



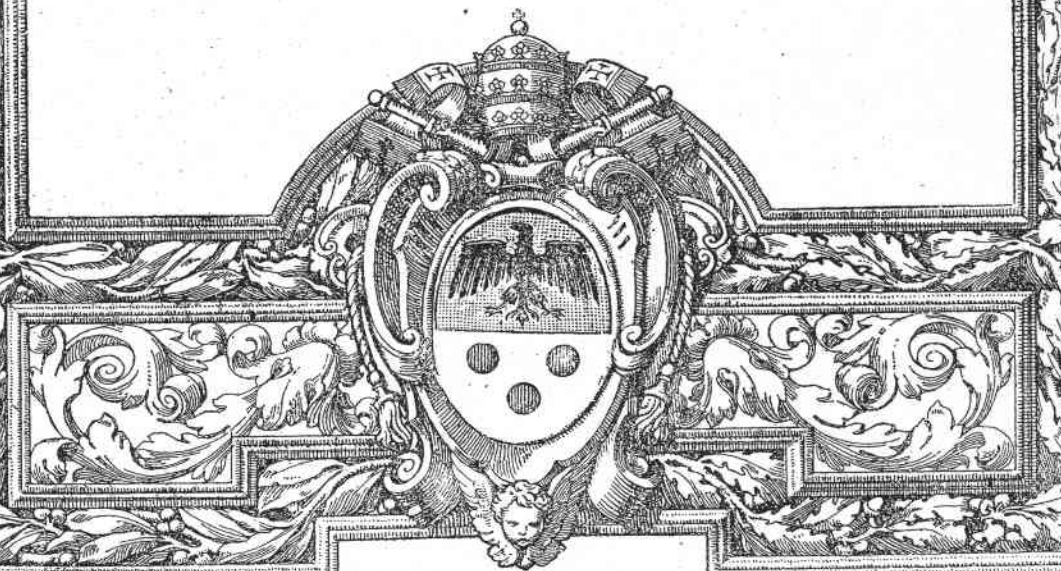
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Quae supremus Pontifex gl. mem. Bened. XIV in Constitutione die 1 Iunii anno 1741 edita cuius initium est: *Sacramentum Poenitentiae*,¹ confirmavit ac decrevit, ea ad haec quatuor maxime capita reducuntur. In primis, quemadmodum iam antea sancitum fuerat, praesertim a Gregorio XV Constitutione quae, sub die 30 Augusti anno 1622 data, incipit: *Universi*,² omnes locorum Ordinarii aequae ac Inquisitores deputantur iudices ad inquirendum et procedendum et condignis poenis animadvertendum contra sollicitantes ad turpia in Confessione, quamvis ab ordinaria iurisdictione quomodolibet exemptos. Itidem omnes sacerdotes ad audiendas sacras confessiones constituti, sicut antea quoque praescriptum erat, obligantur monere suos poenitentes, ut sollicitantes huiusmodi, quamprimum poterunt, Inquisitoribus aut locorum Ordinariis deferant; eosdemque poenitentes non absolvere, qui huic adimplendo muneri parere recusent. Praeterea tertio loco Apostolicae Sedi reservatur, excepto mortis articulo, eorum casus qui innocios sacerdotes apud ecclesiasticos iudices falso sollicitationis insimulant, vel sceleste procurant ut id ab aliis fiat. Quarto denique sacerdoti cuilibet omnis facultas et iurisdictio ad sacramentales confessiones personae complicis in peccato turpi contra sextum decalogi praeceptum commisso excipiendas adimitur, nisi extrema prorsus urgeat necessitas, nimirum si in ipsius mortis articulo alter sacerdos desit, qui confessarii munere fungatur, vel sine gravi aliqua exortura infamia vel scandalo vocari aut accedere nequeat.³ Et Apostolicae Sedi reservatur eorum confessoriorum casus, qui complicem in peccato turpi absolvere ausi fuerint.

Nullum sane dubium est, quin hae praescriptiones, prohibitiones, reservationes omnes et singulae in cunctas nationes universim vires suas extendant, et ubique terrarum *inconcusse ac inviolabiliter* observandae sint. Quod quidem vel legenti Gregorii XV et Benedicti XIV Constitutiones evidentissime patet; et idipsum consequentium Pontificum suffragio, prout se dedit occasio, ad hanc usque diem confirmatum est. Et re quidem vera Vicario Apostolico Cocincinae sciscitanti: 1. *An Constitutio Bened. XIV adversus sollicitantes obliget etiam missionarios franciscanos, qui ministerium*

¹ Cf. N. 309. — Cf. etiam Codicis Iuris Canonici Docum. V.

² Cf. N. 201.

³ Const. eiusdem S. P. Bened. XIV, *Apostolici muneris*, die 8 Februarii 1745. — Cf. N. 355.

exercet in Cocincina. 2. An eadem Constitutio restringi possit ac moderari in aliquo casu ob magnam confessoriorum penuriam in eodem regno Cocincinae; iussu Pii VI anno 1775 opportuna instructione responsum fuit: Ad 1. affirmative. Ad 2. negative.¹ Et proxime SS^mus D. N. Pius Papa IX decreto huius supremae Inquisitionis sub feria IV, die 27 iunii anno 1866² edixit, in facultatibus quibus Episcopi aliique locorum Ordinarii ex concessione Apostolica pollent absolvendi ab omnibus casibus Apostolicae Sedi reservatis excipiendos semper in posterum et exceptos habendos esse casus reservados in bulla Benedicti XIV, quae incipit: «Sacramentum Poenitentiae». Hoc decretum vero omnibus ubique terrarum Ordinariis praedicta absolvendi facultate donatis absque ulla exceptione significandum mandavit.

Quamobrem omnibus locorum Ordinariis enitendum summopere est, ne eorum vigor, quae in praedicta Constitutione salubriter providentur, paulatim uspiam elanguet. At E^mi PP. Cardinales supremi Inquisitores nuper cognoverunt, eandem Constitutionem non ubique, sicuti par esset, executioni tradi, atque in aliquibus locis nonnullos tum in denunciationis onere adimplendo, tum in iudicio contra sollicitantes instituendo, irrepsisse abusus, qui sine iustitiae ac providae severitatis discrimine tolerari minime possent. Itaque neque inopportunum, neque ipsis locorum Ordinariis ingratum fore iudicarunt, si quae contra eosdem abusus ab hac suprema Congregatione ad tramites sacrorum canonum decreta fuerunt, in unum collecta prae oculis habeantur. Ad quem effectum praesentem instructionem edi mandarunt.

1. Personae sive mares sive feminae, quaecumque illae sint, ad turpia sollicitatae in Confessione vel occasione aut praetextu Confessionis, quemadmodum enucleate in memorata Constitutione praecipitur, rem ad Sanctam Sedem vel ad loci Ordinarium deferre debent.

2. Denunciare oportet quemcumque sacerdotem etiam iurisdictione carentem, sollicitantem in confessione, vel etiam poenitentis sollicitationi consentientem, quamvis statim dissentientem de turpi materia loqui, illius complementum ad aliud tempus differentem, et non praebentem absolutio- nem poenitenti.³

3. Huiusmodi denunciationes a nemine absque culpa letali omitti possunt. Qua de re poenitentes debent admoneri, neque ab iis admonendis instruendisque eorum bona fides excusat.

4. Sacerdotes ad sacras audiendas confessiones constituti, qui de hac obligatione poenitentes suos non admonent, debent puniri.⁴

5. Poenitentes admoniti, et omnino renuentes nequeunt absolvi; qui vero ob iustam causam denunciationem differre debent, eamque quo citius poterunt faciendam spondent serioque promittunt, possunt absolvi.

¹ Cf. Collectanea S. C. de Prop. Fide, vol. I, n. 509.

² Cf. N. 995.

³ Ex declar. diei 11 Februar. 1661 confirmata in Const. *Sacramentum Poenitentiae*.

⁴ Ex declar. sub diebus 20 Martii 1624 et 1 Octobris 1626 penes Albit., *De inconst. in fide*, cap. 35, n. 17.

6. Denunciationes anonymae contra sollicitantes ad turpia nullam vim habent: denunciationes enim fieri debent in iudicio, nempe coram Episcopo eiusve delegato cum interventu ecclesiastici viri, qui notarii partes teneat, et cum iuramento, et cum expressione et subscriptione sui nominis; nec sufficit si fiat per apochas vel per litteras sine nomine et cognomine auctoris.¹ Ceterum prohibetur, ne in recipiendis denunciationibus praeter iudicem et notarium, virum utrumque ecclesiasticum, speciali et scripto exarata Episcopi deputatione munitum, testes intersint. Cavendum quoque ne ex denunciatis quaeratur, num sollicitationi consenserint: et convenientissimum foret, si de huiusmodi consensu, quantumvis sponte manifestato, nihil notetur in tabulis.²

7. Denunciationis onus est personale et ab ipsa persona sollicitata adimplendum. Verum si gravissimis difficultatibus impediatur, quominus hoc perficere ipsa possit, tunc vel per se, vel per epistolam, vel per aliam personam sibi benevisam suum adeat Ordinarium, vel sanctam Sedem per sacram Poenitentiarum, vel etiam per hanc supremam Inquisitionem, expositis omnibus circumstantiis, et deinde se gerat iuxta instructionem quam erit acceptura. Si vero necessitas urgeat, se gerat iuxta consilia et monita sui confessarii. Ast si nullo impedimento detenta denunciationem omnino renuat, in hoc casu aliisque supra memoratis, laudandus est confessarius, qui operam suam poenitenti non denegaverit, et vel Ordinarium vel Sanctam Sedem pro opportunis providentiis consuluerit, suppresso tamen poenitentis nomine. Formulas autem hisce in casibus adhibendas tradunt probati auctores, quos inter Pignatelli, consult. 104, Carena, Albitius, etc.

8. Non infrequenter occurrit casus, ut confessarius aliusve ecclesiasticus vir ab Episcopis (quorum utique haec potestas est) deputetur ad denunciations recipiendas in re ad sollicitationis crimen spectante absque interventu notarii. Huic instructioni folium adiicitur circa modum, quo hisce in casibus confici denuntiatio debet.³ Qui enim ad hoc gravissimum munus viri maxime idonei destinantur, de actu denunciationis iudiciaria ratione assumendo instrui debent, ac moneri, ut statim a recepta denunciatione eam continuo ad ipsum Episcopum, a quo fuerunt deputati, caute transmittant, neque confecti actus exemplum vel vestigium aliquod sibi retineant. Atque in hunc fere modum haud difficulter denunciandi munus adimpletur. Profecto a locorum Ordinariis efficiendum est, ne ad loca suae iurisdictioni subiecta applicare oporteat quod pro Missionibus Pernambuco die 22 Ianuarii an. 1627 declaratum fuit: *Mulieres videlicet sollicitatas non teneri ad denunciationem si ministri Inquisitionis et vicarii Episcopi, in longinquis regionibus degentes, sine gravi incommodo adiri nequeant.*

9. Si in denunciationibus, quod non raro contingit, aliae indicantur personae forte pariter sollicitatae, vel quae de hoc crimine testimonium ferre aliqua ratione possint, hae quoque omnes et seorsim iudiciaria forma supe-

¹ Albit., loc. cit., n. 21.

² Ex declar. Urbani VIII sub fer. V, die 17 Aprilis 1624.

³ Cf. Acta S. Sedis, vol. III, p. 505, 506. — Cf. tamen etiam N. 1123.

rius enunciata examinandae sunt: et primo per *generalia*, deinde per *gradus*, quoad ita res ferat, ad *particularia* deveniendo, interrogari debent, utrum et quomodo revera fuerint ipsae sollicitatae, vel alias personas fuisse sollicitatas viderint vel audierint.

10. Accepta denunciatione, non illico proceditur, sed a superiore ecclesiastico inquiri sedulo debet, utrum persona denunciata sit fide digna. Sollicitationis crimen ut plurimum secreto perpetratur; hinc privilegium est, ut in causis quae contra hoc crimen instituuntur, ad plenam probationem faciendam attestations etiam singulares admittantur. At in memoratis summorum Pontificum Constitutionibus praescribitur, ne cum testibus singularibus procedatur, nisi praesumptiones, indicia et alia adminicula concurrant. Pondus igitur cuiusque denunciationis, qualitates et circumstantiae serio accurateque perpendendae sunt, et, antequam contra denunciatum procedatur, perspectum exploratumque iudici esse debet, quod mulieres vel viri denuntiantes sint boni nominis, neque ad accusandum vel inimicitia vel alio humano affectu adducantur. Oportet enim, ut testes huiusmodi singulares ab omnibus privatis affectionibus sint immunes, ut ipsis integra fides haberi possit. ¹

11. Ea est huius supremae Inquisitionis consuetudo, ut post unam alteramve denunciationem rescribatur, quod denunciatus *observetur*, ita videlicet super delato crimine suspectus habeatur, ut quum primum per novas denunciations res explorata erit, in iudicium vocandus sit. Ut plurimum non nisi a tertia denuntiatione procedi solet. Ad formale examen vocantur parochi, vel probatae fidei spectataeque virtutis viri praesertim ecclesiastici, qui cum iuramento de veritate dicenda et de secreto servando super qualitatibus denunciantium et denunciati, et super mutuis eorum odiis et inimicitiis examinentur. Hisce peractis diligentis reus in iudicium adducitur, et coram iudice cum interventu ecclesiastici viri, qui notarii partes agat, super singulis cuiusque denunciationis et examinis adiunctis, iuramento dicendae veritatis obstrictus respondere debet. Cavetur solertissime, ne denunciantium nomina reo manifestentur et ne sacramentale sigillum quomodo violetur.

12. Quando perspecta evaserit patrati criminis veritas, reo ad defensionem, prout iura exposcunt, admissio, deveniendum erit ad illi interdendum in perpetuum, ne confessiones excipiat, subtrahendo omnes et quascumque facultates ad id muneris eidem etiam per quodcumque privilegium vel ab ipsa Sancta Sede impertitas. Huiusmodi sententiam Episcopus ipse, et non alius ab eo delegatus, proferat: et pro modo culpa, atque omnibus attentis circumstantiis caeteras quoque poenas reo irroget quae in supradictis pontificiis Constitutionibus decernuntur. Praeterea si reus in iudicio crimen confessus fuerit, congruam debet emittere abiurationem, ut se ita purget ab ea, quam incurrit, haeresis suspitione: et hac quoque poena in ipsa sententia mulctetur. Notandum est, poenas huiusmodi omnes, et ipsam

¹ Ex Instruct. iussu Pii VI anno 1775 ad Vicar. Ap. Cocincinae data. — Cf. Collectanea S. C. de Prop. Fide, vol. I, n. 509.

inhabilitatem ad sacrosanctum Missae sacrificium celebrandum in decreto Benedicti XIV die 5 augusti an. 1745 praescriptam,¹ esse tantum *ferendae sententiae*. Abstinentum tamen erit ab infligenda degradatione et traditione brachio saeculari. Id nimirum a Gregorio XV statutum fuit:² ceterum *ad terrorem* potius impositum haberi debet quam ut executioni mandetur.³

13. Qui nullis omnino super hoc crimine praeventi denunciationibus, conscientia victi, Ordinario loci eiusve delegato se sistunt, patrata a se sollicitationis flagitia sponte confitentur, et veniam petunt, dimitti debent cum congrua abiuratione et poenitentiis dumtaxat salutaribus, adiecto consilio vel praecepto, ut ab excipiendis personarum sollicitatarum sacris confessionibus se abstineant: nec coeteris poenis antea dictis, accedentibus licet postmodum denunciationibus, afficiantur. Qui vero iudiciaria forma iam praeventi, sed nondum citati, sua sponte se sistunt; et ii pariter, quos veritatem non integram sed diminutam in spontanea apparitione confessos esse Ordinarius loci ex acceptis postea denunciationibus deprehenderit, beneficio impunitatis non gaudent, verumtamen pro ipsius Ordinarii prudentia mitius puniantur.

14. Quod in hisce causis vel ex commissione Apostolica, vel ex iure Episcoporum proprio, tractandis maiorem in modum curari et observari debet illud est, ut eadem causae, utpote ad fidem attinentes, secretissime peragantur, et postquam fuerint definitae et executioni iam traditae, perpetuo silentio omnino premantur. Omnes curiae ecclesiasticae administri, et quicumque alii ad has pertractandas, vel patroni ad defendendas causas assumuntur, iusiurandum de secreto servando debent emittere, et ipsi Episcopi aliique locorum Ordinarii ad servandum secretum obstringuntur, prout in iure cautum est cap. *Statuta* fin., de haeret. in 6, et in Clementina *Multorum*, § *Porro*, de haeticis. Qui vero denunciationis oneri satisfaciunt, quippe in hisce causis examini subiiciuntur, iuramentum ab initio de veritate dicenda, et, actu expleto, de secreto servando, tactis sacrosanctis Dei Evangelii, etiamsi sint sacerdotes, praestare tenentur. Haec si caute sancteque teneantur, nullum invidiae infamiaeque vel aliud quodvis periculum timeri potest, quod vel testes a dicenda veritate, vel competentes iudices ab investigando et condignis poenis animadvertendo sollicitationis crimine contineat.

15. Indultum fuit a Pio VI in instructione, de qua antea dictum est, anno 1775 ad Vicarium Apostolicum Cocincinae data, ut cum difficillimum sit in illis tam dissitis ac disparatis regionibus ea omnia adamussim servare, quae in hisce causis servanda sunt; et cum si aliqua ex his omittantur, iustitia non patiat, ut poenae infligantur adversus reos, de quorum crimine iudiciaria ratione adhuc sufficienter non constat, tunc consultius fortasse esset si extra iudicii ordinem procedatur ad occurrendum tanto malo mediis et modis magis facilibus et expeditis, quos in casibus particularibus

¹ Cf. N. 795.

² Cf. N. 201.

³ Albit., op. cit., cap. 15, n. 13, et Benedict. XIV in privata epistola die 11 Novembris anno 1743 data ad Emmanuelem de Azevedo S. I. presbyterum.

Vicarii Apostolici prudentia cum animarum zelo coniuncta suggeret. Iam vero quisque videt hanc indulgentiam pro locis adeo dissitis, ac disparatis factam, neque omnibus esse communem, neque absque Apostolicae Sedis auctoritate iure posse ubivis induci.

16. Ceterum si locorum Ordinarii in conficiendis processibus, vel etiam, confecto processu, in proferenda sententia contra sollicitantes ad turpia in confessione gravioribus involvantur difficultatibus, rem, transmissis actis, deferre poterunt ad hanc supremam Congregationem, quae peculiare instructiones singulis casibus accommodatas, ut saepe fit, tradet, ac definitivam sententiam, si expediens fuerit, ipsa proferet.

Haec sunt quae ad praedictam pontificiam Constitutionem caute recteque exequendam conducunt, quaeque, utpote ubique locorum observatu facilia, sacra haec Congregatio supremae et universalis Inquisitionis pastoralis Ordinariis zelo ac sollicitudini vehementer commendat.

[Collectanea S. C. de Prop. Fide, vol. I, n. 1282. — Cf. etiam Acta S. Sedis, vol. III, p. 499-505].

S.C.S. Off., instr. 20 February. 1866, from the *Curia Romana*, pp. 267-272.

What the Constitution of the Supreme Pontiff of Glorious Name, Benedict XIV, published June 1 1741, called *Sacramentum Poenitentiae*, has confirmed and decreed can be reduced to these main points. In the first place, inasmuch as it was sanctioned before, especially in the Constitution of Gregory XV (given on August 30, 1622, which begins "Universi") all local Ordinaries and Inquisitors alike are classed as judges for the investigation, prosecution, and punishment by suitable penalties against those who solicit [sex] in Confession, even if somehow exempt from "ordinary" jurisdiction. Likewise, all priests constituted to hear sacred confessionals, just as was also prescribed before, are obliged to warn their penitents to inform on the solicitors [of sex] as soon as possible to the Inquisitors or local Ordinaries; and they must not absolve penitents who refuse to obey this required duty. Moreover, in the third place, the case of those who make false accusations against innocent priests or wickedly procure it so that the charges are made by others to the ecclesiastic judges is reserved for the Apostolic See, except for persons on the point of death. Finally, in the fourth place, all power and jurisdiction is removed from any priest to receive sacramental confessions of any person complicit in this sin of shame [sexual sin] committed against the Sixth Commandment, unless utterly extreme necessity compels him, namely, if the person is on the point of death itself and no other priest is present who holds the office of confessor, or he is unable to be called or to come without any serious infamy arising, or scandal. And the case of those confessors who have dared to absolve a person complicit in shameful sin is reserved for the Apostolic See.

Clearly, there is no doubt but that these prescriptions, prohibitions, and reservations, each and every one of them, extend their force across all nations, universally, and must be observed in every part of the earth *unshakably and without violation*. But indeed this is manifest and without question to anyone reading the Constitutions of Gregory XV or Benedict XIV; and it has been confirmed by the assent of each and every consecutive Pope, as occasion has provided opportunity, up to this very day. And, in fact, the Apostolic Vicar of Cochinchina inquired of an actual case: "1. *There is a question whether the Constitution of Benedict XIV against solicitation is also binding to Franciscan missionaries who exercise their ministry in Cochinchina.* 2. *There is a question whether the Constitution can be restricted and moderated in another case in the same region of Cochinchina, owing to the great poverty of the confessors [priests] in that same territory of Cochinchina.*" By order of Pius VI in the year 1775, answer was given in a matching Instruction: "To question 1: yes. To question 2: no." And in our time, Pius IX, who is most Holy in Our Lord, by decree of this supreme Inquisition on the fourth day of the week, June 27 1866, proclaimed that "All the cases reserved for hearing by the Apostolic See must be received by – and considered to have been the received property of – the Bishops and local Ordinaries through their power of absolution granted by Apostolic concession, as such cases were reserved in the Bull of Benedict XIV which begins, '*Sacramentum Poenitentiae*.'" [This appears to say that local Ordinaries and Bishops have the power to review cases instead of the Apostolic See.] Indeed, he ordered this decree to be shown to all local Ordinaries everywhere on earth endowed with the aforementioned faculty of absolution without any exception.

Therefore, there is the utmost need for all local Ordinaries to struggle to see that the salutary vigor provided in the previous Constitution does not anywhere, little by little, languish. On behalf of his Eminence the Pope the Supreme Cardinal Inquisitors recently discovered that the same Constitution is not being applied to execution everywhere as if it had equal force, and in some places a certain amount of abuse has broken out in fulfilling the duty of denunciation on the one hand, and on the other of establishing judgement against solicitors [of sex], who are least able to be tolerated without the threat of justice and wisely administered severity. And so the Cardinals have judged that it would neither be inopportune or without grace for the local Ordinaries to have the decrees, which this supreme Congregation set up as guideposts to the sacred canons against these kinds of abuses, gathered in a collection. To this end the Cardinals have ordered the present instruction to be published.

1. Persons either male or female, whoever they are, who are solicited to sin in Confession by its occasion or by the pretext of Confession, in the manner clearly prescribed in the aforementioned Constitution, ought to report the case to the Holy See or the local Ordinary.

2. It is necessary to denounce any priest who, [(1)] while lacking [confessional] jurisdiction, makes solicitation in confession or [(2)] agrees to the solicitation of a penitent, but refuses to speak of shameful matters immediately, delaying their fulfillment to another time, and not extending absolution to the penitent.

3. Denunciations of this sort are not able to be omitted by anyone without mortal sin. Therefore, penitents ought to be admonished that their good faith does not excuse them from the matters they are to be advised and instructed in.

4. Priests constituted to hear holy confessions who do not advise their penitents of this obligation must be punished.

5. Penitents who are warned and absolutely refuse [to fulfill this obligation] are unable to be absolved; but those who must delay denunciation with just cause, and who vow and solemnly swear that it will be done as soon as they shall be able, can be absolved.

6. Anonymous denunciations against solicitors of sin have no force; indeed, denunciations ought to be made in court, in fact before a Bishop or his delegate in the presence of an ecclesiastic man, who must play the role of notary. He must swear an oath and print and sign his name. It does not suffice for this to be done through vouchers [*apochas*] or letters if they do not bear the name of the author. It is otherwise prohibited for any witnesses to be present at the receiving of denunciations except the judge and the notary, both of ecclesiastic rank, empowered specifically by a written deputation of the Bishop. Let them beware not to ask the accusers if they consented to solicitation: and it would be better if, concerning any consenting to solicitation, even if it emerges accidentally [in the testimony], nothing is noted in the record.

7. The burden of denunciation is personal and must be fulfilled by the person who has been solicited. But if he¹ is impeded by serious difficulties, so that he cannot perform this duty, then either by himself, or through a letter, or through another person well-known to him, he must go to his Ordinary, or the Holy See (through the Holy Penitentiary Tribunal, or else through this supreme Inquisition) with the full of exposure of the circumstances, and then must act according to his next instructions. However, if need

¹ The Latin reads "person," which is gender neutral, but I use the masculine pronoun for ease of translation.

compels him, he may act according to the counsel and advice of the person in whom he has confided [the text reads "of his confessor" (*sui confessarii*), which may mean a confessor other than the soliciting priest, or perhaps, as I have translated it, a person confided in]. And if the solicited person utterly refuses to make denunciation, though held back by no impediment, the person confided in is to be praised if he does not deny his duty to the penitent and consult either the Ordinary or the Holy See when opportunity allows, though with the name of the penitent kept secret. Approved authors instruct the formulas to be applied in such cases, among them Pignatelli, *consult 104*, Carena, Albitius, etc.

8. Not infrequently, a case arises in which a confessor or another ecclesiastic man is despatched by the Bishops (whose power, indeed, this is) to receive denunciations in a case relating to the crime of solicitation without the presence of a notary. A page is attached concerning the way denunciation ought to be completed in such cases. In fact, the men who are found to be best suited to such an extremely serious duty ought to be instructed concerning the action to be taken in the judiciary record of the denunciation and to be advised to transmit the denunciation carefully, once it has been received, up until it reaches the Bishop who deputed them, and that they keep for themselves no copy or any evidence of what has occurred. And the duty of denunciation is fulfilled in this relatively easy way. Surely it is the local Ordinaries' duty to see that there is no need to apply toward their areas of jurisdiction what was declared before the Missions of Pernambuco in America on Jan. 22 1627: "Women, although solicited, are not bound to

It should be noted that throughout this passage, the individual can be male or female.

make denunciation if the ministers of the Inquisition and vicars of the Bishop, living in distant regions, are unable to go to them without serious difficulty.”

9. If in denunciations, as sometimes happens, other solicited persons are perchance likewise indicated, or others who are able to offer testimony concerning this crime in some way, all of these must also be examined individually according to the judicial formula enunciated above: and they must first be interrogated by going through *general* circumstances, and then gradually, as the matter unfolds, toward the *specifics*, [to ascertain] whether or not, and in what way, in fact, they were solicited, or if they saw or heard other persons who were solicited.

10. When the denunciation has been received, the case does not proceed at that moment, but must be investigated carefully by a superior ecclesiastic to determine whether the person making the charge is of worthy faith. The crime of solicitation is usually perpetrated in secret; hence there is an exception that in cases which are instituted against this crime, even individual attestations are admitted toward the establishment of full proof. But it is prescribed in the previous Constitutions of our Pontiffs that there can be no proceeding with individual testimony unless suspicions [*praesumptio*, in canon law “probable conjecture”], evidence, and other corroboration agree. Indeed, it is necessary that these individual witnesses be free from all private motivation, so that complete confidence may be held in them.

11. It is the usual practice of this supreme Inquisition that, after one or two accusations, it be recorded that the denounced is *being observed* as indeed he is considered suspect in the reported crime, so that he must be called into court as soon as possible if the case is investigated because of new charges. Usually a case does not

proceed except by a third denunciation. Parish priests [*parochi*] are summoned to the procedure, or men – especially ecclesiastics – of proven faith and known virtue – who, after swearing an oath to speak the truth and maintain secrecy concerning the nature of the accusers and accused, are also to be examined concerning any hatred or animosity between accused and accusers. When precautions have been seen to, the defendant is led into court, and before the judge and in the presence of an ecclesiastic man who shall act as notary, he must answer to the individual particulars of each charge and inquiry, bound by an oath to tell the truth. Intelligent preventative measures must be exercised so that the names of the accusers are not revealed to the defendant and so that the sacred seal is in no way violated.

12. Once the truth is apparent that a crime has been committed, when the defendant has lost in his defense, it must be seen that he is prohibited into perpetuity from hearing confessions, by the removal of each and all faculties imparted to him for the performance of this office, no matter what dispensation he has, even if these faculties were imparted by the Holy See. The Bishop himself should give this sentence, and no one else designated by him: and in accordance with the crime and the attending circumstances, the Bishop may impose other punishments which are described in the aforementioned Papal Constitutions. Moreover, if the defendant confesses to the crime in court, he must submit an appropriate abjuration that he will thus purge himself from the suspicion of heresy which he incurs; and in sentencing, let this penalty also serve as his punishment [lit., “let him be punished also by this penalty in the same sentence.” This *seems* to mean that there is no further penalty for a priest who admits guilt and completes the process of “*abjuratio*,” a legal ritual, usually performed by schismatics and heretics

"in order to be reconciled to the Church."²] It must be noted that all these punishments and the stricture against celebrating the Holy Communion of Mass prescribed in the decree of Benedict XIV on Aug. 5 1745, are only for an *imposed sentence*. There must nevertheless be restraint from inflicting loss of rank and demotion to the "secular" branch. So it was established by Gregory XV: what remains ought to be considered as set over [the guilty priest] more to terrify him than as penalties to be brought to execution [i.e., while loss of rank and demotion are possible sentences, they are more to be used as a threat than as actual punishment].

13. Those who are won over by their own conscience before any denunciations at all concerning this crime, who present themselves to the local Ordinary or his delegate, who confess of their own will that they have committed shameful crimes and ask forgiveness, must be sent back after appropriate disavowal [*abjuratio*] and by punishments, as long as they are constructive [i.e., not excessive or vengeful penalties; corrective punishment], with the added counsel or order that they remove themselves from hearing the sacred confessions of solicited persons. Nor are they liable to the other punishments mentioned, unless denunciations come later. But those who are preempted by judicial procedure, but not yet called to testify, [can] present themselves by their own will; and equally those whom the local Ordinary finds have not told the whole truth in their spontaneous appearance do not enjoy the benefit of impunity, but nevertheless may be punished more leniently according to the discretion of the Ordinary.

² L. Stelten, *Dictionary of Ecclesiastical Latin*, p. 293.

14. In handling these cases, either by Apostolic commission or the appropriate ruling of the Bishops, the greatest care and vigilance must be exercised so that these procedures, inasmuch as they pertain to [matters of] faith, are to be completed in absolute secrecy, and after they have been settled and given over to sentencing, are to be completely suppressed by perpetual silence. All the ecclesiastic ministers of the curia [court], and whoever else is summoned to the proceedings, including counsels for the defense, must submit oaths of maintaining secrecy, and even the Bishops themselves and any of the local Ordinaries are obligated to keep the secret, just as it is cautioned in the law "cap. Statuta fin., de haeret. in 6" and in "Clementia Multorum, § Porro, de haereticis." But those who satisfy the burden of denunciation, inasmuch as they are subject to examination in these proceedings, are bound to swear an oath at the beginning to tell the truth, and then, when the dealings are complete, must swear to maintain secrecy, even if they are priests. If these instructions are followed cautiously and piously, no infamy or hatred or any danger whatsoever can be feared that either prevents witnesses from telling the truth or competent judges from investigating and punishing the crime of solicitation by appropriate penalties.

15. It was granted by Pius VI in his instruction, which was mentioned before, given in the year 1775 to the Apostolic Vicar of Cochinchina, that since it is difficult to preserve all these instructions – which must be preserved – to the letter in regions so distant and disparate; and since if any of these are omitted, justice cannot allow that penalties be inflicted against defendants whose crime is not yet sufficiently proved by judicial means, then perhaps it would be more prudent if the matter were seen to without the authority of a judge in order to prevent such a great evil by moderate means more than

by hasty and easy solutions, which the prudence of the Apostolic Vicar should suggest in particular cases, together with his zeal for souls. Of course, anyone can see that this concession has been made according to the relative distance and separation of places, and is not a privilege shared by all, nor is it able to be invoked legally anywhere at will without authority of the Apostolic See.

16. But if the local Ordinaries become involved in very serious difficulties in completing the process – or even in a completed procedure – as far as delivering a sentence against those who solicit shameful acts in confession, they will be able to bring the case, with records of the transactions, to this supreme Congregation, which will hand down, as often happens, specific instructions tailored to individual cases, and shall extend a definitive sentence, if it is expedient.

These are the instructions to be observed which the Cardinals contribute to the aforementioned papal Constitution carefully and properly, which, inasmuch as these instructions are convenient for observation in every place, this holy Congregation of the supreme and universal Inquisition of the pastoral Ordinaries vigorously recommends with zeal and solicitude.

[Collectanea S.C. de Prop. Fide, vol.I, n. 1282. – Cf. Etiam Acta S. Sedis, vol. III, p. 499-505.]