

si si no no

"That is your speech: 'Yes, yes, 'No, no,' and whatever is beyond these comes from the evil one. (Mt. 5:37)"

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A Pastoral Letter Leading to Sacrilege

COMMUNION WITHOUT CONFESSION AND THE 1983 CODE OF CANON LAW

A CURIOUS QUSTIONS INDEED

In issue no 1, 1995, of *Vita Pastorale*, the Paulinians' journal intended for parish priests and other "pastoral workers," a priest, asks what meaning is to be given to St. Albert the Great's famous phrase:

The Eucharist [*i.e.*, Holy Communion] is, above all, useful for the remission of sins and most profitable for those spiritually dead.

In this instance, it is quite clear that Albert the Great is referring to the Eucharist as sacrifice (Holy Mass), rather than as sacrament (Holy Communion). St. Thomas Aquinas states:

The Holy Eucharist is, at the same time, both sacrifice and sacrament: it has the nature of sacrifice insofar as it is an offering and has the nature of sacrament in view of the fact that it is received.¹

Therefore the Eucharist may be offered (*i.e.*, Holy Mass) even for those spiritually dead but, by divine right, it (*i.e.*, Holy Communion) can only be received by those in the state of sanctifying grace because:

...in the Eucharist we receive our Lord Jesus Christ as spiritual nourishment and which is not to be given to those dead in sin.²

Also, in order to receive Holy Communion, the state of grace obtained through a perfect act of contrition remains insufficient because, as St. Thomas observes:

...a person cannot know with certainty if he is indeed and truly contrite.³

What is required, therefore, is the state of grace obtained through sacramental confession by which are forgiven all of their sins, even the sins of those having but an imperfect contrition; that is, one inspired not by the love of God, but only by the fear of eternal as well as temporal punishment, or simply owing to the wretchedness of sin.

A SHOCKING ANSWER

At the outset, Silvano Sirboni's answer in *Vita Pastorale* seems to be heading in an orthodox direction: St. Albert the Great is simply expressing the Church's constant doctrine solemnly confirmed by the "Council of Trent in its session on the Mass." Immediately following this, however, Don Sirboni begins to speak of the Eucharist as communion and then, shortly afterwards, invites disaster!

After having come to the conclusion that:

...forgiveness of sin is rooted in Jesus Christ's sacrifice made present through the celebration of the Eucharist...

Sirboni continues:

It is for this reason that Card. Cajetan, in 1525, even before the Council of Trent, could write: "The person receiving Holy Communion without having repented of his mortal sin or sins does, indeed, sin mortally... On the other hand, one who [in the state of mortal sin] received Holy Communion without going to sacramental confession beforehand, if he has a reasonable motive for so doing, is excused since the precept of confessing oneself before receiving Holy Communion is not of divine right" (*Summa de peccatis*...fol.24). It is upon this theological truth, never doubted, that canon 916 of the 1983 Code of Canon Law is based. This canon also allows a person [in the state of mortal sin] to receive Holy Communion simply by first making a perfect act of contrition prior to taking the Eucharist.

A VERY GRAVE OMISSION

We note immediately that Don Sirboni has given here a very poor resume or rendition of canon 916 of the *1983 Code of Canon Law*. According to his answer, as stated above, the one and only condition required by a person in mortal sin to receive Holy Communion after an act of perfect contrition without prior sacramental confession, would simply consist in the lack of opportunity of going to confession. Now, this is absolutely false and is not at all in keeping with the Church's constant teaching nor even with the *1983 Code of Canon Law*. St. Alphonsus points out that:

...whoever is in the state of mortal sin must, under pain of yet still another mortal sin, go to sacramental confession before receiving Holy Communion if there be no necessity of celebrating Mass, or of receiving Holy Communion and that there be no confessor available (both circumstances must exist simultaneously in order to excuse the omission of prior confession according to the Council of Trent).⁴

Fr. Augustine Lehmkuhl, SJ., [(1834-1918) who taught Scripture and Moral Theology at Ditton Hall, Great Britain-*Ed.*] makes it even clearer:

For this to be permitted, both the possibility of sacramental confession must be lacking, and the necessity (*necessitas*) of celebrating Mass and of receiving Holy Communion must be present at the same time. If these two conditions are not both present at the very same time, anyone (in the state of mortal sin) receiving the Holy Eucharist without confession is guilty of a sacrilege.⁵

[*Theologia Moralis*, from which the above excerpt was taken, was first published in 1883 as Fr. Lehmkuhl's major work applying the principles of St. Thomas Aquinas and St. Alphonsus de Liguori to contemporary problems in moral theology - *Ed.*]

The *1983 Code of Canon Law*, as a matter of fact, lays down yet another essential condition which, however, would require a longer and more detailed exposition.

A NOVELTY

Herein lies the novelty: the 1983 Code of Canon Law no longer mentions *necessitas*, but *gravis ratio* instead. Canon 807 of the *1917 Code of Canon Law* stipulated:

A priest conscious of having committed a mortal sin, even though he considers himself to have true contrition, may not celebrate Holy Mass without first availing himself of sacramental confession; if, in the absence of a confessor and [simultaneously] in a case of necessity, and after having made a perfect act of contrition, he has indeed celebrated, he will go to sacramental confession as soon as possible.

In canon 856, we find that this is equally true for lay persons:

Anyone having a mortal sin weighing on his conscience must not receive Holy Communion without first having recourse to sacramental confession, even though he considers himself to have true contrition; in the case of necessity and in the absence of a confessor, he must first make a perfect act of contrition.

By limiting ourselves to these two canons in particular, only a state of urgent necessity simultaneously joined to the impossibility of going to sacramental confession can excuse the precept of prior confession (but not the obligation of having immediate recourse to a perfect act of contrition).

Both canonists and moralists give, an as example of urgent necessity, the case of a priest who is duty bound to celebrate in order to provide or ensure Mass for his flock on Sundays or holy days; or to celebrate, in the absence of consecrated hosts in order to give viaticum to a dying person or one in danger of death. There is also the possible case of a lay person who, just on the point of receiving Holy Communion, remembers an unconfessed mortal sin, or also the extraordinary case where one must save the Eucharist from profanation. It is quite obvious, and moralists do note this fact, that the urgent necessity of a lay person receiving Communion occurs much more rarely than that of celebrating Mass in the case of a priest.⁶

When we speak here of the unavailability of a confessor, we must not understand this to mean the absence of one's usual confessor or the one whom one simply prefers...It means the unavailability of an authorized confessor at that time and place or the impossibility of reaching him elsewhere due to circumstances beyond one's will or control.⁷

In conformity with the democratic conception of the "people of God," canon 916 of the *1983 Code of Canon Law*, on the contrary, making no distinction whatever between priests and the ordinary faithful, states:

May no one conscious of being in the state of mortal sin dare to celebrate Mass nor receive Holy Communion without first going to sacramental confession, unless there be a grave reason and there be truly no possibility of going to confession [*nisi adsit gravis ratio et deficiat opportunus confitendi*]; in which case one is to remember that he must make a perfect act of contrition which includes the firm intention of going to sacramental confession as soon as possible.

This new formulation or wording presents a notable watering-down of terms: *nisi adsit gravis ratio* instead of the *si urgenti necessitas* of the *1917 Code of Canon Law*. According to this attenuation or weakening of expression, it would no longer now be an urgent necessity, but simply a grave reason together with impossibility of going to confession (a situation not mentioned by Don Sirboni) which would, henceforth, be deemed sufficient to allow one to receive Holy Communion following a perfect act of contrition, without first going to confession, but with the intention of confessing oneself sacramentally as soon as possible (a condition also left unmentioned in Don Sirboni's answer).

Now, the expression of "grave reason" is definitely of less weight than that of urgent necessity. In fact, the word "necessity" signifies the impossibility of acting in any other way without causing grave harm or loss to oneself or to others. Thus, the priest could not avoid saying Mass for the faithful on Sundays and Holy Days of obligation without harm to souls nor without a real danger of infamy or disgrace to himself, while the faithful in the state of mortal sin could not leave the altar rail without causing grave harm to his good reputation. In short, necessity means a conflict between two duties (i.e., towards others and towards oneself), and a situation or something inescapable which the expression "grave reason" does not necessarily have:

That is necessary which one cannot avoid or of which one cannot do without.

...and therefore canon 807 (of the *1917 Code of Canon Law*) settles the conflict between the legal regulation forbidding a priest from celebrating Mass while still in the state of mortal sin (i.e., without first going to sacramental confession) and his obligation of celebrating, at the same time, without having first gone to confession (i.e., while he is still in the state of mortal sin). This canon allows one to overlook this interdiction at a time when the priest finds himself in an urgent necessity of celebrating Mass.... Also necessary in such a case would be that such necessity be accompanied at the same time by the lack of a confessor and that before celebrating the priest strive to the utmost to recover the state of grace by means of a perfect act of contrition (Naz, *Dictionnaire de droit canonique*, word *necessite*, cf. word excuse). Likewise, canon 856 resolved the conflict of duties in which a lay person should find himself. Such circumstances would be much rarer indeed in the case of lay persons.

A SERIOUS QUESTION

The *1917 Code of Canon Law* took up again substantially the teachings of the (doctrinal and therefore infallible) Council of Trent (*Denzinger-Schönmetter* 1646, 1647) which summed up the constant doctrinal teaching of the Church:

For this reason we must remind those intending to receive Holy Communion of the commandment found in St. Paul's Epistle to the Corinthians (1 Cor. 11:28): "But let a man prove himself and so let him eat of that Bread, and drink of the Chalice." The traditional and immemorial custom of the Church has always been unmistakably clear on this question: let a person wishing to receive Holy Communion truly examine his conscience and if he be in the state of mortal sin, let him not receive Holy Communion (no matter how contrite he may consider himself) but without first availing himself of sacramental confession.

That same holy council also decreed that this must always be observed by all Christians, even by priests duty-bound to celebrate, provided that they have prior recourse to sacramental confession. That if, by reason of a case of urgent necessity, a priest be obliged to celebrate without the possibility of going to confession, let him avail himself of sacramental confession as soon as at all possible.⁸

Canon 11 of that same session punishes with excommunication those who would dare teach, preach, affirm or publicly uphold the contrary. Canons 807 and 856 of the *1917 Code of Canon Law*, therefore, are firmly based on the constant practice of the Church, and solemnly reaffirmed by the Council of Trent. On the contrary, just on what does canon 916 of the *1983 Code of Canon Law* base itself in order to abolish in fact the categorical and doctrinal prescription of the Council of Trent? Let him answer who thinks he can.

A BIASED QUOTATION

Sirboni maintains:

God's forgiveness is rooted in Christ's sacrifice made present through the celebration of the Holy Eucharist. It is for this reason that Card. Cajetan could write in 1525, even before the Council of Trent (1545-1563): "He who receives Holy Communion without having repented of his mortal sins), sins mortally yet again... On the other hand, he who communicates without first having confessed his mortal sin(s) and has a reasonable cause for doing so, is excused since the precept of going to sacramental confession before receiving Holy Communion is not of divine right" (*Summa de peccatis*...fol.24). It is upon this theological truth, which has never been brought up for discussion, that canon 916 of the *1983 Code of Canon Law* is founded....

But just what is meant by "that theological truth which has never been brought up for discussion" upon which canon 916 of the *1983 Code of Canon Law* pretends to be based? This is not at all clear.

If it is a question of the fact that:...

...divine forgiveness is rooted in Christ's sacrifice made present in the celebration of Holy Mass...

...it also must be observed that given that Christ's sacrifice is the root of divine forgiveness it is also just as true that Communion is not the branch from which is plucked the divine forgiveness of one's mortal sins, but Baptism and after Baptism, sacramental confession.

If, on the contrary, the:...

...theological truth, which has never been brought up for discussion...

...is Card. Cajetan's second sentence:

On the other hand, he who communicates without having confessed his mortal sin(s)...

...several observations must be made at this point.

If Cajetan, as Sirboni leads us to understand, wrote before the Council of Trent, why doesn't Sirboni quote the Tridentine text directly, which carries much more authority and which he has referred to above? The fact is that Cajetan does not say exactly the same thing as the Council of Trent. Above all, because he speaks of a "reasonable cause" which draws him closer to the *1983 Code of Canon Law* and not of an "urgent necessity," and especially because of his affirmation where he maintains that:..

...the precept of going to sacramental confession before receiving Holy Communion is not a precept or law of divine right...

...a position never held by the doctrinal Council of Trent. Quite on the contrary, most theologians consider that that Council held the exact opposite view.

Thus does St. Alphonsus sum up this question:

Some people say that the precept of confession [before Holy Communion for the person conscious of a mortal sin, even though truly contrite [is only of an ecclesiastical origin and they deduct this argument from these words of the Council of Trent: "Those wishing to receive Holy Communion must keep in mind his [*i.e.*, the Apostle's] commandment" [which consists in examining one's conscience in order not to eat and drink one's own condemnation]. However, the common and true judgment, held by Suarez...by Lugo and others, teaches that this precept is indeed divine. And the reason being that, on the one hand it results from the fact that one's examination of conscience must precede one's receiving Holy Communion on account of Christ's law, given that the Apostle (*i.e.*, St. Paul) testifies that he received it directly from our Lord, on the other hand, from this same Council, it is clearly shown that the self-examination required consists in sacramental confession. In fact, even if *the eius preceptum* ["his commandment"] did refer to St. Paul, as it seems most probable to Lugo nevertheless that Council of Trent never said that this commandment has been introduced by way of ecclesiastical usage (*declarat=clarifies*) and that confession is therefore commanded by a divine precept or law. And the fact that it is called the Apostle's command presents no problem whatever, since in reality it is simply a precept [or law] of Christ promulgated by St. Paul [His apostle].⁹

IT IS A PRECEPT OF DIVINE LAW

At any rate, Card. Cajetan's judgment, as chosen by Sirboni to uphold canon 916 of the *1983 Code of Canon Law*, is not at all the judgment commonly shared by theologians and canonists who, in their majority, consider that the commandment being discussed here is indeed of divine right, that it is from God Himself:

In the case of a priest who has fallen into the state of mortal sin: not only is he required to regain the state of grace as soon as possible, but this state of grace must be attained through sacramental confession. Therefore, any priest having fallen into mortal sin and then later, by a perfect act of contrition, recovers the state of grace, must not because of this, [dare to] celebrate Holy Mass. This absolute prohibition does not originate from the commandment calling for the state of grace, but from a new and special commandment of divine right, according to the most commonly held doctrine of theologians.¹⁰

And Fr. Cappello, SJ.:

Doctors are wondering whether the commandment of going to confession before receiving Holy Communion is of human or of divine origin. The most commonly held judgment and, in my view, the most certainly true and trustworthy one, is to consider this command as being of divine right.¹¹

In a footnote he cites Suarez, Lugo, Vasquez, St. Alphonsus. In the *Dizionario di Diritto Canonico* it says:

As genuine as contrition may be, is not sufficient except in the case of urgent necessity. The decision taken by the Fathers of the Council of Trent leaves absolutely no room for doubt. Is this commandment of divine or of ecclesiastical origin? The great majority of authors consider that the commandment of first leaving oneself of the sacrament of confession before approaching Holy Communion is of divine origin.¹²

Those of the minority who do not share this view appeal not only to that argument refuted by St. Alphonsus as described above, but also to the vague and general character of St. Paul's text quoted by the Council of Trent: "But let a man prove himself." The Pauline text, they claim, is not explicit (Cf. *Naz Dictionnaire de Droit Canon*, cit. col. 1130).

The Council of Trent, however, maintains that this text has indeed been made explicit by way of Church Tradition, which "explains" (*declarat*):

...that a thorough examination of conscience is absolutely necessary so as not to let anyone conscious of having a mortal sin staining his soul (and even though he deems himself truly contrite) receive Holy Communion without having first availed himself of sacramental confession.

At any rate, the:...

...theological truth which has never been brought up for discussion...

...upon which, according to Sirboni, canon 916 of the *1983 Code of Canon Law* would seem to be based, is not only very questionable, but is, in fact, indeed quite disputed and is not at all according to the common opinion of the majority of theologians.

This common judgment of theologians according to which the obligation of receiving Holy Communion in the state of grace acquired through sacramental confession is commanded by God, is confirmed by the fact that, in order to be excused from it, the Church as always demanded and insisted on nothing less than a true case of "urgent necessity." In fact, in a case of necessity or in a case of physical or moral impossibility, divine law, be it positive or natural-positive, ceases to bind. This is not the case, however, of the negative natural law: "Do not steal," "Do not kill," *etc.*, which forbids intrinsically evil actions.¹³ And, in fact, it is in the sense of (urgent) "necessity" that the Council of Trent pronounced itself definitively. Also, for nearly two thousand years, this was the meaning of the Church Tradition favored and adopted.

A SLIPPERY SLOPE TOWARDS LUTHERANISM?

This tradition of the Church was solemnly defended and confirmed by the Council of Trent against Luther who, contending that the Holy Eucharist effects the remission of mortal sins as well (cf. DS 1655) repudiated:

...the whole of Christian Tradition which, based as it is on the particularly precise affirmations of 1 Cor. 11:29, imposes the absolute necessity of abstaining from receiving Holy Communion when one has the moral certainty of being in mortal sin.¹⁴

We always remained faithful to this Catholic tradition until Vatican II (1962-65). Following this Council, on the contrary, we now have this *1983 Code of Canon Law* which, in canon 916, slides down the slippery slope from "urgent necessity" to the lower regions of "grave reason." And now, here we have Sirboni who, in his answer, is sliding yet further down when he declares that canon 916 now means:

If a person finds himself in the impossibility of going to confession [a person in the state of mortal sin], he may yet [even without a "grave reason"] receive Holy Communion by first making a perfect act of contrition [without a firm resolution of going to sacramental confession as soon as possible].

Following this, in actual practice, however, this sliding towards Lutheranism has, for many years now, become more and more obvious: everyone seems to be going to Holy Communion, yet exceedingly few people avail themselves of sacramental confession nowadays (there where confessionals still exist).

THEY EAT AND DRINK TO THEIR OWN CONDEMNATION

Unwittingly, Sirboni himself (in *Vita Pastorale*, No.4, 1992) exemplified all of this when he published a letter sent to him by a Sicilian priest, Don Francesco Amato who wrote:

Let me inform you of two events which to my mind, are nothing less than dramatic, to say the least. First: three years ago, I flew to Toronto, Canada as a guest of emigrants from the region where I carry on my ministry. They prepared a great welcome for me with a community Mass followed by community banquet. There were approximately seventy faithful at that Mass and, to my joy, everyone received Holy Communion. Later, I asked some of them if and when they had gone to confession. They answered, to my anguish and desolation, that in Canada people are not in the habit of going to confession, and that they, indeed, have not confessed their sins for many, many years.

The second episode happened only a few days ago. I was to celebrate the anniversary Mass for the repose of the soul of one of my parishioners. Amongst those present was the sister of the deceased, a former parishoner of mine who had flown in from Australia. All of the relatives of the deceased had gone to confession with Christ, but not the Australian. Shortly after Mass, this lady came to greet me in the sacristy, admitting: "Back there in Australia, everyone receives Holy Communion without ever going to confession. I, myself, have not done so once in the last 25 years."

But it is no longer necessary to go to Canada or to fly in from Australia. Things are just as awful in Italy and parish priests are the first to push their sheep onto this slippery slope. We ourselves, on at least two occasions and in two different cities, have heard the celebrant invite all of those present, without any discrimination whatsoever, to come and receive Holy Communion. One of the two priests scrupulously specified "even if you have not been to confession." To this, the other priest added, with great warmth, to go and receive Holy Communion only if one has committed "a sin of a truly very grave nature."

And here is Sirboni's answer to that deeply concerned priest in Sicily:

The practice of these last few decades which has been promoted by the conciliar reforms calls for "less confession and for more conversion" even though it does not authorize [a lesser evil] the abolition of the sacrament of confession of which man will always stand in need, at least for, the sake of checking and verifying the sincerity of his contrition [and not to be forgiven by God]. Besides, Church law requires whoever is conscious of being in mortal sin to have recourse to sacramental confession at least once a year.

It is quite evident from all of this that Sirboni does not consider these two episodes to be in any way "sensational" or "dramatic." No, he sees them as being normal or nearly so in the present state of the Church. He also views these two cases as being more in conformity with the Italian priest's concerns as he is faced with:

...the practice of these last few decades which has been promoted by the conciliar reforms...

...thanks to which all manner of sacrileges are seen to have greatly increased while countless souls are now:

...eating and drinking judgment [condemnation] to themselves, not discerning the Body of the Lord.¹⁵

Augustinus

¹ *Summa Theologica*, III, Q.79, A.5

² *Summa Theologica*, III, Q.79, A.3, ad.2

³ *Summa Theologica*, III, Q.80, A.4 and 5

⁴ *Theologia moralis*, *De Eucharistia*, "No.255

⁵ *Theologia moralis*, Vol.II, p.109, 1901

⁶ Lanza-Palazzini, *Principi di theologia moralis*, vol.III, p.168, ed. Studium, Rome

⁷ See Fr. Augustine Lehmkuhl, *op. cit.*; F. Cappello, *De Sacramentis*, Naz, *Dictionnaire de droit canonique*

⁸ Sess. XIII, chap. VII, can.7

⁹ *Theologia moralis De Eucharistia*, no.256

¹⁰ Lanza-Palazzine, *Principi di Diritto Canonico Sacramentale e Vita sacramentale*, vol.III, ed. Studium, Rome, p.126.

¹¹ F.M. Cappello, SJ, *Tractatus canonica-moralis De Sacramentis*, Marietti, 1945, p.402

¹² V.H. Noddin, SJ.; *Summa Theologiae moralis*, Vol.I.1, III, q.8

¹³ In the *Dizionario di Diritto Canonico* (Dictionary of Canon Law) headed by Naz (c.III col.1129 sq.)

¹⁴ Tito Cento, O.P., in *La Somma Teologica* by the Italian Dominicans, vol.XXVIII, p.232, note 1

¹⁵ Cf. St. Paul [1 Cor. 11:29]

Summa Theologica, Part III, Q.80, A.4

In this sacrament [of the Holy Eucharist], as in the others, that which is a sacrament is a sign of the reality of the sacrament. Now there is a twofold reality of this sacrament... one which is signified and contained, namely, Christ Himself; while the other is signified but not contained, namely, Christ's mystical body, which is the fellowship of the saints. Therefore, whoever receives this sacrament, expresses thereby that he is made one with Christ, and incommensurably more; and this is done by eating faith, which no one who is in mortal sin. And therefore it is manifest that whoever receives this sacrament while in mortal sin, is guilty of lying to this sacrament, and consequently of sacrilege, because he profanes the sacrament; and therefore he sins mortally -- [Summa Theologica, III, Q.80, A.4:corpurs]

Summa Theologica, Part III, Q.79, A.3

It is written (1 Cor.11:29): *He that eateth and drinketh unworthily, eateth and drinketh judgment to himself*; and a gloss of the same passage makes the following commentary: *He eats and drinks unworthily who is in the state of sin or who handles (the sacrament) irreverently; and such a one eats and drinks judgment, i.e., damnation, unto himself*. Therefore, he that is in mortal sin, by taking the sacrament heaps sin upon sin, rather than obtains forgiveness of his sin.

I answer that, The power of this sacrament can be considered in two ways. First of all, in itself; and thus this sacrament has from Christ's Passion the power of forgiving all sins, since the Passion is the fount and cause of the forgiveness of sins.



Secondly, it can be considered in comparison with the recipient of the sacrament, in so far as there is, or is not, found in him an obstacle to receiving the fruit of this sacrament. Now whoever is conscious of mortal sin, has within him an obstacle to receiving the effect of this sacrament, since he is not a proper recipient of this sacrament, both because he is not alive spiritually, and so he ought not to eat the spiritual nourishment, since nourishment is confined to the living; and because he cannot be united with Christ, which is the effect of this sacrament, as long as he retains an attachment towards mortal sin. Consequently, as is said in the book De Eccles. *Dogmat: If the soul leans towards sin, it is burdened rather than purified from partaking of the Eucharist*. Hence, in him who is conscious of mortal sin, this sacrament does not cause the forgiveness of sin.

Nevertheless this sacrament can effect the forgiveness of sin in two ways. First of all, by being received, not actually, but in desire; as when a man is first justified from sin. Secondly, when received by one mortal sin of which he is not conscious, and for which he has no attachment; since possibly he was not sufficiently contrite at first, but by approaching this sacrament devoutly and reverently he obtains the grace of charity, which will perfect his contrition and bring forgiveness of sin. -- [Summa Theologica, III, Q.79, A.3, sed contra:corpurs]

