sections as an independent poem originally written by the author of chs 41-55 and later inserted by him in different places of his work; so, with small differences, J. Fischer (*Isaias 40-55 und die Perikopen vom Gottesknecht*, 1916), A. Vaccari (*I carmi del "Servo di Jahve"*; *Miscellanea Biblica*, II, 231), J.S. van der Ploeg (*Les Chants du Serviteur de Jahve*, 1936, p. 26), A. Feuillet (*Suppl. Dict. de la Bible*).

Daniel criticism during recent years has gradually become more conscious of the literary problems of this prophetic book, more progressive in its tendency and more uniform in its conclusions. An echo of the traditional opinion attributing the whole book to the prophet of the 6th century B.C., still rings in Father A. Vitti's paper *Il libro di Daniele nella realtà critica* (5). But since the beginning of this century opposition to strict Danielic authorship has been growing increasingly stronger. These points seem to have been definitely established: (i) the book contains at least a Danielic nucleus including the Visions chapters; (ii) the book received its actual form during the Greek domination, that is not later than the year 300 B.C., or, perhaps, during the Maccabean age; (iii) in the hypothesis of a Greek origin interpolations from the Maccabean age are admitted.

The latest commentaries on the book of Daniel, though representing different points of view, embody the main results of recent criticism. J. Linder S.J. (*Commentarius in librum Daniel*, 1939, which is a revised and modernized edition of Knabenbauer's commentary in the series *Cursus Scripturae Sacrae*) explains the origin and composition of Daniel in this way: 1. Daniel himself wrote the Visions chapters; 2. the stories chapters were written either by Daniel himself or by a contemporary writer and later translated into Aramaic; 3. the book received its final form about the year 300 B.C. L. Dennefeld (*La Sainte Bible*, Tome VII, 1947) after referring to the opinions of recent critics concludes:

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(5) *Atti della Settimana Biblica*, 1931, pp. 76-91.

“As regards the origin of the book of Daniel, it is better that one contents oneself with general conclusions, namely, that it presents an apocalyptic character, that it received its definite form at the age of the Maccabees, but that its contents are derived from a tradition that goes back to the times of the exile” (p. 638). Giov. Rinaldi (*La Sacra Bibbia, Daniele*, 1947) brings the final redaction of the book down to the year 300 B.C. without excluding, however, later retouches and amplifications made during the Maccabean age. Mention must also be made of the opinion of Dom A. Miller and A. Metzinger who in the 5th edition of Höpff *Introductio* (1946) describe the book of Daniel as the work of an unknown author writing not later than the year 300 B.C. and making use of older material.

Another important feature of modern Daniel studies is a fuller appreciation of the historical background of its prophecies. While the messianic character of the prophecies is strictly maintained, the historical outlook of the writer is fixed within the limits of the Maccabean age. Hence the identification of the fourth kingdom with the Roman empire is being gradually abandoned; the anointed prince in the prophecy of the Seventy weeks is Cyrus, not the Messias, and the Anointed One in the same prophecy is the high priest Onias. Naturally the conservative school has a more uncompromising attitude in its messianic interpretation of the prophecies of Daniel.

This brief survey of the results of literary criticism in its application to the Old Testament has brought into light one important fact. Old Testament studies, far from falling into a stagnant, unscientific, uncritical conservatism, are slowly, but steadily, marching forward under the unerring guidance of the Church and keeping up with the progress of profane sciences. Though Catholic research has been less extensive and less varied than non-Catholic research, its results are unquestionably more sound and less conflicting. Looking back upon the last decade we notice that Pentateuchal criticism has now been placed on a sound and a broader basis. The problem is no longer: Whether Moses has written the Pentateuch, but in what way has Moses written the Pentateuch and what really belongs to him and what to later editors. Criticism of the historical books has received a powerful impulse from the Encyclical *Divino afflante*, and further developments are expected. As regards the Psalms interpreters are ever-

more realizing the necessity of determining not only the historical but also the psychological and religious background for a full comprehension of the sense intended by the inspired poets. Isaias is still a thorn in the eyes of critics. While it is generally agreed that the second part of his book in its actual form can hardly be referred to him, no satisfactory theory has as yet been proposed that would explain how the work of an unknown prophet came to be regarded as the work of the great prophet of the 8th century. Daniel is no longer a mysterious prophet cut off from his contemporaries, predicting only a gloomy future to far distant generations and utterly unconcerned with his fellow-exiles. His book is a message to a living generation, and it is in this light that it must be read and interpreted.

Much has been done in the field of literary criticism, but more remains to be done. There still remain many problems the solution of which we, perhaps, shall never see in our lifetime. "But, to conclude with Pope Pius XII's warning, this state of things must in no wise daunt the Catholic interpreter; prompted by a practical and ardent love of his science, and sincerely devoted to Holy Mother Church, he must grapple perseveringly with the problems so far unsolved, not only to repel the attacks of opponents, but also in the effort to find an explanation which will be faithfully consonant with the teaching of the Church, particularly with the traditional doctrine of the inerrancy of Scripture, while being at the same time in due conformity with the certain conclusions of profane sciences".

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# De Systemate Novi Codicis Juris Canonici

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## INTRODUCTIO

**P** IUS Papa X fertur jam a prima nocte subsequente electionem suam ad summum pontificatum, die 4 Augusti 1903 habitam, serio cogitavisse de digerendis et componendis legibus Ecclesiae illo tempore existentibus. Utinam hoc vere factum sit necne, adhuc nescimus; sed certum est eundem Pontificem, die 19 Martii 1904, dedisse *Motu proprio* litteras "Arduum sane munus" (1) quibus decernebat Ecclesiae leges in unum codicem redigendas, atque in hunc finem constituisse Consilium sive, ut aiunt, Commissionem pontificiam ex nonnullis S.R.E. Cardinalibus constantem eique adjunxisse coetum Consultorum, delectum ex peritissimis Romanae Curiae Praelatis, ex egregiis cleri regularis sodalibus atque ex aliis sacrarum disciplinarum cultoribus. Deinde idem Pontifex nominavit Illum, ac Revmum. Dnum. Petrum Gasparri, tunc Archiepiscopum titularem Caesariensem et Secretarium Status, Secretarium Commissionis Cardinalium atque simul Praesidem Coetus Consultorum. Hic Praeses statim, h.e. die 25 Martii 1904 (2), litteras publicas direxit ad universos Episcopos ut quamprimum, i.e. non ultra quatuor menses a receptis litteris, Sanctae Sedi referrent an et quaenam in viginti tunc jure canonico, sua ipsorum sententia, immutatione vel emendatione aliqua prae ceteris indigerent, et pariter die 6 Aprilis (3) ejusdem anni ab eodem Cardinali Secretario Status ad Rectores Universitatum Studiorum litterae missae sunt quibus Professores Juris Canonici enixe rogabantur ut in arduum gravissimumque opus concurrerent ut inter Collaboratores adnumerari possent.

Dum Consultores et Collaboratores sua schemata parabant, sensim ad S. Sedem perferebantur Episcoporum postulata quae, in Consultorum commodum, uno volumine 300 paginarum typis impressa recepta sunt per materiae capita distributa. Consultores

(1) A.S.S., XXXVI, p. 549.

(2) A.S.S., XXXVI, p. 603.

(3) A.S.S., XXXVII, p. 130.

hi jam a die 4 Novembris 1904, una cum Praeside Gasparri, saepius convenire coeperunt ad singula schemata canonum discutienda antequam horum exemplar ad coeteros Consultores transmitterentur ut et ipsi, si aliquid animadversione dignum repperissent, scripto significarent. Schemata, hoc modo correcta et emendata, iterum ad Coetum Codificatorum mittebantur ut et ibi disceptatio fieret antequam Canones adprobati censerentur.

Sed cum singulae partes Codicis a Consilio Cardinalium adprobatae essent. Pius Papa X praecepit ut de confecto opere exquireretur iudicium omnium Cardinalium et Episcoporum totius orbis catholici necnon et sententia Praelatorum Regularium qui ad Concilium oecumenicum vocari solent, ut et isti animadversiones, quas opportunas iudicassent, S. Sedi referrent antequam iudicio ultimo Commissionis Pontificiae ad eorum adprobationem subjicerentur.

Interim Pius Papa X, anno 1914, e vivis sublatus est; ejusque successor, Benedictus XV, statim ac fuit in Pontificem assumptus, praecepit atque ipse curavit ut labores incepti ad finem celerius perducerentur; itaque Beatissimus Pater die 28 Junii 1917, coram amplissimo coetu omnium Cardinalium in Urbe residentium, coram coetu Consultorum ac Collaboratorum Codicis, coram pluribus aliis praelatis Curiae Romanae et Praefectis Congregationum Sanctae Sedis, sollemniter novum Codicem Juris Canonici Universae Ecclesiae promulgavit hac tamen conditione ut ipsius Codicis praescripta vim obligandi habere non inciperent nisi a die Pentecostes anni subsequentis, i.e. a die 19 Maji anni 1918.

Et nunc, quamvis 30 anni elapsi sint a promulgatione Codicis et quamvis toto hoc tempore plures tractatus et commentaria necnon et manualia Codicis J.C. publicata sint, non videtur mihi superfluum aut inopportunum esse indagare quale systema secuti sunt Codificatores.

Ne Card. Gasparri quidem, qui, ut diximus, primus fuit secretarius et Praeses, nobis aliquid innuit de hac re in sua praefatione ad Codicem; sed ex litteris quas idem Praeses die 6 Aprilis 1904 misit ad Universitates catholicas ut ad codificationem concurrerent, constat haec esse proposita a Sancta Sede: "universum canonicum jus in canones seu articulos, ad formam recentiorum codicum, apte distribuatur, eodemque tempore, documenta, post authenticas Corporis Juris collectiones prodita,

ex quibus praefati canones seu articuli desumpti sunt, simul colligantur", et insuper, idem Praeses generalem ideam distributionis materiae dedit, i.e. praemissa parte generali complectente titulos *De Summa Trinitate et Fide Catholica*, *De Constitutionibus*, *De Consuetudine*, *De Rescriptis*, quinque haberentur libri: *De Personis*, *De Sacramentis*, *De Rebus et Locis Sacris*, *De Delictis et Poenis*, *De Judiciis* (4).

Igitur, dum *Motu proprio* "Arduum sane" Pii Papae X statuit ut colligerentur "universae Ecclesiae leges", circulares Cardinalis Gasparri explicaverunt "universum canonicum jus" colligendum esse, et dum idem *Motu proprio* praescribebat ut totum opus codificationis fieret ad normam Collectionum antiquarum, Secretarius Commissionis Pontificiae statuit ut fieret "ad formam recentiorum codicum", et iterum dum juxta mandatum ejusdem Pontificis totum opus in "unum" redigendum erat, juxta citatas litteras Secretarii in duas partes dividendum erat, i.e. in Codicem et in collectionem documentorum anno 1317 posteriorum ex quibus Canones et Articuli desumendi erant.

Attamen, quamvis circulares citatae clariores atque lucidiores essent quam *Motu proprio*, non possumus omnino affirmare omne dubium sublatum esse de systematione Codicis J.C.; videamus igitur quodnam sit istud systema quod sponte sua fluere debet, postquam totus textus Codicis accurato examini subjectus sit.

### I. — SYSTEMA EXTERNUM

Et incipiamus, ante omnia, a systemate *externo* Codicis J.C. Per hoc systema intelligo *formam* seu *vestem externam* qua Codex, editio officialis, datus est nobis.

Editio haec typica seu authentica et legalis Codicis promulgata est in libro speciali Commentarii Officialis "Acta Apostolicae Sedis", Volumine IX, atque proinde in octavo et constat 521 paginis, una cum Bulla promulgationis "Providentissima Mater Ecclesia", diei 27 Maji 1917, directa ad Patriarchas, Primates, Archiepiscopos, Episcopos aliosque Ordinarios ac praeterea catholicarum Studiorum Universitatum ac Seminariorum Doctores atque Auditores. Sequitur deinde Formula Professionis Catholicae Fidei quae eadem est ac illa quae statuta fuit in Concilio Tridentino cum additione Concilii Vaticani, ommissa praefatione, notis

(4) A.S.S., XXXVII, p. 130 sq.

atque indice analytico-alphabetico quae, aliis editionibus adjecta, privatam tantummodo auctoritatem doctrinalem habent.

Postea incipit Codex qui "Pianus-Benedictinus" appellari solet, quique in *quinque libros* dividitur; singuli libri, primo excepto, in *partes* dividuntur, et partes nonnullae in *sectiones* subdividuntur. Quaelibet sectio, vel quaelibet pars, in *titulos* distinguitur, et pariter liber primus statim in titulos dividitur; omnes autem tituli uniuscujusque libri sub unica et distincta serie peculiariter dinumerantur. Plures tituli distinguuntur in *capita*, quorum aliquot in *articulos* subdistinguuntur. Singulis libris, omnibus partibus, quibuslibet lectionibus, unicuique titulo, capitulis et articulis quibusvis semper sua *inscriptio* seu rubrica praepositur. Demum omnes et singulae leges distribuuntur in *Canones*, neque propria rubrica eisdem praepositur; series autem numerica Canonum per quinque libros Codicis continuatur et ad numerum bis-millesimum-quadragesimum-decimum-quartum pertingit. Multi Canones in *paragraphos* distinguuntur, quarum plures in *commata* seu *numeros* dividuntur; sed nonnulli Canones immediate in commata seu numeros distribuuntur, ita v.g. Can. 6, 105, 106 aliique. In fine Codicis octo *antiqua documenta* adnexa sunt, quae ibi referuntur, tum quia de rebus omnino peculiaribus agunt, tum quia pleraque ex ipsis quamplurimas et accuratissimas normas pro aliquorum Canonum interpretatione statuunt (5). De istis sermo redibit ubi de materia Codicis.

Nunc vero si hoc systema externum Codicis J.C. comparemus cum Collectionibus antiquis Decretalium quae usque ad a 1918 constituebant, ut ita dicam, Codicem legalem, authenticum et exclusivum Ecclesiae universalis, quamvis ex una parte aliquam similitudinem inter hos duos Codices inveniamus, ex altera vero parte magna discrepantia intercedit. "Aliquam similitudinem" dixi, quia et Collectiones Decretalium in *quinque libros* dividebantur et libri in *Titulos* et hi in *Capita*, sed quoad *formam* legum nullo modo conveniunt. Decretales enim, cum in sua origine nihil aliud essent nisi decisiones datae a SS. Pontificibus in singularibus atque concretis circumstantiis, potius *formam sententiarum* habebant, quae sententiae saepius corroborabantur prolixis enarrationibus factorum, allegationibus causarum aliisque

(5) Berutti C.: Institutiones Juris Can., Taurini-Romae, 1936, I, n. 31, 32.

argumentis ut formam juridicam obtinerent. Decretales insuper saepius ornabantur pluribus clausulis atque incisive quae potius obscurabant quam explanabant leges. Dum Canones Codicis J.C. sunt *breves, concisi, clari* et non sine verborum *elegantia* compositi. Attamen juvat hic aliquas observationes circa hanc rem prae oculis ponere ne semper et ubique omnium rerum nostrarum in meliorem partem interpretatio fiat. Ceterum quodnam opus existit quod, arte perfectum cum sit, omnibus vitiis careat? Cur ergo mirari debemus si et in systemate externo Codicis J.C. aliqui defectus irrepserint?

Dixi Canones Codicis esse *breves et concisos*; ita est et hoc patet a prima facie corporis Codicis J.C.; sed aliquoties ita sunt breves et concisi ut, considerato nexu strictissimo inter eosdem, potuissent in unum eundemque canonem confici vel saltem sub diversa paragrapho. Ita v.g. Can. 906 et Can. 907 quamvis ambo loquantur de eadem re, i.e. de praecepto confessionis, nihilominus ambo habent numerum distinctum etsi primus constet tribus versiculis alter vero vix duobus. Dum e contra aliqui alii Canones ita sunt longi ut, propter eorundem diversam dispositionem necnon et magnum pondus, optime in alios distinctos canones dividi potuissent.

Dixi quoque quod Canones sunt "clari et non sine verborum elegantia compositi." Etenim lingua qua Codex J.C. juxta instructiones diei 11 Aprilis 1904 debebat esse "quantum liceret, sacrarum majestate legum (digna), in Jure Romano tam expressa feliciter", laudata fuit ab omnibus non tantum propter simplicitatem et claritatem ejusdem sed etiam propter nitorem, accuratorem necnon et proprium dicendi genus. Sed hoc in genere; etenim aliqua vocabula Canonum non semper eandem atque propriam significationem habent, v.g. vocabulum "jus" modo pro jure objectivo sumitur uti in Can. 145 §2, modo pro subjectivo uti in Can. 1667, modo pro aliqua facultate uti in Can. 605 §3, modo etiam pro aliqua utilitate in genere uti in Can. 682. Leges quae obligant in universa Ecclesia modo "universales" uti in Can. 6, n. 1, modo "generales" uti in Can. 13, §1, vocantur. Vocabulum "privilegium" modo factum significat quo auctoritas ecclesiastica aliquam gratiam juridicam aliquibus concessam esse declarat ut in Can. 136, §2 et 1509, n. 2, modo ipsam gratiam jam datam, uti in Can. 118 et sq., modo aliquam praerogativam alicujus categoriae hominum vel rerum ut in Can. 239 §1,

349 §1, 328, 625. Ita etiam vocabulum "abrogare" quod in Can. 22 cessationem legis significat, tum vero in Can. 3 pro immutatione stat. Verbum "eliguntur" in Can. 399 et verbum "electiones" in Can. 1452 et sq. non idem prorsus significant ac verbum "electio" in Can. 160 et sq. Quare sicut in jure Decretalium valebat, ita quoque valere in novo Codice censenda est regula illa: "A rubro ad nigrum valet illatio" (6). Imo hic et inde non desunt *dispositiones ambiguae* quae non parum legem difficiliorem reddunt uti illa quae habetur in Can. 542, h.e. verba "qui sectae acatholicae adhaeserunt" ad "acatholicos" significandos adhibita sunt (7), vel illa quae est in Can. 1971 quo vox "impedimenti" non necessario concordare debet cum impedimenti matrimonialibus de quibus Cap. IV, Tituli VII, Libri III Codicis (8).

Insuper et ipsa lingua interdum neglecta, ne dicam rudis, videtur. Ita in Can. 1652 ubi de Religiosis haec verba usurpantur "non habent personam in iudicio"; in Can. 1655 §1 "reus. . . semper habere debet advocatum"; in Can. 1661: "advocatus ut causae patrocinium suscipiat, habere necesse est... commissio-nem". Et aliquoties nova verba et abbreviationes abundant; ita Can. 34 quo dicitur "terminus a quo"; in Can. 339: "dies ad quem, dies a quo"; in Can. 223: "Abbas nullius"; in Can. 2357 §1: "delicta contra sextum". Imo et circumlocutiones habentur quibus Codex carere poterat; ita Can. 139 §4 qui deputatos vocat "oratores leges ferentes" dum eodem tempore utitur voce simpliciore "senatorum". Codex tandem saepius utitur formulis communibus "uti ajunt", "quae dicuntur", "quos vocant" uti videri possunt in Can. 111 §2, 131, 188 n. 5, 247 §3, 420 §2, 1349, 1410, 1539 §2, 1629 §1, 1634 §1, 1705 §2, 1745, 1866 §1, et verbis, praesertim adjectivis sine ullo valore juridico uti in Can. 105 n. 3, 1502, 1504 aliisque, et in Can. 1772 §2 utitur vocabulo purò et simpliciter italico, quod est "confrontare".

Iuxta dictis jam patet systema externum Novi Codicis non esse in omnibus perfectum, sed ex hoc non sequitur ut vituperandum sit praesertim cum sciamus multos ex recensitis defectibus originem traxisse ex reproductione textuali legum antiquarum quas

(6) Maroto Ph.: *Institutiones Juris Can., Matriti, 1919, p. 155.*

(7) Cfr. *Comm. Pont. pro interpretatione authentica Codicis J.C. die 16 Oct., 1919.*

(8) *Ibid. 12 Mart., 1929.*

Ecclesia semper in honore habuit necnon ex diversitate linguarum ac judiciorum illorum virorum clarissimorum qui tanti operis partem habuerunt Satis est dicere in Commissione a Pio X instituta 34 Cardinales, ab initio usque ad finem, adfuisse, et Consultores, primo erant 44 et iterum circiter 50. His omnibus adde et Collaboratores, qui tot erant, quot Episcopi dioecesani, Superiores Regulares et Universitates catholicae in universa Ecclesia, illo tempore, aderant. Nunc vero, istis omnibus viris clarissimis in unum opus una simul concurrentibus, num poterat Codex ita perfectus evadere ut nulla afficeretur discrepantia eorum omnium tum quoad modum sentiendi cum exponendi? Ceterum Legislator jam ante promulgationem Codicis vidit has difficultates et praesertim illas quae oriri poterant de sensu Canonum et praecise propter hoc non tantum aliquae regulae interpretationis statutae sunt in ipso Codice, Canone 6, sed et Benedictus Papa XV, Motu proprio "Cum juris Canonici" die 15 Septembris, 1917, Consilium seu Commissionem ad Codicis J.C. Canones authentice interpretandos instituit constantem ex aliquot S.R.E. Cardinalibus atque Consultoribus ex utroque clero juris canonici peritis ab ipso S. Pontifice designandis (9). Et re quidem vera multae ex hujusmodi difficultatibus vel dubiis factae sunt Commissioni Pontificiae quae publicatae sunt in "Acta Apostolicae Sedis".

Rupta igitur semel in aeternum traditione casuisticae concretae qua utebantur Decretales pontificiae, Codificatores secuti sunt aliud systema, systema novum, clarum, perfectum quantum fas est. juxta methodum adhibitam a Codicibus civilibus recentioribus et praesertim italico quem Codicem, uti putatur, Codificatores anteferebant ceteris. Etenim si Codex civilis italicus cum Codice J.C. comparetur, magnam similitudinem, non tantum quoad numerum quinquenarium librorum, sed etiam quoad ipsam divisionem librorum imo et quoad formam legum, invenimus. Unica differentia est haec quod Codex civilis italicus ultimo dividitur in *Articulos*, dum Codex J.C. in Canones, qua nomenclatione Ecclesia, in suis legibus ferendis, semper usa est ab antiquis temporibus.

## II. — SYSTEMA INTERNUM

Attamen in omni Codice plusquam systema externum necessarium est systema *internum* seu *substantiale*, illud nempe quod

(9) A.A.S., IX, p. 483 sq.

respicit materiam necnon nexum inter diversas partes ejusdem materiae.

Nunc vero si materia Codicis J.C. iterum comparetur cum omnibus Collectionibus legalibus atque authenticis antiquis, statim intelligimus novum Codicem esse opus substantialiter diversum a praedictis Collectionibus quia nulla ex his umquam complectebatur totum jus canonicum et nulla ceteras praecedentes Collectiones omnino saltem abrogabat sicut fecit Codex.

Etenim Prima Collectio authentica a Petro Collivicino, vulgo Beneventano dicto, composita directaque Universitati Bononiensi cum Bulla "Devotioni vestrae" diei 28 Dec., 1210, complectebatur tantummodo Decretales Papae Innocentii III; iterum "Compilatio Quinta" Archidiacono Tancredi cum Bulla "Novae Causarum" inter Januariam 1226 et Martium 1227 missa, ut in scholis et in judiciis ea omnes uterentur, complectebatur tantum Decretales Honorii III, imo neque Collectio Gregorii IX complectebatur omnes leges vigentes illo tempore, ita ut jam ab anno 1234, praeter hanc Collectionem Gregorianam, omnes aliae leges, ab ipsa non abrogatae, sive receptae erant a Gratiano in suo opere privato sive non suum vigorem vere servabant. Neque harum legum vis temperata fuit a Bulla publicationis Libri Sexti Bonifacii VIII, quia ipse Bonifacius abrogavit tantum leges post Gregorii IX ordinationem publicatas et in Sexto non comprehensas aut saltem expresse non reservatas (10).

Ast Ecclesia non solum usque ad haec ultima tempora nunquam habuit similem Codicem unicum et exclusivum, sed ne conata est quidem umquam habere. Etenim neque ipsa Collectio Summis Pontificibus Gregorio XIII, Sixto V et Clemente VIII regnantibus facta atque anno 1598 edita, praeseferebat codificationem juris canonici illo tempore vigentis etsi in eadem Collectione comprehensae essent Decretales et leges in praecedentibus Collectionibus authenticis non habitae, quamque Cardinalis Pinelli obtulit Pontifici uti "postuma canonum collectio, quae pontificia jura et conciliorum decreta annorum prope trecentorum compendiaria quadam summa complectitur".

Codex J.C. igitur, aliter ac ceterae Collectiones antiquae, si revera non complectitur omnes actuales leges disciplinares Ecclesiae, est tamen unicus atque authenticus fons totius juris eccle-

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(10) Maroto Ph.: l.c., p. 77.

siastici vigentis a die promulgationis ejusdem. Et si ipse Codex, vel comparatus cum sola Collectione Papae Gregorii IX, apparet sat tenue volumen, hoc facile explicari potest non tantum quod in illo omittantur repetitiones et prolixae narrationes factorum sed et aliae copiosae materiae quae tamen, cum adprobatae sint ab ipso Legislatore, suam vim juridicam adhuc habent (11).

Et in primis omissae sunt in Codice illae leges quae respiciunt Ecclesiam Orientalem iis exceptis quae ex ipsa rei natura etiam Orientalem afficiunt (Can. 1). Hoc factum est jure meritoque quia Orientales in suis moribus late differunt a populis Occidentalibus, et ita Ecclesiae Orientales, etsi in Fide et Dogmate unum sint cum R. Pontifice, differunt tamen ab Ecclesia Latina in suis ipsorum liturgicis ritibus quos Suprema Auctoritas ecclesiastica semper in honore habuit et adhuc habet, et ut istae leges conserventur juxta eandem morem antiquum, Pius IX die 6 Januarii, 1862 Congregationem pro negotiis Ritus Orientalis instituit et Pius XI Consilium vel Commissionem Pontificiam die 17 Julii, 1935 constituit ad redigendum "Codicem Juris Canonici Orientalis" (12).

Omissae sunt etiam in Codice leges liturgicae etsi multae earum quae praesertim respiciunt celebrationem Missae, recitationem Divini Officii, administrationem Sacramentorum et Sacramentalium, inveniuntur passim in eodem Codice et praesertim in sectione quae respicit Sacramenta et loca sacra. Ceterae vero quae inveniuntur in liturgicis libris ab Ecclesia probatis, vim suam adhuc retinent, nisi ulla earum in Codice expresse corrigatur (Can. 2). Usque ad Codicis promulgationem sex volumina harum legum prodierunt cum titulo "Decreta authentica"; nova decreta quae prodeunt post Codicem, publicantur in "Acta Ap. Sedis" et ita vim legis obtinent.

Codex insuper omittit conventiones ab Apostolica Sede cum variis Nationibus initas; attamen illas non solum non abrogat aut iis aliquid obrogat sed omnino adprobat. Idcirco eae conventiones vigere pergunt, contrariis Codicis praescriptis minime obstantibus (Can. 3). Ceterum, quia cognitio hujus juris concordatarii est valde necessaria pro regimine Ecclesiae, Illmus, ac Revmus. Mons. Angelus Mercati, a. 1919, publicavit "Raccolta

(11) Falco M.: *Introduzione allo studio del C.J.C.* Torino, 1925, p. 273.

(12) A.A.S., 1935, pp. 306-308.

di concordati su materie ecclesiastiche tra la S. Sede e le autorità civili". Opus hoc notam officialem non habet, sed spiritus et interpositio Sanctae Sedis patefiunt.

Ac leges particulares omittuntur in Codice et quidem non tantum illae quae ab Episcopis sed et illae quae a Suprema Auctoritate latae sunt. Ratio est quia Codex characterem universalem habet. Nihilominus idem Codex generico tantum modo abrogat consuetudines quae in ipsis canonibus expresse *reprobantur*; ceteras vero centenarias et immemorabiles tolerat si Ordinarii existiment eas prudenter submoveri non posse (Can. 5).

Codex tandem omittit leges continentes doctrinam pure et simpliciter theologicam, quamvis passim aliqua harum habeatur. Ita, v.g., Can. 737 qui de necessitate Baptismi ad salutem discernit; Can. 801 et 911 qui alter alteram definitiones SSae Eucharistiae et Indulgentiarum praebent. Sed hi Canones alique ejusdem generis, referuntur in Codice tantum tamquam fundamentum aliorum Canonum de eadem re pertractantium; locus enim proprius harum legum alibi est et praesertim in libris Conciliorum et Theologiae Sacrae. Et idem dicendum est in genere de legibus quae *Jus Publicum* respiciunt. Dixi "in genere" quia aliquae harum referuntur etiam in Codice. sic, v.g., Can. 108 qui de S. Hierarchia loquitur; Can. 218 de Primatu R. Pontificis; Can. 1495 de nativo jure Ecclesiae bona temporalia acquirendi, retinendi et administrandi; Can. 1553 et 2214 de eodem jure Ecclesiae judicandi atque delinquentes sibi subditos poenis coercendi. Sed cum Codex J.C. per se jus *privatum* sit, respiciens nempe disciplinam et regimen illorum qui ad Ecclesiam pertinent, leges quae respiciunt jus publicum ad alias scientias quae de hoc jure tractant, relinquuntur.

Inspecta cum sit natura, ut ita dicam, Codicis J.C., transeamus ad materiam et divisionem ejusdem Codicis. Sed in primis notandum est materiam in genere non esse distributam juxta normam datam a Card. Gasparri in suis litteris encyclicis diei 6 Aprilis 1904. Etenim *pars generalis* mutata fuit in *Primum Librum* Codicis "Normae generales" inscriptum, quo, titulus "De Summa Trinitate et de Fide catholica" omissus est. Insuper primus liber "De Personis" mutatus fuit in *Secundum Librum* Codicis; Liber secundus "De Sacramentis" et tertius "De Rebus et locis sacris" conjuncti sunt in unum et mutati in *Tertium Librum* "De Rebus" inscriptum; quartus liber "De

Delictis et Poenis” mutatus est in *Quintum Librum* Codicis cum inscriptione eadem, atque quintus “De Judiciis” in *Quartum Librum Codicis* cum inscriptione “De Processibus”.

Ex hac nova dispositione librorum Codicis patet etiam ipsum Codicem minime secutum esse dispositionem materiae in Decretalibus habitae quae generali modo exprimebatur per illum versiculum omnibus canonistis notum “Judex, iudicium, clerus, connubia (sponsalia), crimen”. Uti patet jus matrimoniale (connubia) jam non efformat librum separatum; etenim sacramentum matrimonii in Novo Codice adjunctum est reliquis sacramentis in Libro III ejusdem. Igitur systema in novo Codice receptum jam non respondet systemati Decretalium, licet hoc substantialiter propositum fuerit initio Codificationis, sed potius respondet systemati in Institutionibus canonicis a Canonista Lancellotti et postea ab aliis canonistis communiter adhibito, cujus divisio est, praeter introductionem generalem, in quatuor generalia membra sub his duobus versiculis comprehensa :

“Personas nos prima docet, resque secunda,  
tertia dat iudices, crimina quarta premit.”

et hoc congruenter, cum additione Libri I “Normae generales” ut, forsitan, divisio jam recepta in quinque Libros servetur. Notum est enim hoc systema Institutionum prae systemate Decretalium communiter esse habitum clarius atque perfectius (13).

Ast in novo Codice id quod pluris aestimari debet est ordo quo singuli libri compositi sunt. Etenim *Liber Primus* “Normae generales” est vera introductio ad totum jus Canonicum. Per enim septem priores Canones Codex determinat ambitum suum; transit dein ad *fontes generales juris* qui sunt *Lex* (Tit. I) et *Consuetudo* (Tit. II) et *fontes speciales* qui sunt *Rescripta*, *Pri-vilegia* et *Dispensationes* (Tit. IV-VI). Divisio pulcherrima atque perfecta. Una difficultas quae hinc oriri potest est haec: cur Codex inter fontes generales et speciales ponit alium titulum, i.e. III, “De Temporis Supputatione”. P. Maroto putat titulum hunc appendicem esse interpretationi legum de quibus in Tit. I.—Sed tunc cur Tit. III “De temporis supputatione” non est positus immediate post Tit. I. vel saltem in fine? (14).

*Liber Secundus* “De Personis”. Liber hic revera constituit

(13) Maroto Ph.: l.c., p. 152.

(14) Maroto Ph.: l.c., p. 251 in n. 2.

*subjectum* juris et incipit cum regulis generalibus circa "Personam"; postea transit ad primum ordinem personarum qui *Clerici* sunt, personae Deo sacratae et subjectum activum potestatis ecclesiasticae, et quidem sub duabus sectionibus diversis in genere (Tit. I-VI) nempe et in specie (Tit. VIII)—*Pars I*—. Deinde secundum ordinem Personarum considerat, qui *Religiosi* sunt, quique, quamvis et isti sacrati sint Deo, vivunt in societatibus privatis et ideo sine functionibus specialibus in vita sociali Ecclesiae.—*Pars II*—. Codex tandem transit ad tertium ordinem Personarum, qui *Laici* sunt, quique efformant subjectum passivum jurisdictionis ecclesiasticae, vel *Subditi*—*Pars III*—. Tres partes verè mirabiles quia et ipsi tres ordines personarum constituunt Ecclesiam Christi, i.e. Sacerdotes, Religiosi et ceteri Fideles. Sed si istae tres partes vel divisiones inspiciantur ad normam scientiarum invenias secundam partem "De Religiosis" suum locum hìc non habere quia classes hierarchiam ecclesiasticam constituentes sunt tantum duae, i.e. Clerici et Laici; et quidem sermo "De Religiosis" ante Codicem fiebat in tractatu "De Cultu divino" qui hodie in Tertio Libro Codicis collocatur. Sed cum ex altera parte Religiosi considerari possint tanquam anulus conjunctionis Clericos inter et Laicos, quia et ipsi esse possunt et clerici et laici, Codificatores, magna cum sapientia, locum quem illi merentur tribuere.

*Liber Tertius*: "De Rebus" pettractat de mediis necessariis ad consequitionem finis Ecclesiae. Media haec esse possunt sive spiritualia tantum, sive temporalia sive mixta, atque propterea Codex in *Prima Parte* hujus libri agit de septem Sacramentis cum haec directe et principaliter ad sanctificationem animarum tendant, qui finis praecipuus est Ecclesiae Christi; in *Secunda Parte* de locis et temporibus sacris, i.e. de ecclesiis, oratoriis, altaribus et coemeteriis, de diebus festis, de abstinentia et jejuniis, agit; in *Tertia Parte* de actibus qui respiciunt cultum divinum, v.g. custodiam SS. Eucharistiae, cultum Sanctorum, imaginum et reliquiarum, processiones etc.; haec enim omnia relationem habent cum sanctificatione animarum. In *Quarta Parte* de Magisterio ecclesiastico quod exerceri potest sive per verbum Dei divulgatum sive Seminariis et Scholis; in *Quinta Parte* de Beneficiis Ecclesiasticis agit atque tandem in *Sexta* de bonis Ecclesiae temporalibus. Nonne habent istae citatae partes intimum atque proprium nexum inter sese?

Unica difficultas quae ex hac divisione oriri potest est haec: Officia et Beneficia, propter eorundem intimam connectionem, antiquitus sub eodem titulo pertractari solebant, imo et aliqui scriptores post Codicem, inter quos Wernz-Vidal (15) et Hilling (16), hanc methodum secuti sunt: cui ergo Codex cum de Officiis locutus sit in Libro II, "De Beneficiis" in hoc Tertio Libro agit? Audiatur M. a Coronata: "Beneficium de quo in Libro Tertio, considerari venit tanquam beneficium simpliciter quod nempe magis respicit jus fructus percipiendi, quod jus saltem aliquid temporale pro objecto habet. Hoc elementum materiale causa fuisse videtur cur Codex hoc loco Libri Tertii antequam "De bonis Ecclesiae temporalibus" ageret, tractationem posuit "De Beneficiis ecclesiasticis" (17).

*Liber Quartus* "De Processibus" verum Codicem *Procedurac* ecclesiasticae, ut novo verbo utar, constituit, et quia *Procedura* haec esse potest iudiciaria, administrativa et disciplinaria Codificatores, postquam in Sectione I *Partis Iae* locuti sunt super *judicia in genere*, in Sectione II normas peculiare exhibent in certis quibusdam iudiciis servandis, uti v.g. in iudicio contentioso, criminali, matrimoniali et Ordinationis Sacrae. Postea alias normas in causis Beatorum Sanctorumque servandas tradunt; sed cum haec pars satis proluxa sit, complectitur enim 143 Canones, **partem separatam** a praecedentibus habet et constituit *secundam partem* Libri Quarti. Codex tandem in *tertia parte* transit ad Processum administrativum et disciplinarem in septem diversis titulis.

Partitio haec forsitan non placet omnibus jurisperitis; sed ceterum scire debemus jus processuale, ne quidem in Codicibus civilibus, ad objectum suum accurate definiendum adhuc pervenisse. Ante Codicem normae de causis Beatorum Sanctorumque ibi inveniebantur ubi "De cultu divino" agebatur, quae materia hodie, uti vidimus, in Tertia parte Libri Tertii invenitur. Sed, nihilominus, quodnam argumentum juxta scientiarum regulas afferri potest contra hoc novum systema C.J.C.? Nonne causae Beatorum Sanctorumque veres et integros processus constituunt

(15) Jus. Can., II, n. 139.

(16) Des. Personenrecht des C.J.C., § 24, p. 84.

(17) A. Coronata M.; Institutiones Juris Can., Taurini, 1931, II, n. 971.

in quibus inveniuntur personae, probationes, testes aliaque documenta cuicumque processui necessaria?

Potius hic aliquis interrogare potest cur Codex super processum judicalem in dimissione Religiosorum votorum perpetuorum agat in Libro Secundo et non in Quarto qui omnis *de processibus* agit. Fateor me nullam aliam rationem invenire de hoc modo agendi Codicis praeter rationem convenientiae atque conjunctionis hujus materiae cum tractatu "De Religiosis" de quo in Libro Secundo.

*Liber Quintus* "De Delictis et Poenis" constituit Codicem criminalem ecclesiasticum sive quoad laicos sive quoad clericos, ideoque, considerata natura atque imputabilitate delicti ecclesiastici in Prima et natura poenarum tam in genere quam in specie in Secunda Parte, agit in Tertia de poenis in singula delicta i.e. contra fidem et unitatem Ecclesiae, contra Religionem, auctoritatem, personas et res ecclesiasticas, contra vitam, libertatem, proprietatem, bonam famam ac bonos mores, contra obligationes status clericalis et contra abusus qui committi possunt in officiis ecclesiasticis. Liber hic, uti patet, est maxime omnium aliorum librorum ordinatus et compositus et ideo vix ullam reprehensionem civilistarum incurrit.

Post hos quinque Libros, in fine Codicis tamquam appendix, adjiciuntur octo Documenta quae, cum vim legalem habeant, non possumus illa obiter saltem non recensere. Haec Documenta sunt: Const. Pii X "Vacante Sede Apostolica", 25 Dec., 1904; Const. pariter Pii X "Commissum nobis", 20 Jan., 1904; Const. Leonis XIII "Praedecessores nostri" cum adjecta Instructione, 24 Maji 1882: hae tres Constitutiones electionem R. Pontificis spectant. Const. Benedicti XIV "Cum illud", 14 Dec. 1742, de forma concursus ad Paroecias. Const. iterum Benedicti XIV "Sacramentum Poenitentiae", 1 Maji 1741, de Sollicitatione ad turpia in Confessione. Const. Pauli III "Altitudo", 1 Jun. 1537; Const. S. Pii V "Romani Pontificis", 2 Aug. 1571 et Const. Gregorii XIII "Populis, 25 Jan. 1585 quaeque tres respiciunt matrimonia in infidelitate contracta a neoconversis, et, cum ante Codicem particulares fuerint, vi Canonis 1125 universales declarantur.

Dixi supra Documenta haec adjecta esse Codici quia tempore Promulgationis integre adhuc vigeant. Sed post Promulgationem Documentum I, i.e. Const. Pii Papae X "Vacante S. Apo-

stolica", vim suam legalem amisit, non tantum per immutationes inductas a Pio XI Motu Proprio "Cum proxime", 1 Maji 1922 (18), sed praesertim per aliam Constitutionem apostolicam "Vacantis Apostolicae Sedis" die 4 Februarj 1946 a regnante Pontifice promulgatam (19). Non est locus demonstrandi differentiam inter has duas Constitutiones, sed curiositatis tantum causa, volo denotare unam solam renovationem quae magni momenti est in nova Constitutione. Juxta Constitutionem Pii X ad validam R. Pontificis electionem requirebantur duae saltem ex tribus partibus suffragiorum, dum in Constitutione Pii XII requiruntur eadem duae ex tribus partibus suffragiorum Cardinalium, *uno tamen plus*. Et ratio hujus renovationis data est ab ipso S. Pontifice i.e. "... ut quaelibet praecaveatur occasio dubitandi num in duabus tertiis partibus suffragiorum, suffragium ipsius Electi numerari queat, cum nemo unquam... seipsum eligere, seu suffragium sibi dare ulla-tenus possit: electi tamen persona, si in Conclavi sit, debeat in numerum Cardinalium computari".

Demum, separatim a Codice, decursu temporis prodierunt octo magna volumina reproducentia omnes Codicis J.C. Fontes, quorum priora sex edita sunt cura Emi. Petri Cardinalis Gasparri et ultima duo cura et studio Emi. Justiniani Cardinalis Saredi, cum variis indicibus ut ii, qui juris Canonici studio incumbunt fontes investigare eosque cum Codice comparare facilius et expeditius valeant.

Ex dictis jam liquet totam materiam Codicis digestam esse plus minusve, ad normam ab Emo. Cardinali Gasparri in suis litteris encyclicis diei 6 Aprilis 1904 exhibitam. Systema igitur Codicis J.C. est omnino novum, clarum, concisum, perfectum, imo, praesertim systema internum, est practicum atque scientificum. Practicum, quia lex est vita, et ideo Codex J.C. est vita norma-que agendi totius Ecclesiae Christi; est pars Theologiae practicae, imo, uti volunt aliqui AA. sive veteres sive recentes, est "Theologia reatrix" sive "practica" (20). Et propter hoc Codificatores semper curabant ut illum facilem redderent intellectu unde originem duxerunt aliqua vitia seu defectus quos supra no-

(18) A.A.S., XIV, p. 145.

(19) A.A.S., XXXVIII, pp. 65, 100.

(20) Maroto Ph.: l.c., p. 38.

tavimus. Est *scientificum*, non tantum propter intimum nexum inter diversos libros diversasque partes eorundem librorum, sed etiam propter integritatem materiae, non dico *formalem* quam olim poscebat Bentham quatenus nempe excluditur quaelibet allegatio ad consuetudines, ad leges exteras, ad jus naturale etc., quia, juxta illum, "whatever is not in the Code, ought not to be law". Theoria haec applicari minime potest pro Codice J.C. cum Ecclesia, juxta sua principia constitutiva, abrogare non potest vim juris divini et naturalis vel non tolerare quasdam consuetudines vel quasdam leges anteriores non conservare. Codex J.C., uno solo volumine, complectitur, praeter jus poenale et processuale, totum jus constitutionale atque administrativum. Itaque Ecclesia nunc habet Codicem cui simiilem nulla alia societas vel Status adhuc possidet.

Alia nota quae reddit Codicem J.C. in suo systemate perfectiorem atque nobiliorem omnibus codicibus civilibus est haec: lex canonica non semper humana est ideoque fundatur in principiis immutabilibus atque aeternis; dum e contra leges civiles, paucissimis exceptis, humanae sunt ideoque mutabiles et augeri, minui, imo et tolli possunt ad voluntatem eorum qui rem publicam administrant. Imo et lingua qua exaratus est Codex, etsi aliquoties aliqui defectus irreperierint, multum influit in systema scientificum ejusdem Codicis. Scriptus est enim Codex lingua latina, non solum quia haec est lingua universae Ecclesiae, sed etiam quia nulla alia lingua potest exponere et explicare cum omnibus suis varietatibus atque subtilitatibus legem praesertim canonicam. Et inde graviter errant illi magistri qui non callentes linguam latinam contendunt se posse bene intelligere vel, quod pejus est, aliis explicare legem canonicam. Et hoc satis bene animadvertit S.C. De Seminariis et Studiorum Universitatibus quando in suis "Ordinationibus" ad Constitutionem Apostolicam "Deus Scientiarum Dominus" die 12 Junii 1931, latis praescripsit ut Codex J.C. lingua latina tradatur (21).

## St Thomas Aquinas on Heredity \*

REV. P. GALEA, S.T.H.LECT. & LIC., O.P.

### MENTAL DEFICIENCY:

**B**Y mental deficiency is meant a non-development of the mental faculties, such as feeble-mindedness, imbecility, idiocy, cretinism and other states of mind designated by the general term "amentia".

Comparative anatomical studies of healthy brains and deficient ones have proved that the cells composing the grey matter of the cerebral cortex of mentally defective persons are deficient in number, defective in structure and irregular in position (20).

It has been observed that there are several factors in the environment which may prejudicially affect the mental development of the offspring after conception has taken place. These factors may exercise a depressive action before, during or after birth. Thus, an abnormal condition of the mother during pregnancy, a protracted labour causing pressure, and a defective nutrition may affect the brain development (21).

Although in some cases an adverse environment may be the sole cause of amentia, or at least a very important contributing factor, yet, experimental studies have shown that the non-development of the brain in amentia, apart from some accidental causes, is due to the diminished potentiality of the neurotic constituent of the germ-plasm which determines the development of the central nervous system. Hence it has been conclusively shown that amentia is hereditary (22).

As a matter of fact, mental and scholastic tests among retarded children, as well as studies of aments committed to public institutions, and statistics drawn by eminent men of science,

(\*) The first part of this article appeared in Vol. II, No. 1, pp. 17-22.

(20) S. Shaw Bolton, *The Brain in Health and Disease*, London—1914, p. 83.

(21) A.F. Tredgold, *Mental Deficiency*, London—1922, p. 58.

(22) W.S. Dawson, *Aids to Psychiatry*, London—1943, p. 57.

Sir J. Purves-Stewart, *The Diagnosis of Nervous Diseases*, London, p. 621.

have shown that a great percentage of mentally-affected children have their parents similarly affected (23). And although the children of mentally-defective parents may be apparently healthy, yet, the element of deficiency being latent in the second generation, their offspring may exhibit symptoms of nervous disorder (24).

Evidently, the background of mental deficiency is a biological, anatomical and physiological one, as has been sufficiently proved by a study of the basal and carbohydrate metabolisms in psychosis (25). It is in fact an abnormality of the central nervous system, and a neuropathic constitution which is inherited, and not a nervous disease, for parents do not transmit special maladies, but only general tendencies to nerve disease (26).

The inherited abnormality hinders the faculty of human understanding, because although the intellect is not the cerebellum, yet it is fed by the senses. And consequently, mental deficiency is not a pure anatomical and physiological defect, but it is also a psychological one. The more the cerebrum and the nerve system are perfect, the more perfect are the mental powers; and the more unstable and abnormal they are, the more deficient are the individual's mental powers (27).

The teaching of St Thomas Aquinas is in perfect harmony with the above modern teaching on the inheritance of mental

(23) H. Gordon, *Mental and Scholastic Tests Among Retarded Children*, London—1923.

H.H. Godard, *Feeble-Mindedness: Its Causes and its Consequences*, New York—1914;

L.S. Hollingworth, *The Psychology of the Subnormal Children*, New York—1920;

D.K. Henderson—R.D. Gillespie, *A Text-book of Psychiatry*, Oxford—1936. p. 26.

(24) M. Craig, *Psychological Medicine*, London—1929, p. 27.

(25) H. Devine, *Recent Advances in Psychiatry*, London—1909. p. 182.

(26) C.L. Dana, *Text-books of Nervous Diseases and Psychiatry*, London—1909, p. 24.

(27) From comparative studies of healthy and unhealthy brains, several modern scientists jumped to conclusions, and denied the distinction between the cerebrum and the intellect. So far science has not proved that the intellect is an organic faculty, like the senses, but it has only conclusively shown that a defective bodily organism hinders human understanding. Hence, it is illogical and unreasonable to identify the cerebrum and the intellect, the mind and the senses.

deficiency. The great Doctor wrote that "if nature is strong, bodily characteristics would be transmitted" (28). Thus, "a white man often begets a white man" (29). However, mental characteristics are only transmitted "according to their dispositions (30), in so far as by reason of a disposition of the body, some may be well disposed, and others not, to characteristics pertaining to the mind" (31).

By the disposition of the body St Thomas Aquinas means the sensitive powers which, if defective, hinder human understanding (32), but if normal, help human understanding (33). And the defective structure of the sensitive powers may be transmitted to children. As a matter of fact "imbeciles are often born of imbeciles" (34).

What has been said of mental deficiency may in the opposite way be applied to intelligence. If the potentiality of the neurotic constituent in the germ-plasm is not diminished, that is to say, if the offspring inherits a normal brain structure, its mental powers would be normal, and the perfection of intelligence would correspond to the perfection of the brain development. Consequently, although normal mental qualities are not directly inherited (35), yet, they are inherited according to their disposition, that is to say, owing to the normal brain structure directly inherited.

Through many and various scientific tests it has been discovered that the degree of intelligence in children corresponds to the degree of intelligence in their respective parents (36). Thus, once more, the teaching of St Thomas Aquinas on the inheritance of mental qualities has been confirmed.

A second instance of inheritance is the tendency to delinquency, about which a great deal has been written.

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(28) I—II, Q. 81, a. 2.

(29) De Malo, Q. IV, a. 8.

(30) II Sent. Dist. 20, Q. 2, a. 3.

(31) In Epis. ad Rom. Cap. V, Lec. 3.

(32) I—II, Q. 63, a. 1.

(33) I—II, Q. 51, a. 1.

(34) In Epis. ad Rom. Cap. V, Lec. 3.

(35) De Malo Q. IV, a. 8.

(36) A.H. Wingfield, *Twins and orphans*, London—1928;  
R. Saudek, *A British Pair of Identical Twins Reared Apart. Character and Personality*, 1934.

**DELINQUENCY:**

The inheritance of special types of feeble-mindedness is a well established fact. On the contrary, the inheritance of the tendency to delinquency is not a fact which can be easily established. The reason is that the study of the brain development is altogether different from the study of human behaviour which is so affected by environment and which is influenced by pathological factors.

Scientists suggest various tests for grading intelligence, which are quite reliable at least for grading the intelligence of children under twelve years of age (37). Tests were also suggested for grading moral tendencies, but the conclusions inferred cannot be easily and generally accepted (38), owing to the difficulty of acknowledging whether heredity or environment is the chief determining factor.

Several criminologists, giving no due consideration to human will-power, deny the individual's responsibility in criminal deeds. They base their conclusions only on anatomical observations of craniums of delinquents. Others, taking no cognizance of the question of environment, stand for the inheritance of the tendency to delinquency for the simple reason that parents and ancestors of several delinquents were delinquents. Both arguments are hardly sound.

The fair method of studying inheritance in delinquents is to ascertain the various individual cases of misbehaviour and then to reckon these with well-known hereditary conditions (39). Only by such careful examinations have scientists come to the general conclusion that there are inheritable dispositions to misbehaviour. There are several examples of inheritance in cases

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(37) H.H. Godard, Revision of the Binet-Simon scale, New Jersey—1911.

(38) E. Barbado O.P., *Psychologiae Differentialis Prima Principia*, Acta Pontificiae Academiae Romanae S. Thomae Aq. et Religionis Catholicae, Vol. V (1938), Taurini—MXXXIX, p. 42.

(39) W. Healy, *The Individual Delinquent*, London—1915, pp. 189-200.

W.M. Burbury — E.M. Balint — B.J. Yapp, *An Introduction to Child Guidance*, London—1945.

O.A. Wheeler, *The Adventure of Youth*, London—1945.

F.T. Giles, *The Juvenile Courts, Their Work and Problems*, London—1946.

of irritable temper, hypersexual tendencies, laziness and other bad dispositions (40).

This general conclusion had already been admitted by St Thomas Aquinas. As a matter of fact, the Angelic Doctor wrote that "some are disposed from their bodily temperament to chastity or meekness, or such like" (41). He wrote also that "as the disposition of the rational soul follows the very disposition of the body (42), we notice that children are similar to their parents... in the defects of the soul: thus an irascible person begets an irascible son" (43).

Notwithstanding the inheritance of bad dispositions, it is illogical to deny the individual's own responsibility in criminal deeds, although there might be cases in which a delinquent is not conscious of his actions, owing to a habitual or an actual abnormality of the mental powers. The Angelic Doctor was quite right when he wrote that "the concupiscence of the flesh in him who is incontinent does not necessarily overcome the mind, but only because of the negligence of the mind which does not resist strongly enough" (44).

#### NATURE — NURTURE:

Several writers are against the theory of inheritance, and they claim that the sole determinant of psychological tendencies is environment. Hence they oppose behaviour to inheritance, nurture to nature.

Modern geneticists are conscious that a complex environment may influence the expression of the genes which are located in the chromosomes. As a matter of fact, in pairs of genes which regulate a single characteristic, one gene is usually more effective than the other. The dominant gene determines the characteristic, while the recessive gene is passed along only to be expressed when it later occurs with another recessive. This principle has been illustrated by the brown and blue-eyed grandsons of blue-eyed Mr. J. Garfield Haskins and brown-eyed Mrs. Anna E. Haskins (45).

(40) I—II, Q. 51, a. 1.

(41) De Potentia Q. 3, a. 9 ad 7.

(42) In Epis. ad Rom. Cap. V, Lec. 3.

(43) II—II, Q. 156, a. 1 ad 3.

(44) Ibidem.

(45) Life International Edit., May 1947, p. 29.

The influence of environment cannot be denied. If favourable to inherited tendencies, it helps the manifestation of such tendencies, and if unfavourable it hinders their manifestation. However, environment is not the chief and sole determinant in inheritance. As a matter of fact, the newest works in Genetics recall the oldest genetic arguments (46).

An old genetic argument as well as an argument in favour of the influence of environment may be found in the following lines of Horace, translated by Lord Dunsany :

The brave are fathered by the brave  
 And good; the courage of their sires  
 In cattle is; the eagles gave  
 The world no doves with mild desires.  
 The natural gifts with learning grow,  
 And discipline makes sinews strong.  
 As soon as decent morals go  
 The native good is harmed by wrong (47).

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(46) E. Barbado O.P., *Psychologiae Differentialis Prima Principia*. Acta Pontificiae Academiae Romanae S. Thomae Aq. et Religionis Catholicae. Vol. V (1938), Taurini — MCMXXXIX, p. 47;

C.W. Hutt — H. Hyslop Thomson, *Preventive Medicine*, Vol. II, London, p. 1138.

H. Fisher, *Biology of Tissue Cells*, Cambridge University Press, p. 243.

(47) Horace, Book IV, ode IV, The Praises of Drusus.

## Appunti Filologico-Esgetici per la Migliore Intelligenza della Versione Maltese di Matteo XIII, 11 \*

REV. J. MIZZI

**S**ENONCHE gli inizi del Regno erano così silenziosi, così poco appariscenti, così in antitesi con l'aspettativa di strepitose, sfolgoranti manifestazioni messianiche nutrita dagli Ebrei, che non è da meravigliarsi che il messaggio evangelico abbia incontrato prima l'incredulità e poi una ostinata opposizione che è andata man mano aumentandosi fino a scoppiare in un conflitto aperto e in quella crisi che culminò con la condanna di Cristo.

Il settore più astuto, più cocciuto del popolo giudaico aveva preso nettamente posizione contro il Maestro. Sono le menti cieche alla voce di Lui, cieche alle sue opere, quelle a cui Egli rivolgerà il monito severo: *Verranno dei giorni, in cui voi vorrete vedere un solo dei giorni del Figlio dell'uomo, e non lo vedrete.* (Lc. XVII, 22).

Quei primi affettuosi contatti col popolo minuto, buono nell'insieme se pur gretto nelle sue speranze, al quale, in un primo tempo, il Maestro s'indirizzava come a gente di buona volontà ed innocua, vengono d'ora innanzi contrastati da un gruppo di Scribi e Farisei che, particolarmente a Gerusalemme, godeva d'influenza e prestigio. Alcuni ricordavano le sue origini oscure (Matt. XIII, 53-58; Mc. VI, 1-6), altri dicevano *è fucri di sè!* mentre gli Scribi, venuti da Gerusalemme, lanciavano, con violenza acrimoniosa, la loro calunnia più perfida: *E' posseduto da Beelzebub, e in virtù del principe dei demoni caccia via i demoni* (Mc. III, 22).

L'ambiente era quanto mai carico di elettricità: da un lato la corrente che si raffigurava il Messia in un alone di gloria e potenza terrena, eccitata quasi fino al parossismo; dall'altro una caparbia incredulità ed opposizione alimentate anche esse da una concezione messianica politica e materialistica, sempre pronte a cogliere l'occasione per disfarsi di Cristo. A toccare dunque il

\* Le altre parti di questo articolo sono state pubblicate nel Vol. I, No. 4, pp. 24-32 e nel Vol. II, No. 1, pp. 34-43.

tasto del messianismo in modo aperto e reciso, si correva il rischio di rinfocolare d'un tratto sentimenti a stento repressi, tumulti e conseguenti repressioni che Gesù voleva ad ogni costo evitare. Avrebbe quasi certamente messo a repentaglio la propria vita prima dell'ora provvidenziale.

L'atteggiamento delle turbe fedeli ma irriflessive e facili all'entusiasmo e quello dei Farisei invidiosi e vigilanti, provenienti tutt'e due, in maniera e misura diversa, da accecamento, spiegano il nuovo metodo d'insegnamento per via di parabole adottato da Cristo d'ora in poi e giustificano il castigo che con questo metodo didattico fatto di chiaroscuro s'infliggeva a Israele.

Questa maniera didascalica improntata ad un prudente riserbo, insufficientemente chiara perchè allegorica, ma appunto per questo atta a stimolare la curiosità dell'uditorio, non era nè estranea alla mentalità orientale, nè interamente nuova sulla bocca del Maestro. Il Salvatore aveva già proposto delle parabole (*Mc.* II, 17-22; III, 23-28). Ma queste non erano sviluppate e solo a proposito delle parabole del Regno, i Sinottici ce ne offrono l'interpretazione che Gesù diede in privato ai discepoli.

L'insegnamento parabolico, se non era del tutto nuovo sulla bocca del Maestro, veniva ora sviluppandosi ed assumendo una portata nuova e per l'argomento trattato e per la sua frequenza e, non ultimo, per lo scopo che il Maestro si era prefisso nel farne uso.

Il tema che sta per svolgere nei suoi discorsi, il Regno di Dio, era allora, come si direbbe oggi, all'ordine del giorno. Tema quanto mai scottante e pericoloso ed a trattare il quale, la circospezione non poteva essere mai troppa. In questa svolta dell'economia del Vangelo, s'inserisce l'episodio in discussione.

La scena che ci si presenta è un meraviglioso affresco della natura. Seduto su di una barchetta dondolantesi in un'insenatura ad anfiteatro del lago di Tiberiade sfiorato appena dai tepidi aliti di primavera, Gesù alla folla accalcatasi sulla riva dalle città e dai villaggi, rivolge la nota parabola del seminatore.

Che questo metodo parabolico non fosse inteso ad agevolare l'intelligenza della dottrina celata sotto il velo della allegoria, ma che anzi, essendo ispirato da una sapiente cautela e da un'intenzione di punire, ne rappresentasse piuttosto una specie d'inciampo lo desumiamo dalle parole del Salvatore riportate dai Sinottici, ma più largamente da Matteo (*Mat.* XIII, 10-17): E i di-

scapoli avvicinati a lui, gli chiesero: "Perchè parli loro in parabole?" Ed egli rispose loro: "Perchè a voi è concesso di conoscere i misteri del Regno dei cieli, ma ad essi non è stato concesso. Poichè a chi sarà dato, e sarà nell'abbondanza, ma a chi non ha, sarà tolto anche quello che ha. Per questo io parlo ad essi in parabole, perchè vedano senza vedere, e sentano senza sentire e senza intendere. E si compie in essi la profezia di Isaia:

*Voi sentirete con le orecchie, ma non intenderete;  
e riguarderete con gli occhi, ma non vedrete;  
poichè il cuore di questo popolo si è fatto insensibile,  
ed hanno indurite le orecchie,  
ed hanno socchiusi gli occhi,  
per non vedere con gli occhi,  
e per non sentire con le orecchie,  
e per non intendere col cuore e convertirsi,  
ed io li risani.*

Ma beati sono gli occhi vostri, che vedono, e le vostre orecchie, che ascoltano. Poichè ve lo dico in verità, molti Profeti e giusti bramavano di vedere ciò che voi vedete e non lo videro, e di udire ciò che voi udite e non l'udirono."

Questo brano dà all'esegeta non poco filo da torcere. Ma per fortuna l'interpretazione dell'intero squarcio non rientra nell'ambito del nostro articolo. A noi spetta solo assodare il significato che la parola *misteri* ha nel contesto e di sottolineare ancora una volta che non può essere resa in maltese con *egħgubijiet*.

Per chi volesse approfondire il problema, opere di solida erudizione non mancano: dalle opere generali sulla vita e l'insegnamento di Cristo, come quella di vasto respiro del Grandmaison, e quelle assai geniali e serie del Lebreton, del Prat e del Ricciotti, dagli autorevoli Commenti del Knabenbauer e quelli recentissimi del Lagrange, ai lavori specializzati sull'argomento del Fonck, del Durand, del Lagrange, del Buzy. Anche per il passo di Isaia, che sembra così enigmatico, gli studi del Condamin e dello Skrinjar sono assai utili.

Ma... riallacciamo: *E con molte di simili parabole—conclude Marco—esponeva loro la sua dottrina secondo che erano capaci di capire; e senza parabole non parlava con essi; però in disparte spiegava poi ogni cosa ai suoi discepoli (Mc. IV, 33-34).*

Era giunto il tempo in cui era necessario che Gesù rivelasse la sua natura e missione messianica. Ma appunto per ciò si poteva

prevedere una più vivace opposizione dal fariseismo incredulo ed un irrefrenabile entusiasmo delle folle, ove questa manifestazione avesse investito le menti d'un tratto. Ecco, quindi, ciò che i Padri hanno chiamato economia, cioè la lenta, graduale, progressiva rivelazione del Vangelo.

Cristo fa uso, dunque, di una forma didattica, la quale, mentre piaceva all'immaginazione orientale, rispondeva pienamente ai fini di quest'economia ed alle circostanze storiche da noi già rapidamente accennate.

La parabola, comune sulla bocca dei rabbini, veniva meravigliosamente trasformata dal Salvatore. A differenza di quelle dei rabbini, le parabole di Cristo non illustrano un insegnamento già impartito, ma abbozzano a larghi tratti, mediante immagini colte dalla vita vissuta e dalle cose più famigliari, una dottrina ancora da impartirsi. Sono l'ombra della realtà.

Sulla scorta di queste premesse non ci stupisce il rilievo notato dai Sinottici che gli apostoli rimasero sorpresi per questo mutamento di sistema e chiesero al Maestro e la ragione di questa nuova maniera didattica (*Matt.* XIII, 10) e l'interpretazione delle parabole (*Mc.* IV, 10; *Lc.* VIII, 9).

Con questo metodo, mentre si nascondeva almeno in parte, la verità agli indifferenti e agli increduli e male intenzionati, si stuzzicava la curiosità dei più spiritualmente disposti ad accogliere il messaggio cristiano. Non era forse un invito a chiedere spiegazioni, la frase: *Chi ha orecchi per intendere, intenda* (*Matt.* XIII, 9; *Mc.* IV, 9; *Lc.* VIII, 8)? Ed in realtà per alcuni l'invito non fu rivolto invano. I discepoli ed i seguaci più fedeli (*Mc.* IV, 10) s'accostarono al Maestro e, in omaggio al suo solenne invito, gli domandarono ansiosamente *che parabola fosse quella* (*Lc.* VIII, 9). Non avevano, dunque, capito. E si comprende. Cristo non celebrava le *meravigliose bellezze* del Regno dei Cieli — *l-eghġubijiet—il-ġmieġ* del Muscat Azzopardi—ma rivelava in una conversazione intima, illuminativa, riservata a pochi, i *segreti e misteriosi* disegni di Dio.

Studiata in questa prospettiva, la parola *mysteria* non può avere altro significato all'infuori di quello già precisato. E quindi, anche dal punto di vista esegetico *eghġubijiet* è quanto di più inesatto si possa immaginare, per rendere *mysteria* in Maltese. Che anzi *eghġubijiet* è proprio agli antipodi del concetto che l'Evangelista voleva esprimere.

Abbiamo ritenuto opportuno richiamare l'attenzione a questo errore ch  si   introdotto in una delle pi  diffuse traduzioni Maltesi del Vangelo, non per mero pettegolezzo filologico, ma perch  nel verso in discussione il testo ed il commento del Muscat Azzopardi compromettono, su di un punto vitale, l'intelligenza non solo della dottrina ma della vita stessa di Cristo.

Ci sia lecito, a conclusione di questo modesto lavoro, invitare gli studiosi nostrani della Bibbia a darci, insieme ad una solida vita di Cristo in Maltese, una versione di tutto il Nuovo Testamento condotta sull'originale greco ed ampiamente commentata secondo gli ultimi risultati della storia e della critica. *Quod est in votis.*

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## The Authority of St Thomas Aquinas in Theology \*

REV. PROF. S.M. ZARB, O.B.E., S.TH.M., S.S.D., O.P.

LET us now pass to treat of the authority of St Thomas Aquinas in Theology which is the main object of this article. We have said that the most specific quality of a Father or a Doctor of the Church is the approbation of the Church. The Church does not approve all the Fathers and Doctors in one and the same way; but there are degrees and differences in the approbation according to the value of the works of each Father and Doctor.

St Thomas was born at the end of the first quarter of the XIII century about the year 1225 and in less than half a century he fulfilled his mission on earth and died at the Cistercian Abbey of Fossa Nova while on his way to the Council of Lyons. on March 7, 1274. During his short life he proved to be a real wonder for his intellectual achievements, leaving behind him, according to Father Mandonnet, no less than seventy five works some of which are very voluminous, such as the *Commentaries* on the books of the Old and New Testaments, the Commentary "*In IV libros Sententiarum*", the "*Quaestiones Disputatae*", and most particularly the two Summae, the "*Summa Contra Gentiles*" and the "*Summa Theologiae*", which by itself would have amply sufficed to put St Thomas at the head of all the expositors of Catholic Doctrine.

The first years after the death of St Thomas were spent in controversies about the accuracy and the correctness of his doctrine and some Universities went so far as to condemn some of his propositions; thus the University of Paris in 1227, that is, hardly four years after his death condemned some of his teachings. But the triumph of St Thomas was well secured when Pope John XXII, on the 18th July, 1323, in the Church of St Mary at Avignon, canonised Thomas Aquinas.

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\* The first part of this article appeared in Vol. II, No. 1, pp. 44-50.

St Thomas Aquinas who even before his canonisation was known as the *Doctor Communis*, a title explicitly given to him since the year 1317, was solemnly declared Doctor of the Church by Pope St Pius V on April 11, 1567. The act by which Pius V declared St Thomas a Doctor of the Church was only an implementation of the intention of the Council of Trent, concluded a short time before, which had made a great perusal of the works of St Thomas in its important decisions. Besides, St Pius V, in view of the great heights reached by St Thomas in his writings together with his saintly life, gave him the title, by which he is more commonly known, namely that of "Angelic Doctor".

In more recent times, Pope Leo XIII, in his immortal Encyclical Letter *Aeterni Patris*, dated 4th August, 1880, having received petitions from all the Bishops of the Catholic Church, declared St Thomas the heavenly Patron of all Catholic Schools and Universities.

The saintly Pope Pius X, in his famous Encyclical Letter *Pascendi Dominici Gregis* of the 7th September, 1907, paragraph VI De Remedii. I, in order to check what he calls the most malicious of all heresies, Modernism, prescribes: "In the first place with regard to studies, it is Our will, and We hereby explicitly ordain that the Scholastic philosophy be considered as the foundation of Sacred Studies. It goes without saying that if there be any proposition too subtly investigated or too inconsiderately taught by the Doctors of the School, any tenet of theirs not strictly in conformity with subsequent discoveries or in any way improbable in itself, it is no part of Our intention to propose that for the imitation of our age. What is of capital importance, however, is that in prescribing that the Scholastic philosophy is to be followed: We have in mind particularly the philosophy which has been transmitted to us by St Thomas Aquinas. We therefore declare, that all the orders issued in this regard by Our Predecessor remain in full force and where need be We renew and confirm them and order them to be strictly observed by all concerned. Let Bishops urge and compel their observance in future in any Seminary in which they may have been neglected. The same injunction applies also to Superiors of Religious Orders; And we warn teachers

to bear in mind that to deviate from St Thomas especially in metaphysics is to run very considerable risk."

These solemn words of Pope Pius X found a faithful echo in the Codification of the Ecclesiastical Laws. In fact in the New Code of Canon Law drawn up under Pope Pius X and promulgated under his successor Benedict XV, it is prescribed in Can. 589 par. 1: "Religious, after having been duly instructed in the Humanities should devote themselves for at least two years to philosophy and for four years to Theology according to the teaching of St Thomas in accordance with the instructions of the Apostolic See". Can. 1366 par. 2 deals with the diocesan Seminaries and prescribes: "The study of Philosophy and Theology and the teaching of these sciences must be accurately carried out by Professors according to the arguments, doctrine and principles of the Angelic Doctor which they must reverently hold".

In the light of this ecclesiastical legislation one can easily see that Thomistic Philosophy as well as Theology was bound to flourish. But there was still an easy way of evading it, namely to give to the text of St Thomas a different interpretation from that which was traditionally kept by the Thomistic School. In fact in this way many claimed to follow the doctrine of St Thomas, whereas in reality they were twisting St Thomas to their own ideas.

In order to restrain this tendency the Sacred Congregation of Studies, on July 27, 1914, published a list of twenty four theses which were declared to contain the evidently genuine doctrine of the Angelic Doctor: the decree as usual was signed by the Sovereign Pontiff, Pope Pius X.

Benedict XV at the beginning of his Pontificate, in the *Motu Proprio* of December 3, 1914, directed to the Theological College of Bologna, recalled the prescriptions of his predecessors Leo XIII and Pius X and ordained that the doctrine of St Thomas be followed scrupulously in Catholic Schools and also exhorted the said College to adhere most firmly to the principles of the Angelic Doctor and to follow the text of the *Summa Theologiae*. And later on, in another decree of the same Congregation of Studies published in the *Acta Apostolicae Sedis* of 1916, he prescribed that the *Summa Theologiae* should be adopted as the text for Scholastic Theology and the twenty four

propositions were to be considered as certain and directive rules which express the genuine doctrine of St Thomas.

In 1923, on the occasion of the VI centenary of the canonisation of St Thomas the Supreme Pontiff Pius XI published his Encyclical Letter *Studiorum Ducem*. Pius XI is to be considered as the great reformer of ecclesiastical studies. His Apostolic Constitution, *Deus Scientiarum Dominus* of May 24, 1931, will for many years to come be the Magna Charta of all Catholic Universities. In this Constitution the Holy Father following in the footsteps of his immediate predecessors prescribes: "In the Faculty of Theology Sacred Theology shall occupy the principal place. This Science shall be taught in the positive and the Scholastic method; consequently after the exposition of the truths of Faith and their demonstration from Holy Writ and Tradition, the nature of, and the intimate reason for, those truths is to be investigated and explained according to the principles and the teaching of St Thomas Aquinas." With regard to the Faculty of Philosophy it is prescribed: "In the Faculty of Philosophy Scholastic Philosophy shall be taught in such a way that the students may obtain a whole and coherent synthesis of the doctrine according to the method and principles of St Thomas Aquinas. With this doctrine in view the various systems of philosophers are to be examined and scrutinised" (art. 29, a and c). These same rules are then explained in the "Ordinationes" of the Sacred Congregation of Studies, dated 12th June, 1931 (art. 18) which accompany the aforesaid Constitution.

The reigning Pontiff in the first year of his Pontificate renewed the prescriptions of his predecessors with regard to the study of St Thomas (*Acta Apostolicae Sedis*, 1939, 246 s.), and in his memorable speeches, one to the General Congregation of the Society of Jesus and the other to the Members of the General Chapter of the Order of Preachers, both delivered in September, 1946 (*Osservatore Romano*, September 19, and 23-24, 1946), he insisted on the necessity of the study of the doctrine of St Thomas Aquinas and recalled the prescriptions of Canon Law and of the Apostolic Constitution of Pope Pius XI.

It is meet, therefore, to repeat the words of an eminent Jesuit, the late Cardinal Billot, who in the inaugural speech

of the Academy of St Thomas held on March 11, 1915, said: "The Popes succeeded one another; Popes of different nationality, with characters and tendencies much divergent from one another; but all, from John XXII down to Benedict XV (We can today add: down to Pius XII), have unanimously recommended the doctrine of St Thomas" (A.A.S., 1916, p. 412).

From all these documents it follows very clearly that the doctrine of St Thomas is particularly approved by the Church, nay, his works are also prescribed as the text to be followed in the schools of philosophy and theology. This does not mean that every point of teaching found in the works of St Thomas is to be considered as pertaining to the Catholic Faith, nor can we pretend that everything in St Thomas is to be considered as certain but we can safely affirm that in things pertaining to faith and morals the doctrine of St Thomas can and must be held as to exclude its opposite doctrine, even if held by other schools or doctors. This conclusion is not an exaggerated one for it seems to be in conformity with the prescriptions of the Sovereign Pontiffs, as the following quotation taken from Leo XIII will amply prove. Leo XIII after presenting to the faithful the singular qualities of the doctrine of St Thomas goes on to say: "For these reasons learned men of the highest eminence in theology and philosophy, in preceding ages more particularly, eagerly sought the immortal works of Thomas and devoted themselves, not so much to cultivating the angelic wisdom, as to soaking themselves in its principles. It is plain also that nearly all founders and lawgivers of Religious Orders made it compulsory for their brethren to devote themselves and to adhere religiously to the doctrines of St Thomas and forbade them to depart in the slightest degree from the path traced by so illustrious a man. Not to mention the Dominican family which boasts this consummate master as one of its own special glories, their respective statutes testify that Benedictines, Carmelites, Augustinians, the Society of Jesus and many other Religious Orders are bound by the same law. In this connection the mind dwells gladly upon those well celebrated schools and academies which were once so flourishing in Europe, the Universities of Paris, Salamanca, Alcalá, Douai, Toulouse, Louvain, Padua, Bologna, Naples, Coimbra and numerous other cities. Everybody knows that the reputation of these schools

increased with time, that their opinion was solicited in matters of the gravest moment and universally held in the highest esteem. It is also the fact that St Thomas sat enthroned, like a prince in his kingdom, in all those great houses of human wisdom and that the minds of all, even the Doctors, reposed with marvellous unanimity upon the teaching and authority of one Angelic Doctor. What is even more important, the Roman Pontiffs, Our Predecessors, bestowed the most singular commendation and the most lavish testimonials on the wisdom of Thomas Aquinas. Clement VI, Nicholas V, Benedict XIII, and others testify to the lustre shed upon the universal Church by his admirable doctrine; St Pius V, indeed, declares that by this same philosophy heresies are confounded, convicted and dissipated, and the world daily delivered from pestiferous errors; others, such as Clement, say that his writings have conferred the most fruitful blessings upon the universal Church and that he is to be accorded the same respect that is accorded to the supreme Doctors of the Church, to Gregory, Ambrose, Augustine and Jerome. Others again have had no hesitation in proposing St Thomas as a model and master whom academies and Colleges could safely follow. The words which the Blessed Urban V addressed to the Academy of Toulouse may fittingly be recalled in the context: 'We desire and bid you by these letters to follow the doctrine of the Blessed Thomas as truthful and Catholic and to strive with all your strength to develop it'. The example of Urban V was followed by Innocent XII in a letter addressed to the University of Louvain, and by Benedict XIV in a Brief addressed to the Dionysian College of Granada. The testimony of Innocent VI, however, may be considered as the summary of all the judgements pronounced by the Supreme Pontiffs on Thomas Aquinas: 'His doctrine exceeds all others, with the exception of Canon Law, in propriety of expression, precision of definition and truth of statement, so that those who have once grasped it are never found to have deviated far from the path of truth; and anyone impugning it has always been held suspect of error'. The Oecumenical Councils, also, so distinguished by the presence of an élite of wisdom chosen from the whole world, have always been zealous to pay particular honour to Thomas Aquinas. He may be said to have taken part in, nay, to have presided at, the deliberations and the

decrees of the Fathers at the Councils of Lyons, Vienna, Florence and the Vatican; and to have combated with invincible energy and the happiest success the errors of Greeks, heretics and rationalists. The greatest honour ever paid to St Thomas, however, an honour never accorded to any Catholic Doctor, is that the Fathers of Trent decreed that during their sessions the Summa of Thomas Aquinas should be laid open on the altar with the books of Holy Scripture and the decrees of the Supreme Pontiffs for them to resort to it in case of need for counsel, arguments and oracles. Lastly, this laurel also seems to have been reserved for this incomparable man, that he was able to wring respect, praise and admiration even from the enemies of the Catholic name. For it is well known that many leaders of heretical factions have openly declared that, if the philosophy of Thomas Aquinas were once disposed of, they could easily 'engage in the contest with and vanquish all the Catholic doctors' and 'scatter the Church'. It was an idle hope, to be sure, but not an idle testimony".

After this exposition of weighty testimonies on the authority of St Thomas in philosophy and theology given by Universities and Schools of higher studies, by Supreme Pontiffs and Oecumenical Councils and even by enemies of the Catholic name, I deem it superfluous to insist any longer on proving my point. The authority of St Thomas Aquinas in Theology has always been acknowledged, nay, it has been continually recommended and even prescribed by the ecclesiastical authorities and it is therefore the duty of all Catholics particularly of those who devote themselves to the study and the teaching of the Catholic Faith to adhere wholeheartedly to the doctrine of such an incomparable doctor.

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# QUÆSTIONES MORALES

RT REV. MGR PROF. C. BONNICI, B.L.CAN., D.D.

## CASUS MORALIS PRIMUS

*Omnia parata erant ad nuptias. Camillus, vir timoratus, ad Joannem Parochum accessit, dum hic stola iam indutus procedebat ad altare ut matrimonium Titii cum Sempronia benediceret; accessit et ad aurem submissa voce dixit cum iuramento impedimentum ligamini obstare matrimonio, quia Titius valide et legitime conjunctis iam erat cum Lucia, adhuc vivente et derelicta in regione longinqua, ipso teste de veritate rei. "Quare nunc tantum venis ad exponendum mihi hoc impedimentum?" dixit ei Parochus. "Quia nunc cognovi praeter meam expectationem hanc malitiam Titii, et non potens talem dolum sustinere, veni festinanter revelare hoc impedimentum". Commotio magna evenit in Ecclesia, quando Parochus noluit obstinate procedere ad illam caeremoniam nuptialem.*

### QUAERITUR:

*Primo: Impedimentum ligaminis potestne aliqua ratione dispensari?*

*Secundo: "Testis unus, testis nullus", estne admittendum in casu nostro?*

*Tertio: Potuitne parochus dissimulare benedictionem nuptialem, et postea privato modo declarare invalidum esse contractum?*

*Quarto: Quid iudicas tu de modo agendi parochi in perplexitate hujus casus?*

### RESPONDEO AD PRIMUM:

Impedimentum ligaminis seu vinculi consistit in eo quod conjux inhabilis est ad novum matrimonium ineundum durante vinculo prioris; ergo est ipsum vinculum prioris matrimonii, sive consummati sive non consummati, quo unus conjux alteri ligatur, ut eo vinculo durante, cum nullo alio matrimonium inire valeat.

Nam iure divino statuitur matrimonium indissolubile, et quamvis in Veteri Testamento sub lege Mosaica per libellum repudii quandoque dissolvi poterat, in lege tamen Evangelica indissolubilitas urgetur, ita ut nulla potestate humana nullaque

de causa matrimonium dissolvi possit, sed quibusdam in casibus potestate divina. Quod est certum de Fide ex Conc: Trid: Sess. 24 et can. 5, 7 et can. J.C. 1118.

Ad normam tamen canonum J.C.: 1119 — 1120 "Matrimonium non consummatum inter baptizatos vel inter partem baptizatam et partem non baptizatam dissolvi potest potestate divina Ecclesiae concessa et nomine Dei ministerialiter exercenda, quod fieri potest a) ipso iure per solemnem religiosam professionem. b) per dispensationem a Sede Apostolica ex iusta causa concessam, utraque parte rogante vel alterutra, etsi altera sit invita."

Matrimonium legitimum infidelium, etiam consummatum, potest dissolvi iure divino, si uno ad Fidem converso, alter nolit cohabitare pacifice, vel sine contumelia Creatoris, iniuria aut spirituali damno fidelis. Quod est certum ex declaratione Innocentii P. III qui ita interpretatur sententiam Apostoli Pauli. Cfr. Can. J.C. 1120.

#### RESPONDEO AD SECUNDUM:

Unius testis depositionem de regula fidem non facere iam tradidit Lex Mosaica (Deut: XIX, 15) et recurrit apud Matth: XVIII, apud Joannem VIII, 17, et apud Paulum II Corinth: XIII. Id expresse erat statutum lege Romana, passim autem iure Decretalium. Rationes autem, cur plena fides debeatur saltem duobus contestibus iuxta regulam per se et ordinarie certo modo non verificantur in uno teste etiam classico. Regula tamen intelligenda est de depositione unius testis, praescindendo ab aliis adminisculis et indiciis, quae utique in particulari casu talia esse possunt ut simul sumpta cum tali depositione veritatis facti certo moraliter evincatur. Unde sponte seu ex diverso, in foro Ecclesiastico enatum est principium "dictum unius, dictum nullius" seu "testi uno nulla fides" et cetera hujusmodi.

Ista tamen principia nimis rigide intelligi non debent, ne irripat absurdum computationis arithmeticae in ponderandis probationibus a suo scopulo non sufficienter nec omnes fuerunt immunes pragmatici utriusque fori. Haec autem iuris praescriptio directe refertur ad probationem iudicalem; in iudicio autem non est damnandus reus sine plena probatione "actore non probante, reus absolvitur". Ita Can. J.C. 1791: "Unius testis

depositio plenam fidem non facit, nisi sit testis qualificatus qui deponat de rebus ex officio gestis". Ita ex. gr. ad probandum statum liberum partis contrahentis matrimonium, praeter interrogationes sponsorum, alii investigandi modi adhibendi sunt pro opportunitate, ad tramites canonum J.C. 1020 par: 3 et 1023 par: 2, non exclusa iurata testium de libertate status nupturientium, de qua fit mentio in Decreto Commissionis Pontificiae 23 Junii 1918 coll. can. 1031 p. I n. 1. Ergo defectu duorum testium, potest sufficere testimonium unius testis dummodo ille testis determinatis conditionibus sit praeditus, nulli exceptioni obnoxius, ac praeterea ejus depositio aliis gravibus adminisculis fulciatur. Hinc unus testis fide dignus sufficit ut parochus "in ordinariis adiunctis" matrimonium impediat, licet comparere nolit, ut constat ex declaratione Alexandri III c. 13. Cfr. Gasparri: "De Sponsalibus" et Wernz: L. c. N. 144.

In casu nostro uti enarrato certum est attestationem Camilli, etsi viri timorati et fide digni, non facere plenam certitudinem, quod oritur ex supra dictis, sed sufficere ad ingerendum dubium positivum circa quoddam impedimentum dirimens et indispensable. Parochus "in ordinariis adiunctis", nequit procedere ad matrimonium, inconsulto Ordinario.

#### RESPONDEO AD TERTIUM:

Respondeo negative. Nam si per "benedictionem nuptialem" intelligitur tantum sacra caeremonia benedictionis, quae in Rituali Romano praescribitur, cum ista caeremonia ad valorem contractus matrimonialis non requiratur, nulla utilitas aderit in tali dissimulatione; si autem "benedictio nuptialis" intelligenda est "adsistentia activa Parochi" quae adsistentia, cum sit pars essentialis formae celebrationis matrimonii, afficit valorem contractus matrimonialis, nobis videtur talis dissimulatio esse graviter illicita quia induceret in errorem in re valde gravi ipsos ministros Sacramenti, et sponso exponeret periculo vivendi in concubinato. Ceterum in praxi ista dissimulatio vix fieri potest quin sit vera simulatio, quae in omni casu, cum sit vere mendacium, esset graviter illicita, insciis partibus contrahentibus.

#### RESPONDEO AD QUARTUM:

Nobis videtur Joannes Parochus imprudenter egisse "in istis extraordinariis rerum adiunctis". Celebratio enim matrimonii

haberi potest uti iam moraliter "in actu". Nam Titius et Sempronia, sponsi, iam ad altare sistunt, expectantes Parochum qui iam iam accedebat, stola indutus. Adest enim alia via procedendi in hoc casu tam particulari, tum ne exponeretur Sacramentum periculo nullitatis, tum ne exponerentur sponsi gravibus damnis quae necessario sequerentur ex modo agendi Parochi, uti dictum est in narratione casus: "magna commotio evenit in Ecclesia". Ceterum celatio impedimenti ligaminis ex parte Titii sponsi, constituit grave crimen et ideo Titius sponsus, saltem coram sponsa, exponeretur certo periculo gravis infamiae ob delictum quod adhuc habetur tantum uti dubium. Praeterea praesumendum est Titium in possessione fuisse cujusdam authentici documenti Curiae Ordinarii loci, ubi matrimonium celebratur, attestantis ejus statum liberum, quod evidenter sponsus obtinuit post peractas omnes proclamationes immo etiam investigaciones rite peractas ad normam Iuris et Instructionum Sacrae Congregationis.

Ex alia parte, omnes Theologi et Canonistae docent licere conditionem honestam, quae non sit contra matrimonii substantiam, consensui apponere "ex gravissima causa" et consulto Ordinario, si adiri possit.

Quis ergo negare audeat non adfuisse in tali particulari casu, gravissimam causam ut matrimonium cum consensu conditionato de re licita, et quidem de praesenti, contrahi possit?

In his ergo rerum adiunctis nobis videtur Joannes Parochus diverso modo procedere debuisse. Debuit enim in primis caute et prudenter interrogare sponsum de isto dubio. Si ipse negat existentiam vinculi, Parochus certiozem sponsam faciat de isto dubio et si ipsa, nonobstante hoc dubio, velit contrahere matrimonium, ab ipso Parocho suadeatur ut consensum matrimoniale emittat conditionatum, nempe "nisi obsit impedimentum ligaminis ex parte sponsi"; eodem tempore Parochus moneat prudenter contrahentes, post celebrationem matrimonii, eos nondum actu veros conjuges esse vinculo matrimoniali, et usquedum purificetur conditio eos debere sese abstinere ab omnibus actibus conjugalibus, et si simul cohabitare velint, uti frater et soror vivant; statim ac peracta celebratione matrimonii, Parochus tenetur graviter onerata conscientia, quam citius rem deferre Ordinario loci ut procedatur uti in casibus matrimonialibus, quando dubium circa valorem matrimonii habetur post celebra-

tionem matrimonii. Iste modus procedendi in casu, uti nos opinamur, est valde aequus et prudens, ad hoc ut sponsi ex tam arduis angustiis educantur.

## CASUS MORALIS SECUNDUS

*Paulus Carolo confessario viginti libellas anglicas quas Petro furatus erat, domino restituendas dedit. Carolus pecuniam cum aequali pecunia propria in scrinio clausit. Sed cum cras Petrum quaerere vellet, magno cum dolore advertit scrinium effractum esse et viginti sex libellas evanuisse. Putans Paulum adhuc restitutioni totali obnoxium esse, timuit cum de infelici eventu monere ne forte bonam fidem ejus frustra turbaret.*

### QUAERITUR:

*Primo: An confessarius acceptans restitutionem pro poenitente facere, obligationem personalem erga dominum periculo suo in se assumat?*

*Secundo: Rectene indicavit Carolus Paulum adhuc restitutioni totali obnoxium esse? Quid si Carolus pecuniam restituendam cum pecunia propria non miscuisset; aut si pecunia negligentia sua periisset?*

*Tertio: Quando non est turbanda bona fides poenitentis?*

*Quarto: Ad quid teneri potest confessarius qui cum damno tertii monitionem omittit?*

### RESPONDEO AD PRIMUM:

Confessarius acceptans restitutionem facere pro poenitente haberi potest, iuxta aliquos, uti mandatarius, aut iuxta alios uti negotii gestor ipsius domini creditoris. In utroque casu confessarius tenetur, onerata sua conscientia, diligenter et utiliter gerere ac veluti propria negotia sibi commissa. Hinc tenetur in gestione de commissis et de damnis ex negligentia theologice culpabili inde secutis. Diximus "ex negligentia theologice culpabili" quia secus nullus confessarius assumeret tantam obligationem, quod redundaret in praeiudicium boni communis. Ita omnes.

**RESPONDEO AD SECUNDUM:**

(i) Non satis recte iudicavit Carolus confessarius. Nam non omnes theologi idem sentiunt in hoc casu. Multi enim probabiliter censent a nova restitutione immunem esse poenitentem, qui pecuniam restituendam confessario tradidit, apud quem casu vel culpa tertii pecunia periit. Nam confessarius uti nuntius ex praesumpto creditoris electus haberi potest cum saepe restitutio alia via tuto fieri non possit absque infamiae periculo, et aliunde confessarius sit ex officio nuntius fide dignus. Unde in praxi, qui hoc modo restituit, ad novam restitutionem non est cogendus, iuxta principium "non est imponenda obligatio restituendi nisi de ea certo constet." Ita Lessius, Tanqueray, Sporer, Tamburini et alii, et recenter Lemkhul, Noldin et plures moderni auctores. Qui vero tenent contrariam sententiam non loquuntur de solo confessario sed de quolibet homine fido. At facile quisque videt longe graviolem esse rationem si de solo confessario agimus, qui naturaliter ut persona intermedia constituitur, ac longe facilius ex voluntate creditoris praesumpta argumentum sumi posse, si solam inculpabilem rei amissionem respicimus.

(ii) Si Carolus pecuniam restituendam cum propria non miscuisset, et tota summa pecuniae restituendae periisset, Carolus uti patet ex responsione ad primum, ad nihil tenetur, quia res periit domino. In casu nostro in specie, cum Carolus ex libera propria voluntate pecuniam restituendam cum propria pecunia miscuisset, et ita se cum creditore unum dominum totius cumuli pecuniae moraliter se constituisset, tenetur restituere pro parte non ablata seu pro dimidia parte cumuli adhuc extantis quia res periit domino. Si vero ex negligentia theologice culpabili, et ideo saltem in confuso Carolus ablationem praeviderit, uti mandatarius seu nuntius confessarius teneretur ad restitutionem totius summae pecuniae sibi commissae. Et ratio patet ex dictis.

**RESPONDEO AD TERTIUM:**

Confessarius uti Doctor tenetur semper poenitentem docere ea omnia quae necessaria sunt ad validam Sacramenti susceptionem. Haec instructio fieri debet, quamvis poenitentis ignorantia sit invincibilis. Ordinarie tenetur quoque docere poenitentem ignorantem, sive communia praecepta christiana, sive particula-

ria status proprii. Nempe semper quando ignorantia sit vincibilis; e.g. si poenitens confessarium ea de re interroget. Quando vero ignorantia est invincibilis seu poenitens est in bona fide, tunc solum debet poenitentem monere, cum ex monitione fructus speratur; speratur autem, non solum quando monitio certo praevideatur non obfutura, verum etiam quando negative tantum dubitatur, num obfutura vel profutura sit, vel probabilius profutura quam obfutura. Facienda est monitio, quando poenitens licet initio reluctaturus, brevi tamen obsecuturus praevideatur; quando ignorantia versatur circa conclusiones proximas primorum principiorum juris naturalis, vel circa obligationes deserendi occasionem proximam gravis peccati formalis, quando ex silentio confessarii oriretur damnum spirituale Communitatis. Omittenda est monitio de restitutione facienda, si confessarius praevidet poenitentem qui in bona fide est, non esse obtemperatum, vel si prudenter timetur ex obtemperacione scandala, lites, aliave gravia inconvenientia oritura esse. Ita communiter.

**RESPONDEO AD QUARTUM:**

Distinguendum est. Si confessarius 'positive' ex gravi culpa omittat monitionem cum damno tertii, affirmandum est; quia tunc confessarius est causa iniusta damni tertii. Diximus "positive" si ex. gr. confessarius interrogatus silet; si vero 'negative', seu non monendo poenitentem, quia non interrogatus, negandum est, quia confessarius non tenetur 'ex iustitia' damna temporalia impedire. Ita communiter.

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 AC: Ami du Clergé.  
 Ang: Angelicum.  
 BASOR: Bulletin of the American School of Oriental Research.  
 Bib: Biblica.  
 BSOAS: Bulletin of the School of Oriental and African Studies.  
 CBQu: Catholic Biblical Quarterly.  
 CC: Civiltà Cattolica.  
 CR: Clergy Review.  
 Cult: Culture.  
 DR: Downside Review.  
 DuR: Dublin Review.  
 DS: Dominican Studies.  
 EphThL: Ephemerides Theologicae Lovanienses.  
 ExpT: Expository Times.  
 Gre: Gregorianum.  
 JBL: Journal of Biblical Literature.  
 JJS: Journal of Jewish Studies.  
 JNES: Journal of Near Eastern Studies.  
 JTS: Journal of Theological Studies.  
 Lit: Liturgy.  
 Mar: Marianum.  
 MT: Melita Theologica.  
 Per: Periodica.  
 PMun: Perfice Munus (Parte Generale).  
 RAC: Rivista di Archeologia Cristiana.  
 RB: Revue Biblique.  
 RBen: Revue Benedictine.  
 RCI: Rivista del Clero Italiano.  
 RR: Ricerche Religiose.  
 RSR: Recherches de Sciences Religieuses.  
 RUL: Revue de l'Université Laval.  
 Sal: Salesianum.  
 Ser: Scripture.  
 Scripum: Scriptorium.  
 Tra: Traditio.  
 TRHistS: Transactions of the Royal Historical Society.  
 VChr: Vigiliae Christianae.  
 VD: Verbum Domini.

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(\*) As a complete bibliographical list of biblical articles (and books) is being published in "Biblica—Elechus Bibliographicus Biblicus" (P. Naber, S.J.) we are omitting the section "SCRIPTURE" in the present list.

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- CATHERINET, F. M.: *Spiritualité ignacienne, benedictine, carthusienne*  
—AC 59 (1949) 87-93.
- LONGPRE, A.: *Les écrits de Saint Jean de la Croix*—Cult 10 (1949) 19-28.

GEO. ZAMMIT.

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## Our Diary

**1st October, 1949:** — At the Graduation Ceremony held at the University Church, the degree of **Doctor of Divinity** was conferred on Rev. R. Ciriilo, B.A., B.Sc.Pol. (Louv.), Lic.D., one of the promoters and the first President of R.U.S.T.A. His thesis, entitled "The Doctrine of the Church and the Right of Private Property (with special reference to 'Rerum Novarum' and 'Quadragesimo Anno') and an appendix on the Social Problem in Malta", is the first to be approved in our Alma Mater since the Faculty of Theology has been reformed according to the Pontifical Constitution "Deus Scientiarum Dominus". The degree of **Licentiate of Divinity** was conferred on the following members of R.U.S.T.A.: Revv. A. Borg, B.D.; Ph. Callus, B.A., B.D.; C. Gatt, B.A., B.D., F.X. Ebejer, B.D.; J. Saliba, B.A., B.D.; G. Zammit, B.D.; J. Zammit, B.D.

**11th November, 1949:** — At the Annual General Meeting the following reverend gentlemen were elected to sit on the new Committee:—

President: Rev. E. Borg Olivier, B.A.

Hon. Secretary: Rev. G. Camilleri.

Hon. Treasurer: Rev. C. Muscat, B.A.

Members: Rev. J. Abela and Rev. L. Deguara.

In the first meeting of the Committee the Rev. Ph. Callus, B.A., Lic.D., and the Rev. J. Saliba, B.A., Lic.D., were nominated co-editors of "Melita Theologica".

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