

MODIFIED DISCIPLINE OF THE EUCHARISTIC FAST

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IN recent years, especially during and after the last great war, particular indults have been obtained from the Holy See by the ordinaries of many countries, accommodating the single principle of the total fast from midnight to varying circumstances of diminished general health, extraordinary hours of labor, and other inconveniences peculiar to our time. In order to provide more generally against these obstacles to frequent Communion, so much recommended by recent Pontiffs and so laudably practiced by the faithful, and at the same time to restore uniformity to the observance of the fast, the Holy Father Pope Pius XII has determined for the universal Church in what circumstances, under what conditions, and to what extent exceptions are to obtain in the future, all previous indults in this matter, particular or general, being at the same time abrogated. These norms are contained in the Apostolic Constitution, *Christus Dominus*, of Jan. 6, 1953, and elucidated in an Instruction of the Sacred Congregation of the Holy Office of the same date.¹

Perhaps there will be further clarifications from the Holy See, which we shall all gratefully receive. In the meantime, it may not be out of place to propose certain modest and tentative opinions on some questions raised by those who are anxious to avoid, at the same time, either extending rashly the already liberal concessions or arbitrarily denying to petitioners a freedom which the Holy Father wishes them to have.

Apart from the provision that plain water no longer violates the fast, the first principle of the new discipline is to confirm the existing law to the extent that it is not expressly modified by this Constitution. Hence the traditional interpretations (and the traditional problems) regarding the substances which violate the fast, the conditions required for its violation, the mathematical rather than moral computation of time, the total gravity of the obligation with regard to time and quantity, all remain as they were.

¹ *AAS*, XLV (1953), 15-24, 47-51.

WATER

The one general exception is the provision that natural water no longer breaks the fast. In this case there is no limitation of time, no requirement of consulting a confessor (*Const.*, I).

The water, however, must be plain water: "sine ulla cuiuslibet elementi adiectione" (*Inst.*, Prooem.). One could not add salt, sugar, powders, or other substances, even though they might be totally dissolved. But the mineral content, no matter how great, of wells and mountain streams is no obstacle. This is "natural water" (*Const.*, I). Nor would it be reasonable to exclude water which has been pre-chlorinated or pre-fluorinated in the public system.²

It follows from this principle that the priest who binates or trيناتes would not break the fast by taking the ablutions with water only. But he would be departing from the rubrics for bination. Permission for such a departure is granted, however, except when the three Masses of Christmas or All Souls are celebrated in immediate succession (*Const.*, IV; *Inst.*, 7). With regard to this permission and exception: (a) It is a concession ("possunt"), not a directive. (b) The exception does not seem to apply to any other bination or trination in immediate succession, but only to Christmas and All Souls.^{2a} (c) If, on these two days, the priest celebrates only two Masses or only two in immediate succession, presumably the same exception obtains; that is, he must observe the rubrics in the first Mass. (d) If the celebrant on these days should take the ablutions with water only, he may still celebrate the other Mass or Masses. He has not broken the fast. (e) A reasonable cause would justify his departing from the rubric even on these days.

Even if the priest does inadvertently take wine with the ablutions, on any day on which he is to binate or trinate, he is not thereby impeded from celebrating the other Masses. It is interesting that this provision appears only in the Instruction. But it must be noted that

² So also F. J. Connell, C.S.S.R., "The New Rules for the Eucharistic Fast," *American Ecclesiastical Review*, CXXVIII (April, 1953), 246. In subsequent references to this fine commentary it has not always been possible to give adequate attention to the author's opinions and arguments, as the present pages had gone to press when his article appeared.

^{2a} The Instruction, where alone this limitation appears, does not say "as" on Christmas or All Souls, but simply: "those who on the feast of the Nativity of our Lord or on the Commemoration of all the faithful departed celebrate three Masses without intermission . . ." (n. 7).

the text says, "qui bis vel ter Missam celebrare debet" (*Inst.*, 8). Does this imply some necessity? E. Bergh, S.J., annotating the Instruction, italicizes the word "doit," but without further comment.³ It might be argued that, since the wine apparently does break the fast, this provision constitutes an exception to that law and consequently cannot be extended to cases not included in the text. It would follow that a priest, in such an event, could not proceed to celebrate another Mass solely out of devotion. Certainly any necessity or obligation—from a promise or obedience, for example, a stipend contract or some similar urgency—would verify whatever need may be intended by the word. As a matter of fact, however, the word "debet" does not always imply obligation. It is sometimes used of mere futurity or destination.⁴ A pertinent example of this is the text of the bination rubric itself: "Quando sacerdos eadem die duas Missas dissitis in locis celebrare debet, in prima . . ."⁵—which surely does not apply only when the Masses are obligatory. Hence, since the Instruction does not call any particular attention to this need, and the term itself admits the interpretation, it seems legitimate to understand the text simply in the sense of "is going to."⁶

INFIRMITY

The infirm, whether it be the priest who is to celebrate or the faithful who are to receive Communion, are allowed to take not only water but also other non-alcoholic liquids and even solid medicine (but no other solids) without any limitation of time, frequency, or quantity, the approval of a confessor being required, however, in the case of the faithful (*Const.*, II).

Here there are certain elements common to both priests and faithful, and others peculiar to each.

A) *Common elements.* 1) *The subject of the concession: the infirm.* The English derivative of a Latin word is not always the best translation of that word. Here, however, "sick" or "ill" would be a poor translation, for the Latin "infirmus" is much more comprehensive.

³ *Nouvelle revue théologique*, LXXV (Feb., 1953), 197.

⁴ See Forcellini, *Totius latinitatis lexicon*, II, s.v. "debeo," II, 3-4.

⁵ *Decreta authentica C. S. Rituum*, II, n. 3068, ad II.

⁶ Cf. A. Verhamme: "sacerdos bis vel ter celebraturus" (*Collationes Brugenses*, XLIX [Jan.-Feb., 1953], 85).

But this very comprehensiveness (in contrast with the clause, "quiam a mense decumbunt," of can. 858, § 2) inevitably raises problems of interpretation.

Clearly it is not required that they be confined to bed, or even to their homes. It is irrelevant whether they communicate at home or in church. Nor is any minimum duration of infirmity prescribed before the privilege can be extended to them. A more delicate question, however, is the extent to which their infirmity must be grave. More specifically, is it enough that they labor under a certain objective infirmity commonly recognized as such, or must it also be true that they find the observance of the fast subjectively very difficult?

Certainly the concession is given only in consideration of the obstacle to Communion or celebration arising from the infirmity. Thus the Constitution states: "Placuit haec [facta historica] in memoriam ea de causa reducere, ut omnes perspectum habeant Nos . . . velle etiam eos admonere, qui eidem legi obtemperare queant, ut id facere pergant diligenter . . ." (pp. 17-18). And the Instruction: "Fideles infirmi . . . aliquid sumere possunt . . . si, suae infirmitatis causa, usque ad sacrae communionis receptionem ieiunium, absque gravi incommodo, nequeunt servare integrum" (n. 1). Evidently, therefore, the infirmity in question must have some relation to fasting, must make it difficult to observe the fast. Such infirmities as a sprained wrist, for instance, or poor eyesight, or having to walk with a cane would be obviously outside the scope of the concession. On the other hand, a rigid insistence on the subjective element—the necessity of asking a person with ulcers, for instance, if he personally found it very difficult to abstain from milk or medicine in the morning—would open the way to scruples and anxieties, with the result that many conscientious people would actually be deprived of the benefit which the Holy See wants to give them. Consultation of a confessor would not obviate this problem, for the question of subjective difficulty could only be answered by the individual himself, who in many cases would rather say that it probably is not really too difficult than run the risk of obtaining a benefit under false pretenses.

Perhaps the question can be answered by a distinction which will at the same time suggest the solution of some other problems. It is a distinction for which there is good moral precedent. We speak of the

absolutely and relatively extraordinary means of preserving life, the absolute and relative distance one would have to walk to Mass on Sunday, and so on. Similarly, there are some illnesses which are commonly recognized as constituting a notable difficulty, in the observance of the Eucharistic fast, for the ordinary person. In such cases, there would be no need to inquire further whether this individual actually, subjectively found it very hard. There are other cases which are not so clearly either excluded or included in the present relaxations, either because of their transitory nature or because it is doubtful whether the inconvenience is objectively grave enough. In such cases one could apply the subjective norm. Does it constitute a notable difficulty for this person, so that either he will omit Communion or will, in the observance of the fast, be put to as great a hardship as those who are certainly excused?

The first category would surely comprehend not only those illnesses which confine to bed, as grippe, influenza, and so on, but also ulcers, diabetes, anemia, asthenia, hypotension, asthma, the morning-sickness and other ills of pregnancy, and, in general, those causes for which the Apostolic Delegate formerly dispensed those who were not confined at least to their homes. Arthritis and rheumatism and similar ills would also be included if the taking of some liquid or medicine during the night or immediately upon rising is medically indicated. Probably, too, persistent insomnia could be added here—if not directly, at least because it usually stems from some more fundamental disorder and results in a state of notable weakness.

In the second category, in which the subjective element is suggested as decisive, would come such ailments as migraine headache, a very bad cold, hay fever, and similar debilitating afflictions of an occasional nature, if they make the taking of some liquid or medicine imperative. The text does not indicate in any way, as it could easily have done, that the infirmity must be something habitual rather than transitory or that it must constitute an obstacle to many Masses or Communions rather than to one. The point at issue appears to be not the duration of the illness but the hardship it entails in the observance of the fast. And to obviate the danger of abuse, there is the wise provision of the confessor to be consulted. Apart from the eventuality, therefore, that the local ordinary (who has the right and duty to see to the uniform

observance of the regulations) may have issued contrary instructions for his diocese, there does not seem to be any need to deny the privilege in these cases.^{6a}

In canon law, moreover, the term "infirmity" commonly includes also advanced age. In this sense the word "infirmi" was interpreted in can. 858, §2,⁷ and the word "morbus" in the Decree *Spiritus Sancti munera* on the extraordinary minister of confirmation in danger of death.⁸ Illness and old age are equivalated with a view to extreme unction and Viaticum. Old age, in a word, is an infirmity. Hence, in this connection, too, at least if the observance of the fast is personally difficult for them, those over seventy years of age could enjoy the privilege of the infirm. The suggestion of seventy years as a directive norm is borrowed from the documents of the 1950 Jubilee in which persons of this age were privileged, along with the sick, etc., to gain the jubilee indulgence without traveling to Rome.⁹

2) *The concession to the infirm.* (a) *Liquids.* Fortunately there is already a body of opinion on the sense of the word "liquid" in this context, as developed in the interpretation of the same term in canon 858, §2 and in recent indults. Coffee and tea, even with cream and sugar, fruit juices, cocoa or ovaltine, milk, milk-shakes, malted milk, syrups, honey or emulsions, are all obviously liquids; similarly, soup or broth, even creamed or thickened with flour. Particles of bread, crackers, cookies, and the like may be mixed with the liquids mentioned, as long as the whole mixture can be said to be drunk.¹⁰ The same might be said of some soft cereals, such as cream of wheat, in which the quantity of milk or water is notably predominant. Eggnog would certainly be a liquid, and authors have been inclined to allow whole raw eggs and

^{6a} Fr. Connell also applies the privilege to temporary illnesses, such as a headache (*op. cit.*, p. 247).

⁷ Thus, for example, F. M. Cappello, S.J., *De sacramentis*, I (4th ed.; Turin: Marietti, 1945), n. 471.

⁸ T. Smiddy, *The Extraordinary Minister of Confirmation* (Milwaukee: Bruce, 1949) p. 53.

⁹ In the Apostolic Constitution, *Iam promulgato*, July 10, 1949: ". . . senes, qui septuagesimum aetatis suae annum excesserint" (*AAS*, XLI [1949], 347). W. Conway agrees that old age is included in the present Constitution; *Irish Ecclesiastical Record*, LXXIX (March, 1953), 226. So also Bergh, *op. cit.*, p. 196; Connell, *op. cit.*, p. 248.

¹⁰ See the reply of the Holy Office, Sept. 7, 1897 (*Collectanea S. C. de Propaganda Fide*, II, n. 1983).

even lightly boiled ones.¹¹ Any anxiety about the latter could easily be removed by beating them up. Whether lozenges, cough-drops, and the like are to be considered liquids because they are swallowed as such or solids because they are taken into the mouth as such, has been a matter of dispute, Vermeersch-Creusen, for instance, classifying them as solids, Cappello, Davis, etc., as liquids, which is a tenable opinion. The same would apply to chewing-gum.

Finally, to complete the heading of liquids at once, with a view to the subsequent classes who are allowed liquids but not medicines, a tablet which completely dissolves in water (such as alka seltzer) would be admissible, or even one which is only partially dissolved, such as an aspirin, a crushed pill, or the powder from a sleeping capsule.

All alcoholic drinks, however, even with a low alcoholic content, are explicitly excluded from this concession.

b) *Medicine*. The infirm are also allowed medicine, which, in the context, clearly means solid medicine, such as capsules, pills, tablets, jelloids, and the like. It is not necessary that it be prescribed by a physician, as long as it is commonly accepted as such: aspirin, for instance, aureomycin, phenobarbital, histamine, and so on.

There are, however, two observations to be made. In the first, the Instruction warns against applying the word to any solid which might be called indirectly medicinal in the sense that it is nutritious. It must be medicine in the proper sense of the term, "vera medicina" (*Inst.*, 1). Secondly, alcoholic liquids are excluded even from the category of medicine: "possunt etiam aliquid sumere per modum medicinae, sive liquidum (exclusis alcoholicis), sive solidum . . ." (*Inst.*, 1). The order of words here is more specific than in the Constitution, in which the exception is put in general with both liquids and medicine: "aliquid sumere possunt . . . per modum potus, vel verae medicinae, exclusis alcoholicis" (*Const.*, II).

The scope of this latter modification is, perhaps, not as evident as it might seem at first sight. Certainly the purpose of the exclusion is clear, as it is throughout the new regulations: to obviate the evident irreverence to the sacrament from anyone's approaching it in a state

¹¹ Cappello, *op. cit.*, n. 434; A. Vermeersch, S.J., and J. Creusen, S.J., *Epitome iuris canonici*, II (6th ed.; Mechlin-Rome: Dessain, 1940), n. 124; H. Davis, S.J., *Moral and Pastoral Theology* (4th ed.; London: Sheed and Ward, 1943), III, 217.

of alcoholic levity. The use of the plural, however ("alcoholicis"), instead of the singular, which would have been the expected adjectival form with "medicinae" in the Constitution or "liquidum" in the Instruction, suggests its translation as a substantive, "alcoholic drinks," whether taken simply as liquids or even as medicine. It would not seem to exclude, therefore, those strictly so-called medicines which might have an alcoholic base. Moreover, perhaps the only ailment for which straight alcohol would be indicated, or is prescribed today, as a real medicine in the proper sense of the word, is a form of heart trouble. Hence, while no one could be allowed to take alcoholic drinks on his own initiative, even under the guise of medicine, it is not so clear that the law intended to exclude from the benefits enjoyed by the rest of the sick those relatively rare cases in which a doctor may have prescribed a small dose of some form of alcohol (about one ounce is usual) as the one direct remedy for a heart condition. This would be particularly unusual in view of the fact that they may have already had such a freedom under the former dispensations.

3) *Limitations.* Those who may take liquids and medicine by reason of infirmity are held to no limitation of time, frequency, or quantity.

a) No limitation of time. The Instruction says explicitly, "nulla adiecta ante communionem temporis limitatione" (n. 2). The faithful can take them right up to the time of Communion, whether received at home or at church, before or during Mass. The priest could take liquid or medicine, if advisable, even during Mass.

This freedom of the infirm, priests or faithful, to take liquids and medicine without limitation of time is, presumably, not restricted to morning Mass or Communion. They will enjoy this privilege even when they celebrate or communicate in the evening Masses of Section IV, being held, in that case, only to the three-hour fast from solids other than medicine. The three-hour, one-hour norm is the general rule for evening Mass; the privilege of the infirm is specific to them. And, in the absence of any express qualification in this part of the law, the principle obtains: "species derogat generi."¹²

b) No limitation of frequency. The Instruction, interpreting the same expression, "aliquid sumere possunt," in the following section,

¹² So also E. J. Mahoney, *Clergy Review*, XXXVIII (March, 1953), 161.

expressly says, "semel vel pluries" (*Inst.*, 6). It is reasonable to suppose that the same words have the same meaning in the case of the infirm.

c) No limitation of quantity. The only possible indication of a limit in this respect would be the suggestion that "aliquid" means "a little." But *aliquid* is simply indefinite, and no specific term such as *modicum*, *parva quantitas*, etc., appears anywhere in the text. Furthermore, the parallel expression, "aliquam medicinam vel aliquid per modum potus," in can. 858, § 2 was interpreted as imposing no limit of quantity.¹³

B) *Provisions peculiar to priests*. The privileges granted to infirm priests may be used whether they intend merely to receive Communion or even to celebrate Mass. This is a great liberality, in marked contrast with the rarity, until very recent times, of relaxations of the fast for the celebrant.

We have said in the summary that consultation of a confessor is necessary in the case of the infirm faithful. As a matter of fact, it is fairly certain that this is required only for the faithful, not for the priest. True, the terminology of the Instruction is not decisive: "Sacerdotes . . . dispensatione pariter uti possunt" (n. 3), in which "pariter" could mean under the same conditions just enumerated for the faithful, including the approval of a confessor. Similarly, in the Constitution, "eadem [ac fidelibus] facultas sacerdotibus infirmis conceditur . . ." (n. II). The ambiguity, in other words, comes precisely from the order of the concessions in this part of the documents—first to the faithful, then to the priests. In the following category, however, when concessions are made for those who are otherwise gravely inconvenienced, priests are mentioned first and then the faithful. And in this section it is clear that consultation of a confessor is required only on the part of the faithful. Hence, since the cases are otherwise parallel, it is reasonable to conclude that the intention is the same in the uncertain text as in the certain, and that this condition is not required, in either case, on the part of the priest.¹⁴

But this exemption, as in similar references in these documents, applies exclusively to priests, and not to deacons or other clerics or religious, however familiar they may be with the scope of the law.

C) *Provisions peculiar to the faithful*: necessity of consulting a con-

¹³ Cf. Cappello, *op. cit.*, n. 473, 5°.

¹⁴ So also Bergh, *op. cit.*, p. 196, note 1; Verhamme, *op. cit.*, p. 84; Mahoney, *loc. cit.*; J. McCarthy, *Irish Ecclesiastical Record*, LXXIX (Feb., 1953), 148.

fessor. Before we can give a consistent answer to certain questions relevant to this condition, such as the extent of the obligation, the scope of the word "confessor," and the mode of exercising his counsel, we must first determine what precisely is the nature of this intervention on his part.

a) The nature of the confessor's intervention. The specific question here, of course, is whether the act of the confessor is an exercise of jurisdiction—concretely, a dispensation or a strict permission (*vicentia*). In the first place, it is significant that the term used to describe the actual function of the confessor is exclusively "consilium," which is not an act of jurisdiction (*Const.*, II, V; *Inst.*, 2, 11). Moreover, except for the "faculty" of the local ordinaries to permit evening Mass (*Const.*, VI; *Inst.*, 11), wherever the words "facultas" or "dispensatio" occur in the text, it is clear from the context that they are not used in the sense of a power to dispense or of a dispensation obtained from the confessor. Thus the "faculty" conceded to priests who are infirm or otherwise inconvenienced (*Const.*, II; *Inst.*, 5) is the freedom to take something in the form of medicine or drink—and that without the intervention of anyone. Similarly, where the word *dispensatio* is used in the context of consulting a confessor on the part of the infirm, it is not said that a dispensation may be granted or obtained but that the faithful cannot enjoy it (*frui*) or use it (*uti*) except with the prudent counsel of a confessor.¹⁵ In the parallel passage, regarding the faithful who are gravely inconvenienced, the word "dispensation" does not occur at all (*Inst.*, 11). In fact, the same expression, "dispensatione uti possunt," is used also of the priest (*Inst.*, 3) who, as we have seen, is not obliged to consult a confessor. Hence the general mention of faculties and dispensations (*Const.*, *ad fin.*; *Inst.*, Prooem.) would refer to faculties in the sense of freedoms (or the power of the local ordinaries to permit evening Mass) and to dispensations in the broad sense of a dispensation contained in the law itself.¹⁶

Not only is there no evidence in the text to indicate that an act of

¹⁵ "Condiciones, quibus quis dispensatione a lege ieiunii frui possit . . . prudenter a confessario perpendendae sunt, neque quisquam sine eius consilio uti potest. Confessarius autem suum consilium dare poterit . . ." (*Inst.*, 2; cf. 11).

¹⁶ Some authors spoke of can. 858, §2 as a "dispensation" granted by the law; cf. Matthaeus a Coronata, O.M.C., *De sacramentis*, I (Turin: Marietti, 1943), n. 320; D. Jorio, *La comunione agl'infermi* (Rome: Pustet, 1931), p. 37.

jurisdiction is performed by the confessor, but all the evidence indicates rather the contrary, that the exceptions are granted immediately by the Constitution under the conditions specified therein, while the confessor's function is solely to determine whether or not these conditions are verified in a given case. The words expressing the various privileges are all directly concessive: "sumere possunt" (*Const.*, II, III, V; *Inst.*, 1, 4, 6), "sumere licet" (*Inst.*, 9), "facultas conceditur" (*Const.*, I), "legislator facultatem [sumendi liquidum] concedere intendit" (*Inst.*, 5), "Constitutio . . . largitur quidem non paucas facultates ac dispensationes" (*Inst.*, Prooem.). Another instance is the use of the word "uti," which supposes a concession already granted, as in the Instruction: "iis tantum [concessionibus] uti possunt sacerdotes et fideles, qui in peculiaribus versantur condicionibus, de quibus in Constitutione cautum est" (Prooem., cf. n. 2). It is significant, too, that the concessions are expressed in the same terms for the priest as for the faithful; and for the priest, who does not need the advice of a confessor, they are surely granted immediately by the Constitution. In a word, there is a striking parallel between the terminology of the present documents and that of can. 858, § 2, which was commonly interpreted as a concession granted by the law itself, the intervention of the confessor being required only to pass upon the dispositions of the person and (according to some) the verification of the conditions in his case.¹⁷

b) The necessity of the confessor's intervention. In discussing the nature of the confessor's function, we have observed the general similarity between the present concessions and can. 858, § 2, and, in particular, the use of the identical phrase, "de prudenti confessarii

¹⁷ Canon 858, §2: "Infirmi tamen qui iam a mense decumbunt sine certa spe ut cito convalescant, de prudenti confessarii consilio sanctissimam Eucharistiam sumere possunt semel aut bis in hebdomada, etsi aliquam medicinam vel aliquid per modum potus antea sumpserint." Cf. can. 864, §3: "Perdurante mortis periculo, sanctum Viaticum, secundum prudens confessarii consilium, pluries, distinctis diebus, administrari et licet et decet." The precise object of this counsel is clarified by the fact that the words "de confessarii consilio" in can. 858, §2 are taken from the original concession in the decree *Post editum* of the S. Congregation of the Council, Dec. 7, 1906, when the practice of frequent Communion was much more rare and dependent upon one's confessor than it is today; cf. *Fontes C. I. C.*, VI, n. 4331, p. 843. Cf. Decret. S. C. Concilii, *Sacra Tridentina synodus*, Dec. 20, 1905, n. 5: "Ut frequens et quotidiana Communio maiori prudentia fiat uberiorique merito augeatur, oportet ut confessarii consilium intercedat" (*Fontes*, VI, n. 4326, pp. 830-31).

consilio," to denote the office he performs. Now in the interpretation of these words of the canon there was a very acceptable opinion that, since the confessor did not dispense but only judged the dispositions of the communicant (or the verification of the conditions), a person who was sure of the application of the law and his own dispositions could take advantage of the privilege without the necessity of a confessor's expressed approval.¹⁸

What one might be tempted to conclude from the parallel, however, and relying solely on the text of the Constitution, would be rather difficult to reconcile with the clear words of the Instruction of the Holy Office, which in both references to this condition explicitly says that without the advice of the confessor no one of the faithful may take advantage of the concessions (*Inst.*, 2, 11). On the other hand, from what has been said of the non-jurisdictional nature of this intervention and the directly concessive character of the grants, it would follow that the person who acted without consultation would not violate the law of the Eucharistic fast, if in fact his case did come under the allowances. For while the requirement might, perhaps, be construed as an intrinsic condition (*conditio sine qua non*), it does not strictly demand this interpretation. But it would be at least an act of imprudence (and in a serious matter) if the person were not really qualified to judge, and in any case apparently a lack of due obedience to the Holy See. It does not follow that the fault, in the latter event, would be grave in each single instance.^{18a}

c) The person of the confessor. The use of the term "confessor"

¹⁸ For example, Cappello, *op. cit.*, n. 473, 3°; Matthaeus a Coronata, *loc. cit.*; E. Regatillo, S.J., *Ius sacramentarium* (2nd ed.; Santander: Sal Terrae, 1949), n. 351; T. Iorio, S.J., *Theologia moralis*, III (3rd ed.; Naples: D'Auria, 1947), n. 172. Cf. Vermeersch-Creusen, *loc. cit.*: "ut prudenter agat." Others, without denying the liceity of such a practice, simply cite the condition as stated in the canon; e.g., B. Merkelbach, O.P., *Summa theologiae moralis* (3rd ed.; Bruges: Desclée de Brouwer, 1939), III, n. 158; D. Prümmer, O.P., *Manuale theologiae moralis* (10th ed.; Barcelona; Herder, 1946), III, n. 203; H. Noldin, S.J.-A. Schmitt, S.J., *Summa theologiae moralis*, III (25th ed.; Innsbruck-Leipzig: Rauch, 1938), n. 158.

^{18a} Fr. Connell, after stating his opinion that the obligation is not grave, draws the conclusion that in an extraordinary individual case, if it is impossible to obtain such advice, one who is sure of his qualifications might proceed without consultation (*op. cit.*, pp. 248, 251). He observes, in fact, that strictly speaking a *favorable* reply is not required, though to act against the confessor's counsel would ordinarily be rash and imprudent (*ibid.*, p. 247).

and the statement that his counsel can be given either in the sacramental or non-sacramental forum might suggest that the priest consulted, while he need not actually hear the person's confession, must at least have the faculties necessary to do so. Such a necessity could come either from the nature of the act itself or from the positive will of the legislator. Thus, if the confessor gave a dispensation or performed some other act of jurisdiction, or could give his advice only in the sacramental forum, obviously he would need faculties. But, as we have seen, his function is not an act of jurisdiction, and no confession is required in this connection.

Nor does either the text or the context clearly indicate the will of the Holy See that only a priest actually possessing faculties should suffice. Certainly it is not said explicitly. It might be inferred from the word "confessarius"; but the term does not necessarily imply a priest with faculties in the territory where he acts. A priest with faculties somewhere is a confessor. Moreover, there are not lacking parallel cases in which the law acknowledges the possession of faculties *somewhere* as a sufficient basic qualification for a function to be performed elsewhere. Thus, according to some, the possession of faculties to hear the confessions of women in some diocese is sufficient basis for becoming the confessor of gravely sick religious women in even another diocese (can. 523), the jurisdiction necessary in this case being supplied by the law.¹⁹ A much more persuasive example is the faculty of can. 883, § 1 and the *Motu proprio* of Dec. 16, 1947, which confer jurisdiction for the journey (by sea or air) *ipso iure* upon priests who are approved to hear confessions by their own proper (local) ordinary or the ordinary of the port where they embark or of any other port along the way.²⁰

¹⁹ Canon 523: "Religiosae omnes, cum graviter aegrotant, licet mortis periculum absit, quemlibet sacerdotem ad mulierum confessiones excipiendas approbatum, etsi non destinatum religiosis, arcessere possunt eique, perdurante gravi infirmitate, quoties voluerint, confiteri . . ." Cf. R. E. McCormick, *Confessors of Religious* (Washington, D.C.: Catholic University of America, 1926), pp. 225-29. Cf. Decret. S. C. Relig., Feb. 3, 1913, n. 15, which was the source of can. 523: ". . . quemlibet sacerdotem ad confessiones excipiendas approbatum" (*AAS*, V [1913], 64).

²⁰ Canon 883, §1: "Sacerdotes omnes maritimum iter arripientes, dummodo vel a proprio Ordinario, vel ab Ordinario portus in quo navim conscendunt, vel etiam ab Ordinario cuiusvis portus interiecti per quem in itinere transeunt, facultatem rite acceperint confessiones audiendi, possunt, toto itinere, quorumlibet fidelium secum navigantium

That the present documents should use the word "confessarius" rather than "sacerdos" as in can. 883, § 1 and 523, is not surprising in view of its precedents in can. 858, § 2, 864, § 3 and the decrees of 1905 and 1906, in which, as we have seen, the object of the priest's counsel was the disposition of the penitent, which he would ordinarily know from confession.²¹ That the purpose is different here, and, specifically, that it is primarily to judge rather the conditions of the law than the dispositions of the person is evident from the fact that the sacramental forum is not required and that otherwise the necessity of such consultation (the insistence upon which we have seen) would be meaningless in the case of a person who already knew from his confessor that he could communicate frequently. In the present documents, therefore, in which the purpose is rather to secure the uniform observation of the law and avoid excesses, the adoption of the word "confessor" from the earlier texts does not carry the connotation of one actually possessing faculties in the place where he gives the advice.

Neither does the context require that the priest consulted actually have faculties to hear the confession of the prospective communicant. The Instruction says that he *may* give the advice in the sacramental or non-sacramental forum; it does not say that he *must* give it in any forum. Taking as a basis the situation which will ordinarily obtain, in which the priest consulted will have faculties, the Instruction simply answers the question which would naturally arise from the reference to a confessor: must he give this advice in confession?

Since, therefore, neither the nature of his act, nor the circumstances of it, nor the text or context demands the intervention of a priest actually endowed with the faculties of the locality, and the purpose of this directive indicates rather the contrary, there is good reason to believe that any priest who is an approved confessor to the extent of

confessiones in navi excipere, quamvis navis in itinere transeat vel etiam aliquandiu consistat variis in locis diversorum Ordinariorum iurisdictioni subiectis." Cf. *AAS*, XL (1948), 17.

²¹ Even in the interpretation of can. 858, §2, some authors held that *any* approved confessor would satisfy the requirement. Thus Vermeersch: "Oportet ut agant secundum consilium prudentis confessarii, qualis omnis approbatus censetur" (*Theologiae moralis principia* [3rd ed.; Rome: Pont. Univ. Gregoriana, 1933], III, n. 363, 4^o). Similarly Regatillo, *loc. cit.* But whether they meant a confessor approved anywhere, or merely that one's own habitual confessor was not required, is not clear. The word "approbatus" is ambiguous in this context.

habitually enjoying some faculties for hearing confessions satisfies this condition of the law.^{21a}

d) The exercise of the confessor's intervention. Since at least the sacramental forum is not required, the confessor's approval can be given by mail or telephone, or through another. Thus a father could consult the confessor about the freedom of his ailing wife or children to take medicine before Communion; the Sisters in a hospital could consult the chaplain about the same freedom for a patient.

The question has been raised whether the priest's advice could be given to a group. The objection would be that he could not evaluate the condition of grave inconvenience. But this is an objection only to the extent that the confessor must determine the subjective inconvenience in each case. In those situations in which the objective hardship is clearly sufficient and clearly verified in all the members of the group, there would be nothing to prevent such a practice; to a group of nurses, e.g., with reference to night duty, or to a group of boy scouts walking to a distant mass.^{21b}

The Instruction expressly states, too, that the advice can be given once for all, "semel pro semper," for as long as the conditions of the same infirmity last (or, respectively, for the duration of the same cause of grave inconvenience) (*Inst.*, 2, 11). In permitting the approval for the duration of the same infirmity or inconvenience, the Instruction does not necessarily exclude giving approval for a future recurrence of the same infirmity or inconvenience, or even for a definitely foreseeable future occurrence of a different infirmity or inconvenience. What is precluded here is the necessity of giving separate approval for each Communion on the one hand and, on the other, the extension, by the faithful themselves, of an approval given for one case to another

^{21a} Fr. Connell agrees, arguing from the fact that a priest with faculties somewhere is a "confessor" and that a passage in "the first English translation" of the Instruction, which required that the priest have faculties to hear the person's confession, does not appear in the text of the *Acta* (*op. cit.*, p. 248). From what document the first English "translation" was made is something of a mystery. The phrase in question (and other expressions in the first English version) did not even appear in the original Latin or Italian texts of *Osservatore Romano*.

^{21b} Fr. Conway, who inclines to require subjective hardship in all cases, rejects group consultation (*op. cit.*, p. 225). Fr. Connell, who agrees with our position on the sufficiency of objective inconveniences, allows advising "at least a small group of persons" when it is clear that one of the causes is common to all of the group (*op. cit.*, p. 252).

analogous one. Thus, there is nothing to prevent the confessor from telling a person who is subject to recurring attacks of asthma, for example, that he can take liquids and medicine whenever these attacks occur in the future, or from telling nurses or doctors that when they spend the night on duty they may take liquids, or from telling anyone he may do the same, if and when he goes to a late or distant Mass. The intention of the law, the maintaining of uniformity and avoiding of abuses, is attained as long as the confessor is consulted about each cause, not necessarily during its actual existence, and no such expression as "in singulis casibus" has been employed, as it frequently is in the case of dispensations. Hence also, an infirmarian could be informed, in the case of an epidemic, for instance, that all those who contract it and must take medicine during the night may still receive Communion.

Finally, there can be no doubt that the person could take the liquids or medicine before consulting the confessor, provided the consultation precedes the Communion and he is prepared to abide, and does abide, by the confessor's judgment.

GRAVE INCONVENIENCE

Even though not infirm, the priest intending to celebrate or the faithful to communicate, when the circumstance of a late hour, a long journey, or heavy work to be performed beforehand would make the observance of the complete fast a grave inconvenience, are permitted to take non-alcoholic liquid nourishment after midnight. They are not allowed solids, not even medicinal, and must observe a complete fast (excepting water) of one hour, computed mathematically from the beginning of Mass for the priest and from the actual time of Communion for the faithful. The latter must have the approval of a confessor.

Although, in the documents, the causes of grave inconvenience are enumerated separately for the priest and for the faithful, actually the three causes—to be understood in an exclusive sense—are the same for both classes: a late hour, a long journey, and heavy work. Before we discuss them in particular, however, there are again certain notions common to all.

1) *Inconvenience*. Here we encounter at once the same problem which occurred in the case of the infirm. Is it required that the individual find it subjectively very difficult to observe the fast? The Instruction

reads: "Fideles pariter, qui . . . ob aliud grave incommodum ieiunium eucharisticum servare nequeunt . . ." (n. 9). For the same reasons given above, the same distinction might be applied. That is, there are some causes which are absolutely determined in the documents (e.g., after nine o'clock) and some which clearly constitute a grave inconvenience for the average person. In such cases, the grave inconvenience is intrinsic to the situation; it is not necessary to raise the subjective question. In other cases, in which the application of the law may not be so clear, the subjective element can serve as the determining norm.

Is it required that the inconvenience be involuntary or inevitable? With regard to the priest, both documents have, "Sacerdotes, qui . . . celebraturi sunt" (*Const.*, III; *Inst.*, 4), and while the Constitution says of the faithful, "ob tardiores horas, quibus tantum . . . accedere possint, vel ob longinquum iter, quod suscipere debeant" (*Const.*, V), the Instruction, in the same context, simply says, "Hora tardior, qua sacra communio recipitur," "Longinquum iter peragendum, ut ad ecclesiam perveniatur" (*Inst.*, 10). Hence a priest on a journey or unable to sleep at night could freely put off the time of his Mass till after nine o'clock and take non-alcoholic liquids during the night or in the early morning, up to an hour before Mass. The faithful, going on a voluntary pilgrimage or to some special group-Communion (Knights of Columbus, Boy Scouts, etc.) at the required distance, could take advantage of the same privilege.²²

2) *The concession: liquids.* Liquids, in this context, will be interpreted precisely as above. And here, since no solids are allowed, there may be occasion for the opinion cited there on the matter of lozenges and the partial dissolution of pills or powders in water. Alcoholic liquids are again excluded, from midnight.

3) *The condition: consultation of a confessor.* Here, as above, this

²² So also Bergh, *op. cit.*, p. 197. The privilege formerly obtaining in France had, in this respect, "when [priests or faithful] have to make a long trip to reach the nearest church" (T. L. Bouscaren, S.J., *Canon Law Digest*, Supplement [Milwaukee: Bruce, 1949], p. 132). But in 1952 a similar indulgence was granted to the ordinaries of Belgium to permit the use of liquids to the faithful, on Sundays and holydays of obligation, when communicating after nine o'clock whether by reason of weariness from labor or for other motives. The text of the communication reads: "Concedimus ut fideles qui, diebus dominicis et festis de praecepto, ob laboris defatigationem vel alia ob motiva post horam nonam matutinam ad Sacram Synaxim accedunt, quemvis potum, excepto potu alcoholico, sumere valeant . . ." P. Theeuws, commenting on the indulgence, observes that any reason would suffice—"simplex propositum edormiendi" (*Collectanea Mechliniensis*, XXXVIII [Jan., 1953], 61-62).

consultation is required only on the part of the faithful, and the function, necessity, person of the confessor, and manner of exercising his intervention would be the same as there.

4) *The limitation: one hour of total abstinence.* The present privilege, unlike that of the infirm, requires a total abstinence for one hour (except, of course, from water, which does not at any time break the fast). For the priest the hour is computed from the beginning of Mass ("Introibo ad altare Dei"), for the faithful from the actual time of Communion, as appears from the distinctive manner of expressing the respective cases. Thus, for the priest: "antequam sacris operentur" (*Const.*, V), "ante Missae celebrationem" (*Inst.*, 6). And for the faithful: "antequam Angelico enutrientur Pane" (*Const.*, V), "ante sacrae communionis receptionem" (*Inst.*, 9). This will obviously make a considerable difference if the person is going to receive before or after Mass, or at the usual time in the course of a long Sunday Mass.

This calculation of the time backward from the more variable *terminus ad quem* rather than forward from a fixed *terminus a quo*, as in the fast from midnight, raises the rather delicate problem of the application of the law when there has been a miscalculation. For the priest, who can easily fill out the hour by delaying the Mass for a few minutes, there is no great difficulty. For the faithful, however, there may easily be, if the Communion time comes a little earlier than expected. Certainly it is common doctrine today that the fast from midnight must be calculated mathematically rather than morally, and that it admits no parvity of matter. It would be serious knowingly to communicate after having taken food or drink even five minutes past the latest midnight. And since our first principle is that the law of the Eucharistic fast remains just as it was except to the extent that it is expressly modified, and there is no suggestion that the hour in question is "about" or "approximately" an hour, the conclusion would be that one who has miscalculated by even a small amount of time is prevented from Communion, unless he can obtain it later. Moreover, the use of the word "saltem" ("saltem per spatium unius horae"; *Const.*, III, V) indicates that a full hour is the minimum and that any variation must be on the side of more, rather than less.²³

²³ It might appear that the same inflexible norm by which we compute the fast from midnight cannot properly apply here, precisely because the calculation depends upon a

The liquids need not be taken after rising in the morning. They may be taken any time up to the one-hour limit. Hence one who is saying a late Mass, or receiving at it, and wishes to stay up late and rise just before Mass, could take non-alcoholic liquids after midnight before retiring.

A) *The late hour.* The first cause enumerated for both priests and faithful is the late hour of Mass or Communion. While the Constitution uses the same undetermined expression, "tardioribus horis," in both cases (*Const.*, III, V), there is a significant difference in the respective explanations of the Instruction.

1) *The priest.* For the priest the hour is absolutely assigned in the Instruction as after nine o'clock (*Inst.*, 4). Surely a Mass beginning at nine o'clock would satisfy the condition. Nor is there the same reason here for insisting on the strict mathematical computation of the time as in the question of the full hour of fast. That insistence was based on the fact that the hour was definitely assigned and that the time of the fast is always computed mathematically. Here we are not considering the fast but the time of the beginning of Mass, which is assigned in the Constitution only indefinitely, "tardioribus horis." Supposing, therefore, that the priest has been fasting for a full mathematical hour, he would not be prevented by that argument from beginning Mass a minute or two before nine.^{23a}

It often happens that a priest must say an eight and nine o'clock Mass on Sundays or holydays of obligation. Since he is going to celebrate after nine o'clock, he should enjoy the privilege of taking liquids up to an hour before. He can not take them after the eight o'clock Mass, of course, but he could take them after midnight till seven o'clock.

2) *The faithful.* Whereas, in the case of the priest, the late hour is expressly defined in the Instruction as nine o'clock, no absolute determination of time is given for the faithful. By way of specification, only

very variable term, the determination of which—unlike the moment of midnight—one *cannot* know exactly at the time when he must begin to compute. Hence, the argument would be, we do not simply have the same law, unmodified in this respect, but a whole new situation to interpret. Even so, however, the common interpretation of the hours in similar indulgences of recent times seems to have understood a mathematically complete hour.

^{23a} The same could be said of the assignment of four o'clock as the earliest time for the evening Masses of Section IV. Fr. Connell, however, thinks that in both these cases the hours must be filled out mathematically, just as the hours of the fast (*op. cit.*, p. 245).

two examples are given: the case of the people who have a priest to say Mass only in the later hours of the morning ("serioribus horis"), as is true of many auxiliary and mission churches, and the children for whom it is a grave inconvenience to go to church, return home for breakfast, and then go off again to school (*Inst.*, 10, b). That these are only examples is clear from the use of the words "causae" (*Inst.*, 10) rather than *casus*, and "etc.," indicating that there are other possible verifications of the same cause.

Presumably the reason why the Sacred Congregation did not specify an absolute hour for the faithful as for the priest (as was done in the indult granted to France in 1947, where nine o'clock was assigned as the late hour for both priest and people),²⁴ was to indicate that the hour may also be relatively late, even though earlier than nine o'clock—as it ordinarily would be in the case of the children. This, however, does not exclude the application of the nine o'clock norm in the first example given in the text, as an interpretation of "serioribus horis," particularly since the expression of the Constitution, "tardioribus horis," is the same for both priests and people, and on the analogy of the French indult.²⁵

The second example given by the Instruction is the case of school children for whom it is very difficult to make the trip to church and back for breakfast before setting out for school. This can hardly mean that the concession of liquids obtains only in the supposition that they actually do not return home for breakfast. To have only a glass of milk or an eggnog from seven o'clock till noon would be quite a hardship for a child. The text says, "nimis grave est" (*Inst.*, 10), "perdifficile est" (*Const.*, p. 20), not "esset"; and the wording in the Constitution seems rather to take it for granted that they do return home for breakfast: "...perdifficile interdum iisdem [parvulis] est, antequam ad scholam se conferant, sacras adire aedes ibique sese Angelico enutrire Pane, postea vero domum redire ut necessarium suscipiant nutrimentum" (p. 20). The intention of the grant, therefore, would be to mitigate somewhat the peculiar difficulty of weekday Communion for those who must start out on their day without the opportunity to re-

²⁴ Bouscaren, *loc. cit.* The Belgian indult of 1952 also specified nine o'clock for the faithful. See above, note 22.

²⁵ So also McCarthy, *op. cit.*, p. 149; Connell, *op. cit.*, p. 251, note 19.

cover from that strain which is always present in having to perform any notable activity on an empty stomach. Hence it supposes some distance from the church, and yet not so far as to come under the next heading of a long journey. This would be verified if the child had a ten-to-fifteen-minute walk (each way), according to his age and health.

And since the case of the children is given only as an example of an inconvenience which is common also to older students and even to working men and girls, there is no reason why the same privilege should not be allowed to them in the same circumstances.

The fact that the example of the children is given under the cause of a late hour, rather than under some other form of inconvenience, indicates, as has been observed, that the hour can be considered relatively late—late, that is, in the sense that it will be a long time between the hour of rising and the first opportunity to take substantial nourishment. It would follow that others also, who may have an hour or two of various duties to attend to after Mass before returning home for breakfast, or even those who are awake definitively some hours before the earliest Mass, could be permitted to take something in the form of non-alcoholic drink.²⁶ Similarly, if the hours of wakefulness preceded sleep, as with one who could not sleep without the aid of hot chocolate or something—for whom even the earliest Mass is very late and the complete fast very long and difficult—perhaps the same indulgence might be allowed.

If the same liberality of a relative norm has not been granted to the priest who is to celebrate, it could be explained by the fact that the fast of the celebrant has always been more strictly required and less readily relaxed. It does not seem impossible, however, that the general parity of the privileges and, in particular, the Constitution's use of the identical terms in this context—"tardioribus horis"—for both priests and people, might permit a similar interpretation.²⁷

B) *A long journey*. For both priests and faithful the long journey to the place of celebration or Communion has been interpreted by the

²⁶ Fr. Conway, while he does not give this case, agrees that the criterion is the length of the fasting period (*op. cit.*, p. 228).

²⁷ Fr. Mahoney observes that the priests of a cathedral or college who are present at the nocturnal celebration of the Easter vigil could take a drink up to one hour before their morning celebration; presumably under the title of a late hour, though this is not stated (*op. cit.*, p. 165).

Instruction as two kilometers on foot and proportionately longer by vehicle (according to the various modes of travel), taking into consideration also difficulties arising from the conditions of the trip or of the person (*Inst.*, 4, 10 c).

The two-kilometer walk (which, it is clear, refers to the distance one way) would be, in our system, just about a mile and a quarter. In estimating the proportionately longer journey by vehicle, evidently that which should be common or equal on both sides of the equation is the element of inconvenience; the cause here is the inconvenience of a long journey. We want, therefore, a journey which will involve about the same hardship by vehicle as the mile and a quarter on foot. Obviously, it will not do either to take the distance one would cover by car in the same time or to double the mile and a quarter. If, however, we double the *time*—for which there is some precedent in the calculation of the distance one must travel to fulfil his obligation of Sunday Mass—we will have a reasonably equal inconvenience. Assuming, therefore, that a walk of a mile and a quarter will take from fifteen to twenty minutes, the proportionate journey by vehicle will be a trip of thirty to forty minutes. And since the Instruction explicitly indicates a variation according to the type of vehicle (“pro variis vehiculis adhibitis”), we may say about forty minutes by car, thirty by bus or trolley.²⁸

In either case, however, the distance may be less according to particular circumstances of age, health, weather, condition of the roads, and so on.

C) *Heavy work.* The third cause enumerated in the documents, difficult labor to be performed before the celebration of Mass or reception of Communion, is presented differently for priests and faithful.

1) *The priest.* In the case of the priest this must be heavy work of the sacred ministry: “post gravem sacri ministerii laborem” (*Const.*, III). The gravity of the work, however, can be estimated not only intensively but extensively too. For the Instruction illustrates the requirement with the words, “v. gr. iam a summo mane seu per longum tempus” (n. 4). Here, too, it will be pertinent to recall the distinction between the absolute and relative, or subjective, criteria. Certainly

²⁸ Fr. Connell suggests fifteen to twenty miles by car (*op. cit.*, p. 249), Fr. McCarthy twenty miles by car, four or five by bicycle (*op. cit.*, p. 229).

the necessity of conducting a Sunday-school class or teaching catechism in the school (the privilege applies on any day), hearing confessions for a half-hour before Mass, bringing Communion to the homes of the sick, preaching even a short sermon at several Masses, acting as one of the ministers in the services of Holy Saturday morning, would all be heavy work for the average priest. For many others the necessity of performing baptisms before Mass, or binating with a sermon at the first Mass, or of preaching a fairly long sermon before Mass or at the Mass before their own, would also verify the condition.

2) *The faithful.* As in the case of the late hour, the Instruction here furnishes only a sampling of situations, "labor debilitans," for which the privilege is intended (n. 10, *a*).

a) People who work day and night shifts alternately (*per vices*) in factories, transportation, dock-work, or other public service, such as police, firemen, etc. The enumeration is not intended to be complete. It would include anyone who works a night shift—for example, four to twelve or twelve to eight—at least for those periods while he is actually working either of such shifts.²⁹

b) People who are awake through the night out of duty or charity, such as infirmarians or night-watchmen. It is not required that the night work be habitual or that it be assigned. Nurses and other hospital personnel on duty, or anyone voluntarily passing a night with a sick person or in plane-spotting, would clearly qualify.

That only liquids are allowed in (*a*) and (*b*) agrees with the terms in which the faculties for dispensing night-workers were renewed in 1952; that is, without the earlier concessions of solid food up to four hours before Communion.³⁰

c) Housewives or pregnant women who have to attend to household duties for a long time before going to church. The most common case, of course, would be preparing breakfast for the family and getting the

²⁹ The Constitution, in the descriptive part, says: "Ac praeterea . . . saepissime contingit ut opifices . . . alternis iteratisque laboris vicibus occupentur, ita quidem ut debilitatae eorum vires eos interdum compellere possint ad aliquid nutrimenti accipiendum . . ." (p. 19). "Debilitatae vires" suggests an habitual state resulting from such shift work (which is true in fact) which might justify taking nourishment even when not actually on a night shift. But the heading of the Instruction reads more explicitly, "Labor debilitans ante sacram communionem susceptus" (n. 10). A notable weakness, however, could place them in the category of infirm.

³⁰ The text of the renewal is published in *Jurist*, XII (1952), 366-67.

children ready for school. But other situations may easily occur, in which an hour or so of cleaning, laundry, baking, etc., might be indicated at that time.

And since the paragraph again concludes with the words "and so forth," it is clear that while the *causes* of inconvenience ("hora," "iter," "labor") are exclusive, the *cases* cited as examples are not. Thus, for instance, a man who has hard work of an hour or so before Mass would be as eligible for the privilege as the housewife in (c); doctors, volunteer firemen, off-duty police or detectives, electric and telephone linemen etc., who are called out for a few hours at night, would qualify with the night-watchmen of paragraph (b). And so on.

EVENING MASS

In the final section of the Constitution, the faculty is given to local ordinaries to permit, for certain reasons and on stated occasions, the celebration of Mass, at which the faithful are free to communicate, in the early evening hours. The fast prescribed for both priest and people, without the need of consulting a confessor, is an abstinence from solids for three hours, from alcoholic drinks (except those permitted at meal time) from the preceding midnight, and from other liquids (except water) for one hour. This time is to be computed by the priest from the beginning of Mass, by the faithful from the actual time of Communion (*Const.*, VI).

1) *Causes*. Although the documents speak of the "necessity" of evening Mass ("si rerum adiuncta id necessario postulant"), it is evident from the context and examples that the necessity envisioned regards not the Mass itself but the hour at which it is held. It includes, therefore, not only Masses to provide for Sunday and holyday obligations, but also Masses of convenience for other special groups who could gather for such a Mass only in the evening, as for a C.Y.O. convention, or for meetings of Catholic lawyers, policemen, labor unions, etc. In this connection it may be observed that the meeting itself does not have to be of a religious nature.³¹

Such a necessity is always present on holydays of obligation, as there are always some who cannot go to Mass in the morning. Hence the faculty could always be used on those days. This implies that the

³¹ On this point the Constitution reads: ". . . ut religiosae celebrationes vel coetus de sociali habendos participant . . ." (p. 20).

obligation can be satisfied at these Masses. And since no limitation is expressed, it would be fulfilled also by those whose attendance at that time is not strictly necessary.

2) *The day.* Apart from mission territories—that is, territories subject to the Sacred Congregation of Propaganda³²—in which the evening Mass can be permitted every day, the occasions are exclusively enumerated in the documents. (a) Sundays and holydays of obligation. The text, “ad normam canonis 1247, § 1” (*Inst.*, 12), indicates that this includes also those days which by privilege are not observed as days of obligation in particular territories.³³ (b) Suppressed holydays of obligation. That is, the twenty-six days enumerated in the index of the S. Congregation of the Council, Dec. 28, 1919.³⁴ (c) The first Friday of each month. (d) Other solemnities, religious or civic, which are celebrated with a great concourse of people; for example, St. Patrick’s Day, Independence Day. (e) One additional day of each week, if the good of some particular class of persons requires it.

3) *The hour.* The documents specify that the Mass may not begin earlier than four o’clock in the afternoon. How much later it may begin is not indicated. Since it is an “evening” Mass, rather than nocturnal, the limit of the military faculty, half-past seven o’clock, might serve as a directive norm.^{34a}

4) *The reception of Communion.* Regarding the reception of Holy Communion at these Masses, the following brief observations will suffice. (a) According to the principle of canon 846, § 1, Communion may be distributed not only during the Masses but also, if the Mass is not solemn or sung, immediately before or after.^{34b} (b) No permission

³² *Const.*, VI: “in territoriis missionum”; cf. *Inst.*, 16: “ubi . . . ius missionum viget.”

³³ For the United States, the feasts of the Epiphany, Corpus Christi, St. Joseph (March 19th), and Sts. Peter and Paul.

³⁴ *AAS*, XII (1920), 42–43. The days are the Monday and Tuesday of the octaves of Easter and Pentecost, the Finding of the Holy Cross, the feasts of the Purification, Annunciation, and Nativity of our Lady, the Dedication of St. Michael, the Nativity of St. John the Baptist, the feasts of all the apostles, the Holy Innocents, St. Stephen, St. Laurence, St. Sylvester, St. Ann, and the patron of the realm and of the place. The “patron of the place,” in this context, refers not to every titular saint but to a patron canonically chosen with the consent of the people, clergy, and ordinary, and approved as such by Apostolic indult (cf. can. 1278; *Decreta authentica C. S. Rituum*, I, n. 526).

^{34a} Fr. Connell suggests eight or half-past eight o’clock as the latest (*op. cit.*, p. 252).

^{34b} A “private” Mass in can. 846, §1 is interpreted in a *liturgical* sense, as opposed to a Mass which is solemn or sung (*cantata*) or conventual (cf. *Decreta authentica C. S. Rituum*, VI, n. 4177, *ad III*; Cappello, *op. cit.*, n. 299, 2°), rather than in the *juridical* sense (as

or consultation of a confessor is required either to receive at these Masses or to observe the fast peculiar to such reception; and others besides those for whom the Mass is primarily intended may freely receive at it (*Inst.*, 15). (c) It is supposed, however, that the faithful who communicate have not already received on the same day (can. 857; *Inst.*, 14), and that the celebrant has not already said Mass, unless he has the necessary faculty for bination or trination, in which case the afternoon Mass is to be computed as one of the two or three (can. 806; *Inst.*, 14).

5) *The fast.* In general, the designation of time regards the duration of the abstinence (not the time at which one may *begin* to eat or drink) and is to be computed, for the priest, from the beginning of Mass, for the faithful from the time of Communion: "ante Missae vel communionis initium" (*Inst.*, 13). In particular: (a) *Non-alcoholic liquids* may be taken without limit of quantity or frequency up to one hour before Mass or Communion. (b) *Solid food* may be taken without limit of quantity or frequency up to three hours before Mass or Communion. (c) *Alcoholic drinks*, except those allowed at meal time, are excluded from midnight. The exclusion will extend to drinks of even low alcoholic percentage (such as beer, diluted wine), as appears from the absolute terms of the text: "excluditur omne alcoholicorum genus" (*Inst.*, 13) and from their explicit concession at meal time.³⁵ Together with a meal, however, it is allowed to take, with becoming moderation (*congrua moderatione*), those light alcoholic beverages which are customary at table—beer, ale, porter, wine—but not spiritous liquors, such as cordials or cocktails of whiskey, gin, or brandy. But a highball, diluted to the alcoholic level of an ordinary table-wine, might be permitted. By a meal (*comestio*) in this context, the Instruction undoubtedly means one of the commonly accepted meals of the day, not including mid-morning snacks; but the concession would apply as well to a light lunch as to a dinner.

opposed to a Mass affixed by law to some public office—concretely, the parochial, capitular, or conventual Mass) as "private Mass" is more commonly understood, with a view to the usage of different time-systems, in can. 33, §1 (cf., e.g., Vermeersch-Creusen, *Epitome*, I [7th ed.; 1949], n. 148; A. Van Hove, *De temporis supputatione* [Commentarium Lovaniense, Vol. I, Tom. III; Mechlin: Dessain, 1933], n. 290; etc.).

³⁵ So also Bergh, *op. cit.*, p. 196.

CONCLUSION

In the concluding paragraphs the documents determined the date from which the new discipline was to obtain, its effect upon previous privileges, and certain norms for its execution.

1. The new law is in effect from the date of its promulgation in *Acta apostolicae sedis*. The date affixed to the *Acta* is Jan. 16, 1953. This explicit provision obviated the necessity of discussing the opinion of Vermeersch and others that one may take advantage of a purely permissive law, by a sort of *epikeia*, without awaiting the completion of the three months' *vacatio*.³⁶

2. From the same date all previous faculties, privileges, and dispensations with regard to the Eucharistic fast, whether territorial or personal, are abrogated (*Inst.*, 18). The restored Vigil of Easter, however, even when it is permitted to begin the ceremonies as early as eight o'clock, is not an evening Mass in the sense of the present legislation, and the fast prescribed on that occasion is not a faculty or privilege in the sense of the present abrogation. Presumably, therefore, the restored vigil will keep its own proper norms of a fast from ten o'clock when the services are held at the normal time (with Mass beginning about midnight) and from seven o'clock when the ceremonies begin at eight.³⁷

3. Both documents conclude with a commission to the local ordinaries and to all priests; to the ordinaries, in particular, to watch over the execution of the new discipline, preventing abuses and securing a uniform observance; to the ordinaries and priests, to promote, by recommending compensatory acts of piety and penance and the frequentation of Mass and Holy Communion, that spiritual profit which was the objective intended by His Holiness as the fruit of this historic Constitution.

³⁶ A. Vermeersch, *Theologiae moralis principia*, I, n. 157. So also F. M. Cappello, *Summa iuris canonici*, I (4th ed.; Rome: Pont. Univ. Gregoriana, 1945), n. 71; L. Rodrigo, S.J., *Tractatus de legibus* (Praellectiones Theologico-Morales Comillenses, II; Santander: Sal Terrae, 1944), n. 219, b; G. Michiels, O.F.M.Cap., *Normae generales iuris canonici* (2nd ed.; Tournai: Desclée, 1949), I, 287, note 4; E. Regatillo, *Institutiones iuris canonici* (2nd ed.; Santander: Sal Terrae, 1946), I, n. 60. *Contra*: A. Van Hove, *De legibus ecclesiasticis* (Commentarium Lovaniense, Vol. I, Tom. II; 1930), n. 131; J. Creusen, *Epitome*, I, n. 86.

³⁷ Cf. *AAS*, XLIV (1952), 52. Fr. Mahoney, however, is of the opinion that in the latter case the fast would be as prescribed in the new rules for evening Mass (*op. cit.*, p. 165).