

THE MALLEUS MALEFICARUM

THE THIRD PART

RELATING TO THE JUDICIAL PROCEEDINGS IN BOTH THE
ECCLESIASTICAL AND CIVIL COURTS AGAINST WITCHES AND
INDEED ALL HERETICS

CONTAINING XXXV QUESTIONS IN WHICH IS MOST CLEARLY SET OUT THE FORMAL RULES FOR
INITIATING A PROCESS OF JUSTICE, HOW IT SHOULD BE CONDUCTED, AND THE METHOD OF
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THE MALLEUS MALEFICARUM

GENERAL & INTRODUCTORY

Who are the Fit and Proper Judges in the Trial of Witches?

The question is whether witches, together with their patrons and protectors and defenders, are so entirely subject to the jurisdiction of the Diocesan Ecclesiastical Court and the Civil Court so that the Inquisitors of the crime of heresy can be altogether relieved from the duty of sitting in judgement upon them. And it is argued that this is so. For the Canon (c. *accusatus*, § *sane*, lib. VI) says: Certainly those whose high privilege it is to judge concerning matters of the faith ought not to be distracted by other business; and Inquisitors deputed by the Apostolic See to inquire into the pest of heresy should manifestly not have to concern themselves with diviners and soothsayers, unless these are also heretics, nor should it be their business to punish such, but they may leave them to be punished by their own judges.

Nor does there seem any difficulty in the fact that the heresy of witches is not mentioned in that Canon. For these are subject to the same punishment as the others in the court of conscience, as the Canon goes on to say (dist. I, *pro dilectione*). If the sin of diviners and witches is secret, a penance of forty days shall be imposed upon them: if it is notorious, they shall be refused the Eucharist. And those whose punishment is identical should receive it from the same Court. Then, again, the guilt of both being the same, since just as soothsayers obtain their results by curious means, so do witches look for and obtain from the devil the injuries which they do to creatures, unlawfully seeking from His creatures that which should be sought from God alone; therefore both are guilty of the sin of idolatry.

This is the sense of *Ezechiel* xxi, 23; that the King of Babylon stood at the cross-roads, [shuffling his arrows](#) and interrogating idols.

Again it may be said that, when the Canon says “Unless these are also heretics,” it allows that some diviners and soothsayers are heretics, and should therefore be subject to trial by the Inquisitors; but in that case artificial diviners would also be so subject, and no written authority for that can be found.

Again, if witches are to be tried by the Inquisitors, it must be for the crime of heresy; but it is clear that the deeds of witches can be committed without any heresy. For when they stamp into the mud of the Body of Christ, although this is a most horrible crime, yet it may be done without any error in the understanding, and therefore without heresy. For it is entirely possible for a person to believe that It is the Lord's body, and yet throw It into the mud to satisfy the devil, and this by reason of some pact with him, that he may obtain some desired end, such as the finding of a treasure or anything of that sort. Therefore the deeds of witches need involved no error in faith, however great the sin may be; in which case they are not liable to the Court of the Inquisition, but are left to their own judges.

Again, Solomon showed reverence to the gods of his wives out of complaisance, and was not on that account guilty of apostasy from the Faith; for in his heart he was faithful and

kept the true Faith. So also when witches give homage to devils by reason of the pact they have entered into, but keep the Faith in their hearts, they are not on that account to be reckoned as heretics.

But it may be said that all witches have to deny the Faith, and therefore must be judged heretics. On the contrary, even if they were to deny the Faith in their hearts and minds, still they could not be reckoned as heretics, but as apostates. But a heretic is different from an apostate, and it is heretics who are subject to the Court of the Inquisition; therefore witches are not so subject.

Again it is said, in c. 26, quest. 5: Let the Bishops and their representatives strive by every means to rid their parishes entirely of the pernicious art of soothsaying and magic derived from Zoroaster; and if they find any man or woman addicted to this crime, let him be shamefully cast out of their parishes in disgrace. So when it says at the end of c. 348, Let them leave them to their own Judges; and since it speaks in the plural, both of the Ecclesiastic and the Civil Court; therefore, according to this Canon they are subject to no more than the Diocesan Court.

But if, just as these arguments seem to show it to be reasonable in the case of Inquisitors, the Diocesans also wish to be relieved of this responsibility, and to leave the punishment of witches to the secular Courts, such a claim could be made good by the following arguments. For the Canon says, *c. ut inquisitionis*: We strictly forbid the temporal lords and rulers and their officers in any way to try to judge this crime, since it is purely an ecclesiastical matter: and it speaks of the crime of heresy. It follows therefore that, when the crime is not purely ecclesiastical, as is the case with witches because of the temporal injuries which they commit, it must be punished by the Civil and not by the Ecclesiastical Court.

Besides, in the last Canon Law concerning Jews it says: His goods are to be confiscated, and he is to be condemned to death, because with perverse doctrine he opposed the Faith of Christ. But if it is said that this law refers to Jews who have been converted, and have afterwards returned to the worship of the Jews, this is not a valid objection. Rather is the argument strengthened by it; because the civil Judge has to punish such Jews as apostates from the Faith; and therefore witches who abjure the Faith ought to be treated in the same way; for abjuration of the Faith, either wholly or in part, is the essential principle of witches.

And although it says that apostasy and heresy are to be judged in the same way, yet it is not the part of the ecclesiastical but of the civil Judge to concern himself with witches. For no one must cause a commotion among the people by reason of a trial for heresy; but the Governor himself must make provision for such cases.

The *Authentics* of Justinian, speaking of ruling princes, says: You shall not permit anyone to stir up your Province by reason of a judicial inquiry into matters concerning religions or heresies, or in any way allow an injunction to be put upon the Province over which you govern; but you shall yourself provide, making use of such monies and other means of investigation as are competent, and not allow anything to be done in matters of religion except in accordance with our precepts. It is clear from this that no one must meddle with a rebellion against the Faith except the Governor himself.

Besides, if the trial and punishment of such witches were not entirely a matter for the civil Judge, what would be the purpose of the laws which provide as follows? All those who are commonly called witches are to be condemned to death. And again: Those who harm innocent lives by magic arts are to be thrown to the beasts. Again, it is laid down that thy are

to be subjected to questions and tortures; and that none of the faithful are to associate with them, under pain of exile and the confiscation of all their goods. And many other penalties are added, which anyone may read in those laws.

But in contradiction of all these arguments, the truth of the matter is that such witches may be tried and punished conjointly by the Civil and the Ecclesiastical Courts. For a canonical crime must be tried by the Governor and the Metropolitan of the Province; not by the Metropolitan alone, but together with the Governor. This is clear in the *Authentics*, where ruling princes are enjoined as follows: If it is a canonical matter which is to be tried, you shall inquire into it together with the Metropolitan of the Province. And to remove all doubt on this subject, the gloss says: If it is a simple matter of the observance of the faith, the Governor alone may try it; but if the matter is more complicated, then it must be tried by a Bishop and the Governor; and the matter must be kept within decent limits by someone who has found favour with God, who shall protect the orthodox faith, and impose suitable indemnities of money, and keep our subjects inviolate, that is, shall not corrupt the faith in them.

And again, although a secular prince may impose the capital sentence, yet this does not exclude the judgement of the Church, whose part it is to try and judge the case. Indeed this is perfectly clear from the Canon Law in the chapters *de summa trin.* and *fid. cath.*, and again in the Law concerning heresy, c. *ad abolendam* and c. *urgentis* and c. *excommunicamus*, 1 and 2. For the same penalties are provided by both the Civil and the Canon Laws, as is shown by the Canon Laws concerning the [Manichaeans](#) and Arian heresies. Therefore the punishment of witches belongs to both Courts together, and not to one separately.

Again, the laws decree that clerics shall be corrected by their own Judges, and not by the temporal or secular Courts, because their crimes are considered to be purely ecclesiastical. But the crime of witches is partly civil and partly ecclesiastical, because they commit temporal harm and violate the faith; therefore it belongs to the Judges of both Courts to try, sentence, and punish them.

This opinion is substantiated by the *Authentics*, where it is said: If it is an ecclesiastical crime needing ecclesiastical punishment and fine, it shall be tried by a Bishop who stands in favour with God, and not even the most illustrious Judges of the Province shall have a hand in it. And we do not wish the civil Judges to have any knowledge of such proceedings; for such matters must be examined ecclesiastically and the souls of the offenders must be corrected by ecclesiastical penalties, according to the sacred and divine rules which our laws worthily follow. So it is said. Therefore it follows that on the other hand a crime which is of a mixed nature must be tried and punished by both courts.

We make our answer to all the above as follows. Our main object here is to show how, with God's pleasure, we Inquisitors of Upper Germany may be relieved of the duty of trying witches, and leave them to be punished by their own provincial Judges; and this because of the arduousness of the work: provided always that such a course shall in no way endanger the preservation of the faith and the salvation of souls. And therefore we engaged upon this work, that we might leave to the Judges themselves the methods of trying, judging and sentencing in such cases.

Therefore in order to show that the Bishops can in many cases proceed against witches without the Inquisitors; although they cannot so proceed without the temporal and civil

Judges in cases involving capital punishment; it is expedient that we set down the opinions of certain other Inquisitors in parts of Spain, and (saving always the reverence due to them), since we all belong to one and the same Order of Preachers, to refute them, so that each detail may be more clearly understood.

Their opinion is, then, that all witches, diviners, necromancers, and in short all who practise any kind of divination, if they have once embraced and professed the Holy Faith, are liable to the Inquisitorial Court, as in the three cases noted in the beginning of the chapter, *Multorum querela*, in the decretals of [Pope Clement](#) concerning heresy; in which it says that neither must the Inquisitor proceed without the Bishop, nor the Bishop without the Inquisitor: although there are five other cases in which one may proceed without the other, as anyone who reads the chapter may see. But in one case it is definitively stated that one must not proceed without the other, and that is when the above diviners are to be considered as heretics.

In the same category they place blasphemers, and those who in any way invoke devils, and those who are excommunicated and have contumaciously remained under the ban of excommunication for a whole year, either because of some matter concerning faith or, in certain circumstances, not on account of the faith; and they further include several other such offences. And by reason of this the authority of the Ordinary is weakened, since so many more burdens are placed upon us Inquisitors which we cannot safely bear in the sight of the terrible Judge who will demand from us a strict account of the duties imposed upon us.

And because their opinion cannot be refuted unless the fundamental thesis upon which it is founded is proved unsound, it is to be noted that it is based upon the commentators on the Canon, especially on the chapter *accusatus*, and § *sane*, and on the words “savour of heresy.” Also they rely upon the sayings of the Theologians, S. Thomas, Blessed Albert, and S. Bonaventura, in the *Second Book of Sentences*, dist. 7.

It is best to consider some of these in detail. For when the Canon says, as was shown in the first argument, that the Inquisitors or heresy should not concern themselves with soothsayers and diviners unless they manifestly savour of heresy, they say that soothsayers and diviners are of two sorts, either artificial or heretical. And the first sort are called diviners pure and simple, since they work merely by art; and such are referred to in the chapter *de sortilegiis*, where it says that the presbyter Udalricus went to a secret place with a certain infamous person, that is, a diviner, says the gloss, not with the intention of invoking the devil, which would have been heresy, but that, by inspecting the astrolabe, he might find out some hidden thing. And this, they say, is pure divination or sortilege.

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*“Arrows.” Esarhaddon is employing a mode of sortilege by arrows, belomancy, which was extensively practised among the Chaldeans, as also among the Arabs. Upon this text S. Jerome comments: “He shall stand in the highway, and consult the oracle after the manner of his nation, that he may cast arrows into a quiver, and mix them together, being written upon or marked with the names of each people, that he may see whose arrow will come forth, and which city he ought first to attack.” The arrows employed by the Arabs were often three in number, upon the first of which was inscribed, “My Lord hath commanded me”; upon the second, “My Lord hath forbidden me”; and the third was blank. If the inquirer drew the first it was an augury of success; the second gave an omen of failure; if the third were drawn, all three were mixed again and another trial was made. In some countries diving rods were employed instead of arrows. These were drawn from a vessel, or, it might be, cast into the air, the position in which they fell being carefully noted. This practice is rhabdomancy. The LXX, “Ezechiel” xxi, 21, reads *ῥαβδομαντεία*, not *βελομαντεία*, and rhabdomancy is mentioned by S. Cyril of Alexandria. The “Koran,” V, forbids prognostication by divining arrows, which are there denounced as “an abomination of the work of Satan.” See my “History of Witchcraft,” Chap. V, pp. 182-83.*

*“Manichaeon.” For the close connexion between the Manichees and witches see my
“History of Witchcraft,” Chap. I.*

“Pope Clement.” Pope Clement V, born at Villandraut, 1264; elected to the Chair of S. Peter, 5 June, 1305; died at Roquemaure, 20 April, 1314; completed the mediaeval “Corpus Iuris Canonici” by the publication of a collection of papal decretals known as “Clementinae” or “Liber Clementinarum,” sometimes as “Liber Septimus” in reference to “Liber Sextus” of Bonafice VIII. It contains decretals of this latter Pontiff, of Benedict XI, and of Clement himself. Together with the decrees of the Council of Vienne it was promulgated, 12 March, 1314, at the Papal residence of Monteaux near Carpentras. It is divided into five books with subdivisions of titles and chapters. As Clement V died before the collection had been generally published, John XXII promulgated it anew, 25 October, 1317, and sent it to the University of Bologna as the authoritative Corpus of decretals to be used in the courts and schools.

THE MALLEUS MALEFICARUM

GENERAL & INTRODUCTORY CONTINUED

But the second sort are called heretical diviners, whose art involves some worship of or subjection to devils, and who essay by divination to predict the future of something of that nature, which manifestly savours of heresy; and such are, like other heretics, liable to the Inquisitorial Court.

And that this is the meaning of the Canon they prove from commentaries of the Canonists on the word “savour.” For Giovanni d’Andrea, writing on this Canon *accusatus*, and the word “saviour,” says: They savour of heresy in this way, that they utter nefarious prayers and offer sacrifices at the altars of idols, and they consult with devils and receive answers from them; or they meet together to practise heretical sortes, that they may have an answer, re-baptize a child, and practise other such matters.

Many others also they quote in support of their opinion, including John Modestus; S. Raymund, and William de Laudun, O.P. And they refer to the decision of the Church at the Council of Aquitaine, c. 26, q. 5, *Episcopi*, where such superstitious women are called infidels, saying, Would that these had perished alone in their perfidy. And perfidy in a Christian is called heresy; therefore they are subject to the Court of the Inquisitors of heresy.

They quote also the Theologians, especially S. Thomas, the *Second Book of Sentences*, dist. 7, where he considers whether it is a sin to use the help of devils. For speaking of that passage in *Esaias* viii: Should not a people seek unto their God? he says among other things: In everything the fulfilment of which is looked for from the power of the devil, because of a pact entered into with him, there is apostasy from the faith, either in word, if there is some invocation, or in deed, even if there be no sacrifice offered.

To the same effect they quote Albertus, and Peter of Tarentaise, and Giovanni [Bonaventura](#), who has lately been canonized, not under the name of Giovanni, although that was his true name. Also they quote Alexander of Hales and [Guido the Carmelite](#). All these say that those who invoke devils are apostates, and consequently heretics, and therefore subject to the Court of the Inquisitors of heretics.

But the said Inquisitors of Spain have not, by the above or any other arguments, made out a sufficient case to prove that such soothsayers etc. may not be tried by the Ordinary or the Bishops without the Inquisitors; and that the Inquisitors may not be relieved from the duty of trying such diviners and necromancers, and even witches: not that the Inquisitors are not rather to be praised than blamed when they do try such cases, when the Bishops fail to do so. And this is the reason that they have not proved their case. The Inquisitors need only concern themselves with matters of heresy, and the heresy must be manifest; as is shown by the frequently quoted Canon *accusatus*, § *sane*.

This being the case, it follows that however serious and grave may be the sin which a person commits, if it does not necessarily imply heresy, then he must not be judged as a heretic, although he is to be punished. Consequently an Inquisitor need not interfere in the

case of a man who is to be punished as a malefactor, but not as a heretic, but may leave him to be tried by the Judges of his own Province.

It follows again that all the crimes of invoking devils and sacrificing to them, of which the Commentators and Canonists and Theologians speak, are no concern of the Inquisitors, but can be left to the secular or episcopal Courts, unless they also imply heresy. This being so, and it being the case that the crimes we are considering are very often committed without any heresy, those who are guilty of such crimes are not to be judged or condemned as heretics, as is proved by the following authorities and arguments.

For a person rightly to be adjudged a heretic he must fulfil five conditions. First, there must be an error in his reasoning. Secondly, that error must be in matters concerning the faith, either being contrary to the teaching of the Church as to the true faith, or against sound morality and therefore not leading to the attainment of eternal life. Thirdly, the error must lie in one who has professed the Catholic faith, for otherwise he would be a Jew or a Pagan, not a heretic. Fourthly, the error must be of such a nature that he who holds it must confess some of the truth of Christ as touching either His Godhead or His Manhood; for is a man wholly denies the faith, he is an apostate. Fifthly, he must pertinaciously and obstinately hold to and follow that error. And that this is the sense of heretics is proved as follows (not by way of refuting, but of substantiating the gloss of the Canonists).

For it is well known to all through common practice that the first essential of a heretic is an error in the understanding; but two conditions are necessary before a man can be called a heretic; the first material, that is, an error in reasoning, and the second formal, that is, an obstinate mind. S. Augustine shows this when he says: A heretic is one who either initiates or follows new and false opinions. It can also be proved by the following reasoning: heresy is a form of infidelity, and infidelity exists subjectively in the intellect, in such a way that a man believes something which is quite contrary to the true faith.

This being so, whatever crime a man commits, if he acts without an error in his understanding he is not a heretic. For example, if a man commits fornication or adultery, although he is disobeying the command *Thou shalt not commit adultery*, yet he is not a heretic unless he holds the opinion that it is lawful to commit adultery. The point can be argued in this way: When the nature of a thing is such that two constituent parts are necessary to its existence, if one of those two parts is wanting the thing itself cannot exist; for if it could, then it would not be true that that part is necessary to its existence. For in the constitution of a house it is necessary that there should be a foundation, walls, and a roof; and if one of these is missing, there is no house. Similarly, since an error in the understanding is a necessary condition of heresy, no action which is done entirely without any such error can make a man a heretic.

Therefore we Inquisitors of Germany are in agreement with Blessed Antoninus where he treats of this matter in the second part of his *Summa*; saying that to baptize things, to worship devils, to sacrifice to them, to tread underfoot the Body of Christ, and all such terrible crimes, do not make a man a heretic unless there is an error in his understanding. Therefore a man is not a heretic who, for example, baptizes an image, not holding any erroneous belief about the Sacrament of Baptism or its effect, nor thinking that the baptism of the image can have any effect of its own virtue; but does this in order that he may more easily obtain some desire from the devil whom he seeks to please by this means, acting with either an implied or an expressed pact that the devil will fulfil the desires either of himself or of someone else. In this way men who, with either a tacit or an expressed pact, invoke devils

with characters and figures in accordance with magic practice to perform their desires are not necessarily heretics. But they must not ask from the devil anything which is beyond the power or the knowledge of the devil, having a wrong understanding of his power and knowledge. Such would be the case with any who believed that the devil could coerce a man's free will; or that, by reason of their pact with him, the devil could do anything which they desired, however much it were forbidden by God; or that the devil can know the whole of the future; or that he can effect anything which only God can do. For there is no doubt that men with such beliefs have an error in their understanding, holding a wrong opinion of the power of the devil; and therefore, granting the other conditions necessary for heresy, they would be heretics, and would be subject at once to the Ordinary and to the Inquisitorial Court.

But if they act for the reasons we have said, not out of any wrong belief concerning baptism or the other matters we have mentioned, as they very commonly do; for since witches and necromancers know that the devil is the enemy of the faith and the adversary of salvation, it must follow that they are compelled to believe in their hearts that there is great might in the faith and that there is no false doctrine of which the father of lies is not known to be the origin; then, although they sin most grievously, yet they are not heretics. And the reason is that they have no wrong belief concerning the sacrament, although they use it wrongly and sacrilegiously. Therefore they are rather sorcerers than heretics, and are to be classed with those whom the above Canon *accusatus* declares are not properly subject to the Inquisitorial Court, since they do not manifestly savour of heresy; their heresy being hidden, if indeed it exists at all.

It is the same with those who worship and sacrifice to the devil. For if they do this in the belief that there is any divinity in devils, or that they ought to be worshipped and that, by reason of such worship, that can obtain from the devil what they desire in spite of the prohibition or permission of God, then they are heretics. But if they act in such a way not out of any such belief concerning the devil, but so that they may the more easily obtain their desires because of some pact formed with the devil, then they are not necessarily heretics, although they sin most grievously.

For greater clearness, some objections are to be disposed of and refuted. For it appears to be against our argument that, according to the laws, a simonist is not a heretic (1, q. 1: "Whoever by means of money, but not having an error of the understanding"). For a simonist is not in the narrow and exact sense of the word a heretic; but broadly speaking and by comparison he is so, according to S. Thomas, when he buys or sells holy things in the belief that the gift of grace can be had for money. But if, as is often the case, he does not act in this belief, he is not a heretic. Yet he truly would be if he did believe that the gift of grace could be had for money.

Again we are apparently in opposition to what is said of heretics in the Canon; namely, that he who reveres a heretic is himself a heretic, but he who worships the devil sins more heavily than he who reveres a heretic, therefore, etc.

Also, a man must be obviously a heretic in order that he may be judged as such. For the Church is competent to judge only of those things which are obvious, God alone having knowledge and being the Judge of that which is hidden (dist. 33, *erubescant*). But the inner understanding can only be made apparent by intrinsic actions, either seen or proved; therefore a man who commits such actions as we are considering is to be judged a heretic.

Also, it seems impossible that anyone should commit such an action as the treading

underfoot of the Body of Christ unless he held a wrong opinion concerning the Body of Christ; for it is impossible for evil to exist in the will unless there is error in the understanding. For according to Aristotle every wicked man is either ignorant or in error. Therefore, since they who do such things have evil in their wills, they must have an error in their understandings.

To these three objections we answer as follows; and the first and third may be considered together. There are two kinds of judgement, that of God and that of men. God judges the inner man; whereas man can only judge of the inner thoughts as they are reflected by outer actions, as is admitted in the third of these arguments. Now he who is a heretic in the judgement of God is truly and actually a heretic; for God judges no one as a heretic unless he has some wrong belief concerning the faith in his understanding. But when a man is a heretic in the judgement of men, he need not necessarily be actually a heretic; but because his deeds give an appearance of a wrong understanding of the faith he is, by legal presumption, considered to be a heretic.

And if it be asked whether the Church should stigmatize at once as heretics those who worship devils or baptize images, note these answers. First, it belongs rather to the Canonists than to the Theologians to discriminate in this matter. The Canonists will say that they are by legal presumption to be considered as heretics, and to be punished as such. A Theologian will say that it is in the first instance a matter for the Apostolic See to judge whether a heresy actually exists or is only to be presumed in law. And this may be because whenever an effect can proceed from a twofold cause, no precise judgement can be formed of the actual nature of the cause merely on the basis of the effect.

Therefore, since such effects as the worship of the devil or asking his help in the working of witchcraft, by baptizing an image, or offering to him a living child, or killing an infant, and other matters of this sort, can proceed from two separate causes, namely, a belief that it is right to worship the devil and sacrifice to him, and that images can receive sacraments; or because a man has formed some pact with the devil, so that he may obtain the more easily from the devil that which he desires in those matters which are not beyond the capacity of the devil, as we have explained above; it follows that no one ought hastily to form a definite judgement merely on the basis of the effect as to what is its cause, that is, whether a man does such things out of a wrong opinion concerning the faith. So when there is no doubt about the effect, still it is necessary to inquire farther into the cause; and if it be found that a man has acted out of a perverse and erroneous opinion concerning the faith, then he is to be judged a heretic and will be subject to trial by the Inquisitors together with the Ordinary. But if he has not acted for these reasons, he is to be considered a sorcerer, and a very vile sinner.

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“Bonaventura.” The parents of S. Bonaventura were Giovanni di Fidanze and Maria Ritella. He was born at Bagnorea, near Viterbo, in 1221, and baptized Giovanni. This was changed to Bonaventura owing to the exclamation of S. Francis, “O buona ventura,” when the child was brought to him to be cured of a dangerous illness. (This account has been doubted, and it is true that others bore the name before S. Bonaventura.) S. Bonaventura was canonized by Sixtus IV, 14 April, 1482. This formal enrolment in the catalogue of the Saints was thus long delayed mainly owing to the unfortunate dissensions concerning Franciscan affairs after the Saint's death, 15 July, 1274. He was inscribed among the principal Doctors of the Church by Sixtus V, 14 March, 1587. His feast is celebrated 14 July.

“Guido the Carmelite.” Guy de Perpignan, “Doctor PArisiensis,” d. 1342; General of the Carmelite Order from 1318-20. His chief work was the “Summa de Haeresibus.”

THE MALLEUS MALEFICARUM

GENERAL & INTRODUCTORY CONTINUED

Another answer which touches the matter nearly is that, whatever may be said and alleged, it is agreed that all diviners and witches are judged as heretics by legal presumption and not by actual fact are subject to the Court of the Ordinary, not of the Inquisitors. And the aforesaid Inquisitors of other countries cannot defend their opinions by quoting the Canon and its commentators, because they who sacrifice to and worship devils are judged to be heretics by legal presumption, and not because the facts obviously show that they are such. For the text says that they must savour of heresy manifestly, that is, intrinsically and by their very nature. And it is enough for us Inquisitors to concern ourselves with those who are manifestly from the intrinsic nature of the case heretics, leaving others to their own judges.

It has been said that the cause must be inquired into, to know whether or not a man acts out of an error of faith; and this is easy. For the spirit of faith is known by the act of faith; as the spirit of chastity is shown by a chaste life; similarly the Church must judge a man a heretic if his actions show that he disputes any article of the faith. In this way even a witch, who has wholly or in part denied the faith, or used vilely the Body of Christ, and offered homage to the devil, may have done this merely to propitiate the devil; and even if she has totally denied the faith in her heart, she is to be judged as an apostate, for the fourth condition, which is necessary before anyone can rightly be said to be a heretic, will be wanting.

But if against this conclusion be set the Bull and commission given to us by our Holy Father Innocent VIII, that witches should be tried by the Inquisitors, we answer in this way. That this is not to say that the Diocesans also cannot proceed to a definite sentence against witches, in accordance with those ancient laws, as has been said. For that Bull was rather given to us because of the great care with which we have wrought to the utmost of our ability with the help of God.

Therefore we cannot concede to those other Inquisitors their first argument, since the contrary conclusion is rather the true one; for simonists are thought to be heretics only by legal presumption, and the Ordinaries themselves without the Inquisitors can try them. Indeed, the Inquisitors have no need to concern themselves with various simonists, or similarly with any others who are judged to be heretics only by legal presumption. For they cannot proceed against schismatic Bishops and other high Dignitaries, as is shown by the chapter of the Inquisition *Concerning Heretics*, Book VI, where it says: The Inquisitors of the sin of heresy deputed by the Apostolic See or by any other authority have no power to try such offenders on this sort of charge, or to proceed against them under pretext of their office, unless it is expressly stated in the letters of commission from the Apostolic See that they are empowered to do so.

But if the Inquisitors know or discover that Bishops or other high Dignitaries have been

charged with heresy, or have been denounced or suspected of that crime, it is their duty to report the fact to the Apostolic See.

Similarly the answer to their second argument is clear from what has been said. For he who cherishes and comforts a heretic is himself a heretic if he does this in the belief that he is worthy to be cherished or honoured on account of his doctrine or opinion. But if he honours him for some temporal reason, without any error of faith in his understanding, he is not rightly speaking a heretic, though he is so by a legal fiction or presumption or comparison, because he acts as if he held a wrong belief concerning the faith like him whom he cherishes: so in this case he is not subject to the Inquisitorial Court.

The third argument is similarly answered. For though a man should be judged by the Church as a heretic on account of his outward actions, visible and proved, yet it does not always follow that he is actually a heretic, but is only so reputed by legal presumption. Therefore in this case he is not liable to be tried by the Inquisitorial Court, because he does not manifestly savour of heresy.

For their fourth argument, it is a false assumption to say that it is not possible for anyone to tread underfoot the Body of Christ unless he has some perverse and wrong belief concerning the Body of Christ. For a man may do this with a full knowledge of his sin, and with a firm belief that the Body of Christ is truly there. But he does it to please the devil, and that he may more easily obtain his desire from him. And though in every sin there is an error, it need not necessarily be an error of the understanding, which is heresy or a wrong belief concerning the faith; for it may be an erroneous use of some power which turns it to vicious purposes; and then it will only be the first of those five conditions which are necessary constituents of heresy, in accordance with which a heretic is rightly liable to the Inquisitorial Court.

And it is not a valid objection to say that an Inquisitor may, nevertheless, proceed against those who are denounced as heretics, or are under a light or a strong or a grave suspicion of heresy, although they do not appear to savour manifestly of heresy. For we answer that an Inquisitor may proceed against such in so far as they are denounced or suspected for heresy rightly so called; and this is the sort of heresy of which we are speaking (as we have often said), in which there is an error in the understanding, and the other four conditions are superadded. And the second of these conditions is that such error should consist in matters concerning the faith, or should be contrary to the true decisions of the Church in matters of faith and good behaviour and that which is necessary for the attainment of eternal life. For if the error be in some matter which does not concern the faith, as, for example, a belief that the sun is not greater than the earth, or something of that sort, then it is not a dangerous error. But an error against Holy Scripture, against the articles of the faith, or against the decision of the Church, as has been said above, is heresy (art. 24, q. 1, *haec est fides*).

Again, the determination of doubts respecting the faith belongs chiefly to the Church, and especially to the Supreme Pontiff, Christ's Vicar, the successor of S. Peter, as is expressly stated (art. 24, q. 1, *quotiens*). And against the determination of the Church, as S. Thomas says, art. 2, q. 2, no Doctor or Saint maintains his own opinion; not S. Jerome nor S. Augustine nor any other. For just as he who obstinately argues against the faith is a heretic, so also is he who stubbornly maintains his opinion against the determination of the Church in matters concerning the faith and that which is necessary for salvation. For the Church herself has never been proved to be in error over matter of faith (as it is said in art. 24, q. 1,

a recta, and in other chapters). And it is expressly said, that he who maintains anything against the determination of the Church, not in an open and honest manner, but in matters which concern faith and salvation, is a heretic. For he need not be a heretic because he disagrees over other matters, such as the separability of law from use in matters which are affected by use: this matter has been settled by Pope John XXII in his *Extrauagantes*, where he says that they who contradict this opinion are stubborn and rebellious against the Church, but not heretics.

The third condition required is that he who holds the error should be one who has professed the Catholic faith. For is a man has never professed the Christian faith, he is not a heretic but simply an infidel, like the Jews or the Gentiles who are outside the faith. Therefore S. Augustine says in the *City of God*: The devil, seeing the human race to be delivered from the worship of idols and devils, stirred up heretics who, under the guise of Christians, should oppose Christian doctrine. So for a man to be a heretic it is necessary that he should have received the Christian faith in baptism.

Fourthly, it is necessary that the man who so errs should retain some of the true belief concerning Christ, pertaining either to His divinity or to His humanity. For if he retains no part of the faith, he is more rightly to be considered an apostate than a heretic. In this way Julian was an apostate. For the two are quite different, though sometimes they are confused. For in this manner there are found to be men who, driven by poverty and various afflictions, surrender themselves body and soul to the devil, and deny the faith, on condition that the devil will help them in their need to the attainment of riches and honours.

For we Inquisitors have known some, of whom a few afterwards repented, who have behaved in this way merely for the sake of temporal gain, and not through any error in the understanding; wherefore they are not rightly heretics, nor even apostates in their hearts, as was Julian, though they must be reckoned as apostates.

They who are apostates in their heart and refuse to return to the faith are, like impenitent heretics, to be delivered to the secular Court. But if they are desirous of reconciliation, they are received back into the Church, like penitent heretics. See the chapter *ad abolendam*, § *praesenti, de haeretic.*, lib. 6. Of the same opinion is S. Raymund in his work *de Apostolica*, cap. *reuertentes*, where he says that they who return from the perfidy of apostasy, though they were heretics, are to be received back like penitent heretics. And here the two are confused, as we have said. And he adds: Those who deny the faith through fear of death (that is, who deny the faith for the sake of temporal gain from the devil, but do not believe their error) are heretics in the sight of the law, but are not, properly speaking, heretics. And he adds: Although they have no erroneous belief, yet since the Church must judge by outward signs they are to be considered as heretics (not this fiction of law); and if they return, they are to be received as penitent heretics. For the fear of death, or the desire for temporal gain, is not sufficient to cause a constant man to deny the faith of Christ. Wherefore he concludes that it is more holy to die than to deny the faith or to be fed by idolatrous means, as S. Augustine says.

The judgement of witches who deny the faith would be the same; that when they wish to return they should be received as penitents, but otherwise they should be left to the secular Court. But they are by all means to be received back into the bosom of the Church when they repent; and are left to the secular Court if they will not return; and this is because of the temporal injuries which they cause, as will be shown in the methods of passing

sentence. And all this may be done by the Ordinary, so that the Inquisitor can leave his duties to him, at least in a case of apostasy; for it is otherwise in other cases of sorcerers.

The fifth condition necessary for a man to be rightly thought a heretic is that he should obstinately and stubbornly persist in his error. Hence, according to S. Jerome, the etymological meaning of heresy is Choice. And again S. Augustine says: Not he who initiates or follows false doctrines, but he who obstinately defends them, is to be considered a heretic. Therefore if anyone does not evilly persist in believing some false doctrine, but errs through ignorance and is prepared to be corrected and to be shown that his opinion is false and contrary to Holy Scripture and the determination of the Church, he is not a heretic. For he was ready to be corrected when his error was pointed out to him. And it is agreed that every day the Doctors have various opinions concerning Divine matters, and sometimes they are contradictory, so that one of them must be false; and yet none of them are reputed to be false until the Church has come to a decision concerning them. See art. 24, q. 3, *qui in ecclesia*.

From all this is concluded that the sayings of the Canonists on the words “savour manifestly of heresy” in the chapter *accusatus* do not sufficiently prove that witches and others who in any way invoke devils are subject to trial by the Inquisitorial Court; for it is only by a legal fiction that they judge such to be heretics. Neither is it proved by the words of the Theologians; for they call such persons apostates either in word or in deed, but not in their thoughts and their hearts; and it is of this last error that the words “savour of heresy” speak.

And though such persons should be judged to be heretics, it does not follow from this that a Bishop cannot proceed against them without an Inquisitor to a definite sentence, or punish them with imprisonment or torture. More than this, even when this decision does not seem enough to warrant the exemption of us Inquisitors from the duty of trying witches, still we are unwilling to consider that we are legally compelled to perform such duties ourselves, since we can depute the Diocesans to our office, at least in respect of arriving at a judgement.

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[General & Introductory Continued . . .](#)

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“Extrauagantes.” This word designates some Papal decretals not contained in certain canonical collections which possess a special authority, that is, they are not found in (but “wander outside,” “extra uagari”) the Decree of Gratian, or the three great official collections of the “Corpus Iuri” (the Decretals of Gregory IX; the Sixth Book of the Decretals; and the Clementines). The term is now applied to the collections known as the “Extrauagantes Ioannis XXII” and the “Extrauagantes Communes.” When John XXII (1316-34) published the Decretals already known as “Clementines,” there also existed various pontifical documents, obligatory upon the whole Church indeed, but not included in the “Corpus Iuris,” and these were called “Extrauagantes.” In 1325 Zenselinus de Cassanis added glosses to twenty constitutions of John XXII, and named this collection “Uiginti Extrauagantes papae Ioannis XXII.” Chappuis also classified these under fourteen titles containing all twenty chapters.

THE MALLEUS MALEFICARUM

GENERAL & INTRODUCTORY CONTINUED

For this provision is made in the Canon Law (*c. multorum in prin. de haeret. in Clem.*). There it says: As a result of a general complaint, and that this sort of Inquisition may proceed more fortunately and the inquiry into this crime be conducted more skilfully, diligently, and carefully, we order that this kind of case may be tried by the Diocesan Bishops as well as by the Inquisitors deputed by the Apostolic See, all carnal hatred or fear or any temporal affection of this sort being put aside; and so either of the above may move without the other, and arrest or seize a witch, placing her in safe custody in fetters and iron chains, if it seems good to him; and in this matter we leave the conduct of the affair to his own conscience; but there must be no negligence in inquiring into such matters in a manner agreeable to God and justice; but such witches must be thrust into prison rather as a matter of punishment than custody, or be exposed to torture, or be sentenced to some punishment. And a Bishop can proceed without an Inquisitor, or an Inquisitor without a Bishop; or, if either of their offices be vacant, their deputies may act independently of each other, provided that it is impossible for them to meet together for joint action within eight days of the time when the inquiry is due to commence; but if there be no valid reason for their not meeting together, the action shall be null and void in law.

The chapter proceeds to support our contention as follows: But if the Bishop or the Inquisitor, or either of their deputies, are unable or unwilling, for any of the reasons which we have mentioned, to meet together personally, they can severally depute their duties to each other, or else signify their advice and approval by letters.

From this it is clear that even in those cases where the Bishop is not entirely independent of the Inquisitor, the Inquisitor can depute the Bishop to act in his stead, especially in the matter of passing sentence: therefore we ourselves have decided to act according to this decision, leaving other Inquisitors to other districts to act as seems good to them.

Therefore in answer to the arguments, it is clear that witches and sorcerers have not necessarily to be tried by the Inquisitors. But as for the other arguments which seek to make it possible for the Bishops in their turn to be relieved from the trial of witches, and leave this to the Civil Court, it is clear that this is not so easy in their case as it is in that of the Inquisitors. For the Canon Law (*c. ad abolendam*, *c. uergentis*, and *c. excommunicamus utrumque*) says that in a case of heresy it is for the ecclesiastical judge to try and to judge, but for the secular judge to carry out the sentence and to punish; that is, when a capital punishment is in question, though it is otherwise with other penitential punishments.

It seems also that in the heresy of witches, though not in the case of other heresies, the Diocesans also can hand over to the Civil Courts the duty of trying and judging, and this for two reasons: first because, as we have mentioned in our arguments, the crime of witches is not purely ecclesiastical, being rather civil on account of the temporal injuries which they

commit; and also because special laws are provided for dealing with witches.

Finally, it seems that in this way it is easiest to proceed with the extermination of witches, and that the greatest help is thus given to the Ordinary in the sight of that terrible Judge who, as the Scriptures testify, will exact the strictest account from and will most hardly judge those who have been placed in authority. Accordingly we will proceed on this understanding, namely, that the secular Judge can try and judge such cases, himself proceeding to the capital punishment, but leaving the imposition of any other penitential punishment to the Ordinary.

A Summary or Classification of the Matters Treated of in this Third Part.

In order, then, that the Judges both ecclesiastical and civil may have a ready knowledge of the methods of trying, judging and sentencing in these cases, we shall proceed under three main heads. First, the method of initiating a process concerning matters of the faith; second, the method of proceeding with the trial; and third, the method of bringing it to a conclusion and passing sentence on witches.

The first head deals with five difficulties. First, which of the three methods of procedure provided by the law is the most suitable. Second, the number of witnesses. Third, whether these can be compelled to take the oath. Fourth, the condition of the witnesses. Fifth, whether mortal enemies may be allowed to give evidence.

The second head contained eleven Questions. I. How witnesses are to be examined, and that there should always be five persons present. Also how witches are to be interrogated, generally and particularly. (This will be numbered the Sixth Question of the whole Part; but we alter the numeration here to facilitate reference by the reader). II. Various doubts are cleared up as to negative answers, and when a witch is to be imprisoned, and when she is to be considered as manifestly guilty of the heresy of witchcraft. III. The method of arresting witches. IV. Of two duties which devolve upon the Judge after the arrest, and whether the names of the deponents should be made known to the accused. V. Of the conditions under which an Advocate shall be allowed to plead for the defence. VI. What measures the Advocate shall take when the names of the witnesses are not made known to him, and when he wishes to protest to the Judge that the witnesses are mortal enemies of the prisoner. VII. How the Judge ought to investigate the suspicion of such mortal enmity. VIII. Of the points which the Judge must consider before consigning the prisoner to torture. IX. Of the method of sentencing the prisoner to examination by torture. X. Of the method of proceeding with the torture, and how they are to be tortured; and of the provisions against silence on the part of the witch. XI. Of the final interrogations and precautions to be observed by the Judge.

The third head contains first of all three Questions dealing with matters which the Judge must take into consideration, on which depends the whole method of passing sentence. First, whether a prisoner can be convicted by a trial of red-hot iron. Second, of the method in which all sentences should be passed. Third, what degrees of suspicion can justify a trial, and what sort of sentence ought to be passed in respect of each degree of suspicion. Finally, we treat of twenty methods of delivering sentence, thirteen of which are common to all kinds of heresy, and the remainder particular to the heresy of witches. But since these will appear in their own places, for the sake of brevity they are not detailed here.

Question I

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THE MALLEUS MALEFICARUM

PART III, FIRST HEAD, QUESTION I.

The Method of Initiating a Process

The first question, then, is what is the suitable method of instituting a process on behalf of the faith against witches. In answer to this it must be said that there are three methods allowed by Canon Law. The first is when someone accuses a person before a judge of the crime of heresy, or of protecting heretics, offering to prove it, and to submit himself to the penalty of talion if he fails to prove it. The second method is when someone denounces a person, but does not offer to prove it and is not willing to embroil himself in the matter; but says that he lays information out of zeal for the faith, or because of a sentence of excommunication inflicted by the Ordinary or his Vicar; or because of the temporal punishment exacted by the secular Judge upon those who fail to lay information.

The third method involves an inquisition, that is, when there is no accuser or informer, but a general report that there are witches in some town or place; and then the Judge must proceed, not at the instance of any party, but simply by the virtue of his office.

Here it is to be noted that a judge should not readily admit the first method of procedure. For one thing, it is not actuated by motives of faith, nor is it very applicable to the case of witches, since they commit their deeds in secret. Then, again, it is full of danger to the accuser, because of the penalty of talion which he will incur if he fails to prove his case. Then, again, it is very litigious.

Let the process begin with a general citation affixed to the walls of the Parish Church or the Town Hall, in the following manner.

WHEREAS we, the Vicar of such and such Ordinary (or the Judge of such and such county), do endeavour with all our might and strive with our whole heart to preserve the Christian people entrusted to us in unity and the happiness of the Catholic faith and to keep them far removed from every plague of abominable heresy: Therefore we the aforesaid Judge to whose office it belongs, to the glory and honour of the worshipful name of JESUS Christ and for the exaltation of the Holy Orthodox Faith, and for the putting down of the abomination of heresy, especially in all witches in general and in each one severally of whatever condition or estate: (Here, if he is an ecclesiastical Judge, let him add a summons to all priests and dignitaries of the Church in that town and for a distance of two miles about it, who have knowledge of this notice. And he shall add) By the authority which we exercise in this district, and in virtue of holy obedience and under pain of excommunication, we direct, command, require, and admonish that within the space of twelve days (Here the secular Judge shall command in his own manner under pain of penalties suitable to his office), the first four of which shall stand for the first warning, the second for the second, and the third for the third warning; and we give this treble canonical warning that if anyone know, see, or have heard that any person is reported to be a heretic or a witch, or of any is suspected especially of such practices as cause injury to men, cattle, or the fruits of the

earth, to the loss of the State. But if any do not obey these aforesaid commands and admonitions by revealing such matters within the term fixed, let him know (Here the ecclesiastical Judge shall add) that he is cut off by the sword of excommunication (The secular Judge shall add the temporal punishments). Which sentence of excommunication we impose as from this time by this writing upon all and several who thus stubbornly set at naught these our canonical warnings aforesaid, and our requirement of their obedience, reserving to ourselves alone the absolution of such sentence (The secular Judge shall conclude in this manner). Given, etc.

Note also that in the case of the second method the following caution should be observed. For it has been said that the second method of procedure and of instituting a process on behalf of the faith is by means of an information, where the informer does not offer to prove his statement and is not ready to be embroiled in the case, but only speaks because of a sentence of excommunication, or out of zeal for the faith and for the good of the State. Therefore the secular Judge must specify in his general citation or warning aforesaid, that none should think that he will become liable to a penalty even if he fails to prove his words; since he comes forward not as an accuser but as an informer.

And then, since several will appear to lay information before the Judge, he ought to take care to proceed in the following manner. First, let him have a Notary and two honest persons, either clerics or laymen; or if a Notary is not to be procured, then let there be two suitable men in the place of the Notary. For this is dealt with in the *c. ut officium*, § *uerum*, lib. 6, where it is said: But because it is expedient to proceed with great caution in the trial of a grave crime, that no error may be committed in imposing upon the guilty a deservedly severe punishment; we desire and command that, in the examination of the witnesses necessary in such a charge, you shall have two religious and discreet persons, either clerics or laymen.

It goes on to say: In the presence of these persons the depositions of the witnesses shall be faithfully written down by a public official if one is obtainable, or, if not, by two suitable men. Note therefore that, having these persons, the Judge shall order the informer to lay his information in writing, or at least give it clearly by word of mouth. And then the Notary or the Judge shall begin to process in the following manner.

In the Name of the Lord. Amen.

In the year of Our Lord —, on the — day of the — month, in the presence of me the Notary and of the witnesses subscribed, N. of the town of — in the Diocese of —, as above, appeared in the person at — before the honourable Judge, and offered him a schedule to the following effect.

(Here shall follow the schedule in its entirety. But if he has not deposed in writing buy by word of mouth, it shall continue thus.)

He appeared, etc. and laid information to the Judge that N. of the town or parish of — in the Diocese of — had said and asserted that he knew how to perform or had actually done certain injuries to the deponent or to other persons.

After this, he shall immediately make the deponent take the oath in the usual manner, either on the four Gospels of God, or on the Cross, raising three fingers and depressing two in witness of the Holy Trinity and of the damnation of his soul and body, that he will speak the truth in his depositions. And when the oath has been sworn, he shall question him as to how he knows that his depositions are true, and whether he saw or heard that to which he

swears. And if he says that he has seen anything, as, for example, that the accused was present at such a time of tempest, or that he had touched an animal, or had entered a stable, the Judge shall ask when he saw him, and where, and how often, and in what manner, and who were present. If he says that he did not see it, but heard of it, he shall ask him from whom he heard it, where, when, and how often, and in whose presence, making separate articles of each of the several points above mentioned. And the Notary or scribe shall set down a record of them immediately after the aforesaid denunciation; and it shall continue thus:

This denunciation, as we have said, having been made, the Inquisitor himself did at once cause him to swear as above on the four Gospels, etc. that he was speaking the truth in his depositions, and did ask him how and why he knew or suspected that he what he said was true. He did make answer either that he saw, or that he heard. The Inquisitor did then ask him where he saw or heard this; and he answered on the — day of the — month in the year — in the town or parish of —. He asked him how often he saw or heard it, etc. And separate articles shall be made, and the whole set down in process, as has been said. And particularly he shall be asked who shared or could share in his knowledge of the case.

When all this has been done, he shall finally be asked whether he lays his information out of ill-will, hatred, or rancour; or if he has omitted anything through favour or love; or if he has been requested or suborned to lay information.

Finally, he shall be enjoined, by virtue of his oath, to keep secret whatever he has said there, or whatever the Judge has said to him; and the whole process shall be set down in writing. And when all this is completed, it shall be set down a little lower as follows. This was done at such a place on the — day of the — month in the year —, in the presence of me the Notary or scribe together with those associated with me in the duty of writing, and of such and such witnesses summoned and interrogated.

The third method of beginning a process is the commonest and most usual one, because it is secret, and no accuser or informer has to appear. But when there is a general report of witchcraft in some town or parish, because of this report the Judge may proceed without a general citation or admonition as above, since the noise of that report comes often to his ears; and then again he can begin a process in the presence of the persons, as we have said before.

In the Name of the Lord. Amen.

In the year of Our Lord —, on the — day of the — month, to the ears of such and such official or judge there came a persistent public report and rumour that N. of the town or parish of — did or said such and such a thing savouring of witchcraft, against the faith and the common good of the State.

And the whole shall be set down according to the common report. And a little lower:

The case was heard on the — day of the — month in the year —, in the presence of me the Notary of such and such authority, or of such and such a scribe, and of such and such witnesses who were called and interrogated.

But before we proceed to the second Head, which deals with the method of conducting this sort of process, we must first say something of the witnesses who are to be examined, as to how many they should be, and what should be their condition.

Question II

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THE MALLEUS MALEFICARUM

PART III, FIRST HEAD, QUESTION II.

Of the Number of Witnesses

Since we have said that in the second method the evidence of the witnesses is to be written down, it is necessary to know how many witnesses there should be, and of what condition. The question is whether a Judge may lawfully convict any person of the heresy of witchcraft on the evidence of two legitimate witnesses whose evidence is entirely concordant, or whether more than two are necessary. And we say that the evidence of witnesses is not entirely concordant when it is only partially so; that is, when two witnesses differ in their accounts, but agree in the substance or effect: as when one says “She bewitched my cow,” and the other says, “She bewitched my child,” but they agree as to the fact of witchcraft.

But here we are concerned with the case of two witnesses being in entire, not partial, agreement. And the answer is that, although two witnesses seem to be enough to satisfy the rigour of law (for the rule is that that which is sworn to by two or three is taken for the truth); yet in a charge of this kind two witnesses do not seem sufficient to ensure an equitable judgement, on account of the heinousness of the crime in question. For the proof of an accusation ought to be clearer than daylight; and especially ought this to be so in the case of the grave charge of heresy.

But it may be said that very little proof is required in a charge of this nature, since it takes very little argument to expose a person's guilt; for it is said in the Canon *de Haereticis*, lib. II, that a man makes himself a heretic if in the least of his opinions he wanders from the teaching and the path of the Catholic religion. We answer that this is true enough with reference to the presumption that a person is a heretic, but not as regards a condemnation. For in a charge of this sort the usual order of judicial procedure is cut short, since the defendant does not see the witnesses take the oath, nor are they made known to him, because this might expose them to grave danger; therefore, according to the statute, the prisoner is not permitted to know who are his accusers. But the Judge himself must by virtue of his office, inquire into any personal enmity felt by the witnesses towards the prisoner; and such witnesses cannot be allowed, as will be shown later. And when the witnesses give confused evidence on account of something lying on their conscience, the Judge is empowered to put them through a second interrogatory. For the less opportunity the prisoner has to defend himself, the more carefully and diligently should the Judge conduct his inquiry.

Therefore, although there are two legitimate and concordant witnesses against a person, even so I do not allow that this would be sufficient warrant for a Judge to condemn a person on so great a charge; but if the prisoner is the subject of an evil report, a period should be set for his purgation; and if he is under strong suspicion on account of the evidence of two witnesses, the Judge should make him abjure the heresy, or question him, or defer his

sentence. For it does not seem just to condemn a man of good name on so great a charge on the evidence of only two witnesses, though the case is otherwise with a person of bad reputation. This matter is fully dealt with in the Canon Law of heretics, where it is set down that the Bishop shall cause three or more men of good standing to give evidence on oath to speak the truth as to whether they have any knowledge of the existence of heretics in such a parish.

Again it may be asked whether the Judge can justly condemn a person of such heresy only on the evidence of witnesses who in some respects differ in their evidence, or merely on the strength of a general accusation. We answer that he cannot do so on either of the above grounds. Especially since the proofs of a charge ought, as we have said, to be clearer than daylight; and in this particular charge no one is to be condemned on merely presumptive evidence. Therefore in the case of a prisoner who is the subject of a general accusation, a period of purgation shall be set for him; and in the case of one who is under strong suspicion arising from the evidence of witnesses, he shall be made to abjure his heresy. But when, in spite of certain discrepancies, the witnesses agree in the main facts, then the matter shall rest with the Judge's discretion; and indirectly the question arises how often the witnesses can be examined.

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THE MALLEUS MALEFICARUM

PART III, FIRST HEAD, QUESTION III.

Of the Solemn Adjuration and Re-examination of Witnesses

But it may be asked whether the Judge can compel witnesses to sweat an oath to tell the truth in a case concerning the Faith or witches, of if he can examine them many times. We answer that he can do so, especially an ecclesiastical Judge, and that in ecclesiastical cases witnesses can be compelled to speak the truth, and this on oath, since otherwise their evidence would not be valid. For the Canon Law says: The Archbishop or Bishop may make a circuit of the parish in which it is rumoured that there are heretics, and compel three or more men of good repute, or even, if it seems good to him, the whole neighbourhood, to give evidence. And if any through damnable obstinacy stubbornly refuse to take the oath, they shall on that account be considered as heretics.

And that the witnesses can be examined several times is shown by the Canon, where it says that, when the witnesses have given their evidence in a confused manner, or appear to have withheld part of their knowledge for some reason, the Judge must take care to examine them afresh; for he may legally do so.

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THE MALLEUS MALEFICARUM

PART III, FIRST HEAD, QUESTION IV.

Of the Quality and Condition of Witnesses

Note that persons under a sentence of excommunication, associates and accomplices in the crime, notorious evildoers and criminals, or servants giving evidence against their masters, are admitted as witnesses in a case concerning the Faith. And just as a heretic may give evidence against a heretic, so may a witch against a witch; but this only in default of other proofs, and such evidence can only be admitted for the prosecution and not for the defence: this is true also of the evidence of the prisoner's wife, sons and kindred; for the evidence of such has more weight in proving a charge than in disproving it.

This is made clear in the *c. in fidei de haer.*, where it says: As a protection of the faith we allow that in a case of inquiry into the sin of heresy, persons under excommunication and partners and accomplices in the crime shall be admitted as witnesses, in default of other proofs against heretics and their patrons, protectors and defenders; provided that it appears probably both from the number of the witnesses and of those against whom they give evidence, and from other circumstances, that they are not giving false testimony.

The case of evidence given by perjurers, when it is presumed that they are speaking out of zeal for the faith, is dealt with in the Canon *c. accusatus*, § *licet*, where it says that the evidence of perjurers, after they have repented, is admissible; and it goes on to say: If it manifestly appears that they do not speak in a spirit of levity, or from motives of enmity, or by reason of a bribe, but purely out of zeal for the orthodox faith, wishing to correct what they have said, or to reveal something about which they had kept silence, in defence of the faith, their testimony shall be as valid as that of anyone else, provided that there is no other objection to it.

And it is clear from the same chapter of the Canon that the testimony of men or low repute and criminals, and of servants against their masters, is admitted; for it says: So great is the plague of heresy that, in an action involving this crime, even servants are admitted as witnesses against their masters, and any criminal evildoer may give evidence against any person soever.

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THE MALLEUS MALEFICARUM

PART III, FIRST HEAD, QUESTION V.

Whether Mortal Enemies may be Admitted as Witnesses

But if it is asked whether the Judge can admit the mortal enemies of the prisoner to give evidence against him in such a case, we answer that he cannot; for the same chapter of the Canon says: You must not understand that in this kind of charge a mortal personal enemy may be admitted to give evidence. Henry of Segusio also makes this quite clear. But it is mortal enemies that are spoken of; and it is to be noted that a witness is not necessarily to be disqualified because of every sort of enmity. And a mortal enmity is constituted by the following circumstances: when there is a death feud or vendetta between the parties, or when there has been an attempted homicide, or some serious wound or injury which manifestly shows that there is mortal hatred on the part of the witness against the prisoner, And in such a case it is presumed that, just as the witness has tried to inflict temporal death on the prisoner by wounding him, so he will also be willing to effect his object by accusing him of heresy; and just as he wished to take away his life, so he would be willing to take away his good name. Therefore the evidence of such mortal enemies is justly disqualified.

But there are other serious degrees of enmity (for women are easily provoked to hatred), which need not totally disqualify a witness, although they render his evidence very doubtful, so that full credence cannot be placed in his words unless they are substantiated by independent proofs, and other witnesses supply an indubitable proof of them. For the Judge must ask the prisoner whether he thinks that he has any enemy who would dare to accuse him of that crime out of hatred, so that he might compass his death; and if he says that he has, he shall ask who that person is; and then the Judge shall take note whether the person named as being likely to give evidence from motives of malice has actually done so. And if it is found that this is the case, and the Judge has learned from trustworthy men the cause of that enmity, and if the evidence in question is not substantiated by other proofs and the words of other witnesses, then he may safely reject such evidence. But if the prisoner says that he hopes he has no such enemy, but admits that he has had quarrels with women; or if he says that he has an enemy, but names someone who, perhaps, has not given evidence, in that case, even if other witnesses say that such a person has given evidence from motives of enmity, the Judge must not reject his evidence, but admit it together with the other proofs.

There are many who are not sufficiently careful and circumspect, and consider that the depositions of such quarrelsome women should be altogether rejected, saying that no faith can be placed in them, since they are nearly always actuated by motives of hatred. Such men are ignorant of the subtlety and precautions of magistrates, and speak and judge like men who are colour-blind. But these precautions are dealt with in Questions XI and XII.

Question VI

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THE MALLEUS MALEFICARUM

PART III, SECOND HEAD, QUESTION VI.

How the Trial is to be Proceeded with and Continued. And how the Witnesses are to be Examined in the Presence of Four Other Persons, and how the Accused is to be Questioned in Two Ways

In considering the method of proceeding with a trial of a witch in the cause of faith, it must first be noted that such cases must be conducted in the simplest and most summary manner, without the arguments and contentions of advocates.

This is explained in the Canon as follows: It often happens that we institute a criminal process, and order it to be conducted in a simple straightforward manner without the legal quibbles and contentions which are introduced in other cases. Now much doubt had been experienced as to the meaning of these words, and as to exactly in what manner such cases should be conducted; but we, desiring as far as possible to remove all doubt on the matter, sanction the following procedure once and for all as valid: The Judge to whom we commit such a case need not require any writ, or demand that the action should be contested; he may conduct the case on holidays for the sake of the convenience of the public, he should shorten the conduct of the case as much as he can by disallowing all dilatory exceptions, appeals and obstructions, the impertinent contentions of pleaders and advocates, and the quarrels of witnesses, and by restraining the superfluous number of witnesses; but not in such a way as to neglect the necessary proofs; and we do not mean by this that he should omit the citation of and swearing of witnesses to tell and not to hide the truth.

And since, as we have shown, the process is to be conducted in a simple manner, and it is initiated either at the instance of an accuser, or of an informer actuated by zeal, or by reason of a general outcry and rumour; therefore the Judge should try to avoid the first method of beginning the action, namely, at the instance of an accusing party. For the deeds of witches in conjunction with devils are done in secret, and the accuser cannot in this case, as in others, have definite evidence by which he can make his statements good; therefore the Judge ought to advise the accuser to set aside his formal accusation and to speak rather as an informer, because of the grave danger that is incurred by an accuser. And so he can proceed in the second manner, which is commonly used, and likewise in the third manner, in which the process is begun not at the instance of any party.

It is to be noted that we have already said that the Judge ought particularly to ask the informer who shares or could share in his knowledge of the case. Accordingly the Judge should call as witnesses those whom the informer names, who seem to have most knowledge of the matter, and their names shall be entered by the scribe. After this the Judge, having regard to the fact that the aforesaid denunciation of heresy involves of its very nature such a grave charge that it cannot and must not be lightly passed over, since to do so would imply an offence to the Divine Majesty and an injury to the Catholic Faith and to the State, shall proceed to inform himself and examine the witnesses in the following manner.

Examination of Witnesses.

The witness N., of such a place, was called, sworn, and questioned whether he knew N. (naming the accused), and answered that he did. Asked how he knew him, he answered that he had seen and spoken with him on several occasions, or that they had been comrades (so explaining his reason for knowing him). Asked for how long he had known him, he answered, for ten or for so many years. Asked concerning his reputation, especially in matter concerning the faith, he answered that in his morals he was a good (or bad) man, but with regard to his faith, there was a report in such a place that he used certain practices contrary to the Faith, as a witch. Asked what was the report, he made answer. Asked whether he had seen or heard him doing such things, he again answered accordingly. Asked where he had heard him use such words, he answered, in such a place. Asked in whose presence, he answered, in the presence of such and such.

Further, he was asked whether any of the accused's kindred had formerly been burned as witches, or had been suspected, and he answered. Asked whether he associated with suspected witches, he answered. Asked concerning the manner and reason of the accused's alleged words, he answered, for such a reason and in such a manner. Asked whether he thought that the prisoner had used those words carelessly, unmeaningly and thoughtlessly, or rather with deliberate intention, he answered that he had used them jokingly or in temper, or without meaning or believing what he said, or else with deliberate intention.

Asked further how he could distinguish the accused's motive, he answered that he knew it because he had spoken with a laugh.

This is a matter which must be inquired into very diligently; for very often people use words quoting someone else, or merely in temper, or as a test of the opinions of other people; although sometimes they are used assertively with definite intention.

He was further asked whether he made this deposition out of hatred or rancour, or whether he had suppressed anything out of favour or love, and he answered, etc. Following this, he as enjoined to preserve secrecy. This was done at such a place on such a day in the presence of such witnesses called and questioned, and of me the Notary or scribe.

Here it must always be noted that in such an examination at least five persons must be present, namely, the presiding Judge, the witness of informer, the respondent or accused, who appears afterwards, and the third is the Notary or scribe: where there is no Notary the scribe shall co-opt another honest man, and these two, as has been said, shall perform the duties of the Notary; and this is provided for by Apostolic authority, as was shown above, that in this kind of action two honest men should perform as it were the duty of witnesses of the depositions.

Also it must be noted that when a witness is called he must also be sworn, that is, he must take the oath in the manner we have shown; otherwise he would falsely be described as called and sworn.

In the same way the other witnesses are to be examined. And after this the Judge shall decide whether the fact is fully proven; and if not fully, whether there are great indications and strong suspicions of its truth. Observe that we do not speak of a light suspicion, arising from slight conjectures, but of a persistent report that the accused has worked witchcraft upon children or animals, etc. Then, if the Judge fears the escape of the accused, he shall cause him or her to be placed in custody; but if he does not fear his escape, he shall have

him called for examination. But whether or not he places him in custody, he shall first cause his house to be searched unexpectedly, and all chests to be opened and all boxes in the corners, and all implements of witchcraft which are found to be taken away. And having done this, the Judge shall compare together everything of which he has been convicted or suspected by the evidence of witnesses, and conduct an interrogatory on them, having with him a Notary, etc., as above, and having caused the accused to swear by the four Gospels of God to speak the truth concerning both himself and others. And they shall all be written down in this following manner.

The General Examination of a Witch or Wizard: and it is the First Action.

The accused N. of such a place was sworn by personally touching the four Gospels of God to speak the truth concerning both himself and others, and was then asked whence he was and from where he originated. And he answered, from such a place in such a Diocese. Asked who were his parents, and whether they were alive or dead, he answered that they were alive in such a place, or dead in such a place.

Asked whether they died a natural death, or were burned, he answered in such a way. (Here note that this question is put because, as was shown in the Second Part of this work, witches generally offer or devote their own children to devils, and commonly their whole progeny is infected; and when the informer has deposed to this effect, and the witch herself has denied it, it lays her open to suspicion).

Asked where he was brought up, and where he chiefly lived, he answered, in such or such a place. And if it appears that he has changed abode because, perhaps, his mother or any of his kindred was not suspected, and had lived in foreign districts, especially in such places as are most frequented by witches, he shall be questioned accordingly.

Asked why he had moved from his birthplace and gone to live in such or such a place, he answered, for such a reason. Asked whether in those said places or elsewhere he had heard any talk of witches, as, for example, the stirring up of tempests, the bewitching of cattle, the depriving of cows of their milk, or any such matter of which he was accused; if he should answer that he had, he must be asked what he had heard, and all that he says must be written down. But if he denies it, and says that he has heard nothing, then he must be asked whether he believes that there are such things as witches, and that such things as were mentioned could be done, as that tempests could be raised or men and animals bewitched.

Not that for the most part witches deny this at first; and therefore this engenders a greater suspicion than if they were to answer that they left it to a superior judgement to say whether there were such or not. So if they deny it, they must be questioned as follows: Then are they innocently condemned when they are burned? And he or she must answer.

The Particular Examination of the Same.

Let the Judge take care not to delay the following questions, but to proceed at once with them. Let he be asked why the common people fear her, and whether she knows that she is defamed and hated, and why she had threatened such a person, saying, "You shall not cross me with impunity," and let her answers be noted.

Then let he be asked what harm that person had done her, that she should have used

such words to threaten him with injury. And note that this question is necessary in order to arrive at the cause of their enmity, for in the end the accused will allege that the informer has spoken out of enmity; but when this is not mortal, but only a womanish quarrel, it is no impediment. For this is a common custom of witches, to stir up enmity against themselves by some word or action, as, for example, to ask someone to lend them something or else they will damage his garden, or something of that sort, in order to make an occasion for deeds of witchcraft; and they manifest themselves either in word or in action, since they are compelled to do so at the instance of the devils, so that in this way the sins of Judges are aggravated while the witch remains unpunished.

For note that they do not do such things in the presence of others, so that if the informer wishes to produce witnesses he cannot do so. Note again that they are spurred on by the devils, as we have learned from many witches who have afterwards been burned; so that often they have to work witchcraft against their own wills.

Further, she was asked how the effect could follow from those threats, as that a child or animal should so quickly be bewitched, and she answered. Asked, "Why did you say that he would never know a day of health, and it was so?" she answered. And if she denies everything, let her be asked concerning other bewitchments, alleged by other witnesses, upon cattle or children. Asked why she was seen in the fields or in the stable with the cattle, and touching them, as is sometimes their custom, she answered.

Asked why she touched a child, and afterwards it fell sick, she answered. Also she was asked what she did in the fields at the time of a tempest, and so with many other matters. Again, why, having one or two cows, she had more milk than her neighbours who had four or six. Again, let her be asked why she persists in a state of adultery or concubinage; for although this is beside the point, yet such questions engender more suspicion than would the case with a chaste and honest woman who stood accused.

And not that she is to be continually questioned as to the depositions which have been laid against her, to see whether she always returns the same answers or not. And when this examination has been completed, whether her answers have been negative, or affirmative, or ambiguous, let them be written down: Executed in such a place, etc., as above.

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[Question VII](#)

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THE MALLEUS MALEFICARUM

PART III, SECOND HEAD, QUESTION VII.

In Which Various Doubts are Set Forth with Regard to the Foregoing Questions and Negative Answers. Whether the Accused is to be Imprisoned, and when she is to be considered Manifestly Taken in the Foul Heresy of Witchcraft. This is the Second Action

It is asked first what is to be done when, as often happens, the accused denies everything. We answer that the Judge has three points to consider, namely, her bad reputation, the evidence of the fact, and the words of the witnesses; and he must see whether all these agree together. And if, as very often is the case, they do not altogether agree together, since witches are variously accused of different deeds committed in some village or town; but the evidences of the fact are visible to the eye, as that a child has been harmed by sorcery, or, more often, a beast has been bewitched or deprived of its milk; and it a number of witnesses have come forward whose evidence, even if it show certain discrepancies (as that one should say she had bewitched his child, another his beast, and a third should merely witness to her reputation, and so with the others), but nevertheless agree in the substance of the fact, that is, as to the witchcraft, and that she is suspected of being a witch; although those witnesses are not enough to warrant a conviction without the fact of the general report, or even with that fact, as was shown above at the end of Question III, yet, taken in conjunction with the visible and tangible evidence of the fact, the Judge may, in consideration of these three points together, decide that the accused is to be reputed, not as strongly or gravely under suspicion (which suspicions will be explained later), but as manifestly taken in the heresy of witchcraft; provided, that is, that the witnesses are of a suitable condition and have not given evidence out of enmity, and that a sufficient number of them, say six or eight or ten, have agreed together under oath. And then, according to the Canon Law, he must subject her to punishment, whether she has confessed her crime or not. And this is proved as follows.

For since it is said, that when all three of the above considerations are in agreement, then she should be thought to be manifestly taken in heresy, it must not be understood that it is necessary for all three to be in agreement, but only that if this is the case the proof is all the stronger. For either one instance by itself of the following two circumstances, namely, the evidence of the fact and the production of legitimate witnesses, is sufficient to cause a person to be reputed as manifestly taken in heresy; and all the more when both these considerations are in agreement.

For when the Jurists ask in how many ways a person may be considered as manifestly taken in heresy, we answer that there are three ways, as S. Bernard has explained. This matter was treated of above in the First Question at the beginning of this work, namely, the evidence of the fact, when a person has publicly preached heresy. But here we consider the evidence of the fact provided by public threats uttered by the accused, as when she said, “You shall have no healthy days,” or some such thing, and the threatened effect has

followed. The other two ways are the legitimate proof of the case by witnesses, and thirdly by her own confession. Therefore, if each of these singly is sufficient to cause a person to be manifestly suspected, how much more is this the case when the reputation of the accused, the evidence of the fact, and the depositions of witnesses all together point to the same conclusion. It is true that S. Bernard speaks of an evident fact, and we here speak of the evidence of the fact; but this is because the devil does not work openly, but secretly. Therefore the injuries and the instruments of witchcraft which are found constitute the evidence of the fact. And whereas in other heresies an evident fact is alone sufficient, here we join three proofs together.

Secondly, it is thus proved that a person so taken is to be punished according to the law, even though she denies the accusation. For a person taken on the evidence of the fact, or on the depositions of witnesses, either confesses the crime or does not. If he confesses and is impenitent, he is to be handed over to the secular courts to suffer the extreme penalty, according to the chapter *ad abolendam*, or he is to be imprisoned for life, according to the chapter *excommunicamus*. But if he does not confess, and stoutly maintains his denial, he is to be delivered as an impenitent to the power of the Civil Court to be punished in a fitting manner, as Henry of Segusio shows in his *Summa*, where he treats of the manner of proceeding against heretics.

It is therefore concluded that it is most just if the Judge proceeds in that manner with his questions and the depositions of witnesses, since, as has been said, he can in a case concerning the Faith conduct matters quite plainly and in a short and summary manner; and it is meet that he should consign the accused to prison for a time, or for several years, in case perhaps, being depressed after a year of the squalor of prison, she may confess her crimes.

But, lest it should seem that he arrives at his sentence precipitately, and to show that he proceeds with all equity, let us inquire into what should next be done.

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[Question VIII](#)

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THE MALLEUS MALEFICARUM

PART III, SECOND HEAD, QUESTION VIII.

Which Follows from the Preceding Question, Whether the Witch is to be Imprisoned, and of the Method of Taking her. This is the Third Action of the Judge

It is asked whether, after she has denied the accusation, the witch ought to be kept in custody in prison, when the three aforesaid conditions, namely, her reputation, the evidence of the fact, and the depositions of witnesses, are in agreement; or whether she should be dismissed with the security of sureties, so that she may again be called and questioned. As to this question there are three opinions.

First, it is the opinion of some that she should be sent to prison, and that by no means ought she to be dismissed under bond; and they hold this opinion on the strength of the reasoning brought forward in the preceding question, namely, that she is to be considered as manifestly guilty when all those three considerations are in agreement.

Others, again, think that before she is imprisoned she may be dismissed with the safeguard of sureties; so that if she makes her escape, she can then be considered as convicted. But after she has been imprisoned because of her negative answers, she is not to be released under any safeguard or condition of bail, that is, when those three considerations noted above are in agreement; because in that case she could not subsequently be sentenced and punished by death; and this, they say, is the general custom.

The third opinion is that no definite rule can be given, but that it must be left to the Judge to act in accordance with the gravity of the matter as shown by the testimony of the witnesses, the reputation of the accused, and the evidence as to the fact, and the extent to which these three agree with each other; and that he should follow the custom of the country. And they who hold this opinion conclude by saying that if reputable and responsible sureties are not to be procured, and the accused is suspected of contemplating flight, she should then be cast into prison. And this third opinion seems to be the most reasonable, as long as the correct procedure is observed; and this consists in three things.

First, that her [house should be searched](#) as thoroughly as possible, in all holes and corners and chests, top and bottom; and if she is a noted witch, then without doubt, unless she has previously hidden them, there will be found various instruments of witchcraft, as we have shown above.

Secondly, if she has a maid-servant or companions, that she or they should be shut up by themselves; for though they are not accused, yet it is presumed that none of the accused's secrets are hidden from them.

Thirdly, in taking her, if she be taken in her own house, let her not be given time to go into her room; for they are wont to secure in this way, and bring away with them, some object or power of witchcraft which procures them the faculty of keeping silent under examination.

This gives rise to the question whether the method employed by some to capture a

witch is lawful, namely, that she should be lifted from the ground by the officers, and carried out in a basket or on a plank of wood so that she cannot again touch the ground. This can be answered by the opinion of the Canonists and of certain Theologians, that this is lawful in three respects. First, because, as is shown in the introductory question of this Third Part, it is clear from the opinion of many authorities, and especially of such Doctors as no one would dare to dispute, as Duns Scotus, Henry of Segusio and Godfrey of Fontaines, that it is lawful to oppose vanity with vanity. Also we know from experience and the confessions of witches that when they are taken in this manner they more often lose the power of keeping silence under examination: indeed many who have been about to be burned have asked that they might be allowed at least to touch the ground with one foot; and when this has been asked why they made such a request, they have answered that if they had touched the ground they would have liberated themselves, striking many other people dead with lightning.

The second reason is this. It was manifestly shown in the Second Part of this work that a witch loses all her power when she falls into the hands of public justice, that is, with regard to the past; but with regard to the future, unless she receives from the devil fresh powers of keeping silent, she will confess all her crimes. Therefore let us say with [S. Paul](#): Whatsoever we do in word or deed, let all be done in the name of the Lord JESUS Christ. And if the witch be innocent, this form of capture will not harm her.

Thirdly, according to the Doctors it is lawful to counteract witchcraft by vain means; for they all agree as to this, though they are at variance over the question as to when those vain means may also be unlawful. Therefore when Henry of Segusio says that it is lawful to oppose vanity with vanity, this is explained as meaning that he speaks of vain means, not of unlawful means. All the more, then, is it lawful to obstruct witchcraft; and it is this obstruction which is referred to here, and not any unlawful practice.

Let the Judge note also that there are two sorts of imprisonment; one being a punishment inflicted upon criminals, but the other only a matter of custody in the house of detention. And these two sorts are noted in the chapter *multorum querela*; therefore she ought at least to be placed in custody. But if it is only a slight matter of which she is accused, and she is not of bad reputation, and there is no evidence of her work upon children or animals, then she may be sent back to her house. But because she has certainly associated with witches and knows their secrets, she must give sureties; and if she cannot do so, she must be bound by oaths and penalties not to go out of her house unless she is summoned. But her servants and domestics, of whom we spoke above, must be kept in custody, yet not punished.

[Question IX](#)

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“House should be searched.” Thus in the famouse witch trial of Dame Alice Kyteler and her coven before the Bishop of Ossory in 1324, John le Poer, the husband of Dame Alice, deposed that in her closet were discovered mysterious vials and elixirs, strange necromantic instruments and ghastly relics of mortality which she used in her horrid craft. Holinshed in his “Chronicle of Ireland” (London, 1587, p. 93), sub anno 1323, has: “In rifling the closet of the ladie, they found a wafer of sacramental bread, having the divels name stamped thereon in steed of JESUS Christ, and a pipe of ointment, wherewith she greased a staffe, upon which she ambled and gallopped through thicke and thin when and in what manner she listed.” See my “Geography of Witchcraft,” Chap. II, pp. 85-91.

“S. Paul.” “Colossians” iii, 17.

THE MALLEUS MALEFICARUM

PART III, SECOND HEAD, QUESTION IX.

What is to be done after the Arrest, and whether the Names of the Witnesses should be made Known to the Accused. This is the Fourth Action

THERE are two matters to be attended to after the arrest, but it is left to the Judge which shall be taken first; namely, the question of allowing the accused to be defended, and whether she should be examined in the place of torture, though not necessarily in order that she should be tortured. The first is only allowed when a direct request is made; the second only when her servants and companions, if she has any, have first been examined in the house.

But let us proceed in the order as above. If the accused says that she is innocent and falsely accused, and that she wishes to see and hear her accusers, then it is a sign that she is asking to defend herself. But it is an open question whether the Judge is bound to make the deponents known to her and bring them to confront her face to face. For here let the Judge take note that he is not bound either to publish the names of the deponents or to bring them before the accused, unless they themselves should freely and willingly offer to come before the accused and lay their depositions in her presence. And it is by reason of the danger incurred by the deponents that the Judge is not bound to do this. For although different Popes have had different opinions on this matter, none of them has ever said that in such a case the Judge is bound to make known to the accused the names of the informers or accusers (but here we are not dealing with the case of an accuser). On the contrary, some have thought that in no case ought he to do so, while others have thought that he should in certain circumstances.

But, finally, [Boniface VIII](#) decreed as follows: If in a case of heresy it appear to the Bishop or Inquisitor that grave danger would be incurred by the witnesses of informers on account of the powers of the persons against whom they lay their depositions, should their names be published, he shall not publish them. But if there is no danger, their names shall be published just as in other cases.

Here it is to be noted that this refers not only to a Bishop or Inquisitor, but to any Judge conducting a case against witches with the consent of the Inquisitor or Bishop; for, as was shown in the introductory Question, they can depute their duties to a Judge. So that any such Judge, even if he be secular, has the authority of the Pope, and not only of the Emperor.

Also a careful Judge will take notice of the powers of the accused persons; for these are of three kinds, namely, the power of birth and family, the power of riches, and the power of malice. And the last of these is more to be feared than the other two, since it threatens more danger to the witnesses if their names are made known to the accused. The reason for this is that it is more dangerous to make known the names of the witnesses to an accused person who is poor, because such a person has many evil accomplices, such as outlaws and homicides, associated with him, who venture nothing but their own persons, which is not the

case with anyone who is nobly born or rich, and abounding in temporal possessions. And the kind of danger which is to be feared is explained by Pope John XXII as the death of cutting off of themselves or their children or kindred, or the wasting of their substance, or some such matter.

Further, let the Judge take notice that, as he acts in this matter with the authority of the Supreme Pontiff and the permission of the Ordinary, both he himself and all who are associated with him at the depositions, or afterwards at the pronouncing of the sentence, must keep the names of the witnesses secret, under pain of excommunication. And it is in the power of the Bishop thus to punish him or them if they do otherwise. Therefore he should very implicitly warn them not to reveal the name from the very beginning of the process.

Wherefore the above decrees of Pope Boniface VIII goes on to say: And that the danger to those accusers and witnesses may be the more effectively met, and the inquiry conducted more cautiously, we permit, by the authority of this statute, that the Bishop or Inquisitors (or, as we have said, the Judge) shall forbid all those who are concerned in the inquiry to reveal without their permission any secrets which they have learned from the Bishop or Inquisitors, under pain of excommunication, which they may incur by violating such secrets.

It is further to be noted that just as it is a punishable offence to publish the names of witnesses indiscreetly, so also it is to conceal them without good reason from, for instance, such people as have a right to know them, such as the lawyers and assessors whose opinion is to be sought in proceeding to the sentence; in the same way the names must not be concealed when it is possible to publish them without risk of any danger to the witnesses. On this subject the above decree speaks as follows, towards the end: We command that in all cases the Bishop or Inquisitors shall take especial care not to suppress the names of the witnesses as if there were danger to them when there is perfect security, not conversely to decide to publish them when there is some danger threatened, the decision in this matter resting with their own conscience and discretion. And it has been written in comment on these words: Whoever you are who are a Judge in such a case, mark those words well, for they do not refer to a slight risk but to a grave danger; therefore do not deprive a prisoner of his legal rights without very good cause, for this cannot but be an offence to Almighty God.

The reader must note that all the process which we have already described, and all that we have yet to describe, up to the methods of passing sentence (except the death sentence), which it is in the province of the ecclesiastical Judge to conduct, can also, with the consent of the Diocesans, be conducted by a secular Judge. Therefore the reader need find no difficulty in the fact that the above Decree speaks of an ecclesiastical and not a secular Judge; for the latter can take his method of inflicting the death sentence from that of the Ordinary in passing sentence of penance.

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“Boniface VIII.” Benedetto Gaetani, born at Anagni about 1235; elected Pope, 24 December, 1294; died at Rome, 11 October, 1303. He was one of the most eminent canonists of his age, and as Supreme Pontiff enriched legislation by the promulgation (Bull “Sacrosanctae,” 1298) of a large number of his own constitutions and those of his predecessors since 1234, when Gregory IX issued his five books of Decretals. In reference to this, the collection of Boniface VIII is known as “Liber Sixtus,” i.e. of Pontifical Constitutions.

THE MALLEUS MALEFICARUM

PART III, SECOND HEAD, QUESTION X.

What Kind of Defence may be Allowed, and of the Appointment of an Advocate. This is the Fifth Action

IF, therefore, the accused asked to be defended, how can this be admitted when the names of the witnesses are kept altogether secret? It is to be said that three considerations are to be observed in admitting any defence. First, that an Advocate shall be allotted to the accused. Second, that the names of the witnesses shall not be made known to the Advocate, even under an oath of secrecy, but that he shall be informed of everything contained in the depositions. Third, the accused shall as far as possible be given the benefit of every doubt, provided that this involves no scandal to the faith nor is in any way detrimental to justice, as will be shown. And in like manner the prisoner's procurator shall have full access to the whole process, only the names of the witnesses and deponents being suppressed; and the Advocate can act also in the name of procurator.

As to the first of these points: it should be noted that an Advocate is not to be appointed at the desire of the accused, as if he may choose which Advocate he will have; but the Judge must take great care to appoint neither a litigious nor an evil-minded man, nor yet one who is easily bribed (as many are), but rather an honourable man to whom no sort of suspicion attaches.

And the Judge ought to note four points, and if the Advocate be found to conform to them, he shall be allowed to plead, but not otherwise. For first of all the Advocate must examine the nature of the case, and then if he finds it a just one he may undertake it, but if he finds it unjust he must refuse it; and he must be very careful not to undertake an unjust or desperate case. But if he has unwittingly accepted the brief, together with a fee, from someone who wishes to do him an injury, but discovers during the process that the case is hopeless, then he must signify to his client (that is, the accused) that he abandons the case, and must return the fee which he has received. This is the opinion of Godfrey of Fontaines, which is wholly in conformity with the Canon *de jud. i, rem non novam*. But Henry of Segusio holds an opposite view concerning the return of the fee in a case in which the Advocate has worked very hard. Consequently if an Advocate has wittingly undertaken to defend a prisoner whom he knows to be guilty, he shall be liable for the costs and expenses (*de admin. tut. i, non tamen est ignotum*).

The second point to be observed is that in his pleading he should conduct himself properly in three respects. First, his behaviour must be modest and free from prolixity or pretentious oratory. Secondly, he must abide by the truth, not bringing forward any fallacious arguments or reasoning, or calling false witnesses, or introducing legal quirks and quibbles if he be a skilled lawyer, or bringing counter-accusations; especially in cases of this sort, which must be conducted as simply and summarily as possible. Thirdly, his fee must be regulated by the usual practice of the district.

But to return to our point; the Judge must make the above conditions clear to the

Advocate, and finally admonish him not to incur the charge of defending heresy, which would make him liable to excommunication.

And it is not a valid argument for him to say to the Judge that he is not defending the error, but the person. For he must not by any means so conduct his defence as to prevent the case from being conducted in a plain and summary manner, and he would be doing so if he introduced any complications or appeals into it; all which things are disallowed together. For it is granted that he does not defend the error; for in that case he would be more damnably guilty than the witches themselves, and rather a heresiarch than a heretical wizard. Nevertheless, if he unduly defends a person already suspect of heresy, he makes himself as it were a patron of that heresy, and lays himself under not only a light but a strong suspicion, in accordance with the manner of his defence; and ought publicly to abjure that heresy before the Bishop.

We have put this matter at some length, and it is not to be neglected by the Judge, because much danger may arise from an improper conducting of the defence by an Advocate or Procurator. Therefore, when there is any objection to the Advocate, the Judge must dispense with him and proceed in accordance with the facts and the proofs. But when the Advocate for the accused is not open to any objection, but is a zealous man and lover of justice, then the Judge may reveal to him the names of the witnesses, under an oath of secrecy.

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THE MALLEUS MALEFICARUM

PART III, SECOND HEAD, QUESTION XI.

What Course the Advocate should Adopt when the Names of the Witnesses are not Revealed to him. This Sixth Action

BUT it may be asked: What, then, should the Advocate acting a Procurator for the accused do, when the names of the witnesses are withheld from both himself and his client, although the accused earnestly desires that they should be made known? We answer that he should obtain information from the Judge on every point of the accusation, which must be given to him at his request, only the names of the witnesses being suppressed; and with this information he should approach the accused and, if the matter involves a very grave charge, exhort him to exercise all the patience which he can.

And if the accused again and again insists that she should know the names of the witnesses against her, he can answer her as follows: You can guess from the charges which are made against you who are the witnesses. For the child or beast of so and so has been bewitched; or to such a woman or man, because they refused to lend you something for which you asked, you said, "You shall know that it would have been better to have agreed to my request," and they bear witness that in consequence of your words the person was suddenly taken ill; and facts are stronger evidence than words. And you know that you have a bad reputation, and have for a long time been suspected of casting spells upon and injuring many men. And talking in this manner, he may finally induce her to enter a plea that they had borne witness against her from motives of hatred; or to say, "I confess that I did say so, but not with any intent to do harm."

Therefore the Advocate must first lay before the Judge and his assessors this plea of personal enmity, and the Judge must inquire into it. And if it should be found to be a case of mortal enmity, as that there has been some attempted or accomplished murder committed by the husbands or kindred of the parties, or that someone of one party has been charged with a crime by someone of the other party, so that he fell into the hands of public justice, or that serious wounds have resulted from quarrels and brawls between them; then the upright and careful Judge will consult with his assessors whether the accused of the deponent was the aggravating party. For if, for example, the husband or friends of the accused have unjustly oppressed the friends of the deponent, then if there is no evidence of the fact that children or animals or men have been bewitched, and if there are no other witnesses, and the accused is not even commonly suspected of witchcraft, in that case it is presumed that the depositions were laid against her from motives of vengeance, and she is to be discharged as innocent and freely dismissed, after having been duly cautioned against seeking to avenge herself, in the manner which is usually used by Judges.

The following case may be put. Katharina's child, or she herself, is bewitched, or she has suffered much loss of her cattle; and she suspects the accused because her husband or brothers had previously brought on an unjust accusation against her own husband or brother.

Here the cause of enmity is twofold on the part of the deponent, having its root both in her own bewitchment and in the unjust accusation brought against her husband or brother. Then ought her deposition to be rejected or not? From one point of view it seems that it should, because she is actuated by enmity; from another point of view it should not, because there is the evidence of the fact in her bewitchment.

We answer that if in this case there are no other deponents, and the accused is not even under common suspicion, then her depositions cannot be allowed, but must be rejected; but if the accused is rendered suspect, and if the disease is not due to natural causes but to witchcraft (and we shall show later how this can be distinguished), she is to be subjected to a canonical purgation.

If it be asked further whether the other deponents must bear witness to the evidence of the fact as experienced by themselves or others, or only to the public reputation of the accused; we answer that, if they give evidence of the fact, so much the better. But if they only give evidence as to her general character, and the matter stands so, then, although the Judge must reject that deponent on the grounds of personal enmity, yet he shall take the evidence of the fact, and of her bad reputation given by the other witnesses, as proof that the accused must be strongly suspect, and on these grounds he can sentence her to a threefold punishment: namely, to a canonical purgation because of her reputation; or to an abjuration, because of the suspicion under which she rests, and there are various forms of abjuration for various degrees of suspicion, as will be shown in the fourth method of passing sentence; or, because of the evidence of the fact, and if she confesses her crime and is penitent, she shall not be handed over to the secular branch for capital punishment, but be sentenced by the ecclesiastical Judge to imprisonment for life. But notwithstanding the fact that she has been sentenced to imprisonment for life by the ecclesiastical Judge, the secular Judge can, on account of the temporal injuries which she has committed, deliver her to be burned. But all these matters will be made clear later when we deal with the sixth method of passing sentence.

To sum up: Let the Judge first take care not to lend too easy belief to the Advocate when he pleads mortal enmity on behalf of the accused; for in these cases it is very seldom that anyone bears witness without enmity, because witches are always hated by everybody. Secondly, let him take note that there are four ways by which a witch can be convicted, namely, by witnesses, by direct evidence of the fact, and by her own confession. And if she is detained on account of a general report, she can be convicted by the evidence of witnesses; if on account of definite suspicion, the direct or indirect evidence of the facts can convict her, and by reason of these the suspicion may be judged to be either light or strong or grave. All this is when she does not confess; but when she does, the case can proceed as has been said.

Thirdly, let the Judge make use of all the foregoing circumstances to meet the plea of the Advocate, whether the accused is charged only by reason of a general report, or whether there are also certain evidences to support the charge by which she incurs slight or strong suspicion; and then he will be able to answer the Advocate's allegation of personal enmity, which is the first line of defence which he may assume.

But when the Advocate assumes the second line of defence, admitting that the accused has used such words against the deponent as, "You shall soon know what is going to happen to you," or "You will wish soon enough that you had lent or sold me what I asked for," or some such words; and submits that, although the deponent afterwards experienced some

injury either to this person or his property, yet it does not follow from this that the accused was the cause of it as a witch, for illnesses may be due to various different causes. Also he submits that it is a common habit of women to quarrel together with such words, etc.

The Judge ought to answer such allegations in the following manner. If the illness is due to natural causes, then the excuse is good. But the evidence indicates the contrary; for it cannot be cured by any natural remedy; or in the opinion of the physicians the illness is due to witchcraft, or is what is in common speech called a Night-scathe. Again, perhaps other enchantresses are of the opinion that it is due to witchcraft. Or because it came suddenly, without any previous sickening, whereas natural diseases generally develop gradually. Or perhaps because the plaintiff had found certain instruments of witchcraft under his bed or in his clothes or elsewhere, and when these were removed he was suddenly restored to health, as often happens, as we showed in the Second Part of this work where we treated of remedies. And by some such answer as this the Judge can easily meet this allegation, and show that the illness was due rather to witchcraft than to any natural causes, and that the accused must be suspected of causing such witchcraft, by reason of her threatening words. In the same way, if someone said, "I wish your barn would be burned down," and this should afterwards happen, it would engender a grave suspicion that the person who had used that threat had caused the barn to be set on fire, even if another person, and not he himself, had actually set light to it.

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[Question XII](#)

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THE MALLEUS MALEFICARUM

PART III, SECOND HEAD, QUESTION XII.

Of the Same Matter, Declaring more Particularly how the Question of Personal Enmity is to be Investigated. The Seventh Action

TAKE notice that only mortal enemies are debarred from giving evidence, as was shown in the Fifth Question. But the Judge may consider that to come to a decision about such enmity by the means we have just explained is rather dubious and unsatisfactory; and the accused or her Procurator may not be willing to accept a decision arrived at on such grounds as to whether the enmity is mortal or not. Therefore the Judge must use other means to decide concerning the alleged enmity, so that he may not punish the innocent, but exact full justice from the guilty. And though these means may savour of cunning and even guile, yet the Judge may employ them for the good of the faith and the State; for even S. Paul says: But being crafty, I caught you by guile. And these means are especially to be employed in the case of a prisoner who has not been publically defamed, and is not suspected because of the evidence of any fact; and the Judge may also employ them against prisoners who have alleged enmity on the part of the deponents, and wish to know all the names of the witnesses.

The first method is this. The accused or her Advocate is given a copy of the process with the names of the deponents or informers, but not in the order in which they deposed; but in such a way that the name of the witness who comes first in the copy is sixth or seventh in the schedule, and he who comes second is last or last but one. In this way the accused will be deceived as to which witness deposed this or that. And then she will either say that they are all her enemies, or not; and if she says that they all are, she will be more easily detected in a lie when the cause of the enmity is investigated by the Judge; and if she names only certain ones, still the cause of the enmity will be more easily investigated.

The second method is similar, when the Advocate is given a copy of the process, and separately a list of the names of the deponents; but there are added other matters perpetrated elsewhere by witches, but not set down in writing by the witnesses or deponents. And so the accused will not be able to say definitely that this one or that one is her mortal enemy, because she does not know what they have deposed against her.

The third method was touched upon in the Fifth Question above. For when the accused is questioned at the end of her second examination, and before she has demanded to be defended or an Advocate has been allotted to her, let her be asked whether she thinks that she has any mortal enemies who, setting aside all fear of God, would falsely accuse her of the crime of heresy and witchcraft. And then perhaps without thinking, and not having seen the depositions of the witnesses, she will answer that she does not think that she has any such enemies. Or if she says, "I think I have," and names any of the witnesses who have laid information, and the reason for that enmity is known, then the Judge will be able to investigate it with more certainty afterwards, when the accused has been given separate

copies of the process and of the names of the witnesses, in the manner we have explained.

The fourth method is this. At the end of her second examination and confession (as we showed in the Sixth Question), before she is granted any means of defence, let her be questioned as to the witnesses who have laid the more serious charges against her, in this manner. “Do you know So-and-so?• naming one of the witnesses; and then she will answer either Yes or No. If she says No, she will not be able, after she has been given means of defence and an Advocate, to plead that he is a mortal enemy, since she has said on oath that she does not know him. But if she says Yes, let her be asked whether she knows or has heard that he or she has acted in any way contrary to the Christian faith in the manner of a witch. Then if she says Yes, for he did such and such a thing; let her be asked whether he is her friend or enemy; and she will immediately answer that he is her friend, because of the testimony of such is not of very great account; and consequently she will not be able afterwards to plead an oath through her Advocate that he is her enemy, for she has already said that he is her friend. But if she answers that she knows nothing about him, let her again be asked whether he is her friend or enemy, and she will at once answer that he is her friend; for it would be futile to allege enmity on the part of someone of whom she knows nothing. Therefore she says, “I am his friend, but if I knew anything about him I would not fail to reveal it.” Therefore she will not be able afterwards to plead that her is her enemy. Or perhaps she will from the very beginning allege reasons for mortal enmity, and in that case some credence must be placed in the plea of the Advocate.

A fifth method is to give the Advocate or the accused a copy of the process, with the names of the informers suppressed. And then the accused will guess, and very often rightly, who has deposed such and such against her. And then if she says, “So-and-so is my mortal enemy, and I am willing to prove it by witnesses,” then the Judge must consider whether the person named is the same person named in the schedule, and since she has said that she is willing to prove it by witnesses, he will examine those witnesses and inquire into the causes of the enmity, having secretly called into consultation learned and aged men of known prudence. And if he finds sufficient reasons for mortal enmity, he shall reject that evidence and dismiss the prisoner, unless there are other grave charges against her, sworn to by other witnesses.

And this fifth method is commonly used; and it is found in practice that witches quickly guess from the copy of the process who has laid information against them. And because in such cases mortal enmity is rarely found unless it arises from the wicked deeds of the witch, therefore the Judge can easily come to a decision by the above means. Also it is to be noted that often the informers desire to confront the witch personally, and to charge her to her face with the bewitchment which has befallen them.

There is still one more method whereunto the Judge may finally have recourse, when perhaps the other methods, and especially the first four, seem to some to savour too much of cunning and deceit. Accordingly, to satisfy and content the scrupulous, and that no fault may be found with the Judge, let him take care, after he has found by the above methods that there is no mortal enmity between the accused and the deponent, but wishes to remove all grounds for complaint by settling the question finally in consultation with his other assessors, to act as follows. Let him give to the accused or her Advocate a copy of the process, with the names of the deponents or informers suppressed. And since her defence is that she has mortal enemies, and perhaps she has alleged various reasons for the enmity, whether or not the facts are in agreement with her statements, let the Judge call into

consultation learned men of every faculty (if such can be had), or at least some honest and reputable persons (for this is the purport of that statute we have so often quoted); and let him cause the whole process to be read through to them from end to end by the Notary or scribe, and let the names of the witnesses be made known to them, but under an oath of secrecy; and he shall first inquire whether or not they are willing to be bound by such an oath, for if not the names must by no means be declared to them.

Then let him tell how he has inquired in such and such a manner into the alleged enmity, and has not been able to find any testimony of fact. But he shall add that, if they please, one of two courses shall be pursued. Either they shall decide then and there in consultation whether the evidence of any of the witnesses shall be rejected on the grounds of mortal personal enmity; or let them choose three or four or five persons who have most knowledge in that town or village of any friendship or enmity between the accused and the informer, who are not present at the consultation, and let them be informed of the names only of the accused and the witness, but not of the information which has been deposed, and let the whole question be left to their judgement. If they follow the former of these courses, they cannot very well reject any witness, since the Judge has already used his own methods of investigation; but by the second course he protects himself perfectly, and clears himself of all ugly suspicions. And he ought to observe this last method when the accused has been taken in a foreign town or country. These methods will suffice for examining the question of personal enmity.

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[Question XIII](#)

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THE MALLEUS MALEFICARUM

PART III, SECOND HEAD, QUESTION XIII.

Of the Points to be Observed by the Judge before the Formal Examination in the Place of Detention and Torture. This is the Eighth Action

THE next action of the Judge is quite clear. For common justice demands that a witch should not be condemned to death unless she is convicted by her own confession. But here we are considering the case of one who is judged to be taken in manifest heresy for one of the other two reasons set down in the First Question, namely, direct or indirect evidence of the fact, or the legitimate production of witnesses; and in this case she is to be exposed to questions and torture to extort a confession of her crimes.

And to make the matter clear we will quote a case which occurred at Spires and came to the knowledge of many. A certain honest man was bargaining with a woman, and would not come to terms with her about the price of some article; so she angrily called after him, "You will soon wish you had agreed." For witches generally use this manner of speaking, or something like it, when they wish to bewitch a person by looking at him. Then he, not unreasonably being angry with her, looked over his shoulder to see with what intention she had uttered those words; and behold! he was suddenly bewitched so that his mouth was stretched sideways as far as his ears in a horrible deformity, and he could not draw it back, but remained so deformed for a long time.

We put this case that this was submitted to the Judge as direct evidence of the fact; and it is asked whether the woman is to be considered as manifestly taken in the heresy of witchcraft. This should be answered from the words of S. Bernard which we have quoted above. For there are three ways in which a person may be judged to be so taken, and they not so closely conjoined as though it were necessary for all three to agree in one conclusion, but each one by itself, namely, the evidence of the fact, or the legitimate production of witnesses, or her own confession, is sufficient to prove a witch to be manifestly taken in that heresy.

But indirect evidence of the fact is different from direct evidence; yet though it is not so conclusive, it is still taken from the words and deeds of witches, as was shown in the Seventh Question, and it is judged from witchcraft which is not so immediate in its effect, but follows after some lapse of time from the utterance of the threatening words. Wherefore may we conclude that this is the case with such witches who have been accused and have not made good their defence (or have failed to defend themselves because this privilege was not granted them; and it was not granted because they did not ask for it). But what we are to consider now is what action the Judge should take, and how he should proceed to question the accused with a view to extorting the truth from her so that sentence of death may finally be passed upon her.

And here, because of the great trouble caused by the stubborn silence of witches, there are several points which the Judge must notice, and these are dealt with under their several

heads.

And the first is that he must not be too quick to subject a witch to examination, but must pay attention to certain signs which will follow. And he must not be too quick for this reason: unless God, through a holy Angel, compels the devil to withhold his help from the witch, she will be so insensible to the pains of torture that she will sooner be torn limb from limb than confess any of the truth.

But the torture is not to be neglected for this reason, for they are not all equally endowed with this power, and also the devil sometimes of his own will permits them to confess their crimes without being compelled by a holy Angel. And for the understanding of this the reader is referred to that which is written in the Second Part of this work concerning the homage which they offer to the devil.

For there are some who obtain from the devil a respite of six or eight or ten years before they have to offer him their homage, that is, devote themselves to him body and soul; whereas others, when they first profess their abjuration of the faith, at the same time offer their homage. And the reason why the devil allows that stipulated interval of time is that, during that time, he may find out whether the witch has denied the faith with her lips only but not in her heart, and would therefore offer him her homage in the same way.

For the devil cannot know the inner thoughts of the heart except conjecturally from outward indications, as we showed in the First Part of this work where we dealt with the question whether devils can turn the minds of men to hatred or love. And many have been found who, driven by some necessity or poverty, have been induced by other witches, in the hope of ultimate forgiveness in confession, to become either total or partial apostates from the faith. And it is such whom the devil deserts without any compulsion by a holy Angel; and therefore they readily confess their crimes, whereas others, who have from their hearts bound themselves to the devil, are protected by his power and preserve a stubborn silence.

And this provides a clear answer to the question how it comes about that some witches readily confess, and others will by no means do so. For in the case of the former, when the devil is not compelled by God, he still deserts them of his own will, in order that by temporal unhappiness and a horrible death he may lead to despair those over whose hearts he could never obtain the mastery. For it is evident from their sacramental confessions that they have never voluntarily obeyed the devil, but have been compelled by him to work witchcraft.

And some also are distinguished by the fact that, after they have admitted their crimes, they try to commit suicide by strangling or [hanging](#) themselves. And they are induced to do this by the Enemy, lest they should obtain pardon from God through sacramental confession. This chiefly happens in the case of those who have not been willing agents of the devil; although it may also happen in the case of willing agents, after they have confessed their crimes: but then it is because the devil has been compelled to desert the witch.

In conclusion we may say that it is as difficult, or more difficult, to compel a witch to tell the truth as it is to exorcise a person possessed of the devil. Therefore the Judge ought not to be too willing or ready to proceed to such examination, unless, as has been said, the death penalty is involved. And in this case he must exercise great care, as we shall show; and first we shall speak of the method of sentencing a witch to such torture.

Question XIV

*Part III, Second Head, Question XIII
was transcribed by [Christie Rice](#).*

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"Hanging." There are recorded many instances of this. In 1597 the Scotch warlock Playfair, having killed Lord Lothian by witchcraft, was laid for, and "being soon apprehended, was made prisoner in Dalkeith steeple, and having confest that and much more wickedness to Mr. Archibald Simson, minister there, and that confession coming to the ears of Robert, Earl of Lothian, my lord's son, he had moyen to get some persons admitted to speak with the prisoner in the night, by which means he was found worried in the morning, and the point of his breeches knit about his neck, but never more inquiry was made who had done the deed."

Alice Gooderidge, a Derbyshire witch, who was tried in 1597 and condemned, "should have bin executed, but that her spirit killed her in the prison." John Stewart, a warlock of Irvine, in 1618, "for his better preferring to the day of the assys, was put in one lockfast buith, . . . and for avoyding of putting violent handis on himself, was verie strictly gairdit and flitherit be the airms, as us is." He was visited by two ministers, who exhorted him to repentance, and seemed very contrite, confessing his witchcrafts. However, almost immediately after "he was fund be the burrow officers, quha went about him stranglit and hangit be the cruik of the dur, with ane tait of hemp (or a string maid of hemp, supposed to haif been his garters, or string of his bonnet) not above the length of two span long, hi kneis not being from the grund half ane span, and was brocht out of the hous, his lyf not being so layt expellit: but notwithstanding of quhat-somever meines usit to the contrair for remeid of his lyf, he revievit not, but so endit his lyf miserable by the help of the devill his maister." In 1649 the lady of Pittahro, Mistress Henderson, "being delated by many to be a witch, was apprehended and carried to Edenbroughe, wher she was keiped fast; and after her remaining in prison for a tyme, being in health all night, upon the morne was found dead. It was thought, and spoken by many, that she wronged her selfe, either by strangling or by poyson."

It is recorded of the Renfrewshire trials (1697) that John Reid, a notorious warlock of Bargarran, "after his Confession had called out of his prison Window, desiring Bailly Scott to keep that old body Angus Forrester, who had been his fellow prisoner, close and secure; whereupon the company asked John when they were leaving him on Friday night the 21st of May, whether he desired company or would be afraid alone, he said he had no fear of anything: So being left till Saturday in the Forenoon, he was found in this posture, viz. sitting upon a stool which was on the Hearth of the Chimney, with his feet on the floor and his Body straight upward, his shoulders touching the lintel of the Chimney, upon which the Company, especially John Campbell a Chyrurgeon who was called, thought at first in respect of his being in an ordinary posture of sitting, and the neck-cloath not having any drawn knot (or "run loup") but an ordinary one which was not very strait, and the sticke not having the strength to bear the weight of his Body or the struggle, that he had not been quite dead; but finding it otherways, and that he was such a Situation that he could not have been the Actor thereof himself, concluded that some extraordinary Agent had done it, especially considering that the Door of the room was secured, and that there was a board set over the Window which was not there the night before when they left him."

THE MALLEUS MALEFICARUM

PART III, SECOND HEAD, QUESTION XIV.

Of the Method of Sentencing the Accused to be Questioned: and How she must be Questioned on the First Day; and Whether she may be Promised her Life. The Ninth Action

SECONDLY, the Judge must take care to frame his sentence in the following manner.

We, the Judge and assessors, having attended to and considered the details of the process enacted by us against you N. of such a place in such a Diocese, and having diligently examined the whole matter, find that you are equivocal in your admissions; as for example, when you say that you used such threats with no intention of doing an injury, but nevertheless there are various proofs which are sufficient warrant for exposing you to the question and torture. Wherefore, that the truth may be known from your own mouth, and that henceforth you may not offend the ears of the Judges, we declare, judge and sentence that on this present day at such an hour you be placed under the question and torture. This sentence was given, etc.

Alternatively, as has been said, the Judge may not be willing to deliver the accused up to be questioned, but may punish her with imprisonment with the following object in view. Let him summon her friends and put it to them that she may escape the death penalty, although she will be punished in another way, if she confesses the truth, and urge them to try to persuade her to do so. For very often meditation, and the misery of imprisonment, and the repeated advice of honest men, dispose the accused to discover the truth.

And we have found that witches have been so strengthened by this sort of advice that, as a sign of their rebellion, they have spat on the ground as if it were in the devil's face, saying, "Depart, cursed devil; I shall do what is just" and afterwards they have confessed their crimes.

But if, after keeping the accused in a state of suspense, and continually postponing the day of examination, and frequently using verbal persuasions, the Judge should truly believe that the accused is denying the truth, let them question her lightly without shedding blood; knowing that such questioning is fallacious and often, as has been said, ineffective.

And it should be begun in this way. While the officers are preparing for the questioning, let the accused be stripped; or if she is a woman, let her first be led to the penal cells and there stripped by honest women of good reputation. And the reason for this is that they should search for any instrument of witchcraft sewn into her clothes; for they often make such instruments, at the instruction of devils, out of the limbs of unbaptized children, the purpose being that those children should be deprived of the beatific vision. And when such instruments have been disposed of, the Judge shall use his own persuasions and those of other honest men zealous for the faith to induce her to confess the truth voluntarily; and if she will not, let him order the officers to bind her with cords, and apply her to some engine of torture; and then let them obey at once but not joyfully, rather appearing to be disturbed by their duty. Then let her be released again at someone's earnest request, and taken on one

side, and let her again be persuaded; and in persuading her, let her be told that she can escape the death penalty.

Here it is asked whether, in the case of a prisoner legally convicted by her general bad reputation, by witnesses, and by the evidence of the fact, so that the only thing lacking is a confession of the crime from her own mouth, the Judge can lawfully promise her her life, whereas if she were to confess the crime she would suffer the extreme penalty.

We answer that different people have various opinions on this question. For some hold that if the accused is of a notoriously bad reputation, and gravely suspected on unequivocal evidence of the crime; and if she is herself a great source of danger, as being the mistress of other witches, then she may be promised her life on the following conditions; that she be sentenced to imprisonment for life on bread and water, provided that she supply evidence which will lead to the conviction of other witches. And she is not to be told, when she is promised her life, that she is to be imprisoned in this way; but should be led to suppose that some other penance, such as exile, will be imposed on her as punishment. And without doubt notorious witches, especially such as use witches' medicines and cure the bewitched by superstitious means, should be kept in this way, both that they may help the bewitched, and that they may betray other witches. But such a betrayal by them must not be considered of itself sufficient ground for a conviction, since the devil is a liar, unless it is also substantiated by the evidence of the fact, and by witnesses.

Others think that, after she has been consigned to prison in this way, the promise to spare her life should be kept for a time, but that after a certain period she should be burned.

A third opinion is that the Judge may safely promise the accused her life, but in such a way that he should afterwards disclaim the duty of passing sentence on her, deputing another Judge in his place.

There seems to be some advantage in pursuing the first of these courses on account of the benefit which may accrue from it to those who are bewitched; yet it is not lawful to use witchcraft to cure witchcraft, although (as was shown in the First and Introductory Question to this Third Part) the general opinion is that it is lawful to use vain and superstitious means to remove a spell. But use and experience and the variety of such cases will be of more value to Judges than any art or text-book; therefore this is a matter which should be left to the Judges. But it has certainly been very often found by experience that many would confess the truth if they were not held back by the fear of death.

But if neither threats nor such promises will induce her to confess the truth, then the officers must proceed with the sentence, and she must be examined, not in any new or exquisite manner, but in the usual way, lightly or heavily according as the nature of her crimes demands. And while she is being questioned about each several point, let her be often and frequently exposed to torture, beginning with the more gentle of them; for the Judge should not be too hasty to proceed to the graver kind. And while this is being done, let the Notary write all down, how she is tortured and what questions are asked and how she answers.

And note that, if she confesses under torture, she should then be taken to another place and questioned anew, so that she does not confess only under the stress of torture.

The next step of the Judge should be that, if after being fittingly tortured she refuses to confess the truth, he should have other engines of torture brought before her, and tell her that she will have to endure these if she does not confess. If then she is not induced by terror to confess, the torture must be continued on the second or third day, but not repeated at that

present time unless there should be some fresh indication of its probable success.

Let the sentence be pronounced in her presence in the following manner: We the aforesaid Judge, as above, assign to you N. such a day for the continuation of your questioning, that the truth may be heard from your own mouth. And the Notary shall write all down in the process.

And during the interval before that assigned time the Judge himself or other honest men shall do all in their power to persuade her to confess the truth in the manner we have said, giving her, if it seems expedient to them, a promise that her life will be spared.

The Judge should also take care that during that interval there should always be guards with her, so that she is never left alone, for fear lest the devil will cause her to kill herself. But the devil himself knows better than anyone can set down in writing whether he will desert her of his own will, or be compelled to do so by God.

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[Question XV](#)

*Part III, Second Head, Question XIV
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THE MALLEUS MALEFICARUM

PART III, SECOND HEAD, QUESTION IV.

Of the Continuing of the Torture, and of the Devices and Signs by which the Judge can Recognize a Witch; and how he ought to Protect himself from their Spells. Also how they are to be Shaved in Parts where they use to Conceal the Devil's Masks and Tokens; together with the due Setting Forth of Various Means of Overcoming the Obstinacy in Keeping Silence and Refusal to Confess. And it is the Tenth Action.

THE Judge should act as follows in the continuation of the torture. First he should bear in mind that, just as the same medicine is not applicable to all the members, but there are various and distinct salves for each several member, so not all heretics or those accused of heresy are to be subjected to the same method of questioning, examination and torture as to the charges laid against them; but various and different means are to be employed according to their various natures and persons. Now a surgeon cuts off rotten limbs; and mangy sheep are isolated from the healthy; but a prudent Judge will not consider it safe to bind himself down to one invariable rule in his method of dealing with a prisoner who is endowed with a witch's power of taciturnity, and whose silence he is unable to overcome. For if the sons of darkness were to become accustomed to one general rule they would provide means of evading it as a well-known snare set for their destruction.

Therefore a prudent and zealous Judge should seize his opportunity and choose his method of conducting his examination according to the answers or depositions of the witnesses, or as his own previous experience or native wit indicates to him, using the following precautions.

If he wishes to find out whether she is endowed with a witch's power of preserving silence, let him take note whether she is able to shed tears when standing in his presence, or when being tortured. For we are taught both by the words of worthy men of old and by our own experience that this is a most certain sign, and it has been found that even if she be urged and exhorted by solemn conjurations to shed tears, if she be a witch she will not be able to weep: although she will assume a tearful aspect and smear her cheeks and eyes with spittle to make it appear that she is weeping; wherefore she must be closely watched by the attendants.

In passing sentence the Judge or priest may use some such method as the following in conjuring her to true tears if she be innocent, or in restraining false tears. Let him place his hand on the head of the accused and say: I conjure you by the bitter tears shed on the Cross by our Saviour the Lord JESUS Christ for the salvation of the world, and by the burning tears poured in the evening hour over His wounds by the most glorious Virgin MARY, His Mother, and by all the [tears](#) which have been shed here in this world by the Saints and Elect of God, from whose eyes He has now wiped away all tears, that if you be innocent you do now shed tears, but if you be guilty that you shall by no means do so. In the name of the Father, and of the Son, and of the Holy Ghost, Amen.

And it is found by experience that the more they are conjured the less are they able to weep, however hard they may try to do so, or smear their cheeks with spittle. Nevertheless it is possible that afterwards, in the absence of the Judge and not at the time or in the place of torture, they may be able to weep in the presence of their gaolers.

And as for the reason for a witch's inability to weep, it can be said that the grace of tears is one of the chief gifts allowed to the penitent; for S. Bernard tells us that the tears of the humble can penetrate to heaven and conquer the unconquerable. Therefore there can be no doubt that they are displeasing to the devil, and that he uses all his endeavour to restrain them, to prevent a witch from finally attaining to penitence.

But it may be objected that it might suit with the devil's cunning, with God's permission, to allow even a witch to weep; since tearful grieving, weaving and deceiving are said to be proper to women. We may answer that in this case, since the judgements of God are a mystery, if there is no other way of convicting the accused, by legitimate witnesses or the evidence of the fact, and if she is not under a strong or grave suspicion, she is to be discharged; but because she rests under a slight suspicion by reason of her reputation to which the witnesses have testified, she must be required to abjure the heresy of witchcraft, as we shall show when we deal with the second method of pronouncing sentence.

A second precaution is to be observed, not only at this point but during the whole process, by the Judge and all his assessors; namely, that they must not allow themselves to be touched physically by the witch, especially in any contract of their bare arms or hands; but they must always carry about them some salt consecrated on Palm Sunday and some Blessed Herbs. For these can be enclosed together in [Blessed Wax](#) and worn round the neck, as we showed in the Second Part when we discussed the remedies against illnesses and diseases caused by witchcraft; and that these have a wonderful protective virtue is known not only from the testimony of witches, but from the use and practice of the Church, which exorcizes and blesses such objects for this very purpose, as is shown in the ceremony of exorcism when it is said, For the banishing of all the power of the devil, etc.

But let it not be thought that physical contact of the joints or limbs is the only thing to be guarded against; for sometimes, with God's permission, they are able with the help of the devil to bewitch the Judge by the mere sound of the words which they utter, especially at the time when they are exposed to torture.

And we know from experience that some witches, when detained in prison, have importunately begged their gaolers to grant them this one thing, that they should be allowed to look at the Judge before he looks at them; and by so getting the first sight of the Judge they have been able so to alter the minds of the Judge or his assessors that they have lost all their anger against them and have not presumed to molest them in any way, but have allowed them to go free. He who knows and has experienced it gives this true testimony; and would that they were not able to effect such things!

Let judges not despise such precautions and protections, for by holding them in little account after such warning they run the risk of eternal damnation. For our Saviour said: If I had not come, and spoken to them, they would not have sin; but now they have no excuse for their [sin](#). Therefore let the judges protect themselves in the above manner, according to the provisions of the Church.

And if it can conveniently be done, the witch should be led backward into the presence of the Judge and his assessors. And not only at the present point, but in all that has preceded

or shall follow it, let him cross himself and approach her manfully, and with God's help the power of that old Serpent will be broken. And no one need think that it is superstitious to lead her in backwards; for, as we have often said, the Canonists allow even more than this to be done for the protections against witchcraft, and always say that it is lawful to oppose vanity with vanity.

The third precaution to be observed in this tenth action is that the hair should be shaved from every part of her body. The reason for this is the same as that for stripping her of her clothes, which we have already mentioned; for in order to preserve their power of silence they are in the habit of hiding some superstitious object in their clothes or in their hair, or even in the most secret parts of the their bodies which must not be named.

But it may be objected that the devil might, without the use of such charms, so harden the heart of a witch that she is unable to confess her crimes; just as it is often found in the case of other criminals, no matter how great the tortures to which they are exposed, or how much they are convicted by the evidence of the facts and of witnesses. We answer that it is true that the devil can affect such taciturnity without the use of such charms; but he prefers to use them for the perdition of souls and the greater offence to the Divine Majesty of God.

This can be made clear from the example of a certain witch in the town of Hagenau, whom we have mentioned in the Second Part of this work. She used to obtain this [gift of silence](#) in the following manner: she killed a newly-born first-born male child who had not been baptized, and having roasted it in an oven together with other matters which it is not expedient to mention, ground it to powder and ashes; and if any witch or criminal carried about him some of this substance he would in no way be able to confess his crimes.

Here it is clear that a hundred thousand children so employed could not of their own virtue endow a person with such a power of keeping silence; but any intelligent person can understand that such means are used by the devil for the perdition of souls and to offend the Divine Majesty.

Again, it may be objected that very often criminals who are not witches exhibit the same power of keeping silence. In answer to this it must be said tat this power of taciturnity can proceed from three causes. First, from a natural hardness of heart; for some are soft-hearted, or even feeble-minded, so that at the slightest torture they admit everything, even some things which are not true; whereas others are so hard that however much they are tortured the truth is not to be had from them; and this is especially the case with those who have been tortured before, even if their arms are suddenly stretched or twisted.

Secondly, it may proceed from some instrument of witchcraft carried about the person, as has been said, either in the clothes or in the hairs of the body. And thirdly, even if the prisoner has no such object secreted about her person, they are sometimes endowed with this power by other witches, however far they may be removed from them. For a certain witch at Issbrug used to boast that, if she had no more than a thread from the garments of any prisoner, she could so work that however much that prisoner were tortured, even to death, she would be unable to confess anything. So the answer to this objection is clear.

But what is to be said of a case that happened in the Diocese of Ratisbon? Certain heretics were convicted by their own confession not only as impenitent but as open advocates of that perfidy; and when they were condemned to death it happened that they remained unharmed in the fire. At length their sentence was altered to death by drowning, but this was no more effective. All were astonished, and some even began to say that their

heresy must be true; and the Bishop, in great anxiety for his flock, ordered a three days' fast. When this had been devoutly fulfilled, it came to the knowledge of someone that those heretics had a magic charm sewed between the skin and the flesh under one arm; and when this was found and removed, they were delivered to the flames and immediately burned. Some say that a certain necromancer learned this secret during a consultation with the devil, and betrayed it; but however it became known, it is probably that the devil, who is always scheming for the subversion of faith, was in some way compelled by Divine power to reveal the matter.

From this it may be seen what a Judge ought to do when such a case happens to him: namely, that he should rely upon the protection of God, and by the prayers and fasting of devout persons drive away this sort of devil's work from witches, in those cases where they cannot be made to confess under torture even after their clothes have been changed and all their hair has been shaved off and abraded.

Now in the parts of Germany such shaving, especially of the secret parts, is not generally considered delicate, and therefore we Inquisitors do not use it; but we cause the hair of their head to be cut off, and placing a morsel of Blessed Wax in a cup of Holy Water and invoking the most Holy Trinity, we give it them to drink three times on a fasting stomach, and by the grace of God we have by this means caused many to break their silence. But in other countries the Inquisitors order the witch to be shaved all over her body. And the Inquisitor of Como has informed us that last year, that is, in 1485, he ordered forty-one witches to be burned, after they had been shaved all over. And this was in the district and county of Burbia, commonly called Wormserbad, in the territory of the Archduke of Austria, towards Milan.

But it may be asked whether, in a time of need, when all other means of breaking a witch's silence have failed, it would be lawful to ask the advice in this matter of sorceresses who are able to cure those who are bewitched. We answer that, whatever may have been done in that matter at Ratisbon, it is our earnest admonition in the Lord that no one, no matter how great may be the need, should consult with sorceresses on behalf of the State; and this because of the great offence which is thereby caused to the Divine Majesty, when there are so many other means open to us which we may use either in their own proper form or in some equivalent form, so that the truth will be had from their own mouths and they can be consigned to the flames; or failing this, God will in the meantime provide some other death for the witch.

For there remain to us the following remedies against this power of silence. First, let a man do all that lies in his own power by the exercise of his qualities, persisting often with the methods we have already mentioned, and especially on certain days, as will be shown in the following Question. See II. *Corinthians* ix: That ye may abound in all good works.

Secondly, if this should fail, let him consult with other persons; for perhaps they may think of some means which has not occurred to him, since there are various methods of counteracting witchcraft.

Thirdly, if these two fail, let him have recourse to devout persons, as it is said in *Ecclesiasticus* xxxvii: Be continually with a godly man, whom thou knowest to keep the commandments of the Lord. Also let him invoke the Patron Saints of the country. But if all these fail, let the Judge and all the people at once put their trust in God with prayers and fasting, that the witchcraft may be removed by reason of their piety. For so Josaphat prayed in II. *Paralipomenon* xx: When we know no what we should do, we have this one refuge,

that we should turn our eyes to Thee. And without doubt God will not fail us in our need.

To this effect also S. Augustine speaks (26, q. 7, non *obseruabitis*): Whosoever observes any divinations or auguries, or attends to or consents to such as observe them, or gives credit to such by following after their works, or goes into their houses, or introduces them into his own house, or asks questions of them, let him know that he has perverted the Christian faith and his baptism and is a pagan and apostate and enemy of God, unless he is corrected by ecclesiastical penances and is reconciled with God. Therefore let the Judge not fail always to use the lawful remedies, as we have said, together with these following final precautions.

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[Question XVI](#)

*Part III, First Head, Question XV
was transcribed by [Christie Rice](#).*

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“Tears.” The beautiful devotion to the Sacred Tears of Our Lord is well known. The Premonstratensians have a Mass, “De Lacryma Christi,” proper to the Order.

Our Lady of Tears, Santa Maria delle Lagrime, is the Patroness of Spoleto. A picture of Our Lady, painted upon the wall of the house belonging to Diotallevio d’Antonio, which stood on the road from Spoleto to Trevi, was seen to shed tears in great abundance. Many graces and favours were obtained before the miraculous picture. A small chapel was erected on the spot in August 1485, and Mass was daily offered therein. On 27 March 1487, the large basilica was begun, which on its completion, 8 March 1489, was entrusted to the Olivetans.

“Blessed Wax.” The “Agnus Dei,” which is a disc of wax, stamped with the figure of a Lamb, and on certain stated days blessed by the Holy Father. These Agnus Deis may either be worn suspended round the neck, or preserved as objects of devotion. They are to be regarded as Sacramentals.

“Sin.” S. John” xv, 22.

“Gift of Silence.” De Lancre, “Tableau de l’inconstance des mauvais agnes et demons,” Paris, 1912, has: “pour ne confessor iamais le secret de l’escole, on faict au sabbat une paste de millet noir, avec de la poudre du foyer de quelque enfant non baptise qu’on faict secher, puis meslant cette poudre avec ladicte paste, elle a cette vertu de tacitrunité; si bien que qui en mange ne confesse iamais.” Five Forfar witches, of which one was Helen Guthrie, in 1661 dug up the body of an unbaptized infant, which was buried in the churchyard near the south-east door of the church “and took severall peices thereof, as the feet, hands, pairt of the head, and a pairt of the buttocks, and they made a py thereof, that they might eat of it, that by this means they might never make a confession (as they thought) of their witchcraft.”

THE MALLEUS MALEFICARUM

PART III, SECOND HEAD, QUESTION XVI.

Of the fit Time and of the Method of the Second Examination. And it is the Eleventh Action, concerning the Final Precautions to be Observed by the Judge

THERE are one or two points to be noted with regard to what we have just written. First, that witches should be questioned on the more Holy Days and during the solemnization of the Mass, and that the people should be exhorted to pray for Divine help, not in any specific manner, but that they should invoke the prayers of the Saints against all the plagues of the devil.

Secondly, as we have said before, the Judge should wear round his neck Consecrated Salt and other matters, with the Seven Words which Christ uttered on the Cross written in a schedule, and all bound together. And he should, if he conveniently can, wear these made into the length of Christ's stature against his naked body, and bind other Holy things about him. For it is shown by experience that witches are greatly troubled by these things, and can hardly refrain from confessing the truth. The Relics of the Saints, too, are of especial virtue.

Having taken these precautions, and after giving her Holy Water to drink, let him again begin to question her, all the time exhorting her as before. And while she is raised from the ground, if she is being tortured in this way, let the Judge read or cause to be read to her the depositions of the witnesses with their names, saying: "See! You are convicted by the witnesses." Also, if the witnesses are willing to confront her face to face, the Judge shall ask her if she will confess if the witnesses are brought before her. And if she consents, let the witnesses be brought in and stand before her, so that she may be contrained or shamed into confessing some of her crimes.

Finally, if he sees that she will not admit her crimes, he shall ask her whether, to prove her innocence, she is ready to undergo the ordeal by red-hot iron. And they all desire this, knowing that the devil will prevent them from being hurt; therefore a true witch is exposed in this manner. The Judge shall ask her how she can be so rash as to run so great a risk, and all shall be written down; but it will be shown later that they are never to be allowed to undergo this ordeal by red-hot iron.

Let the Judge also note that when witches are questioned on a Friday, while the people are gathered together at Holy Mass to await our Saviour, they very often confess.

But we must proceed to the extreme case, when after every expedient has been tried the witch still maintains silence. The Judge shall then loose her and, using the precautions which follow, shall take her from the place of punishment to another place under a strong guard; but let him take particular care not to release her on any sort of security; for when that is done, they never confess the truth, but always become worse.

But in the first place let him cause her to be well treated in the manner of food and drink, and meanwhile let honest persons who are under no suspicion enter to her and talk often with her on indifferent subjects, and finally advise her in confidence to confess the

truth, promising that the Judge will be merciful to her and that they will intercede for her. And finally let the Judge come in and promise that he will be merciful with the mental reservation that he means he will be merciful to himself or the State; for whatever is done for the safety of the State is merciful.

But if he promises her her life, as we showed in Question XIV that he can do in three ways, let it all be written down by the Notary in what words and with what intention mercy was promised. And if the accused begs for mercy in this way, and discovers her crime, let her be promised in a vague and general way that she will receive even more than she has petitioned for, so that she may speak with the greater confidence.

As a second precaution in this case, when she refuses altogether to reveal the truth, the Judge should, as we have said before, examine her friends and associates without her knowledge; and if these have deposed anything which might lead to her conviction, this must be diligently investigated. Also, if any instruments or unguents or boxes have been found in her house, they should be shown to her, and she should be asked for what purposes they have been used.

A third precaution can be taken when she still persists in her obstinancy after her associates have been examined and borne witness against her, and not for her. If she has no friends, let some other trustworthy man who is known to be congenial to the accused and to some extent a patron of hers, enter to the witch one evening and engage her in a protracted conversation. And then, if he is not an accomplice, let him pretend that it is too late for him to return, and stay in the prison with her, and continue talking during the night. And if he is an accomplice, let them eat and drink together, and talk to each other about the things they have done. And then let it be arranged that spies should stand outside in a convenient place, and listen to them and take note of their words, and if necessary let them have a scribe with them.

As a fourth precaution, if she then begins to tell the truth, let the Judge on no account postpone hearing her confession, even in the middle of the night, but proceed with it to the best of his ability. And if it is in the day-time, let him not care if he delays his luncheon or dinner, but persist until she has told the truth, at least in the main. For it is generally found that, after postponements and interruptions, [they return](#) to their vomit and will not reveal the truth which they began to confess, having thought worse of it.

And let the Judge take note that, after she has confessed the injuries done to men and animals, he shall ask her for how many years she has had an Incubus devil, and how long it is since she abjured the faith. For they never confess to these matters unless they have first confessed to these matters unless they have first confessed their other deeds; therefore they must be asked concerning these last of all.

As a fifth precaution, when all the above have failed, let her, if possible, be led to some castle; and after she has been kept there under custody for some days, let the castellan pretend that he is going on a long journey. And then let some of his household, or even some honest women, visit her and promise that they will set her entirely at liberty if she will teach them how to conduct certain practices. And let the Judge take note that by this means they have very often confessed and been convicted.

Quite lately a witch was detained in the Castle of Königsheim near the town of Schlettstadt in the Diocese of Strasburg, and could not be induced by any tortures or questions to confess her crimes. But at last the castellan used the method we have just

described. Although he was himself present in the castle, the witch thought he was away, and three of his household came in to her and promised they would set her free if she would teach them how to do certain things. At first she refused, saying that they were trying to entrap her; but at last she asked what it was that they wanted to know. And one asked how to raise a hailstorm, and another asked about carnal matters. When at length she agreed to show him how to raise a hailstorm, and a bowl of water had been brought in, the witch told him to stir the water with his finger, and herself uttered certain words, and suddenly the place which he had named, a wood near the castle, was visited by such a tempest and storm of hail as had not been seen for many years.

It yet remains to show how the Judge is to proceed in pronouncing sentence in a case where all these means have failed, or what is further to be done even when she has confessed her crimes, that the whole process may be brought to an end; and we shall complete this Last Part of this work with a consideration of these matters.

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[Part III, The Third Head](#)

*Part III, Second Head, Question XVI
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“They Return.” “Proverbs” xxvi, II: “As a dog that returneth to his vomit, so is the fool that repeateth his folly.” II. S. Peter, ii, 22: “For, that of the true proverb has happened to them: the dog is returned to his vomit: and, The sow that was washed, to her wallowing in the mire.”

THE MALLEUS MALEFICARUM

PART III, THE THIRD HEAD

Which is the Last Part of the Work: How the Process is to be Concluded by the Pronouncement of a Definite and Just Sentence.

HAVING by the grace of God examined the proper means of arriving at a knowledge of the heresy of witchcraft, and having shown how the process on behalf of the faith should be initiated and proceeded with, it remains to discuss how that process is to be brought to a fitting termination with an appropriate sentence.

Here it is to be noted that this heresy, as was shown in the beginning of this Last Part, is not to be confused with other simple heresies, since it is obvious that it is not a pure and single crime, but partly ecclesiastical and partly civil. Therefore in dealing with the methods of passing sentence, we must first consider a certain kind of sentence to which witches are in the habit of appealing, in which the secular judge can act on his own account independently of the Ordinary. Secondly, we shall consider those in which he cannot act without the Ordinary. And so thirdly it will be shown how the Ordinaries can discharge themselves of their duties.

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[Question XVII](#)

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THE MALLEUS MALEFICARUM

PART III, THIRD HEAD, QUESTION XVII.

Of Common Purgation, and especially of the Trial of Red-hot Iron, to which Witches Appeal

THE question is now asked whether the secular judge may allow a witch to be submitted to a common purgation (concerning which see the Canon 2, q. 4, *consuluisti*, and cap. *monomachiam*), in the manner in which a civil defendant is allowed the trial by ordeal, as, for example, that by red-hot iron. And it may seem that he may do so.

For trial by combat is allowable in a criminal case for the protection of life, and in a civil case for the protection of property; then wherefore not the trial by red-hot iron or boiling water? S. Thomas allows that the former is permissible in some cases, when he says in the last article of the *Second of the Second*, q. 95, that a duel is lawful when it appears to be consonant with commonsense. Therefore the trial by red-hot iron should also be lawful in some cases.

Also it has been used by many Princes of saintly life who have availed themselves of the advice and counsel of good men; as, for example, the Sainted Emperor [Henry](#) in the case of the virgin Cunegond whom he had married, who was suspected of adultery.

Again, a judge, who is responsible for the safety of the community, may lawfully allow a smaller evil that a greater may be avoided; as he allows the existence of harlots in towns in order to avoid a general confusion of lust. For S. Augustine [On Free Will](#) says: Take away the harlots, and you will create a general chaos and confusion of lust. So, when a person has been loaded with insults and injuries by any community, he can clear himself of any criminal or civil charge by means of a trial by ordeal.

Also, since less hurt is caused to the hands by the red-hot iron than is the loss of life in a duel, if a duel is permitted where such things are customary, much more should the trial by red-hot iron be allowed.

But the contrary view is argued where it says (2, q. 5, *monomachiam*) that they who practice such and similar things appear to be tempting God. And here the Doctors affirm it must be noted that, according to S. Paul (I. *Thessalonians* v), we must abstain, not only from evil, but from all appearance of evil. Therefore the Canon says in that chapter, not that they who use such practices tempt God, but that they appear to tempt Him, so that it may be understood that, even if a man engage in such a trial with none but good intentions, yet since it has the appearance of evil, it is to be avoided.

I answer that such tests or trials are unlawful for two reasons. First, because their purpose is to judge of hidden matters of which it belongs only to God to judge. Secondly, because there is no Divine authority for such trials, nor are they anywhere sanctioned in the writings of the Holy Fathers. And it says in the chapter *consuluisti*, 2, q. 5: That which is not sanctioned in the writings of the Sainted Fathers is to be presumed superstitious. And [Pope Stephen](#) in the same chapter says: It is left to your judgement to try prisoners who are

convicted by their own confession or the proofs of the evidence; but leave that which is hidden and unknown to Him Who alone knows the hearts of men.

There is, nevertheless, a difference between a duel and the trial by red-hot iron or boiling water. For a duel appears to be more humanly reasonable, the combatants being of similar strength and skill, than a trial by red-hot iron. For although the purpose of both is to search out something hidden by means of a human act; yet in the case of trial by red-hot iron a miraculous effect is looked for, whereas this is not so in the case of a duel, in which all that can happen is the death of either, or both, of the combatants. Therefore the trial by red-hot iron is altogether unlawful; though a duel is not illegal to the same extent. So much has been incidentally admitted in respect of duels, on account of Princes and secular Judges.

It is to be noted that, because of those words of S. Thomas which make the above distinction, Nicolas of Lyra, in his Commentary on the duel or combat between David and Goliath, I. *Regum* xvii, tried to prove that in some cases a duel is lawful. But Paul of Burgos proves that not this, but rather the opposite was the meaning of S. Thomas; and all Princes and secular Judges ought to pay particular attention to his proof.

His first point is that a duel, like the other trial by ordeal, has as its purpose the judgement of something hidden, which ought to be left to the judgement of God, as we have said. And it cannot be said that this combat of David is an authority for duelling; for it was revealed to him by the Lord through some inner instinct that he must engage in that combat and avenge upon the Philistine the injuries done against God, as is proved by David's words: I come against thee in the name of the living God. So he was not properly speaking a duellist, but he was an executor of Divine justice.

His second point is that Judges must especially note that in a duel power, or at least licence, is given to each of the parties to kill the other. But since one of them is innocent, that power of licence is given for the killing of an innocent man; and this is unlawful, as being contrary to the dictates of natural law and to the teaching of God. Therefore, a duel is altogether unlawful, not only on the part of the appellant and the respondent, but also on the part of the Judge and his advisers, who are all equally to be considered homicides or parties to manslaughter.

Thirdly, he points out that a duel is a single combat between two men, the purpose of which is that the justice of the case should be made clear by the victory of one party, as if by Divine judgement, notwithstanding the fact that one of the parties is fighting in an unjust cause; and in this way God is tempted. Therefore it is unlawful on the part both of the appellant and the respondent. But considering the fact that the judges have other means of arriving at an equitable and just termination of the dispute, when they do not use such means, but advise or even permit a duel when they could forbid it, they are consenting to the death of an innocent person.

But since it is unlikely that Nicolas the Commentator was unaware or ignorant of the above reasoning, it is concluded that, when he says that in some cases a duel can be fought without mortal sin, he is speaking on the part of the Judges or advisers, namely, in a case when such a trial is undertaken, not on their responsibility or advice, but purely on that of the appellant and respondent themselves.

But since it is not our purpose to linger over and debate such considerations, but to return to the question of witches, it is clear that, if this sort of trial is forbidden in the case of other criminal causes, such as theft or robbery, still more must it be forbidden in the case of witches who, it is agreed, obtain all their power from the devil, whether it be for causing or

curing an injury, for removing or for preventing an effect of witchcraft.

And it is not wonderful witches are able to undergo this trial by ordeal unscathed with the help of devils; for we learn from naturalists that if the hands be anointed with the juice of a certain herb they are protected from burning. Now the devil has an exact knowledge of the virtues of such herbs: therefore, although he can cause the hand of the accused to be protected from the red-hot iron by invisibly interposing some other substance, yet he can procure the same effect by the use of natural objects. Hence even less that other criminals ought witches to be allowed this trial by ordeal, because their intimate familiarity with the devil; and from the very fact of their appealing to this trial they are to be held as suspected witches.

An incident illustrative of our argument occurred hardly three years ago in the Diocese of Constance. For in the territory of the Counts of Fuerstenberg and the Black Forest there was a notorious witch who had been the subject of much public complaint. At last, as the result of a general demand, she was seized by the Count and accused of various evil works of witchcraft. When she was being tortured and questioned, wishing to escape from their hands, she appealed to the trial by red-hot iron; and the Count, being young and inexperienced, allowed it. And she then carried the red-hot iron not only for the stipulated three paces, but for six, and offered to carry it even farther. Then, although they ought to have taken this as manifest proof that she was a witch (since one of the Saints dared to tempt the help of God in this manner), she was released from her chains and lives to the present time, not without grave scandal to the Faith in those parts.

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[Question XVIII](#)

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“Henry.” S. Henry II, German King and Roman Emperor, was born 972, and died in his palace of Grona, at Goettingen, 13 July, 1024. He was canonized in 1146 by Eugenius III; and his wife Cunegond on 3 March 1200, by Innocent III. Later writers are inclined to believe that the ascetic theme of his maiden marriage has no foundation in fact. Saint Henry on assuming the Imperial dignity took to wife Cunegond, daughter of Siegfried, Count of Luxemburg. It has been beautifully said that she shares her husband’s celestial, as she shared his earthly crown. When scandalous reports were circulated concerning her honour, although her husband could not for a moment suspect her purity, she insisted upon an appeal to the trial by ordeal, and having walked unhurt over the red-hot plough-shares, publicly testified her innocence. The story is immensely popular in German poetry and German art. A print by Hans Burgkmair shows her stepping over the shares, one of which she holds in her hand. Upon her shrine in the Cathedral at Bamberg a bas-relief by Hans Thielmann of Warzburg depicts the same incident. Having already retired to a Benedictine cloister, upon the death of her husband S. Cunegond took the veil.

“On Free Will.” S. Augustine’s “De Gratia et libero Arbitrio” was written 426—27. It will be found in Migne, "Patres Latini," xlv. pp. 881—912.

“Pope Stephen.” Stephen (IX) X, elected 3 August, 1057; died at Florence 29 March 1058. He was buried in the church of S. Reparata. He was distinguished for his learning and even during the few short months of his Pontificate he showed himself a zealous reformer.

THE MALLEUS MALEFICARUM

PART III, THIRD HEAD, QUESTION XIII.

Of the Manner of Pronouncing a Sentence which is Final and Definitive

IN proceeding to treat of those cases in which the secular Judge by himself can arrive at a judgement and pronounce a sentence without the co-operation of the Diocesan and Ordinaries, we necessarily presuppose that not only is it consistent with the protection of the faith and of justice that we Inquisitors should be relieved of the duty of passing sentence in these cases, but in the same sincerity of spirit we endeavour to relieve the Diocesans also from that duty; not in any desire to detract from their authority and jurisdiction, for if they should elect to exercise their authority in such matters, it would follow that we Inquisitors must also concur in it.

It must be remembered, also, that this crime of witches is not purely ecclesiastic; therefore the temporal potentates and Lords are not debarred from trying and judging it. At the same time we shall show that in some cases they must not arrive at a definitive judgement without the authorisation of the Diocesans.

But first we must consider the sentence itself: secondly, the nature of its pronouncement; and thirdly, in how many ways it is to be pronounced.

With regard to the first of these questions, S. Augustine says that we must not pronounce sentence against any person unless he has been proved guilty, or has confessed. Now there are three kinds of sentence - interlocutory, definitive, and preceptive. These are explained as follows by S. Raymond. An interlocutory sentence is one which is given not on the main issue of the case, but on some other side issues which emerge during the hearing of a case; such as a decision whether or not a witness is to be disallowed, or whether some digression is to be admitted, and such matters as that. Or it may perhaps be called interlocutory because it is delivered simply by word of mouth without the formality of putting it into writing.

A definitive sentence is one which pronounces a final decision as to the main issue of the case.

A preceptive sentence is one which is pronounced by a lower authority on the instruction of a higher. But we shall be concerned with the first two of these, and especially with the definitive sentence.

Now it is laid down by law that a definitive sentence which has been arrived at without a due observance of the proper legal procedure in trying a case is null and void in law; and the legal conduct of a case consists in two things. One concerns the basis of the judgement; for there must be a due provision for the hearing of arguments both for the prosecution and the defence, and a sentence arrived at without such a hearing cannot stand. The other is not concerned with the basis of the judgement, but provides that the sentence must not be conditional; for example, a claim for possession should not be decided conditionally upon some subsequent claim of property; but where there is no question of such an objection the

sentence shall stand.

But in the case we are considering, which is a process on behalf of the faith against a charge of heresy (though the charge is a mixed one), the procedure is straightforward and summary. That is to say, the Judge need not require a writ, or demand that the case should be contested. But he must allow opportunity for the necessary proofs, and issue his citation, and exact the protestation of the oath concerning calumny, etc. Therefore there has lately been a new law made as to the method of procedure in such cases.

To proceed to our second consideration, namely, of the nature of the pronouncement of the sentence, it must be noted that it should be pronounced by the Judge and no one else, otherwise it is not valid. Also the Judge must be sitting in a public and honourable place; and he must pronounce it in the day-time and not in the darkness; and there are other conditions to be observed; for example, the sentence must not be promulgated upon a Holy Day, nor yet merely delivered in writing.

Yet it is to be noted that since, as we have said, this case is conducted in a simple and summary manner, it may lawfully be conducted on Holy Days for the sake of the convenience of the public, and the Judge may cut short any digressions. Therefore the Judge may, if he pleases, act in such a manner, and even pass sentence without putting it in writing. For we are authoritatively informed that there are cases in which a sentence is valid without its being put into writing, as, for example, when such is the custom of any particular locality or Court. Also there is excellent precedent for a Bishop, when he is the Judge, allowing the sentence to be pronounced by some other person.

Note again that, although in criminal actions the execution of the sentence is not to be delayed, this rule does not hold good in four cases, with two of which we are here concerned. First, when the prisoner is a pregnant woman; and then the sentence shall be delayed until she has given birth. Secondly, when the prisoner has confessed her crime, but has afterwards denied it again: that is to say, when the way which we explained in the Fourteenth Question.

Now before we proceed to our third consideration, namely, the different methods of passing sentence which we shall proceed to treat of up to the end of this work, we must first make some remarks about the various ways in which a prisoner is rendered suspect, from which the various methods of passing sentence follow as a consequence.

[Question XIX](#)

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THE MALLEUS MALEFICARUM

PART III, THIRD HEAD, QUESTION XIX.

Of the Various Degrees of Overt Suspicion which render the Accused liable to be Sentenced

BOTH the old and the new legislature provide an answer to the question as to in how many and what ways a person can be held suspect of heresy or any other crime, and whether they can be judged and sentenced by reason of such suspicions. For the gloss on the chapter *nos in quemquam*, which we quoted in the last Question, says that there are four means of convicting a prisoner: either by the depositions of witnesses in Court, or by the evidence of the facts, or by reason of previous convictions against the prisoner, or because of a grave suspicion.

And the Canonists note that suspicion is of three kinds. The first of which the Canon says, “You shall not judge anyone because he is suspect in your own opinion.” The second is Probably; and this, but not the first, leads to a purgation. The third is Grave, and leads to a conviction; and S. Jerome understands this kind of suspicion when he says that a wife may be divorced either for fornication or for a reasonably suspected fornication.

It must further be noted that the second, or highly probable and circumstantial, suspicion is admitted as a kind of half-proof; that is to say, it helps to substantiate other proofs. Therefore it can also lead to a judgement, and not only to a purgation. And as for the grave suspicion, which suffices for a conviction, note that it is of two kinds. One is of the law and by the law, as when the law fixes and determines some point against which no proof can be admitted. For example, if a man has given a woman a promise of matrimony, and copulation has ensued, then matrimony is presumed, and no proof to the contrary is admitted. The second is of the law but not by the law, as where the law presumes but does not determine a fact. For example, if a man has lived for a long time with a woman, she is presumed to have had connexion with him; but against this proofs are admitted.

Applying this to our discussion of the heresy of witches and to the modern laws, we say that in law there are three degrees of suspicion in the matter of heresy: the first slight, the second great, and the third very great.

The first is in law called a light suspicion. Of this it is said in the chapter *Accusatus, de Haeret.* Lib. 6: If the accused has incurred only a light and small suspicion, and if she should again fall under that suspicion, although she is to be severely punished for this, she ought not to suffer the punishment of those who have relapsed into heresy. And this suspicion is called small or light, both because it can be removed by a small and light defence, and because it arises from small and light conjectures. Therefore it is called small, because of the small proofs of it; and light, because of the light conjectures.

As an example of simple heresy, if people are found to be meeting together secretly for the purpose of worship, or differing in their manner of life and behaviour from the usual habits of the faithful; or if they meet together in sheds and barns, or at the more Holy Seasons in the remoter fields or woods, by day or by night, or are in any way found to

separate themselves and not to attend Mass at the usual times or in the usual manner, or form secret friendships with suspected witches: such people incur at least a light suspicion of heresy, because it is proved that heretics often act in this manner. And of this light suspicion the Canon says: They who are by a slight argument discovered to have deviated from the teaching and path of the Catholic religion are not to be classed as heretics, nor is a sentence to be pronounced against them.

Henry of Segusio agrees with this in his *Summa; de Praesumptione*, where he says: It is to be noted that although a heretic be convicted by a slight argument of that matter of which he is suspected, he is not on that account to be considered a heretic; and he proves it by the above reasoning.

The second or grave suspicion is in law called grave or vehement, and of this the above Canon (*Accusatus*) again says: One who is accused or suspected of heresy, against whom a grave or vehement suspicion of this crime has arisen, etc. And it goes on: And these are not two kinds but the same kind of suspicion. Giovanni d'Andrea also says: Vehement is the same as strong, as the Archdeacon says speaking of this Canon. Also [Bernardus Papiensis](#) and [Huguccio](#) say that vehement is the same as strong or great. S. Gregory also, in the First Book of his *Morals* says: A vehement wind sprang up. Therefore we say that anyone has a vehement case when he has a strong one. So much for this.

Therefore a great suspicion is called vehement or strong; and it is so called because it is dispelled only by a vehement and strong defence, and because it arises from great, vehement, and strong conjectures, arguments, and evidence. As, to take an example of simple heresy, when people are found to shelter known heretics, and show favour to them, or visit and associate with them and give gifts to them, receive them into their houses and protect them, and such like: such people are vehemently suspected of heresy. And similarly in the heresy of witches, they are brought under suspicion when they share in the crimes of witches.

And here are especially to be noted those men or women who cherish some inordinate love or excessive hatred, even if they do not use to work any harm against men or animals in other ways. For, as we have said, those who behave in this way in any heresy are strongly to be suspected. And this is shown by the Canon where it says that there is no doubt that such persons act in this way out of some heretical sympathy.

The third and greatest suspicion is in law called grave or violent: for the Canon and the glosses of the Archdeacon and Giovanni d'Andrea explain that the word vehement does not mean the same as the word violent. And of this suspicion the Canon says (dist. 34): This presumption or suspicion is called violent because it violently constrains and compels a Judge to believe it, and cannot be cast off by any evasion; and also because it arises from violent and convincing conjectures.

For example, in simple heresy, if persons are found to show a reverent love for heretics, to receive consolation or communion from them, or perpetrate any other such matter in accordance with their rites and ceremonies: such persons would fall under and be convicted of a violent suspicion of heresy and heretical beliefs. (See many chapters on this subject in Book VI of the Canon.) For there is no doubt that such persons act in this way out of a belief in some heresy.

It is the same, as regards the heresy of witches, with those who perform and persist in performing any of the actions which pertain to the rites of witches. Now these are of various

kinds. Sometimes it is only some threatening speech, such as “You shall soon feel what will happen to you,” or something similar. Sometimes it is a touch, just laying their hands curiously on a man or a beast. Sometimes it is only a matter of being seen, when they show themselves by day or by night to others who are sleeping in their beds; and this they do when they wish to bewitch men or beasts. But for raising hailstorms they observe various other methods and ceremonies, and perform various ritual actions round about a river, as we have shown before where we discussed the manner and methods of working witchcraft. When such are found and are publicly notorious they are convicted of a violent suspicion of the heresy of witchcraft; especially when some effect of witchcraft has followed upon their actions, either immediately or after some interval. For then there is direct evidence when any instruments of witchcraft are found hidden in some place. And although when some interval of time has elapsed the evidence of the fact is not so strong, such a person still remains under strong suspicion of witchcraft, and therefore much more of simple heresy.

And if it be asked whether the devil cannot inflict injury upon men and beasts without the means of a woman being seen in a vision or by her touch, we answer that he can, when God permits it. But the permission of God is more readily granted in the case of a creature that was dedicated to God, but by denying the faith has consented to other horrible crimes; and therefore the devil more often uses such means to harm creatures. Further, we may say that, although the devil can work without a witch, he yet very much prefers to work with one, for the many reasons which we showed earlier in this work.

To sum up our conclusions on this matter, it is to be said that, following the above distinctions, those who are suspected of the heresy of witchcraft are separated into three categories, since some are lightly, some strongly, and some gravely suspected. And they are lightly suspected who act in such a way as to give rise to a small or light suspicion against them of this heresy. And although, as has been said, a person who is found to be suspected in this way is not to be branded as a heretic, yet he must undergo a canonical purgation, or he must be caused to pronounce a solemn abjuration as in the case of one convicted of a slight heresy.

For the Canon (cap. *excommunicamus*) says: Those who have been found to rest under a probable suspicion (that is, says Henry of Segusio, a light suspicion), unless, having respect to the nature of the suspicion and the quality of their persons, they should prove their innocent by a fitting purgation, they are to be stricken with the sword of anathema as a worthy satisfaction in the sight of all men. And if they continue obstinate in their excommunication for the period of a year, they are to utterly condemned as heretics.

And note that, in the purgation imposed upon them, whether or not they consent to it, and whether or not they fail in it, they are throughout to be judged as reputed heretics on whom a canonical purgation is to be imposed.

And that a person under this light suspicion can and should be caused to pronounce a solemn abjuration is shown in the chapter *Accusatus*, where it says: A person accused or suspected of heresy, against whom there is a strong suspicion of this crime, if he abjures the heresy before the Judge and afterwards commits it, then, by a sort of legal fiction, he shall be judged to have relapsed into heresy, although the heresy was not proved against him before his abjuration. But if the suspicion was in the first place a small or light one, although such a relapse renders the accused liable to severe punishment, yet he is not to suffer the punishment of those who relapse into heresy.

But those who are strongly suspected, that is, those who have acted in such a way as to

engender a great and strong suspicion; even those are not necessarily heretics or to be condemned as such. For it is expressly stated in the Canon that no one is to be condemned of so great a crime by reason of a strong suspicion. And it says:

Therefore we order that, when the accused is only under suspicion, even if it be a strong one, we do not wish him to be condemned of so grave a crime; but such a one so strongly suspected must be commanded to abjure all heresy in general, and in particular that of which he is strongly suspected.

But if he afterwards relapses either into his former heresy or into any other, or if he associates with those whom he knows to be witches or heretics, or visits them, receives, consults with, forgives, or favours them, he shall not escape the punishment of backsliders, according to the chapter *Accusatus*. For it says there: He who has been involved in one kind or sect of heresy, or has erred in one article of the faith or sacrament of the Church, and has afterwards specifically and generally abjured his heresy: if thereafter he follows another kind or sect of heresy, or errs in another article or sacrament of the Church, it is our will that he be judged a backslider. He, therefore, who is known to have lapsed into heresy before his abjuration, if after his abjuration he receives heretics, visits them, gives or sends them presents or gifts, or shows favour to them, etc., he is worthily and truly to be judged a backslider; for by this proof there is no doubt that he was in the first place guilty. Such is the tenor of the Canon.

From these words it is clear that there are three cases in which a person under strong suspicion of heresy shall, after his abjuration, be punished as a backslider. The first is when he falls back into the same heresy of which he was strongly suspected. The second is when he has abjured all heresy in general, and yet lapses into another heresy, even if he has never before been suspected or accused of that heresy. The third is when he receives and shows favour to heretics. And this last comprises and embraces many cases.

But it is asked what should be done when a person who has fallen under so strong a suspicion steadily refuses to comply with his Judge's order to abjure his heresy: is he to be at once handed over to the secular Court to be punished? We answer that by no means must this be done; for the Canon (*ad abolendam*) expressly speaks, not of suspects, but of those who are manifestly taken in heresy. And more rigorous action is to be employed against those who are manifestly taken than against those who are only suspected.

And if it is asked, How then is such a one to be proceeded against? We answer that the Judge must proceed against him in accordance with the chapter *excommunicamus*, and he must be excommunicated. And if he continues obstinate after a year's excommunication, he is to be condemned as a heretic.

There are others again who are violently or gravely suspected, whose actions give rise to a violent suspicion against them; and such a one is to be considered as a heretic, and throughout he is to be treated as if he were taken in heresy, in accordance with the Canon Law. For these either confess their crime or not; and if they do, and wish to return to the faith and abjure their heresy, they are to be received back into penitence. But if they refuse to abjure, they are to be handed over to the secular Court for punishment.

But if he does not confess his crime after he has been convicted, and does not consent to abjure his heresy, he is to be condemned as an impenitent heretic. For a violent suspicion is sufficient to warrant a conviction, and admits no proof to the contrary.

Now this discussion deals with simple heresy, where there is no direct or indirect evidence of the fact, as will be shown in the sixth method of passing sentence, where a man

is to be condemned as a heretic even though he may not actually be one: then how much more is it applicable to the heresy of witches, where there is always in addition either the direct evidence of bewitched children, men, or animals, or the indirect evidence of instruments of witchcraft which have been found.

And although in the case of simple heresy those who are penitent and abjure are, as has been said, admitted to penitence and imprisonment for life; yet in this heresy, although the ecclesiastic Judge may receive the prisoner into penitence, yet the civil Judge can, because of her temporal injuries, that is to say, the harms she has done to men, cattle, and goods, punish her with death; nor can the ecclesiastic Judge prevent this, for even if he does not hand her over to be punished, yet he is compelled to deliver her up at the request of the civil Judge.

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[Question XX](#)

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“Papiensis.” Bernardus Papiensis, a famous and prolific Italian canonist of the thirteenth century, who died 18 September, 1213. He was born at Pavia, studied law and theology at Bologna, was provost of the Cathedral of Pavia until 1191, Bishop of Faenza until 1198, and then Bishop of Pavia until his death. The most celebrated of his many works is the “Breuiarium extrauagantium” (later called “Compilatio prima antiqua”), a collection of canonical texts comprising ancient canons not inserted in the “Decretum” of Gratian, as also various later documents. The work was compiled between 1187 and 1191, and was edited by Friedberg, “Quinque compilationes antiquae,” Leipzig, 1882.

“Huguccio.” Hugh of Pisa, a distinguished Italian canonist, who died in 1210. He was born at Pisa, but the date is unknown. He studied at Bologna, where later he professed Canon Law. In 1190 he became Bishop of Ferrara. Among his works are a “Liber deruationum” which treats of etymology. He also wrote a “Summa” on the “Decretum” of Gratian, which has been considered the most extensive and one of the most valuable commentaries of the time. There are, however, certain omissions, but these gaps were filled by the industry of Joannes de Deo.

THE MALLEUS MALEFICARUM

PART III, THIRD HEAD, QUESTION XX.

Of the First Method of Pronouncing Sentence

SINCE, therefore, the accused is either found innocent and is to be altogether absolved, or is found only to be generally defamed as a heretic, or is found a proper subject for the questions and the torture on account of her reputation, or is found to be lightly suspected of heresy, or is found to be strongly or gravely suspected of heresy, or is found to be at the same time commonly defamed and suspected of heresy, or is found to have confessed her heresy and to be penitent but probably to have relapsed, or is found to have confessed her heresy and to be impenitent but not really to have relapsed, or is found to have confessed but by legitimate witnesses and otherwise legally to have been convicted of heresy, or is found to have been convicted of heresy but to have escaped or defiantly absented herself, or is found not to have done injury by witchcraft but to have removed bewitchments unfittingly and by unlawful means, or is found to be an archer-wizard or enchanter of weapons with the purpose of causing death, or is found to be a witch-midwife offerings infants to the devil in the manner of an enemy, or is found to make frivolous and fraudulent appeals with a view to saving her life:

Therefore, if she is found to be entirely innocent, the final sentence shall be pronounced in the following manner:

Here it is to be noted that the accused is found to be entirely innocent when, after the facts of the process have been diligently discussed in consultation with skilled lawyers, she cannot be convicted either by her own confession, or by the evidence of the fact, or by the production of legitimate witnesses (since they have disagreed upon the main issue); and when the accused has never before been suspected of or publicly defamed as regards that crime (but the case is different if she has been defamed as regards some other crime); and when there is no evidence of the fact against her. In such a case the following procedure is observed; for she is to be absolved by the Bishop or Judge by a sentence to the following effect:

We N., by the mercy of God Bishop of such a town (or Judge, etc.), considering that you N. of such a place and such a Diocese have been accused before us of the crime of heresy and namely of witchcraft; and considering that this accusation was such as we could not pass over with connivent eyes, have condescended to inquire whether the aforesaid accusation can be substantiated as true, by calling witnesses, by examining you, and by using other means which are fitting according to the canonical sanctions. Wherefore having diligently seen and examined all that has been done and said in this case, and having had the counsel of learned lawyers and Theologians, and having repeatedly examined and inquired into all; sitting as Judges on this tribunal and having only God before our eyes and the truth of the case, and the Holy Gospels being placed before us that our judgement may proceed from the countenance of God and our eyes behold equity, we proceed to our definitive

sentence in this way, invoking the name of Christ. Since by that which we have seen and heard, and has been produced, offered, done, and executed before us in this present case, we have not found that anything has legally been proved against you of those things of which you were accused before us, we pronounce, declare, and give it as our final sentence that no act has legally been proved to us against you by which you can or ought to be judged a heretic or witch of heresy. Wherefore by this present declaration, inquiry, and judgement, we freely discharge you. This sentence was given, etc.

Let care be taken not to put anywhere in the sentence that the accused is innocent or immune, but that it was not legally proved against him; for if after a little time he should again be brought to trial, and it should be legally proved, he can, notwithstanding the previous sentence of absolution, then be condemned.

Note also that the same method of absolution may be used in the case of one who is accused of receiving, protecting, or otherwise comforting and favouring heretics, when nothing is legally proved against him.

A secular Judge commissioned by the Bishop shall use his own manner of pronouncement.

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[Question XXI](#)

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THE MALLEUS MALEFICARUM

PART III, THIRD HEAD, QUESTION XXI.

Of the Second Method of Pronouncing Sentence, when the Accused is no more than Defamed

THE second method of delivering judgement is to be employed when he or she who is accused, after a diligent discussion of the merits of the case in consultation with learned lawyers, is found to be no more than defamed as a heretic in some village, town, or province. And this is when the accused does not stand convicted either by her own confession, or by the evidence of the facts, or by the legitimate production of witnesses; nor has there been anything proved against her except that she is the subject of common aspersion: so that no particular act of witchcraft can be proved by which she can be brought under strong or grave suspicion, as that she has uttered threatening words, for example, “You will soon feel what will happen to you,” or something to that effect, and afterwards some injury has befallen the person or the cattle of the man she threatened.

The following procedure, therefore, is to be employed in the case of such a one against whom nothing has been proved except public obloquy. In this case judgement cannot be delivered for the accused, nor can she be absolved as in the first method; but a canonical purgation must be imposed upon her. Therefore let the Bishop or his deputy, or the Judge, first take note that, in a case of heresy, it is not necessary that a person should be defamed only by good and respected people; for the calumny uttered by common and simple folk carries equal weight.

And the reason for this is, that the same persons who are admitted as accusers in a case of heresy are also admitted as detractors. Now any heretic can be accused by anybody, except his mortal enemies; therefore he can also be defamed by anybody.

Therefore let the Bishop or Judge pronounce his sentence of canonical purgation in this or some similar manner:

We N., by the mercy of God Bishop of such a city, or Judge of such a county, having diligently examined the merits of the process conducted by us against you N. of such a Diocese accused before us of the crime of heresy, etc. We have not found that you have confessed to or have been convicted of the aforesaid sin or that you are even lightly suspected of it, except that we find that truly and legitimately you are publicly defamed by both good and bad in such a village, town, or Diocese; and that you may be in good odour among the company of the faithful we impose upon you as by law a canonical purgation, assigning to you such a day of such a month at such hour of the day, upon which you shall appear in person before us with so many persons of equal station with you to purge you of your defamation. Which sponsors must be men of the Catholic faith and of good life who have known your habits and manner of living not only recently but in time past. And we signify that, if you should fail in this purgation, we shall hold you convicted, according to the canonical sanctions.

Here it is to be considered that, when a person is duly found to be publicly defamed of

some heresy, and nothing is proved against him except that defamation, a canonical purgation shall be imposed upon him. That is, he must produce some seven, ten, twenty, or thirty men, according to the extent to which he has been defamed and the size and importance of the place concerned, and these must be men of his own station and condition. For example, if he who is defamed is a religious, they must be religious; if he is a secular, they must be seculars; if he be a soldier, they must be soldiers who purge him from the crime for which he is defamed. And these sponsors must be men professing the Catholic faith and of good life, who have known his habits and life both recently and for a long time.

But if he refuses this purgation, he must be excommunicated; and if he remains obstinate in that excommunication for a year, he is then to be condemned as a heretic.

And if he accepts the purgation and fails in it; that is, if he cannot find sponsors of the number and quality desired; he shall be considered as convicted, and is to be condemned as a heretic.

And it must here be remarked that, when it is said that he must purge himself by means of so many men of his own station in life, this is meant generically and not specifically. Thus, if a Bishop is to be purged, it is not necessary that all his sponsors should be Bishops; but Abbots and other religious who are priests are admitted; and similarly in other cases.

And the defamed person shall purge himself in the following manner. At the time assigned to him for his canonical purgation, he shall appear in person with his sponsors before the Bishop who is his Judge, in the place where he is known to be defamed; and, placing his hand upon the Book of the Gospels set before him, he shall say as follows:

I swear upon these four Holy Gospels of God that I never held, believed or taught, neither do I hold or believe such heresy (naming it) for which I am defamed.

That is to say, he shall deny on oath whatever it is for which he is defamed.

After this, all his sponsors shall place their hands on the Gospels; and each of them severally shall say: And I swear upon this Holy Gospel of God that I believe him to have sworn the truth. And then he is canonically purged.

It is also to be noted that a person defamed of heresy is to be purged in the place where he is known to be defamed. And if he has been defamed in many places, he must be required to profess the Catholic faith and deny the heresy in all the places in which he is known as defamed.

And let not such a person hold in light esteem this canonical purgation. For it is provided by the Canon Law that, if he afterwards falls into the heresy of which he has been purged, he is to be handed over as a backslider to the secular Court. But the case is somewhat different if he falls into some other heresy, of which he has not before been purged.

Question XXII

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THE MALLEUS MALEFICARUM

PART III, THIRD HEAD, QUESTION XXII.

Of the Third Kind of Sentence, to be Pronounced on one who is Defamed, and who is to be put to the Question

THE Third method of bringing a process on behalf of the faith to a conclusive termination is when the person accused of heresy, after a careful consideration of the merits of the process in consultation with learned lawyers, is found to be inconsistent in his statements, or is found that there are sufficient grounds to warrant his exposure to the question and torture: so that if, after he has been thus questioned, he confesses nothing, he may be considered innocent. And this is when the prisoner has not been taken in heresy, nor has he been convicted by his own confession, or by the evidence of the facts, or by the legitimate production of witnesses, and there are no indications that he is under such a suspicion as to warrant his being made to abjure the heresy; but nevertheless he is inconsistent in his answers when interrogated. Or there may be other sufficient reasons for exposing him to torture. And in such a case the following procedure is to be observed.

And because such a judgement includes an interlocutory sentence which must be against and not for the prisoner, the Inquisitor must not divide it into two sentences, but include it all in one. And in the first place, if the accused remains firm in his denials and can in no way be induced by honest men to confess the truth, the following manner of sentence, which is in some respects definitive, shall be used.

We N., by the mercy of God Bishop of such a town, or Judge in the territory subject to the rule of such a Prince, having regard to the merits of the process conducted by us against you N., of such a place in such a Diocese, and after careful examination, find that you are not consistent in your answers, and that there are sufficient indications besides that you ought to be exposed to the question and torture. Therefore, that the truth may be known from your own mouth and that from henceforth you may not offend the ears of your Judges with your equivocations, we declare, pronounce, and give sentence that on this present day at such an hour you are to be subjected to an interrogatory under torture. This sentence was given, etc.

If the person to be questioned is both found to be equivocal and at the same time there are other indications sufficient to warrant his being tortured, let both these facts be included in the sentence, as they are above. But if only one or the other of these hold good, let that one only be put in the sentence. But let the sentence be soon put into execution, or let them make as if to execute it. Nevertheless let not the Judge be too willing to subject a person to torture, for this should only be resorted to in default of other proofs. Therefore let him seek for other proofs; and if he cannot find them, and thinks it probable that the accused is guilty, but denied the truth out of fear, let him use other approved methods, always with due precautions, and by using the persuasions of the friends of the accused do his utmost to extract the truth from his own lips. And let him not hasten the business; for very often

meditation, and the ordeal of imprisonment, and the repeated persuasion of honest men will induce the accused to discover the truth.

But if, after keeping the accused in suspense, and after due and decent postponements of the time, and many exhortations of the accused, the Bishop and the Judge are well persuaded that, all circumstances considered, the accused is denying the truth, let them torture him slightly, without shedding blood, bearing in mind that torture is often fallacious and ineffective. For some are so soft-hearted and feeble-minded that at the least torture they will confess anything, whether it be true or not. Others are so stubborn that, however much they are tortured, the truth is not to be had from them. There are others who, having been tortured before, are the better able to endure it a second time, since their arms have been accommodated to the stretchings and twistings involved; whereas the effect on others is to make them weaker, so that they can the less easily endure torture. Others are bewitched, and make use of the fact in their torture, so that they will die before they will confess anything; for they become, as it were, insensible to pain. Therefore there is need for much prudence in the matter of torture, and the greatest attention is to be given to the condition of the person who is to be tortured.

When, then, the sentence has been pronounced, the officers shall without delay prepare to torture the accused. And while they are making their preparations, the Bishop or Judge shall use his own persuasions and those of other honest men zealous for the faith to induce the accused to confess the truth freely, if necessary promising to spare his life, as we have shown above.

But if the accused cannot thus be terrified into telling the truth, a second or third day may be appointed for the continuation of the torture; but it must not be repeated then and there. For such a repetition is not permissible unless some further indications against the accused should transpire. But there is nothing to prevent a continuation of the torture on another day.

Let it be said: We N. Bishop and N. Judge (if he is present) aforesaid, assign to you N. such a day for the continuation of the torture, that the truth may be known from your own mouth. And let all be set down in the process. And during the interval appointed to him, let them use their own persuasions and those of other honest men to induce him to confess the truth.

But if he has refused to confess, the torture can be continued on the day assigned, more or less severely according to the gravity of the offences in question. And the Judges will be able to observe many lawful precautions, both in word and deed, by which they may come at the truth; but these are more easily learned by use and experience and the variety of different cases than by the art of teaching of anyone.

But if, after having been fittingly questioned and tortured, he will not discover the truth, let him not be further molested, but be freely allowed to depart. If, however, he confesses, and abides by his confession, and uncovers the truth, acknowledging his guilt and asking the pardon of the Church; then according to the Canon *ad abolendam* he is to be treated as one taken in heresy on his own confession, but penitent, and he must abjure the heresy, and sentence must be pronounced against him as in the case of those who are convicted by their own confession as being taken in heresy. This will be explained in the eighth method of sentencing such, to which the reader may refer.

If, on the other hand, he confesses the truth, but is not penitent but obstinately persists in his heresy, but is not a relapsed heretic, then according to the Canon, after a decent

interval and due warning, he is to be condemned as a heretic and handed over to the secular Court to suffer the extreme penalty, as we show later in the tenth method. But if he is a relapsed heretic, he is to be condemned in the way which is again explained in the tenth method, to which the reader may refer.

But here it must be particularly noted that in some instances he who is to be questioned confesses nothing against himself before the torture, nor is anything proved on the strength of which he can be required to abjure the heresy or be condemned as a heretic; and in such cases the above procedure should be adopted, as we have said, immediately. But in other cases the accused is taken in heresy, or he is to be considered either lightly or strongly suspected; and he is not to be tortured in respect of such matters; but if, apart from these, he denies some points which are not proved, but of which there is sufficient indication to warrant his being tortured; and if, having been questioned as to these under torture, he confesses to none of them, he is not on that account to be absolved in accordance with the first method; but he must be proceeded against according to that which has been proved against him, and he or she must abjure the heresy as being one under suspicion of or taken in heresy, as the merits of the process may exact or require. And if, after torture, he confesses all or part of that for which he was tortured, then he must abjure both this and the former heresy which was proved against him, and sentence must be pronounced against him in respect of both of these.

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[Question XXIII](#)

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THE MALLEUS MALEFICARUM

PART III, THIRD HEAD, QUESTION XXIII.

The Fourth Method of Sentencing, in the Case of one Accused upon a Light Suspicion

THE fourth method of concluding the process on behalf of the faith is used when, after the merits of the process have been diligently examined in consultation with expert lawyers, the accused is found to rest under only a light suspicion of heresy. And this is when the accused is not taken in heresy, nor is convicted by her own confession or by the evidence of the facts or by the legitimate production of witnesses, and there are no other strong or vehement indications of heresy against her; but only a small and light indications of such a sort as, in the opinion of the Court, to engender a light suspicion against her. And such a one must be required to abjure the heresy of which she is accused; and then, if she relapses into heresy, she is not liable to the punishment of backsliders, although she must be more severely punished than would be the case if she had not previously abjured the heresy (see the Canon c. *accusatus*). The following procedure shall be followed in such a case. For such an accused, if the matter be a public one, will publicly make the following abjuration in the Church:

I, N., of such a Diocese, a citizen of such a city or place, being on my trial, do swear before you the Lord Bishop of such a city, and upon the Holy Gospels placed before me and upon which I set my hand, that I believe in my heart and profess with my lips that Holy Catholic and Apostolic Faith which the Holy Roman Church believes, confesses, preaches, and observes. Also I swear that I believe in my heart and profess with my lips that the Lord JESUS Christ, in company with all the Saints, abominates the wicked heresy of witches; and that all who follow or adhere to it will with the devil and his Angels be punished in eternal fire unless they turn their hearts and are reconciled by the penitence of the Holy Church. And there I abjure, renounce, and revoke that heresy of which you, my Lord Bishop, and your Officers hold me suspected: namely, that I have been familiar with witches, have ignorantly defended their errors, have held in detestation their Inquisitors and prosecutors, or that I have failed to bring their crimes to light. Also I swear that I have never believed the aforesaid heresy, nor do I believe, nor have I adhered, nor do I adhere to it, nor shall I ever believe, adhere to, or teach it, nor do I intend to teach it. And if I should hereafter be guilty of any of the aforesaid practices (which God forbid), I shall willingly submit myself to the punishment provided by law for such who are so forsworn; and I am ready to undergo any penance which you see fit to enjoin me for those words or deeds of mine for which you hold me deservedly suspect; and I swear to fulfill such penance to the best of my strength, and to omit no part of it, so help me God and these Holy Gospels.

The above abjuration shall be made in the common speech, so that all may understand it. And when it is done, the Judge, if he is present, or his deputy shall speak to her in the common speech to the following effect:

My son (or daughter), you have not unworthily abjured the suspicion which we

entertained of you, and have purged yourself by the aforesaid abjuration. Beware then lest hereafter you fall into the heresy you have abjured. For although, if you should repent, you would not be delivered up to the secular Court, since you made your abjuration as one under a light, and not a strong, suspicion, yet you would then be far more severely punished than you would have been if you had not abjured, and you would then rest under a strong instead of a light suspicion. And when you should abjure as such, and afterwards should relapse, you would suffer the due punishment of a backslider, and would without mercy be delivered to the secular Court to endure the extreme penalty.

But if she makes her abjuration secretly in the chamber of the Bishop or Judge, which will be the case when the matter is not a public one, she shall abjure in the same manner. And afterwards sentence shall be pronounced as follows:

We, by the mercy of God Bishop of such a city, or (if he is present) Judge in the territory subject to such a Prince, having carefully seen and examined the merits of the process conducted by us against you N., accused before us heresy, find that you have committed such and such (naming them) which render you lightly suspected of heresy, on account of which we have judged it proper to cause you to abjure that heresy as one lightly suspected of it. But not for that can you be dismissed unpunished. And that you may become more careful in the future, having consulted with many eminent persons learned in the law and with religious men, and having carefully weighed and digested the whole matter, having only God before our eyes, and the irrefragable truth of the Holy Catholic Faith, and with the Holy Gospels placed before us that our sentence may proceed as from God's countenance and that our eyes may see with equity, and sitting in tribunal as Judge, we condemn, sentence, or rather impose penance upon you N., standing in person here in our presence, in the following manner. Namely, that never hereafter shall you knowingly hold to, associate with, defend in your speech, read (if you are well learned), or hereafter, etc. and let there be set down that which she has committed, on account of which she was held suspected of the crime of heresy. This sentence and penance were given, etc.

And let the Notary take care that he sets it down in the process that such abjuration was made as by one under a light, not a strong, suspicion of heresy; for otherwise great danger might ensue.

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Question XXIV

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THE MALLEUS MALEFICARUM

PART III, THIRD HEAD, QUESTION XXIV.

The Fifth Manner of Sentence, in the Case of one under Strong Suspicion

THE fifth method of concluding a process on behalf of the faith is used when she who is accused of heresy, after a careful examination of the merits of the process in consultation with learned lawyers, is found to be strongly suspected of heresy. And this is when the accused is not legally taken in heresy, nor has been convicted by her own confession or by the evidence of the facts or by the legitimate production of witnesses; but strong and weighty indications have been proved against her by reason of which she is held to be under strong suspicion of heresy.

The procedure in such a case is as follows. For such a person should abjure that heresy as one strongly suspected of it, in such a manner that, if she should afterwards relapse, she must be delivered to the secular Court to suffer the extreme penalty. And she shall make her abjuration publicly or secretly according to whether she is publicly or secretly suspected, or by more or less, high or low, as was just said in the case of one under a light suspicion; and she must abjure that specific heresy.

And the preparations for such an abjuration should be as follows: - When the Sunday comes which has been fixed for the abjuration and the hearing of the sentence or the imposition of the penance, the preacher shall deliver a general sermon. After this, the Notary or clerk shall publicly read out the crimes of which the accused has been convicted, and those of which she is strongly suspected as a heretic.

Then the Judge or his deputy shall say to her: Behold! according to that which has been read you are strongly suspected by us of such heresy; wherefore it behoves you to purge yourself and abjure the aforesaid heresy. And then the Book of the Gospels shall be placed before her, and she shall set her hand upon it; and if she can read competently, she shall be given the following written abjuration, and shall read it in the presence of the whole congregation.

But if she cannot read competently, the Notary shall read it phrase by phrase, and the accused shall repeat it in a loud and audible voice in the following manner. The Notary or clerk shall say: I, N., of such a place, and the accused person shall repeat after him the same words, but always in the vulgar tongue. And so on up to the end of the abjuration. And she shall abjure in the following manner.

I, N., of such a place in such a Diocese, standing my trial in person in presence of you reverend Lords the Bishop of such city and the Judge of the territory subject to the rule of such a Lord, upon the Holy Gospels set before me and touched by my hands, I swear that I believe in my heart and profess with my lips that Holy Catholic and Apostolic Faith which the Holy Roman Church teaches, professes, preaches, and holds. Also I swear that I believe in my heart and profess with my lips that, etc. And let her pronounce the Catholic article of the faith against that heresy of which she is strongly suspected.

For example, if the heresy of witchcraft is in question, let her say as follows:

I swear that I believe that not only will simple heretics and schismatics be tortured in fire everlasting, but that those above all will be so punished who are infected with the heresy of witches, who deny before the devil that faith which they received in Holy Baptism at the font, and practise demoniac lewdness for the fulfilment of their evil desires, inflicting all sorts of injuries upon men and animals and the fruits of the earth. And consequently I abjure, renounce, and revoke that heresy, or rather infidelity, which falsely and mendaciously maintains that there are no witches in the world, and that no one ought to believe that those injuries can be caused with the help of devils; for such infidelity is, as I now recognize, expressly contrary to the decision of our Holy Mother the Church and of all the Catholic Doctors, as also against the Imperial laws which have decreed that witches are to be burned.

Also I swear that I have never persistently believed in the aforesaid heresy, neither do I believe nor adhere to it at the present, nor have I taught it, not intend to teach it, nor shall teach it. Also I swear and promise that I will never do or cause to be done such and such (naming them) of which you hold me strongly suspected as a heretic. And if hereafter (which God forbid) I should do any of the aforesaid, I am ready to undergo the punishment provided by law for backsliders; and I am ready to submit myself to any penance which you decide to impose upon me for those deeds and words of mine for which you hold me strongly suspected of the said heresy. And I swear and promise that I will perform it to the best of my strength, and will omit no part of it, so God and this Holy Gospel help me.

And the said abjuration shall be made in the vulgar tongue so that it may be understood by all, unless it be made only in the presence of Clerics with a competent knowledge of the Latin tongue. But if the abjuration be made secretly in the Bishop's palace or chamber, when it is not a public matter, it shall be made in a similar manner. And afterwards the Bishop shall admonish her as above to beware lest she relapse and incur the penalty of a backslider. And let the Notary take care that he set it down how such abjuration was made by such a person as one strongly suspected of heresy, so that, if she should relapse, she may be punished as is proper for a backslider.

And when this has been done, let the sentence or penance be pronounced in the following manner:

We, N., Bishop of such city, and Brother N. (if he is present), Inquisitor of the sin of heresy in the domains subject to the rule of such a Prince, especially deputed by the Holy Apostolic See: having in mind that you, N., of such a place in such a Diocese, have done such and such (naming them), as lawfully appears from the carefully examined merits of the process, wherefore we reasonably hold you strongly suspected of such heresy, and have caused you to abjure it as one so suspected, being persuaded to that course by considerations of justice and the advice of men skilled in the law. But that you may be more careful in the future nor become more prone to the like practices, and that your crimes may not remain unpunished, and that you may be an example to other sinners; having consulted with many eminent and learned lawyers and Masters or Doctors of the faculty of Theology, having carefully digested the whole matter, and having before our eyes only God and the truth of the Catholic Apostolic Faith, having set before us the Holy Gospel that our judgement may proceed as from God's countenance and our eyes see with equity, and sitting in tribunal as Judges, we condemn, or rather impose penance in the following manner upon you, N., standing here in person before us: namely, that you shall never hereafter presume to do, say,

or teach such and such things. And let there be set down those things of which she has been convicted, and by reason of which she was strongly suspected of the aforesaid heresy, as well as certain others which, if she were to commit them, would make her guilty of a slight relapse into heresy; but this must be as the particular nature of the case demands and requires. As, for example, that she should never wittingly follow such practices, nor receive those whom she knows to have denied the faith, etc. This sentence was given, etc.

But it must be noted that those who are suspected, but not taken in heresy, whether they be strongly or lightly suspected, must not be imprisoned or confined for life. For this is the punishment of those who have been heretics and afterwards repented. But they may, because of their deeds for which they have come under suspicion, be sent to prison for a time, and afterwards, as will be seen, released.

Neither are they to be branded with the sign of the Cross, for such is the sign of a penitent heretic; and they are not convicted heretics, but only suspected, therefore they are not to be marked in this way. But they can be ordered either to stand on certain solemn days within the doors of a church, or near the altar, while Holy Mass is being celebrated, bearing in their hands a lighted candle of [a certain weight](#); or else to go on some pilgrimage, or something of the kind, according to the nature and requirements of the case.

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[Question XXV](#)

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“A Certain Weight.” This was exactly specified when someone was delivered. Thus Urbain Grandier on 18 August, 1634, at Loudun, was sentenced “to make honourable amends, with bare head, a rope around his neck, and with a burning torch of two pounds’ weight in his hand, before the principal door of the church of Saint-Pierre du Marché, and before that of Sainte Ursule of this town, and there, upon his knees, to ask pardon of God and the King.” His execution followed.

THE MALLEUS MALEFICARUM

PART III, THIRD HEAD, QUESTION XXV.

The Sixth Kind of Sentence, in the Case of one who is Gravely Suspect

THE sixth method of bringing to a conclusion a process on behalf of the faith is used when the person accused of heresy, after a careful examination of the merits of the process in consultation with learned lawyers, is found to be gravely suspected of heresy. And this is when the accused is not convicted of heresy by her own confession or by the evidence of the facts or by the legitimate productions of witnesses, but there are indications, not only light or even strong, but very strong and grave, which render her gravely suspected of the said heresy, and by reason of which she must be judged as one gravely suspected of the said heresy.

And for a clearer understanding of this, we shall give examples both of a case of simple heresy and of the heresy of witches. For the case would fall under this head in simple heresy if the accused were not lawfully found convicted by his own confession, etc. as above, but for something which he had said or done. As, for example, he may have been summoned in a case not concerning the faith, and have been sentenced to excommunication; and if he should continue obstinate in excommunication for a year or more, he would come under a light suspicion of heresy; for such behaviour is not without some suspicion of heresy. But if he should then be summoned on a charge concerning the faith, and should not appear but contumaciously refuse to appear, and therefore be excommunicated, then he would be strongly suspected of heresy; for then the light suspicion would become a strong one. And if he remained obstinate in that excommunication for a year, then he would be gravely suspected of heresy; for then the strong suspicion would become a grave one, against which no defence is admitted. And from that time such a person would be condemned as a heretic, as is shown by the Canon, *c. cum contumacia*, lib. 6.

An example of a grave suspicion in the heresy of witches would be when the accused has said or done anything which is practised by witches when they wish to bewitch anyone. And it commonly happens that they are constrained to manifest themselves by threatening words, by deeds, by a look or a touch, and this is for three reasons. First that their sins may be aggravated and more manifest to the their Judges; secondly, that they may be the more easily seduce the simple; and thirdly, that God may be the more offended and they may be granted more power of injuring men. Therefore a witch must be gravely suspected when, after she has used such threatening words as “I will soon make you feel,” or the like, some injury has befallen the person so threatened or his cattle. For then she is not to be considered as lightly suspected, as was the case with those who are familiar with witches, or those who wish to provoke someone to inordinate love. See above where we deal with the three degrees of suspicion, light, strong, and grave.

Now we must consider what procedure is to be observed in such a case. For in the case of one gravely suspected of simple heresy, the following is the procedure. Although he may

not in actual truth be a heretic, since there may not be any error in his understanding, or if there is, he may not cling obstinately to it in his will: nevertheless he is to be condemned as a heretic because of the said grave suspicion, against which no proof is admitted.

Such a heretic is condemned in this manner. If he refuses to return and abjure his heresy and give fitting satisfaction, he is delivered to the secular Court to be punished. But if he is willing and consents, he abjures his heresy and is imprisoned for life. And the same holds good in the case of one gravely suspected of the heresy of witches.

But although the same method in the main is to be observed in the case of one gravely suspected of the heresy of witches, there are some differences. It is to be noted that, if the witch maintains her denial, or claims that she uttered those words not with the implied intention but in a vehement and womanish passion; then the Judge has not sufficient warrant to sentence her to the flames, in spite of the grave suspicion. Therefore he must place her in prison, and cause inquiry to be made by proclamation whether she has been known to have done the like before. And if it is found that this is so, he must inquire whether she was then publicly defamed in respect of that heresy; and from this he can proceed further so that, before all else, she may be exposed to an interrogation under the question and torture. And then, if she shows signs of such heresy, or of the taciturnity of witches; as that she should be unable to shed tears, or remain insensible under torture and quickly recover her strength afterwards; then he may proceed with the various precautions which we have already explained where we dealt with such cases.

And in case all should fail, then let him take note that, if she has perpetrated the like before, she is not to be altogether released, but must be sent to the squalor of prison for a year, and be tortured, and be examined very often, especially on the more Holy Days. But if, in addition to this, she has been defamed, then the Judge may proceed in the manner already shown in the case of simple heresy, and condemn her to the fire, especially if there is a multitude of witnesses and she had often been detected in similar or other deeds of witchcraft. But if he wishes to be merciful, he may set her a canonical purgation, that she should find twenty or thirty sponsors, sentencing her in such a way that, if she should fail in her purgation, she shall be condemned to the fire as convicted. And the Judge can proceed in such a manner.

And if she should purge herself, then the Judge must sentence her to an abjuration of all heresy, on pain of the punishment for backsliders, together with the perpetual penance, in the following manner. The preparations for the abjuration will be the same as were explained in the fourth and fifth methods of concluding a process on behalf of the faith.

Note that in all the following methods of pronouncing sentence, when the Judge wishes to proceed in a merciful manner he can act in the way we have already explained. But since secular Judges use their own various methods, proceeding with rigour but not always with equity, no fixed rule or method can be given for them as it can for an ecclesiastical Judge, who can receive the abjuration and impose a perpetual penance in the following manner:

I, N., of such a place in such a Diocese, standing in person before you my venerable Lords the Bishop of such city and Judges, having touched with my hands the Holy Gospel placed before me, swear that I believe in my heart and profess with my lips the Holy Catholic and Apostolic Faith which the Holy Roman Church holds, professes, believes, preaches and teaches. And consequently I abjure all heresy, and renounce and revoke all who raise themselves against the Holy Roman and Apostolic Church, of whatever sect or error they be. Also I swear and promise that I shall never henceforward do, say, or cause to

be done such and such (naming them) which I have done and said, and for which, in my guilt, you hold me gravely suspected of the said heresy. Also I swear and promise that I will perform every penance which you wish to impose upon me for the said crimes to the best of my strength, and that I will not omit any part of it, so help me God and the Holy Gospel. And if (which God forbid) I should hereafter act in contravention of this abjuration, I here and now bind and oblige myself to suffer the due punishments for backsliders, however sever they may be.

Let the Notary take care to set it down that the said abjuration was made by one gravely suspected of heresy, so that if she should be proved to have relapsed, she should then be judged accordingly and delivered up to the secular Court.

After this let the Bishop absolve her from the sentence of excommunication which she has incurred as one gravely suspected of heresy. For when a heretic returns to the faith and abjures his heresy, he is to be released from the sentence of excommunication which is passed on all heretics. Similarly, such a one as we are considering was condemned as a heretic, as we have said; but after she has abjured her heresy she is to be released from excommunication; and after this absolution she is to be sentenced in the following manner:

We N., Bishop of such city, and, if he is present, Judge in the territory of such Lord, seeing that you N., of such a place in such a Diocese, have been accused before us of such and such touching the faith (naming them), and that we have proceeded to inform ourselves concerning them as justice demanded by a careful examination of the merits of the process and of all that has been done and said in the present case, have found that you have committed such and such (naming them). Wherefore, and not without reason holding you gravely suspected of such heresy (naming it), we have caused you as one so suspected publicly to abjure all heresy in general, as the canonical sanctions bid us. And since according to those same canonical institutions all such are to be condemned as heretics, but you holding to wiser counsel and returning to the bosom of our Holy Mother the Church have abjured, as we have said, all vile heresy, therefore we absolve you from the sentence of excommunication by which you were deservedly bound as one hateful to the Church of God. And if with true heart and faith unfeigned you have returned to the unity of the Church, you shall be reckoned from henceforth among the penitent, and as from now are received back into the merciful bosom of the Holy Church. But since it would be most scandalous to pass over with connivent eyes and leave unpunished your offences against God and your injuries to men, for it is a graver matter to offend the Divine Majesty than a human monarch, and that your crimes may not be an incentive for other sinners, and that you may become more careful in the future and less prone to commit again the aforesaid crimes, and may suffer the less punishment in the next world: We the aforesaid Bishop and Judge, having availed ourselves of the wise and considered advice of learned men in this matter, sitting in tribunal as Judges judging, having before our eyes only God and the irrefragable truth of the Holy Faith, with the Holy Gospels placed before us that our judgement may proceed as from the countenance of God and our eyes see with equity, sentence and condemn, or rather impose penance in the following manner upon you N., appearing in person before us on the day and at the hour which was before assigned to you. First, you shall put on over all the garments which you wear a grey-blue garment after the manner of a monk's scapulary, made without a hood either before or behind, and having upon it crosses of yellow cloth three palms long and two palms wide, and you shall wear this garment over all others for such a length of time (setting a period of one or two years,

more or less as the guilt of the person demands), And in the said garment and crosses you shall stand in the door of such a church at such a time for so long, or on the [four major Feasts](#) of the Glorious Virgin, or in such and such cities in the doors of such and such churches; and we sentence and condemn you for life, or for such a period, to such a prison. (Let this be set down as seems most to the honour of the faith, and according to the greater or less guilt and obstinacy of the accused.) And we expressly, and in the sure knowledge that it is so ordained by canonical institution, reserve to ourselves the right to mitigate the said penance, to increase it, change it, or remove it, in whole or in part, as often as seems good to us. This sentence was given, etc.

And when this has been read, it shall at once be duly put into execution, and she shall be clothed with the aforesaid garment with the crosses as has been said.

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[Question XXVI](#)

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“Four Major Feasts.” Presumably the Annunciation, the Visitation, Assumption, and Nativity of Our Lady are intended. Candlemas, which in the Middle Ages had an octave in many dioceses, may be intended instead of the Visitation. The last Pope, Sixtus IV, had in 1470 published a work on the Immaculate Conception. By a decree of 28 February, 1476, this Pontiff adopted the Feast of Our Lady's Conception for the entire Latin Church and granted an indulgence to all who should assist at the Divine Office of this Solemnity.

THE MALLEUS MALEFICARUM

PART III, THIRD HEAD, QUESTION XXVI.

The Method of passing Sentence upon one who is both Suspect and Defamed

THE seventh method of bringing to a conclusion a process on behalf of the faith is employed when the person accused of the sin of heresy, after a careful examination of the merits of the process in consultation with men learned in the law, is found to be both suspected and defamed of heresy. And this is when the accused is not legally convicted by his own confession or by the evidence of the facts or by the legitimate production of witnesses; but is found to be publicly defamed, and there are also other indications which render him lightly or strongly suspected of heresy: as that he has held much familiarity with heretics. And such a person must, because of his defamation, undergo a canonical purgation; and because of the suspicion against him he must abjure the heresy.

The procedure in such a case will be as follows. Such a person, being publicly defamed for heresy, and being in addition to this suspected of heresy by reason of certain other indications, shall first publicly purge himself in the manner which we explained in the second method. Having performed this purgation, he shall immediately, as one against whom there are other indications of the suspected heresy, abjure that heresy in the following manner, having before him, as before, the Book of the Gospels:

I., N., of such a place in such a Diocese, standing my trial in person before you my Lords, N., Bishop of such city and Judge in the territory of such Prince, having touched with my hands the Holy Gospels placed before me, swear that I believe in my heart and profess with my lips that Holy Apostolic Faith which the Roman Church believes, professes, preaches and observes. And consequently I abjure, detest, renounce and revoke every heresy which rears itself up against the Holy and Apostolic Church, of whatever sect or error it be, etc., as above.

Also I swear and promise that I will never hereafter do or say or cause to be done such and such (naming them), for which I am justly defamed as having committed them, and of which you hold be suspected. Also I swear and promise that I will perform to the best of my strength every penance which you impose on me, nor will I omit any part of it, so help me God and this Holy Gospel. And if hereafter I should act in any way contrary to this oath and abjuration (which God forbid), I here and now freely submit, oblige, and bind myself to the legal punishment for such, to the limit of sufferance, when it shall have been proved that I have committed such things.

But it must be noted that when the indications are so strong as to render the accused, either with or without the aforesaid defamation, strongly suspected of heresy, then he shall, as above, abjure all heresy in general. And if he relapsed into any heresy, he shall suffer the due punishment of a backslider. But if the indications are so small and slight as, even taken together with the said defamation, not to render him strongly, but only lightly, suspected of heresy, then it is enough if he makes not a general abjuration, but specifically abjures that

heresy of which he is suspected; so that, if he were to relapse into another form of heresy, he would not be liable to the penalty for backsliders. And even if he were to relapse into the same heresy which he had abjured, he would still not be liable to the said penalty, although he would be more severely punished than would have been the case if he had not abjured.

But there is a doubt whether he would be liable to the penalty for backsliders if, after his canonical purgation, he should relapse into the same heresy of which he was canonically purged. And it would seem that this would be so, from the Canon Law, *c. excommunicamus* and *c. ad abolendam*. Therefore the Notary must take great care to set it down whether such a person has made his abjuration as one under a light or a strong suspicion of heresy; for, as we have often said, there is a great difference between these. And when this has been done, sentence or penance shall be pronounced in the following manner:

We., N., Bishop of such city or Judge in the territories of such Prince, having diligently in mind that you, N., of such a place in such a Diocese, have been accused before us of such heresy (naming it); and wishing to inquire judicially whether you have fallen into the said heresy, by examining witnesses, by summoning and questioning you upon oath, and by all convenient means in our power, we have acted and proceeded as it behoved.

Having digested, observed and diligently inspected all the facts, and having discussed the merits of the process of this case, examining al and singular which has been done and said, and having consulted with and obtained the mature opinion of many learned Theologians and lawyers, we find that you have been in such place or places publicly defamed by good and sober men for the said heresy; wherefore, as we are bidden by the canonical institutions, we have imposed upon you a canonical purgation by which you and your sponsors have here publicly purged yourself before us. We find also that you have committed such and such (naming them), by reason of which we have just cause t hold you strongly or lightly (let it be said whether it is one or the other) suspected of the said heresy; and therefore we have caused you to abjure heresy as one under such suspicion (here, if he has abjured as one under strong suspicion, let them say “all heresy”; and if as one under light suspicion, “the said heresy”).

But because we cannot and must not in any way tolerate that which you have done, but are in justice compelled to abominate it, that you may become more careful in the future, and that your crimes may not remain unpunished, and that others may not be encouraged to fall into the like sins, and that the injuries to the Creator may not easily be passed over: Therefore against you, N., having so purged yourself and abjured, standing personally in our presence in this place at the time which was assigned to you, We, the aforesaid Bishop or Judge, sitting in tribunal as Judges judging, having before us the Holy Gospels that our judgement may proceed as from the countenance of God and our eyes see with equity, pronounce sentence or penance in the following manner, namely, that you must, etc.

And let them pronounce sentence as shall seem most to the honour of the faith and the extermination of the sin of heresy: as that on certain Sundays and Festivals he must stand at the door of such a church, holding a candle of such a weight, during the solemnization of Holy Mass, with head uncovered and bare feet, and offer the said candle at the altar; and that he must fast on Fridays, and that for a certain period he must not dare to depart from that place, but present himself before the Bishop or Judge on certain days of the week; and any similar penance which seemed to be demanded by the particular nature of his guilt; for it is impossible to give a hard-and-fast rule. This sentence was given, etc. And let it be put into execution after it has been pronounced; and it can be cancelled, mitigated or changed as may

be required by the condition of the penitent and for his correction and humiliation; for the Bishop has this power by law.

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[Question XXVII](#)

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THE MALLEUS MALEFICARUM

PART III, THIRD HEAD, QUESTION XXVII.

The Method of passing Sentence upon one who hath Confessed to Heresy, but is still not Penitent

The eighth method of terminating a process on behalf of the faith is used when the person accused of heresy, after a careful examination of the merits of the process in consultation with learned lawyers, is found to have confessed his heresy, but to be penitent, and not truly to have relapsed into heresy. And this is when the accused has himself confessed in a Court of law under oath before the Bishop and Inquisitor that he has for so long lived and persisted in that heresy of which he is accused, or in any other, and has believed in and adhered to it; but that afterwards, being persuaded by the Bishop and others, he wishes to be converted and to return to the bosom of the Church, and to abjure that and every heresy, and to make such satisfaction as they require of him; and it is found that he has made no previous abjuration of any other heresy, but is now willing and prepared to abjure.

In such a case the procedure will be as follows. Although such a person has for many years persisted in the said heresy and even in others, and has believed and practised them and led many others into error; yet if at last he has consented to abjure those heresies and to make such satisfaction as the Bishop and the ecclesiastical Judge shall decree, he is not to be delivered up to the secular Court to suffer the extreme penalty; nor, if he is a cleric, is he to be degraded. But he is to be admitted to mercy, according to the Canon *ad abolendam*. And after he has abjured his former heresy he is to be confined in prison for life (see the Canon *excommunicamus*, where it provides for the absolution of such). But great care must be taken that he has not simulated a false penitence in order to be received back into the Church. Also the secular Court is not at all bound by such a sentence as the above.

He shall make his abjuration in the manner already set out, with this difference. He shall with his own mouth confess his crimes before the congregation in church on a Feast Day, in the following manner. The clerk shall ask him, have you for so many years persisted in the heresy of witches? And he shall answer, Yes. And then, Have you done this and this to which you have confessed? And he shall answer, Yes. And so on. And finally he shall make his abjuration kneeling on his knees. And since, having been convicted of heresy, he has been excommunicated, after he has by abjuration returned to the bosom of the Church, he is to be granted the grace of absolution, according to the manner used by the Bishops with Apostolic authority of absolving from the major excommunication. And sentence shall at once be pronounced in the following manner:

We, the Bishop of such city, or the Judge in the territories of such Prince, seeing that you, N., of such a place in such a Diocese, have been by public report and the information of credible persons accused before us of the sin of heresy; and since you had for many years been infected with that heresy to the great damage of your soul; and because this accusation against you has keenly wounded our hearts: we whose duty it is by reason of the office

which we have received to plant the Holy Catholic Faith in the hearts of men and to keep away all heresy from their minds, wishing to be more certainly informed whether there was any truth in the report which had come to our ears, in order that, if it were true, we might provide a healthy and fitting remedy, proceeded in the best way which was open to us to question and examine witness and to interrogate you on oath concerning that of which you were accused, doing all and singular which was required of us by justice and the canonical sanctions.

And since we wished to bring your case to a suitable conclusion, and to have a clear understanding of your past state of mind, whether you were walking in the darkness or in the light, and whether or not you had fallen into the sin of heresy; having conducted the whole process, we summoned together in council before us learned men of the Theological faculty and men skilled in both the Canon and the Civil Law, knowing that, according to canonical institution, the judgement is sound which is confirmed by the opinion of many; and having on all details consulted the opinion of the said learned men, and having diligently and carefully examined all the circumstances of the process; we find that you are, by your own confession made on oath before us in the Court, convicted of many of the sins of witches. (Let them be expressed in detail.)

But since the Lord in His infinite mercy permits men at times to fall into heresies and errors, not only that learned Catholics may be exercised in sacred arguments, but that they who have fallen from the faith may become more humble thereafter and perform works of penitence: having carefully discussed the circumstances of this same process, we find that you, at our frequent instance and following the advice of us and other honest men, have with a healthy mind returned to the unity and bosom of the Holy Mother Church, detesting the said errors and heresies, and acknowledging the irrefragable truth of the Holy Catholic Faith, laying it to your inmost heart: wherefore, following in His footsteps Who wishes that no one should perish, we have admitted you to this adjuration and public abjuration of the said and all other heresies. And having done this, we absolve you from the sentence of major excommunication by which you were bound for your fall into heresy, and reconciling you to the Holy Mother Church we restore you to the sacraments of the Church; provided that with a true heart, and not with simulated faith, you return to the unity of the Church, as we believe and hope that you have done.

But because it would be a very scandalous thing to avenge the injuries done to temporal Lords and to tolerate the offences committed against God the Creator of all the Heavens, since it is a far greater sin to offend against the Eternal than against a temporal Majesty, and that God Who pities sinners may have mercy upon you, that you may be an example for others, and that your sins may not remain unpunished, and that you may become more careful in the future, and not more prone but less apt to commit the said and any other crimes: We the said Bishop and Judge, or Judges, on behalf of the faith, sitting in tribunal as Judges judging, etc., as above . . . that you put on a grey-blue garment, etc. Also we sentence and condemn you to perpetual imprisonment, there to be punished with the bread of affliction and the water of [distress](#); reserving to ourselves the right to mitigate, aggravate, change, or remit wholly or in part the said sentence if, when, and as often as it shall seem good to us to do so. This sentence was given, etc.

After this the Judge shall proceed point by point, pronouncing sentence in the following or some similar manner:

My son, your sentence or penance consists in this, that you bear this cross during the whole period of your life, that you stand so bearing it on the altar steps or in the door of such churches, and that you be imprisoned for life on bread and water. But, my son, lest this may seem too hard for you, I assure you that if you patiently bear your punishment you will find mercy with us; therefore doubt not nor despair, but hope strongly.

After this, let the sentence be duly executed, and let him put on the said garment and be placed on high upon the altar steps in full view of the people as they go out, surrounded by the officers of the secular Court. And at the dinner hour let him be led by the officers to prison, and the rest of the sentence be carried out and duly performed. And after he is led out through the door of the church, let the ecclesiastical Judge have no more to do with the matter; and if the secular Court be satisfied, it is well, but if not, let it do its pleasure.

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[Question XVIII](#)

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“Distress.” “III. Kings” (A.V., "I. Kings") xxii, 27: Put this man in prison and feed him with bread of affliction, and water of distress.

THE MALLEUS MALEFICARUM

PART III, THIRD HEAD, QUESTION XVIII.

The Method of passing Sentence upon one who hath Confessed to Heresy but is Relapsed, Albeit now Penitent

THE ninth method of arriving at a conclusive sentence in a process on behalf of the faith is used when the person accused of heresy, after a careful investigation of the circumstances of the process in consultation with men of good judgement, is found to have confessed her heresy and to be penitent, but that she has truly relapsed. And this is when the accused herself confesses in Court before the Bishop or Judges that she has at another time abjured all heresy, and this is legally proved, and that she has afterwards fallen into such a heresy or error: or that she has abjured some particular heresy, such as that of witches, and has afterwards returned to it; but that following better advice she is penitent, and believes the Catholic faith, and returns to the unity of the Church. Such a one is not, if she humbly ask for them, to be denied the sacraments of Penance and the Eucharist; but however much she may repent, she is nevertheless to be delivered up as a backslider to the secular Court to suffer the extreme penalty. But it must be understood that this refers to one who had made her abjuration as one manifestly taken in heresy, or as one strongly suspected of heresy, and not to one who has so done as being under only a light suspicion.

The following procedure must be observed in this case. When, after mature and careful and, if necessary, repeated investigation by learned men, it has been concluded that the said prisoner has actually and prepense relapsed into heresy, the Bishop or Judge shall send to the said prisoner in the place of detention two or three honest men, especially religious or clerics, who are zealous for the faith, of whom the prisoner has no suspicion, but rather places confidence in them; and they shall go in to her at a suitable time and speak to her sweetly of the contempt of this world and the miseries of this life, and of the joys and glory of Paradise. And leading up from this, they shall indicate to her on the part of the Bishop or Judge that she cannot escape temporal death, and that she should therefore take care for the safety of her soul, and prepare herself to confess her sins and receive the Sacrament of the Eucharist. And they shall visit her often, persuading her to penitence and patience, strengthening her as much as they can in the Catholic truth, and they shall diligently cause her to confess, so that she may receive the Sacrament of the Eucharist at her humble petition. For these Sacraments are not to be denied to such offenders.

And when she has received these Sacraments, and been well disposed by these men to salvation; after two or three days during which they have strengthened her in the Catholic faith and induced her to repentance, the Bishop or Judge of that place shall notify the bailiff of the place or the authorities of the secular Court, that on such a day at such an hour (not a Feast Day) he should be with his attendants in such a square or place (but it must be outside a church) to receive from their Court a certain backslider whom the Bishop and Judge will hand over to him.

And on the morning of the day fixed, or on the day before, it shall be publicly proclaimed throughout the city of place in those towns and villages where such proclamations are customary, that on such a day at such an hour in such a place there will be a sermon preached in defence of the Faith, and that the Bishop and other Judges will condemn a certain person who has relapsed into the sin of heresy, delivering her up to secular justice.

But here it must be considered that, if he who has so relapsed should have been ordained in any Holy Orders, or should be a priest or a religious of any Order, before he is handed over he is to be degraded and stripped of the privileges of his ecclesiastic order. And so, when he has been degraded from all ecclesiastical office, let him be handed over to secular justice to receive his due punishment.

When, therefore, such a one is to be degraded from his orders and handed over to the secular Court, let the Bishop summon together all the prelates and religious men of his Diocese. For in this case, though not in others, only the Bishop together with the other prelates and religious and learned men of his diocese can degrade one who has received Holy Orders when he is to be delivered to the secular Court, or is to be imprisoned for life for the sin of heresy.

On the day appointed for the degrading of the backslider and the handing of him over to the secular Court, if he be a cleric, or, if he be a layman, for leaving him to hear his definitive sentence, the people shall gather together in some square or open place outside the church, and the Inquisitor shall preach a sermon, and the prisoner shall be set on a high place in the presence of the secular authorities. And if the prisoner be a cleric who is to be degraded, the Bishop shall don his Pontifical robes, together with the other prelates of his Diocese in their vestments and copes, and the prisoner shall be clothed and robed as if he were to minister his office; and the Bishop shall degrade him from his order, beginning from the higher and proceeding to the lowest. And just as in conferring Holy Orders the Bishop uses the words ordained by the Church, so in degrading him he shall take off his chasuble and stole, and so with the other vestments, using words of a directly opposite meaning.

When this degradation has been accomplished, the proceedings must continue in the legal and accustomed manner, and the Notary or religious or clerk shall be bidden to read the sentence, which shall be after the following manner, whether the prisoner be a layman or a degraded cleric:

We, N., by the mercy of the God Bishop of such city, and Judge in the territories of such Prince, seeing that we are legitimately informed that you, N., of such a place in such a Diocese, have been before us (or before such Bishop and Judges) accused of such heresy or heresies (naming them), of which you were lawfully convicted by your own confession and by witnesses, and that you had obstinately persisted in them for so long, but afterwards, listening to better advice, publicly in such a place abjured, renounced and revoked those heresies in the form provided by the Church, on which account the said Bishop and Inquisitor, believing that you had truly returned to the bosom of the Holy Church of God, did absolve you from the sentence of excommunication by which you were bound, enjoining upon you a salutary penance if with true heart and faith unfeigned you had returned to the unity of the Holy Church; but whereas after all the aforesaid and the lapse of so many years you are again accused before us and have again fallen into such heresies which you had abjured (naming them), and though it was sore grief to us to hear such things of you, yet we were by justice compelled to investigate the matter, to examine the witnesses, and to

summon and question you on oath, proceeding in each and every way as we are bidden by the canonical institutions.

And since we wished to conclude this case without any doubt, we convened in solemn council learned men of the Theological faculty and men skilled in the Canon and the Civil Law, and in consultation with them maturely and carefully examined all and singular which had been done, said and seen in the process and diligently discussed each circumstance, weighing all equally in the balance as it behoved us; and we find both by the legitimate evidence of witnesses and by your own confession received in Court that you have fallen into the heresies which you had abjured. For we find that you have said or done such and such (let all be named), on account of which, with the concurrence of the said learned men, we have judged and now judge that you are a backslider, according to the canonical institutions, to which we refer in grief and grieve to refer.

But since it has come to the knowledge of Us and of many honest Catholic men that, by the inspiration of Divine grace, you have once more returned to the bosom of the Church and to the truth of the faith detesting the aforesaid errors and heresies and with true orthodoxy unfeigned believing and protesting the Catholic faith, we have admitted you to receive the Church's Sacraments of Penance and the Holy Eucharist at your humble request. But since the Church of God has no more which it can do in respect of you, seeing that it has acted so mercifully towards you in the manner we have said, and you have abused that mercy by falling back into the heresies which you had abjured: therefore We the said Bishop and Judges, sitting in tribunal as Judges judging, having before us the Holy Gospels that our judgement may proceed as from the countenance of God and our eyes see with equity, and having before our eyes only God and the irrefragable truth of the Holy Faith and the extirpation of the plague of heresy; against you, N., in this place on the day and at the hour before assigned to you for the hearing of your definitive sentence, we pronounce in sentence that you have truly fallen back into the sin of heresy, although you are penitent; and as one truly so relapsed we cast you forth from this our ecclesiastical Court, and leave you to be delivered to the secular arm. But we earnestly pray that the said secular Court may temper its justice with mercy, and that there be no bloodshed or danger of death.

And here the Bishop and his assessors shall withdraw, and the secular Court shall perform its office.

It is to be noted that, although the Bishop and Inquisitor ought to use their utmost diligence, both by their own efforts and those of others, to induce the prisoner to repent and return to the Catholic faith; yet, after he has repented and it has been decided in council that, though he is penitent, he is nevertheless truly a backslider and as such to be handed over in person to the secular Court, they ought not to inform him of such sentence and punishment. therefore from that time, neither before nor after the sentence should they present themselves before him, that he be not moved in his spirit against them, a thing which is very carefully to be avoided in death of this sort. But, as we have said, let them send to him some honest men, especially those in religious orders, or clerics, in whom he has confidence; and let them inform him of the sentence to come and of his death, and strengthen him in the faith, exhorting him to have patience; and let them visit him after the sentence, and console him and pray with him, and not leave him until he has rendered his spirit to his Creator.

Let them, therefore, beware and be on their guard not to do or say anything which may enable the prisoner to anticipate his death, or place themselves in an irregular position. And, as they have burdened themselves with the care of his soul, let them then share also in his

punishment and guilt.

It must also be remarked that such a sentence which delivers up a person to the secular Court ought not to be pronounced on a Festival or Solemn Day, nor in a church, but outside in some open space. For it is a sentence which leads to death; and it is more decent that it should be delivered on an ordinary day and outside the church; for a Feast Day and the church are dedicated to God.

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[Question XXIX](#)

*Part III, Third Head, Question XXVIII
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THE MALLEUS MALEFICARUM

PART III, THIRD HEAD, QUESTION XXIX.

The Method of passing Sentence upon one who hath Confessed to Heresy but is Impenitent, although not Relapsed

THE tenth method of completing a process on behalf of the Faith by a final sentence is used when the person accused of heresy, after a careful examination of the circumstances of the process in consultation with skilled lawyers, is found to have confessed his heresy and to be impenitent, though he has not relapsed into the heresy. Such a case is very rarely found, but yet it has come within the experience of us Inquisitors. In such a case, therefore, the Bishop and Judge must not be in haste to sentence the prisoner, but must keep him well guarded and fettered, and induce him to be converted, even to the extent of several months, showing him that, by remaining impenitent, he will be damned in body and soul.

But if neither by comforts nor hardships, nor by threatening nor persuasion, can he be brought to renounce his errors, and the appointed period of grace has expired, let the Bishop and Judges prepare to deliver or abandon him to the secular Court; and they shall give notice to the herald or bailiff or secular authorities that on such a day, not a Feast, and at such an hour they should be in such a place with their attendants outside a church, and that they will deliver to them a certain impenitent heretic. None the less they shall themselves make public proclamation in the customary places that on such a day at such a time in the aforesaid place a sermon will be preached in defence of the faith, and that they will hand over a certain heretic to secular justice; and that all should come and be present, being granted the customary Indulgences.

After this, the prisoner shall be delivered to the secular Court in the following manner. But let him first be often admonished to renounce his heresy and repent; but if he altogether refuses, let the sentence be pronounced.

We, N., by the mercy of God Bishop of such a city, or Judge in the territories of such Prince, seeing that you, N., of such a place in such a Diocese, have been accused before us by public report and the information of credible persons (naming them) of heresy, and that you have for many years persisted in those heresies to the great hurt of your immortal soul; and since we, whose duty it is to exterminate the plague of heresy, wishing to be more certainly informed of this matter and to see whether you walked in darkness or the light, have diligently inquired into the said accusation, summoning and duly examining you, we find that you are indeed infected with the said heresy.

But since it is the chief desire of our hearts to plant the Holy Catholic Faith in the hearts of our people, and to eradicate the pest of heresy, we have used diverse and various suitable methods, both by ourselves and by others, to persuade you to renounce your said errors and heresies in which you had stood, were standing, and even now defiantly and obstinately stand with stubborn heart. But since the Enemy of the human race is present in your heart, wrapping you up and entangling you in the said errors, and you have refused and

yet refuse to abjure the said heresies, choosing rather the death of your soul in hell and of your body in this world than to renounce the said heresies and return to the bosom of the Church and cleanse your soul, and since you are determined to remain in your sin:

Therefore inasmuch as you are bound by the chain of excommunication from the Holy Church, and are justly cut off from the number of the Lord's flock, and are deprived of the benefits of the Church, the Church can do no more for you, having done all that was possible. We the said Bishop and Judges on behalf of the Faith, sitting in tribunal as Judges judging, and having before us the Holy Gospels that our judgement may proceed as from the countenance of god and our eyes see with equity, and having before our eyes only God and the truth of the Holy Faith and the extirpation of the plague of heresy, on this day and at this hour and place assigned to you for the hearing of your final sentence, we give it as our judgement and sentence that you are indeed an impenitent heretic, and as truly such to be delivered and abandoned to the secular Court: wherefore by this sentence we cast you away as an impenitent heretic from our ecclesiastical Court, and deliver or abandon you to the power of the secular Court: praying the said Court to moderate or temper its sentence of death against you. This sentence was given, etc.

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[Question XXX](#)

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THE MALLEUS MALEFICARUM

PART III, THIRD HEAD, QUESTION XXX.

Of One who has Confessed to Heresy, is Relapsed, and is also Impenitent

THE eleventh method of concluding and terminating a process on behalf of the Faith is used when the person accused of heresy, after a diligent discussion of the circumstances of the process in consultation with learned men, is found to have confessed her heresy, and to be impenitent, and to have relapsed into it. And this is when the accused confesses with her own mouth in Court that she believes and has practiced such and such. The procedure in this case is the same as that above; and because she is manifestly a heretic, sentence shall be pronounced in the following manner in the presence of the Bishop and Judges:

We N., by the mercy of God Bishop of such city, or Judge in the territories of such Prince, seeing that you N., of such a place in such a Diocese, were formerly accused before us (or before such and such, our predecessors) of the crime of heresy (naming them), and that you were legally convicted of that crime by your own confession and the testimony of worthy men, and that you obstinately persisted in it for so many years; but that afterwards, having listened to better advice, you publicly abjured those heresies in such a place and in the form required by the Church, on which account the aforesaid Bishop and Judge, believing that you had truly renounced the said errors and had returned with Catholic faith to the bosom of the Church, granted you the benefit of absolution, releasing you from the sentence of excommunication by which you were formerly bound, and, setting you a salutary penance if with true heart and faith unfeigned you remained converted to the unity of the Holy Church, received you back in mercy. For the Holy Church of God is not closed to such as return to her bosom.

But after all the aforesaid you have to our great grief been accused before us of having again fallen into those damnable heresies which you formerly abjured in public; yea, you have done so and so (naming them) in contravention of the said abjuration and to the damage of your soul; and although we are sore wounded and cut to the heart to have heard such things of you, yet we were in justice compelled to inquire into the matter, to examine the witnesses, and to summon and question you on oath as it behoved us, and in every particular to proceed as we are bidden by the canonical institutions. And as we wished to conclude this case beyond any doubt, we summoned a solemn council of men learned in the Theological faculty and of those skilled in the Canon and Civil Laws.

And having obtained the mature and considered judgement of the said learned men upon every single particular which had been brought to notice and done in this case, after repeated examination of the whole process and careful and diligent discussion of every circumstance, as law and justice demanded, we find that you are legally convicted both by the evidence of credible witnesses and by your own repeated confession, that you have fallen, and fallen again, into the heresies which you abjured. For we find that you have said or done such and such (naming them), wherefore we have reason, in the opinion of the said

learned men, and compelled thereto by your own excesses, to judge you as a backslider according to the canonical decrees. And that we say this with grief, and grieve to say it, He knows from Whom nothing is hid and Who seeth into the secrets of all hearts. And with all our hearts we desired and still desire to lead you back to the unity of the Holy Church and to drive out from your heart the said foul heresy, that so you may save your soul and preserve your body and soul from the destruction in hell, and we have exerted our utmost endeavor by various fitting methods to convert to salvation; but you have been given up to your sin and led away and seduced by an evil spirit, and have chosen to be tortured with fearful and eternal torment in hell, and that your temporal body should here be consumed in the flames, rather than to give ear to better counsels and renounce your damnable and pestilent errors, and to return to the merciful bosom of our Holy Mother Church.

Wherefore since the Church of God can do nothing more for you, having done all that was possible to convert you: We the Bishop and Judges named in this cause on behalf of the faith, sitting in tribunal as Judges judging, having before us the Holy Gospels that our judgement may proceed as from the countenance of God and our eyes see with equity, and having before our eyes only God and the honour of the Holy Catholic Faith, on this day at this hour and place before assigned to you for the hearing of your final sentence, we pronounce judgement upon you N., here present before us, and condemn and sentence you as a truly impenitent and relapsed heretic, and as such to be delivered or abandoned to secular justice; and by this our definitive sentence we cast you out as a truly impenitent and relapsed heretic from our ecclesiastical Court, and deliver and abandon you to the power of the secular Court; praying that the said secular Court will temper or moderate its sentence of death against you. This sentence was give, etc.

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[Question XXXI](#)

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THE MALLEUS MALEFICARUM

PART III, THIRD HEAD, QUESTION XXXI.

Of One Taken and Convicted, but Denying Everything

THE twelfth method of finishing and concluding a process on behalf of the faith is used when the person accused of heresy, after a diligent examination of the merits of the process in consultation with skilled lawyers, is found to be convicted of heresy by the evidence of the facts or by the legitimate production of witnesses, but not by his own confession. That is to say, he may be convicted by the evidence of the facts, in that he has publicly practiced heresy; or by the evidence of witnesses against whom he can take no legitimate exception; yet, though so taken and convicted, he firmly and constantly denies the charge. See Henry of Segusio *On Heresy*, question 34.

The procedure in such a case is as follows. The accused must be kept in strong durance fettered and chained, and must often be visited by the officers, both in a body and severally, who will use their own best endeavours and those of others to induce him to discover the truth; telling him that if he refuses and persists in his denial, he will in the end be abandoned to the secular law, and will not be able to escape temporal death.

But if he continues for a long time in his denials, the Bishop and his officers, now in a body and now severally, now personally and now with the assistance of other honest and upright men, shall summon before them now one witness, now another, and warn him to attend strictly to what he has deposed, and to be sure whether or not he has told the truth; that he should beware lest in damning another temporally he damn himself eternally; that if he be afraid, let him at least tell them the truth in secret, that the accused should not die unjustly. And let them be careful to talk to him in such a way that they may see clearly whether or not his depositions have been true.

But if the witnesses, after this warning, adhere to their statements, and the accused maintains his denials, let not the Bishop and his officers on that account be in any haste to pronounce a definitive sentence and hand the prisoners over to secular law; but let them detain him still longer, now persuading him to confess, now yet again urging the witnesses (but one at a time) to examine their consciences as well. And let the Bishop and his officers pay particular attention to that witness who seems to be of the best conscience and the most disposed to good, and let them more insistently charge him on his conscience to speak the truth whether or not the matter was as he had deposed. And if they see any witness vacillate, or there are any other indications that he has given false evidence, let them attest him according to the counsel of learned men, and proceed as justice shall require.

For it is very often found that after a person so convicted by credible witnesses has long persisted in his denials, he has at length relented, especially on being truly informed that he will not be delivered to the secular Court, but be admitted to mercy if he confesses his sin, and he has then freely confessed the truth which he had so long denied. And it is often found that the witnesses, actuated by malice and overcome by enmity, have conspired

together to accuse an innocent person of the sin of heresy; but afterwards, at the frequent entreaty of the Bishop and his officers, their consciences have been stricken with remorse and, by Divine inspiration, they have revoked their evidence and confessed that they have out of malice put that crime upon the accused. Therefore the prisoner in such a case is not to be sentenced hastily, but must be kept for a year or more before he is delivered up to the secular Court.

When a sufficient time has elapsed, and after all possible care has been taken, if the accused who has been thus legally convicted has acknowledged his guilt and confessed in legal form that he hath been for the period stated ensnared in the crime of heresy, and has consented to abjure that and every heresy, and to perform such satisfaction as shall seem proper to the Bishop and Inquisitor for one convicted of heresy both by his own confession and the legitimate production of witnesses; then let him as a penitent heretic publicly abjure all heresy, in the manner which we have set down in the eighth method of concluding a process on behalf of the faith.

But if he has confessed that he hath fallen into such heresy, but nevertheless obstinately adheres to it, he must be delivered to the secular Court as an impenitent, after the manner of the tenth method which we have explained above.

But if the accused has remained firm and unmoved in his denial of the charges against him, but the witnesses have withdrawn their charges, revoking their evidence and acknowledging their guilt, confessing that they had put so great a crime upon an innocent man from motives of rancour and hatred, or had been suborned or bribed thereto; then the accused shall be freely discharged, but they shall be punished as false witnesses, accusers or informers. This made clear by Paul of Burgos in his comment on the Canon *c. multorum*. And sentence or penance shall be pronounced against them as shall seem proper to the Bishop and Judges; but in any case such false witnesses must be condemned to perpetual imprisonment on a diet of bread and water, and to do penance for all the days of their life, being made to stand upon the steps before the church door, etc. However, the Bishops have power to mitigate or even to increase the sentence after a year or some other period, in the usual manner.

But if the accused, after a year or other longer period which has been deemed sufficient, continues to maintain his denials, and the legitimate witnesses abide by their evidence, the Bishop and Judges shall prepare to abandon him to the secular Court; sending to him certain honest men zealous for the faith, especially religious, to tell him that he cannot escape temporal death while he thus persists in his denial, but will be delivered up as an impenitent heretic to the power of the secular Court. And the Bishop and his officers shall give notice to the Bailiff or authority of the secular Court that on such a day at such an hour and in such a place (not inside a church) he should come with his attendants to receive an impenitent heretic whom they will deliver to him. And let him make public proclamation in the usual places that all should be present on such a day at such an hour and place to hear a sermon preached on behalf of the faith, and that the Bishop and his officer will hand over a certain obstinate heretic to the secular Court.

On the appointed day for the pronouncement of sentence the Bishop and his officer shall be in the place aforesaid, and the prisoner shall be placed on high before the assembled clergy and people so that he may be seen by all, and the secular authorities shall be present before the prisoner. Then sentence shall be pronounced in the following manner:

We, N., by the mercy of God Bishop of such city, or Judge in the territories of such

Prince, seeing that you, N., of such a place in such a Diocese, have been accused before us of such heresy (naming it); and wishing to be more certainly informed whether the charges made against you were true, and whether you walked in darkness or in the light; we proceeded to inform ourselves by diligently examining the witnesses, by often summoning and questioning you on oath, and admitting an Advocate to plead in your defence, and by proceeding in every way as we were bound by the canonical decrees.

And wishing to conclude your trial in a manner beyond all doubt, we convened in solemn council men learned in the Theological faculty and in the Canon and Civil Laws. And having diligently examined and discussed each circumstance of the process and maturely and carefully considered with the said learned men everything which has been said and done in this present case, we find that you, N., have been legally convicted of having been infected with the sin of heresy for so long a time, and that you have said and done such and such (naming them) on account of which it manifestly appears that you are legitimately convicted of the said heresy.

But since we desired, and still desire, that you should confess the truth and renounce the said heresy, and be led back to the bosom of Holy Church and to the unity of the Holy Faith, that so you should save your soul and escape the destruction of both your body and soul in hell; we have by our own efforts and those of others, and by delaying your sentence for a long time, tried to induce you to repent; but you being obstinately given over to wickedness have scorned to agree to our wholesome advice, and have persisted and do persist with stubborn and defiant mind in your contumacious and dogged denials; and this we say with grief, and grieve and mourn in saying it. But since the Church of God has waited so long for you to repent and acknowledge your guilt, and you have refused and still refuse, her grace and mercy can go no farther.

Wherefore that you may be an example to others and that they may be kept from all such heresies, and that such crimes may not remain unpunished: We the Bishop and Judges named on behalf of the faith, sitting in tribunal as Judges judging, and having before us the Holy Gospels that our judgement may proceed as from the countenance of God and our eyes see with equity, and having before our eyes only God and the glory and honour of the Holy Faith, we judge, declare and pronounce sentence that you standing here in our presence on this day at the hour and place appointed for the hearing of your final sentence, are an impenitent heretic, and as such to be delivered or abandoned to secular justice; and as an obstinate and impenitent heretic we have by this sentence cast you off from the ecclesiastical Court and deliver and abandon you to secular justice and the power of the secular Court. And we pray that the said secular Court may moderate its sentence of death upon you. this sentence was given, etc.

The Bishop and Judges may, moreover, arrange that just men zealous for the faith, known to and in the confidence of the secular Court, shall have access to the prisoner while the secular Court is performing its office, in order to console him and even yet induce him to confess the truth, acknowledge his guilt, and renounce his errors.

But if it should happen that after the sentence, and when the prisoner is already at the place where he is to be burned, he should say that he wishes to confess the truth and acknowledge his guilt, and does so; and if he should be willing to abjure that and every heresy; although it may be presumed that he does this rather from fear of death than for love of the truth, yet I should be of the opinion that he may in mercy be received as a penitent heretic and be imprisoned for life. See the gloss on the chapters *ad abolendam* and

excommunicamus. Nevertheless, according to the rigour of the law, the Judges ought not to place much faith in a conversion of this sort; and furthermore, they can always punish him on account of the temporal injuries which he has committed.

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[Question XXXII](#)

Part III, Third Head, Question XXXI
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THE MALLEUS MALEFICARUM

PART III, THIRD HEAD, QUESTION XXXII.

Of One who is Convicted but who hath Fled or who Contumaciously Absents himself

THE Thirteenth and last method of arriving at a definite sentence in a process on behalf of the Faith is used when the person accused of heresy, after a diligent discussion of the merits of the process in consultation with learned lawyers, is found to be convicted of heresy, but has made his escape, or defiantly absents himself after the expiration of a set time. And this happens in three cases.

First, when the accused is convicted of heresy by his own confession, or by the evidence of the facts, or by the legitimate production of witnesses, but has fled, or has absented himself and refused to appear after being legally summoned.

Secondly, when a person has been accused and certain information has been laid against him on account of which he rests under some suspicion, even if it be only a light one, and he has been summoned to answer for his faith; and because he has defiantly refused to appear, he is excommunicated, and has stubbornly remained in that excommunication for a year, and always defiantly absents himself.

The third case is when someone directly obstructs the Bishop's or Judge's sentence or process on behalf of the Faith, or lends his help, advice or protection for that purpose, and such a person has been stricken with the sword of excommunication. And if he was obstinately endured that excommunication for a year, he is then to be condemned as a heretic who has defied the administration of justice.

In the first case, such a person is, according to the Canon *ad abolendam*, to be condemned as an impenitent heretic. In the second and third cases he is not to be judged as an impenitent heretic, but to be condemned as if he were a penitent heretic. And in any of these cases the following procedure should be observed. When such a person has been awaited for sufficient time, let him be summoned by the Bishop and his officer in the Cathedral Church of that Diocese in which he has sinned, and in the other churches of that place where he had his dwelling, and especially from where he has fled; and let him be summoned in the following manner:

We, N., by the mercy of God Bishop of such Diocese, having in our charge the welfare of souls, and having above all the desires of our heart this most earnest desire that in our time in the said Diocese the Church should flourish and that there should be a fruitful and abundant harvest in that vineyard of the Lord of Hosts, which the right hand of the Most High Father has planted in the bosom of the righteous, which the Son of that Father has plentifully watered with His own life-giving Blood, which the reviving Spirit the Paraclete has made fruitful within by His wonderful and ineffable gifts, which the whole incomprehensible and ineffable Blessed Trinity has endowed and enriched with many very great and holy privileges; but the wild boar out of the forest, by which is meant any sort of heretic, has devoured and despoiled it, laying waste the fair fruit of the faith and planting

thorny briars among the vines; and that tortuous serpent, the evil enemy of our human race, who is Satan and the devil, has breathed out venom and poisoned the fruit of the vineyard with the plague of heresy: And this is the field of the Lord, the Catholic Church, to till and cultivate which the only first-born Son of God the Father descended from the heights of Heaven, and sowed it with miracles and Holy discourse, going through towns and villages and teaching not without great labour; and He chose as His Apostles honest labouring men, and showed them the way, endowing them with eternal rewards; and the Son of God Himself expects to gather from that field on the Day of the Last Judgement a plentiful harvest, and by the hands of His Holy Angels to store it in His Holy barn in Heaven: But the foxes of [Samson](#), two-faced like them who have fallen into the sin of heresy, having their faces looking both ways but tied together by their burning tails, run about with many torches amidst the fields of the Lord now white unto harvest and shining with the splendour of the faith, and bitterly despoil them, speeding most cunningly here and there, and with their strong attacks burning, dissipating, and decastation, and subtly and damnably subverting the truth of the Holy Catholic Faith.

Wherefore, since you, N., are fallen into the damned heresies of witches, practising them publicly in such place (naming it), and have been by legitimate witnesses convicted of the sin of heresy, or by your own confession received by us in Court; and after your capture you have escaped, refusing the medicine of your salvation: therefore we have summoned you to answer for the said crimes in person before us, but you, led away and seduced by a wicked spirit, have refused to appear.

Or as follows:

Wherefore, since you, N., have been accused before us of the sin of heresy, and from information received against you we have judged that you are under a light suspicion of that sin, we have summoned you to appear personally before us to answer for the Catholic faith. And since, having been summoned, you have defiantly refused to appear, we excommunicated you and caused you to be proclaimed excommunicate. And in this state you have remained stubborn for a year, or so many years, hiding here and there, so that even now we do not know whither the evil spirit has led you; and though we have awaited you kindly and mercifully, that you might return to the bosom and the unity of the Holy Faith, you being wholly given up to evil have scorned to do so. Yet we wish and are bound to justice to conclude this case beyond any question, now can we pass over with connivent eyes your iniquitous crimes.

We the Bishop and Judges in the said cause on behalf of the faith require and strictly command by this our present public edict that you the aforesaid, at present in hiding and runaway and fugitive, shall on such a day of such a month in such a year, in such Cathedral Church of such Diocese, at the hour of Terce appear personally before us to hear your final sentence: signifying that, whether you appear or not, we shall proceed to our definitive sentence against you as law and justice shall require. And that our summons may come to your knowledge beforehand and you may not be able to protect yourself with a plea of ignorance, we wish and command that our said present letters, requisition and summons be publically affixed to the doors of the said Cathedral Church. In witness of all which we have ordered these our present letters to be authorized by the impressions of our seals. Given, etc.

On the appointed day assigned for the hearing of the final sentence, if the fugitive shall

have appeared and consented to abjure publicly all heresy, humbly praying to be admitted to mercy, he is to be admitted if he has not been a backslider; and if he was convicted by his own confession or by the legitimate production of witnesses, he shall abjure and repent as a penitent heretic, according to the manner explained in the eighth method of concluding a process on behalf of the faith. If he was gravely suspected, and refused to appear when he was summoned to answer for his faith, and was therefore excommunicated and had endured that excommunication obstinately for a year, but becomes penitent, let him be admitted, and abjure all heresy, in the manner explained in the sixth method of pronouncing sentence. But if he shall appear, and not consent to abjure, let him be delivered as a truly impenitent heretic to the secular Court, as was explained in the tenth method. But if he still defiantly refuses to appear, let the sentence be pronounced in the following manner:

We, N., by the mercy of God Bishop of such city, seeing that you, N., of such a place in such a Diocese were accused before us by public report and the information of worthy men of the sin of heresy: We, whose duty it is, proceeded to examine and inquire whether there was any truth in the report which had come to our ears. And finding that you were convicted of heresy by the depositions of many credible witnesses, we commanded that you be brought before us in custody. (Here let it be said whether he had appeared and been questioned under oath or not.) But afterwards, led away and seduced by the advice of the evil spirit, and fearing to have your wounds wholesomely healed with wine and oil, you fled away (or, if it was the case, You broke from your prison and place of detention and fled away), hiding here and there, and we are altogether ignorant of whither the said evil spirit has led you.

Or after this manner:

And finding that against you, accused as aforesaid before us of the sin of heresy, there were many indications by reason of which we judged you to be lightly suspected of the said heresy, we summoned you by public edict in such and such churches of such Diocese within a certain time assigned to appear in person before to answer to the said charges against you and otherwise on matter concerning the Faith. But you, following some mad advice, obstinately refused to appear. And when, as in justice bound, we excommunicated you and caused you to be publicly proclaimed excommunicate, you stubbornly remained in that excommunication for more than a year, and kept hidden here and there, so that we do not know whither the evil spirit has led you.

And where the Holy Church of God has long awaited you up to this present day in kindness and mercy, that you might fly to the bosom of her mercy, renouncing your errors and professing the Catholic Faith, and be nourished by the bounty of her mercy; but you have refused to consent, persisting in your obstinacy; and since we wished and still wish, as we ought to do and as justice compels us, to bring your case to an equitable conclusion, we have summoned you to appear in person before us on this day at this hour and place, to hear your final sentence. And since you have stubbornly refused to appear, you are manifestly proved to abide permanently in your errors and heresies; and this we say with grief, and grieve in saying it.

But since we cannot and will not delay to do justice, nor may we tolerate so great disobedience and defiance of the Church of God; for the exaltation of the Catholic Faith and the extirpation of vile heresy, at the call of justice, and by reason of your disobedience and

obstinacy, on this day and at this hour and place heretofore strictly and precisely assigned to you for the hearing of your final sentence, having diligently and carefully discussed each several circumstance of the process with learned men in the Theological faculty and in the Canon and Civil Laws, sitting in tribunal as Judges judging, having before us the Holy Gospels that our judgement may proceed as from the countenance of God and our eyes see with equity, and having before our eyes only God and the irrefragable truth of the Holy Faith, and following in the footsteps of the Blessed Apostle Paul, in these writings we pronounce final sentence against you, N., absent or present, as follows, invoking the Name of Christ.

We the Bishop and Judges named on behalf of the Faith, whereas the process of this cause on behalf of the Faith has in all things been conducted as the laws require; and whereas you, having been legally summoned, have not appeared, and have not by yourself or any other person excused yourself; and whereas you have for a long time persisted and still obstinately persist in the said heresies, and have endured excommunication in the cause of the Faith for so many years, and still stubbornly endure it; and whereas the Holy Church of God can do no more for you, since you have persisted and intend to persist in your excommunication and said heresies: Therefore, following in the footsteps of the Blessed Apostle Paul, we declare, judge and sentence you, absent or present, to be a stubborn heretic, and as such to be abandoned to secular justice. And by this our definitive sentence we drive you from the ecclesiastical Court, and abandon you to the power of the secular Court; earnestly praying the said Court that, if ever it should have you in its power, it will moderate its sentence of death against you. This sentence was give, etc.

Here it is to be considered that, if that stubborn fugitive had been convicted of heresy, either by his own confession or by credible witnesses, and had fled before his abjuration, he is by the sentence to be judged an impenitent heretic, and so it must be expressed in the sentence. But if, on the other hand, he had not been convicted, but had been summoned as one under suspicion to answer for his faith; and, because he has refused to appear, has been excommunicated, and has obstinately endured that excommunication for more than a year, and has finally refused to appear; then he is not to be judged a heretic, but as a heretic, and must be condemned as such; and so it must be expressed in the sentence, as it is said above.

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[Question XXXIII](#)

*Part III, Third Head, Question XXXII
was transcribed by [Wicasta Lovelace](#).*

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“Samson.” “Judges” xv, 1-6.

THE MALLEUS MALEFICARUM

PART III, QUESTION XXXIII.

Of the Method of passing Sentence upon one who has been Accused by another Witch, who has been or is to be Burned at the Stake.

The fourteenth method of finally concluding a process on behalf of the Faith is used when the person accused of heresy, after a careful discussion of the circumstances of the process with reference to the informant in consultation with learned lawyers, is found to be accused of that heresy only by another witch who has been or is to be burned. And this can happen in thirteen ways in thirteen cases. For a person so accused is either found innocent and is to be freely discharged; or she is found to be generally defamed for that heresy; or it is found that, in addition to her defamation, she is to be to some degree exposed to torture; or she is found to be strongly suspected of heresy; or she is found to be at the same time defamed and suspected; and so on up to thirteen different cases, as was shown in the Twentieth Question.

The first case is when she is accused only by a witch in custody, and is not convicted either by her own confession or by legitimate witnesses, and there are no other indications found by reason of which she can truly be regarded as suspect. In such a case she is to be entirely absolved, even by the secular Judge himself who has either burned the deponent or is about to burn her either on his own authority or on that commissioned to him by the Bishop and Judge of the Ordinary Court; and she shall be absolved in the manner explained in the Twentieth Question.

The second case is when, in addition to being accused by a witch in custody, she is also publicly defamed throughout the whole village or city; so that she has always laboured under that particular defamation, but, after the deposition of the witch, it has become aggravated.

In such a case the following should be the procedure. The Judge should consider that, apart from the general report, nothing particular has been proved against her by other credible witnesses in the village or town; and although, perhaps, that witch has deposed some serious charges against her, yet, since she has lost her faith by denying it to the devil, Judges should give no ready credence to her words, unless there should be other circumstances which aggravate that report; and then the case would fall under the third and following case. Therefore she should be enjoined a canonical purgation, and the sentence should be pronounced as shown in the Twenty-first Question.

And if the civil Judge orders this purgation to be made before the Bishop, and ends with a solemn declaration that, if she should fail, then, as an example to others, she should be more severely sentenced by both the ecclesiastical and civil Judges, well and good. But if he wishes to conduct it himself, let him command her to find ten or twenty compurgators of her own class, and proceed in accordance with the second method of sentencing such: except that, if she has to be excommunicated, then he must have recourse to the Ordinary;

and this would be the case if she refused to purge herself.

The third case, then, happens when the person so accused is not convicted by her own confession, not by the evidence of the facts, nor by credible witnesses, nor are there any other indications as to any fact in which she had ever been marked by the other inhabitants of that town or village, except her general reputation among them. But the general report has become intensified by the detention of that witch in custody, as that it is said that she had been her companion in everything and had participated in her crimes. But even so, the accused firmly denies all this, and nothing of it is known to other inhabitants, or of anything to save good behaviour on her part, though her companionship with the witch is admitted.

In such a case the following is the procedure. First they are to be brought face to face, and their mutual answers and recriminations noted, to see whether there is any inconsistency in their words by reason of which the Judge can decide from her admissions and denials whether he ought to expose her to torture; and if so, he can proceed as in the third manner of pronouncing a sentence, explained in the Twenty-second Question, submitting her to light tortures: at the same time exercising every possible precaution, as we explained at length towards the beginning of this Third Part, to find out whether she is innocent or guilty.

The fourth case is when a person accused in this manner is found to be lightly suspected, either because of her own confession or because of the depositions of the other witch in custody. There are some who include among those who should be thus lightly suspected those who go and consult witches for any purpose, or have procured for themselves a lover by stirring up hatred between married folk, or have consorted with witches in order to obtain some temporal advantage. But such are to be excommunicated as followers of heretics, according to the Canon *c. excommunicamus*, where it says: Similarly we judge those to be heretics who believe in their errors. For the effect is presumed from the facts. Therefore it seems that such are to be more severely sentenced and punished than those who are under a light suspicion of heresy and are to be judged from light conjectures. For example, if they had performed services for witches or carried their letters to them, they need not on that account believe in their errors: yet they have not laid information against them, and they have received wages and vails from them. But whether or not such people are to be included in this case, according to the opinion of learned men the procedure must be as in the case of those under light suspicion, and the Judge will act as follows. Such a person will either abjure heresy or will purge herself canonically, as was explained in the fourth method of pronouncing sentence in the Twenty-third Question.

However, it seems that the better course is for such a person to be ordered to abjure heresy, for this is more in accordance with the meaning of the Canon *c. excommunicamus*, where it speaks of those who are found to be only under some notable suspicion. And if such should relapse, they should not incur the penalty for backsliders. The procedure will be as above explained in the fourth method of sentencing.

The fifth case is when such person is found to be under a strong suspicion, by reason, as before, of her own confession or of the depositions of the other witch in custody. In this class some include those who directly or indirectly obstruct the Court in the process of trying a witch, provided that they do this wittingly.

Also they include all who give help, advice or protection to those who cause such obstructions. Also those who instruct summoned or captured heretics to conceal the truth or in some way falsify it. Also all those who wittingly receive, or visit those whom they know to be heretics, or associate with them, send them gifts, or show favour to them; for all such

actions, when done with full knowledge, bespeak favour felt towards the sin, and not to the person. And therefore they say that, when the accused is guilty of any of the above actions, and has been proved so after trial, then she should be sentenced in the fifth method, explained in the Twenty-fourth Question; so that she must abjure all heresy, under pain of being punished as a backslider.

As to these contentions we may say that the Judge must take into consideration the household and family of each several witch who has been burned or is detained; for these are generally found to be infected.

For witches are instructed by devils to offer to them even their own children; therefore there can be no doubt that such children are instructed in all manner of crimes, as is shown in the First Part of this work.

Again, in a case of simple heresy it happens that, on account of the familiarity between heretics who are akin to each other, when one is convicted of heresy it follows that his kindred also are strongly suspected; and the same is true of the heresy of witches.

But this present case is made clear in the chapter of the Canon *inter sollicitudines*. For a certain Dean was, owing to his reputation as a heretic, enjoined a canonical purgation; on account of his familiarity with heretics, he had to make a public abjuration; and through the scandal he was deprived of his benefice, so that the scandal might be allayed.

The sixth case is when such a person is under a grave suspicion; but no simple and bare deposition by another witch in custody can cause this, for there must be in addition some indication of the facts, derived from certain words or deeds uttered or committed by the witch in custody, in which the accused is at least said to have taken some part, and shared in the evil deeds of the deponent.

To understand this, the reader should refer to what was written in the Nineteenth Question, especially concerning the grave degree of suspicion, how it arise from grave and convincing conjectures; and how the Judge is forced to believe, on mere suspicion, that a person is a heretic, although perhaps in his heart he is a true Catholic. The Canonists give an example of this by the case, in simple heresy, of a man summoned to answer in the cause of the faith, and defiantly refusing to appear, on which account he is excommunicated, and if he persists in that state for a year, becomes gravely suspected of heresy.

And so likewise in the case of person accused in the way we are considering, the indications of the facts are to be examined by which she is rendered gravely suspect. Let us put the case that the witch in custody has asserted that the accused has taken part in her evil works of witchcraft, but the accused firmly denies it. What then is to be done? It will be necessary to consider whether there are any facts to engender a strong suspicion of her, and whether that strong suspicion can become a grave one. Thus, if a man has been summoned to answer some charge, and has obstinately refused to appear, he would come under a light suspicion of heresy, even if he had not been summoned in a cause concerning the Faith. But if he then refused to appear in a cause concerning the Faith and was excommunicated for his obstinacy, then he would be strongly suspected; for the light suspicion would become a strong one; and if then he remained obstinate in excommunication for a year, the strong suspicion would become a grave one. Therefore the Judge will consider whether, by reason of her familiarity with the witch in custody, the accused is under a strong suspicion, in the manner shown in the fifth case above; and then he must consider whether there is anything which may turn that strong suspicion into a grave one. For it is presumed that it is possible for this to be the case, on account of the accused having perhaps shared in the crimes of the

detained witch, if she has had frequent intercourse with her. Therefore the Judge must proceed as in the sixth method of sentencing explained in the Twenty-fifth Question. But it may be asked what the Judge is to do if the person so accused by a witch in custody still altogether persists in her denials, in spite of all indications against her. We answer as follows:

First the Judge must consider whether those denials do or do not proceed from the vice or witchcraft of taciturnity: and, as was shown in the Fifteenth and Sixteenth Questions of this Third part, the Judge can know this from her ability or inability to shed tears, or from her insensibility under torture and quick recovery of her strength afterwards. For then the grave suspicion would be aggravated; and in such a case she is by no means to be freely discharged, but, according to the sixth method of sentencing, she must be condemned to perpetual imprisonment and penance.

But if she is not infected with the taciturnity of witches, but feels the keenest pains in her torture (whereas others, as has been said, become insensible to pain owing to the witchcraft of taciturnity), then the Judge must fall back upon his last expedient of a canonical purgation. And if this should be ordered by a secular Judge, it is called a lawful vulgar purgation, since it cannot be classed with other vulgar purgations. And if she should fail in this purgation she will be judged guilty.

The seventh case is when the accused is not found guilty by his own confession, by the evidence of the facts, or by legitimate witnesses, but is only found to be accused by a witch in custody, and there are also some indications found which bring him under light or strong suspicion. As, for example, that he had had great familiarity with witches; in which case he would, according to the Canon, have to undergo a canonical purgation on account of the general report concerning him; and on account of the suspicion against him he must abjure heresy, under pain of being punished as a backslider if it was a strong suspicion, but not if it was a light one.

The eighth case occurs when the person so accused is found to have confessed that heresy, but to be penitent, and never to have relapsed. But here it is to be noted that in this and the other cases, where it is a question of those who have or have not relapsed, and who are or are not penitent, these distinctions are made only for the benefit of Judges who are not concerned with the infliction of the extreme penalty. Therefore the civil Judge may proceed in accordance with the Civil and Imperial Laws, as justice shall demand, in the case of one who has confessed, no matter whether or not she be penitent, or whether or not she have relapsed. Only he may have recourse to those thirteen methods of pronouncing sentence, and act in accordance with them, if any doubtful question should arise.

[Question XXXIV](#)

was transcribed by [Christie Rice](#).

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THE MALLEUS MALEFICARUM

PART III, THIRD HEAD, QUESTION XXXIV.

Of the Method of passing Sentence upon a Witch who Annuls Spells wrought by Witchcraft; and of Witch Midwives and Archer-Wizards

THE fifteenth method of bringing a process on behalf of the faith to a definitive sentence is employed when the person accused of heresy is not found to be one who casts injurious spells of witchcraft, but one who removes them; and in such a case the procedure will be as follows. The remedies which she uses will either be lawful or unlawful; and if they are lawful, she is not to be judged a witch but a good Christian. But we have already shown at length what sort of remedies are lawful.

Unlawful remedies, on the other hand, are to be distinguished as either absolutely unlawful, or in some respect unlawful. If they are absolutely unlawful, these again can be divided into two classes, according as they do or do not involve some injury to another party; but in either case they are always accompanied by an expressed invocation of devils. But if they are only in some respect unlawful, that is to say, if they are practised with only a tacit, and not an expressed, invocation of devils, such are to be judged rather vain than unlawful, according to the Canonists and some Theologians, as we have already shown.

Therefore the Judge, whether ecclesiastical or civil, must not punish the first and last of the above practices, having rather to commend the first and tolerate the last, since the Canonists maintain that it is lawful to oppose vanity with vanity. But he must by no means tolerate those who remove spells by an expressed invocation of devils, especially those who in doing so bring some injury upon a third part; and this last is said to happen when the spell is taken off one person and transferred to another. And we have already made it clear in a former part of this work that it makes no difference whether the person to whom the spell is transferred be herself a witch or not or whether or not she be the person who cast the original spell, or whether it be a man or any other creature.

It may be asked what the Judge should do when such a person maintains that she removes spells by lawful and not unlawful means; and how the Judge can arrive at the truth of such a case. We answer that he should summon her and ask her what remedies she uses; but he must not rely only upon her word, for the ecclesiastical Judge whose duty it is must make diligent inquiry, either himself or by means of some parish priest who shall examine all his parishioners after placing them upon oath, as to what remedies she uses. And if, as is usually the case, they are found to be superstitious remedies, they must in no way be tolerated, on account of the terrible penalties laid down by the Canon Law, as will be shown.

Again, it may be asked how the lawful remedies can be distinguished from the unlawful, since they always assert that they remove spells by certain prayers and the use of herbs. We answer that this will be easy, provided that a diligent inquiry be made. For although they must necessarily conceal their superstitious remedies, either that they may not be arrested, or that they may the more easily ensnare the minds of the simple, and therefore

make great show of their use of prayers and herbs, yet they can be manifestly convicted by four superstitious actions as sorceresses and witches.

For there are some who can divine secrets, and are able to tell things which they could only know through the revelation of evil spirits. For example: when the injured come to them to be healed, they can discover and make known the cause of their injury; and they can perfectly know this and tell it to those who consult them.

Secondly, they sometimes undertake to cure the injury or spell of one person, but will have nothing to do with that of another. For in the Diocese of Spire there is a witch in a certain place called Zunhofen who, although she seems to heal many persons, confesses that she can in no way heal certain others; and this is for no other reason than, as the inhabitants of the place assert, that the spells cast on such person have been so potently wrought by other witches with the help of devils that the devils themselves cannot remove them. For one devil cannot or will not always yield to another.

Thirdly, it sometimes happens that they must make some reservation or exception in their cure of such injuries. Such a case is known to have occurred in the town of Spire itself. An honest woman who had been bewitched in her shins sent for a diviner of this sort to come and heal her; and when the witch had entered her house and looked at her, she made such an exception. For she said: It there are no scales and hairs in the wound, I could take out all the other evil matter. And she revealed the cause of the injury, although she had come from the country from a distance of two miles, saying: You quarrelled with your neighbour on such a day, and therefore this had happened to you. Then, having extracted from the wound many other matters of various sorts, which were not scales or hairs, she restored her to health.

Fourthly, they sometimes themselves observe, or cause to be observed, certain superstitious ceremonies. For instance, they fix some such time as before sunrise for people to visit them; or say that they cannot heal injuries which were caused beyond the limits of the estate on which they live, or that they can only heal two or three persons in a year. Yet they do not heal them, but only seem to do so by creasing to injure them.

We could add many other considerations as touching the condition of such persons: as that, after the lapse of a certain time they have incurred the reputation of leading a bad and sinful life, or that they are adulteresses, or the survivors from covens of other witches. Therefore their gift of healing is not derived from God on account of the sanctity of their lives.

Here we must refer incidentally to witch midwives, who surpass all other witches in their crimes, as we have shown in the First Part of this work. And the number of them is so great that, as has been found from their confessions, it is thought they there is scarcely any tiny hamlet in which at least one is not to be found. And that the magistrates may in some degree meet this danger, they should allow no midwife to practise without having been first sworn as a good Catholic; at the same time observing the other safeguards mentioned in the Second Part of this work.

Here too we must consider archer-wizards, who constitute the graver danger to the Christian religion in that they have obtained protection on the estates of nobles and Princes who receive, patronize, and defend them. But that all such receivers and protectors are more damnable than all witches, especially in certain cases, is shown as follows. The Canonists and Theologians divide into two classes the patrons of such archer-wizards, according as they defend the error or the person. They who defend the error are more damnable than the

wizards themselves, since they are judged to be not only heretics but heresiarchs (24, quest. 3). And the laws do not make much special mention of such patrons, because they do not distinguish them from other heretics.

But there are others who, while not excusing the sin, yet defend the sinner. These, for example, will do all in their power to protect such wizards (or other heretics) from trial and punishment at the hands of the Judge acting on behalf of the Faith.

Similarly there are those in public authority, that is to say, public persons such as temporal Lords, and also spiritual Lords who have temporal jurisdiction, who are, either by omission or commission, patrons of such wizards and heretics.

They are their patrons by omission when they neglect to perform their duty in regard to such wizards and suspects, or to their followers, receivers, defenders and patrons, when they are required by the Bishops or Inquisitors to do this: that is, by failing to arrest them, by not guarding them carefully when they are arrested, by not taking them to the place within their jurisdiction which has been appointed for them, by not promptly executing the sentence passed upon them, and by other such derelictions of their duty.

They are their patrons by commission when, after such heretics have been arrested, they liberate them from prison without the licence or order of the Bishop or Judge; or when they directly or indirectly obstruct the trial, judgement, and sentence of such, or act in some similar way. The penalties for this have been declared in the Second Part of this work, where we treated of archer-wizards and other enchanterers of weapons.

It is enough now to say that all these are by law excommunicated, and incur the twelve great penalties. And if they continue obstinate in that excommunication for a year, they are then to be condemned as heretics.

Who, then, are to be called receivers of such; and are they to be reckoned as heretics? All they, we answer, who receive such archer-wizards, enchanterers of weapons, necromancers, or heretic witches as are the subject of this whole work. And such receivers are of two classes, as was the case with the defenders and patrons of such.

For there are some who do not receive them only once or twice, but many times and often; and these are well called in Latin *receptatores*, from the frequentative form of the verb. And receivers of this class are sometimes blameless, since they act in ignorance and there is no sinister suspicion attaching to them. But sometimes they are to blame, as being well aware of the sins of those whom they receive; for the Church always denounces these wizards as the most cruel enemies of the faith. And if nevertheless temporal Lords receive, keep and defend them, etc., they are and are rightly called receivers of heretics. And with regard to such, the laws say that they are to be excommunicated.

But others there are who do not often or many times receive such wizards or heretics, but only once or twice; and these are not properly called *receptatores*, but *receptores*, since they are not frequent receivers. (Yet the Arch-deacon disagrees with this view; but it is no great matter, for we are considering not words but deeds.)

But there is this difference between *receptatores* and *receptores*: those temporal Princes are always *receptatores* who simply will not or cannot drive away such heretics. But *receptores* may be quite innocent.

Finally, it is asked who are they who are said to be obstructors of the duty of Inquisitors and Bishops against such heretics; and whether they are to be reckoned as heretics. We answer that such obstructors are of two kinds. For there are some who cause a direct obstruction, by rashly on their own responsibility releasing from gaol those who have

been detained on a charge of heresy, or by interfering with the process of the Inquisition by wreaking some injury to witnesses on behalf of the Faith because of the evidence they have given; or it may be that the temporal Lord issues an order that none but himself may try such a case, and that anyone charged with this crime should be brought before no one but himself, and that the evidence should be given only in his presence, or some similar order. And such, according to Giovanni d'Andrea, are direct obstructors. They who directly obstruct the process, judgement or sentence on behalf of the Faith, or help, advise or favour others in doing so, although they are guilty of a great sin, are not on that account to be judged heretics, unless it appears in other ways that they are obstinately and wilfully involved in such heresies of witches. But they are to be smitten with the sword of excommunication; and if they stubbornly endure that excommunication for a year, then are they to be condemned as heretics.

But others are indirect obstructors. These, as Giovanni d'Andrea explains, are those who give such orders as that no one shall bear arms for the capture of heretics except the servants of the said temporal Lord. Such are less guilty than the former, and are not heretics; but they, and also any who advise, help or patronize them in such actions, are to be excommunicated; and if they obstinately remain in that excommunication for a year, they are then to be condemned as if they were heretics. And here it is to be understood that they are in such a way to be condemned as heretics that if they are willing to return, they are received back to mercy, having first abjured their error; but if not, they are to be handed over to the secular Court as impenitents.

To sum up. Witch-midwives, like other witches, are to be condemned and sentences according to the nature of their crimes; and this is true also of those who, as we have said, remove spells of witchcraft superstitiously and by the help of devils; for it can hardly be doubted that, just as they are able to remove them, so can they inflict them. And it is a fact that some definite agreement is formed between witches and devils whereby some shall be able to hurt and others to heal, that so they may more easily ensnare the minds of the simple and recruit the ranks of their abandoned and hateful society. Archer-wizards and enchanters of weapons, who are only protected by being patronized, defended and received by temporal Lords, are subject to the same penalties; and they who patronize them, etc., or obstruct the officers of justice in their proceedings against them, are subject to all the penalties to which the patrons of heretics are liable, and are to be excommunicated. And if after they have obstinately endured that excommunication for a year they wish to repent, let them abjure that obstruction and patronage, and if not, they must be handed over as impenitents to the secular Court. And even if they have not endured their excommunication for a year, such obstructors can still be proceeded against as patrons of heretics.

And all that has been said with regard to patrons, defenders, receivers, and obstructors in the case of archer-wizards, etc., applies equally in respect of all other witches who work various injuries to men, animals, and the fruits of the earth. But even the witches themselves, when in the court of conscience with humble and contrite spirit they weep for their sins and make clean confession asking forgiveness, are taken back to mercy. But when they are known, those whose duty it is must proceed against them, summoning, examining, and detaining them, and in all things proceeding in accordance with the nature of their crimes to a definitive and conclusive sentence, as has been shown, if they wish to avoid the snare of eternal damnation by reason of the excommunication pronounced upon them by the Church when they deliberately fail in their duty.

[Question XXXV](#)

*Part III, Third Head, Question XXXIV
was transcribed by [Wicasta Lovelace](#).*

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THE MALLEUS MALEFICARUM

PART III, QUESTION XXXV.

Finally, of the Method of Passing Sentence upon Witches who Enter or Cause to be Entered an Appeal, whether such be Frivolous or Legitimate and Just.

But if the Judge perceives that the accused is determined to have recourse to an appeal, he must first take note that such appeals are sometimes valid and legitimate, and sometimes entirely frivolous. Now it has already been explained that cases concerning the Faith are to be conducted in a simple and summary fashion, and therefore that no appeal is admitted in such cases. Nevertheless it sometimes happens that Judges, on account of the difficulty of the case, gladly prorogue and delay it; therefore they may consider that it would be just to allow an appeal when the accused feels that the Judge has really and actually acted towards him in a manner contrary to the law and justice; as that he has refused to allow him to defend himself, or that he has proceeded to a sentence against the accused on his own responsibility and without the counsel of others, or even without consent of the Bishop or his Vicar, when he might have taken into consideration much further evidence both for and against. For such reasons an appeal may be allowed, but not otherwise.

Secondly, it is to be noted that, when notice of appeal has been given, the Judge should, without perturbation or disturbance, ask for a copy of the appeal, giving his promise that the matter shall not be delayed. And when the accused has given him a copy of the appeal, the Judge shall notify him that he has yet two days before he need answer it, and after those two days thirty more before he need prepare the apostils of the case. And although he may give his answer at once, and at once proceed to issue his apostils if he is very expert and experienced, yet it is better to act with caution, and fix a term of ten or twenty or twenty-five days, reserving to himself the right to prorogue the hearing of the appeal up to the legal limit of time.

Thirdly, let the Judge take care that during the legal and appointed interval he must diligently examine and discuss the causes of the appeal and the alleged grounds of objection. And if after having taken good counsel he sees that he has unduly and unjustly proceeded against the accused, by refusing him permission to defend himself, or by exposing him to questions at an unsuitable time, or for any such reason; when the appointed time comes let him correct his mistake, carrying the process back to the point and stage where it was when the accused asked to be defended, or when he put a term to his examination, etc., and so remove the objection; and then let him proceed as we have said. For by the removal of the grounds for objection the appeal, which was legitimate, loses its weight.

But here the circumspect and provident Judge will carefully take note that some grounds of objection are reparable; and they are such as we have just spoken of, and are to be dealt with in the above manner. But others are irreparable: as when the accused has actually and in fact been questioned, but has afterwards escaped and lodged an appeal; or that some box or vessel or such instruments as witches use has been seized and burned; or some other

such irreparable and irrevocable action has been committed. In such a case the above procedure would not hold good, namely, taking the process back to the point where the objection arose.

Fourthly, the Judge must note that, although thirty days may elapse between his receiving the appeal and his completing the apostils of the case, and he can assign to the petitioner the last day, that is, the thirtieth, for the hearing of his appeal; yet, that it may not seem that he wishes to molest the accused or some under suspicion of unduly harsh treatment of him, and that his behaviour may not seem to lend support to the objection which has caused the appeal, it is better that he should assign some day within the legal limit, such as the tenth or twentieth day, and he can afterwards, if he does not wish to be in a hurry, postpone it until the last legal day, saying that he is busy with other affairs.

Fifthly, the Judge must take care that, when he affixes a term for the accused who is appealing and petitioning for apostils, he must provide not only for the giving, but both for the giving and receiving of apostils. For if he provided only for the giving of them, then the Judge against whom the appeal is lodged would have to discharge the appellant. Therefore let him assign to him a term, that is, such a day of such a year, for the giving and receiving from the Judge such apostils as he shall have decided to submit.

Sixthly, he must take care that, in assigning this term, he shall not in his answer say that he will give either negative or affirmative apostils; but that he may have opportunity for fuller reflection, let him say that he will give such as he shall at the appointed time have decided upon.

Let him also take care that in assigning this term to the appellant he give the appellant no opportunity to exercise any malicious precautions or cunning, and that he specify the place, day and hour. For example, let him assign the twentieth day of August, in the present year, at the hour of vespers, and the chamber of the Judge himself in such a house, in such a city, for the giving and receiving of apostils such as shall have been decided upon for such appellant.

Seventhly, let him note that, if he has decided in his mind that the charge against the accused justly requires that he should be detained, in assigning the term he must set it down that he assigns that term for the giving or receiving of apostils by the appellant in person, and that he assigns to the said appellant such a place for giving to him and receiving from him apostils; and then it will be fully in the power of the Judge to detain the appellant, granted that he has first given negative apostils; but otherwise it will not be so.

Eighthly, let the Judge take care not to take any further action in respect of the appellant, such as arresting him, or questioning him, or liberating him from prison, from the time when the appeal is presented to him up to the time when he has returned negative apostils.

To sum up. Note that it often happens that, when the accused is in doubt as to what sort of sentence he will receive, since he is conscious of his guilt, he frequently takes refuge in an appeal, that so he may escape the Judge's sentence. Therefore he appeals from that Judge, advancing some frivolous reason, as that the Judge held him in custody without allowing him the customary surety; or in some such way he may colour his frivolous appeal. In this case the Judge shall ask for a copy of the appeal; and having received it he shall either at once or after two days give his answer and assign to the appellant for the giving and receiving of such apostils as shall have been decided upon a certain day, hour, and place, within the legal limit, as, for instance, the 25th, 26th or 30th day of such a month. And

during the assigned interval the Judge shall diligently examine the copy of the appeal, and the reasons or objections upon which it is based, and shall consult with learned lawyers whether he shall submit negative apostils, that is, negative answers, and thereby disallow the appeal, or whether he shall allow the appeal and submit affirmative and fitting apostils to the Judge to whom the appeal is made.

But if he sees that the reasons for the appeal are frivolous and worthless, and that the appellant only wishes to escape or to postpone his sentence, let his apostils be negative and refutatory. If, however, he sees that the objections are true and just, and not irreparable; or if he is in doubt whether the accused is maliciously causing him trouble, and wishes to clear himself of all suspicion, let him grant the appellant affirmative and fitting apostils. And when the appointed time for the appellant has arrived, if the Judge has not prepared his apostils or answers, or in some other way is not ready, the appellant can at once demand that his appeal be heard, and may continue to do so on each successive day up to the thirtieth, which is the last day legally allowed for the submission of the apostils.

But if he has prepared them and is ready, he can at once give his apostils to the appellant. If, then, he has decided to give negative or refutatory apostils, he shall, at the expiration of the appointed time, submit them in the following manner:

AND the said Judge, answering to the said appeal, if it may be called an appeal, says that he, the Judge, has proceeded and did intend to proceed in accordance with the Canonical decrees and the Imperial statutes and laws, and has not departed from the path of either law nor intended so to depart, and has in no way acted or intended to act unjustly towards the appellant, as is manifest from an examination of the alleged grounds for this appeal. For he has not acted unjustly towards him by detaining him and keeping him in custody; for he was accused of such heresy, and there was such evidence against him that he was worthily convicted of heresy, or was strongly suspected, and as such it was and is just that he should be kept in custody: neither has he acted unjustly by refusing him sureties; for the crime of heresy is one of the more serious crimes, and the appellant had been convicted but persisted in denying the charge, and therefore not even the very best sureties were admissable, but he is and was to be detained in prison. And so he shall proceed with the other objections.

Having done this, let him say as follows: Wherefore it is apparant that the Judge has duly and justly proceeded, and has not deviated from the path of justice, and has in no way unduly molested the appellant; but the appellant, advancing pretended and false objections, has by an undue and unjust appeal attempted to escape his sentence. Wherefore his appeal is frivolous and worthless, having no foundation, and erring in matter and form. And since the laws do not recognize frivolous appeals, nor are they to be recognized by the Judge, therefore the Judge has himself said that he does not admit and does not intend to admit the said appeal, nor does he recognize nor yet propose to recognize it. And he gives this answer to the said accused who make this undue appeal in the form of negative apostils, and commands that they be given to him immediately after the said appeal. And so he shall give it to the Notary who has presented the appeal to him.

And when these negative apostils have been given to the appellant, the Judge shall at once proceed with his duty, ordering the accused to be seized and detained, or assigning to him a day to appear before him, as shall seem best to him. For he does not cease to be the Judge, but shall continue his process against the appellant until the Judge to whom the appeal was made shall order him to cease.

But let the Judge take care not to commence any new proceedings against the appellant, by arresting him or, if he is in custody, liberating him from prison, from the time of the presentation of the appeal up to the time of the return of negative apostils to him. But after that time, as we have said, he can do so if justice requires it, until he is prevented by the Judge to whom the appeal has been made. Then, with the process sealed under cover, and with a sure and safe escort and if necessary a suitable surety, let him send him to the said Judge.

But if the Judge has decided to return affirmative and fitting apostils, let him submit them in writing in the following manner on the arrival of the day appointed for the giving and receiving of apostils:

AND the said Judge, answering to the said appeal, if it may be called an appeal, if it may be called an appeal, says that he has proceeded in the present cause justly and as he ought and not otherwise, nor has he molested or intended to molest the appellant, as is apparent from a perusal of the alleged objections. For he has not molested him by, etc. (Here he shall answer to each of the objections in the appeal, in the best and most truthful manner that he can.)

Wherefore it is apparent that the said Judge has in no way dealt unjustly by the appellant nor given him cause to appeal, but that the appellant is afraid lest justice should proceed against him according to his crimes. And therefore the appeal is frivolous and worthless, having no foundation, and not being admissable by the laws or the Judge. But in reverence for the Apostolic See, to which the appeal is made, the said Judge says that he admits the appeal and intends to recognize it, deferring the whole matter to our Most Holy Lord the Pope, and leaving it to the Holy Apostolic See: assigning to the said appellant a certain time, namely, so many months now following, within which, with the process sealed under cover given to him by the said Judge, or having given suitable sureties to present himself at the Court of Rome, or under a sure and safe escort appointed to him by the said Judge, he must present himself in the Court of Rome before our Lord the Pope. And this answer the said Judge gives to the said appellant as affirmative apostils, and orders that it be given to him immediately after the appeal presented to him. And so he shall hand it to the Notary who has presented the appeal to him.

The prudent Judge must here take note that, as soon as he has given these fitting apostils to the appellant, he at once ceases to be the Judge in that cause from which the appeal was made, and can proceed no further in it, unless it be referred back to him by our Most Holy Lord the Pope. Therefore let him have no more to do with that case, except to send the said appellant in the above manner to our Lord the Pope, assign to him a convenient time, say one, two or three months, within which he must prepare and make himself ready to appear and present himself at the Court of Rome, giving a suitable surety; or, if he cannot do this, let him be sent under a sure and safe escort. For he must either bind himself by the best means in his power to present himself within the assigned time before our Lord the Pope in the Court of Rome, or his appeal must necessarily fall to the ground.

But if the Judge has another case, and proceeds against the accused in another case in which he has not lodged any appeal: in that other case he remains, as before, Judge. And even if, after the appeal has been admitted, and the affirmative apostils have been given, the appellant is accused and denounced to the Judge in respect of other heresies which were not in question in the case from which he appealed, he does not cease to be the Judge, and can proceed with the inquiry and the examination of witnesses as before. And when the first

case has been finished in the Court of Rome, or after reference back to the Judge, he is free to proceed with the second.

Let Judges also take care that they send the process to the Court of Rome, sealed and under cover, to the Judges appointed to execute justice, together with a digest of the merits of the process. And Inquisitors should not concern themselves to appear at Rome against the appellants; but should leave them to their own Judges, who, if the Inquisitors are unwilling to appear against the appellants, shall provide their own advocates for the appellant, if they wish to expedite the case.

Let Judges also take note that, if they are personally summoned by the appellant, and appear, they must beware at all costs against engaging in litigation, but must leave the whole process and cause to those Judges, and so manage that they may be able to return as soon as possible; so that they may not be sorely troubled with fatigues, misery, labour, and expense in Rome. For by this means much damage is caused to the Church, and heretics are greatly encouraged; and thereafter Judges will not receive so much respect and reverence, nor will they be so much feared as before. Also other heretics, seeing the Judges fatigued and detained in the Court of Rome, will exalt their horns, and despise and malign them, and more boldly proclaim their heresies; and when they are accused, they will appeal in the same way. Other Judges, also, will have their authority weakened when they proceed on behalf of the Faith and are zealous in extirpating heretics, since they will fear lest they may be troubled with miseries and fatigues arising from similar appeals. All this is most prejudicial to the Faith of the Holy Church of God; wherefore may the Spouse of that Church in mercy preserve her from all such injuries.

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[Letter of Approbation](#)

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