

43. PRO TERTIÆ autem, & ultimæ distinctionis partis declaratione, hæc tertia præfigitur thesis: *Mulier, quæ maritum in remotis agentem, mortuum putans, alium ducit, eo redeunte, ad ipsum redire debet, alio dimisso.* Hanc statuit conclusionem Magister, dum sustinet, nullum esse Matrimonium contractum cum eâ, quæ superstiti viro absentis, & existimans eum defunctum, cum alio nupsit; ideòque primo viro redeunti restituenda; quanvis propter bonam fidem non sit adulterii rea.

44. Probat primò Magister ex Leone Papâ epist. 77. ad Nicetam, cap. 2. & habetur dist. 34. q. 1. cap. *Cum per bellicam*, dicente: *Si viri post longam captivitatem reversi, ita in dilectione suarum conjugum perseverant, ut eas cupiant in suum redire consortium, dimittendum est, & inculpabile iudicandum, quod necessitas intulit, & restituendum, quod fides postulat.* Ergo ad viros post longam captivitatem reversos debent uxores eorum redire, etsi istæ putantes viros, suos interfectos, vel captos, vel nunquam liberandos fore, transferint ad alia conjugia; quanquam à reatu adulterii liberari possint propter bonam fidem.

45. Secundò probat ex eodem Leone ibidem, his verbis: *Redeant ergo in suum conjugia statim; quia sicut mulieres, quæ ad viros suos reverti noluerint, impia sunt habenda; ita illæ, quæ redeunt, merito sunt laudanda.* Ergo si uxores, quæ ad viros suos reverti noluerint, impia sunt habenda, & quæ redeunt, sunt laude dignæ, rectè colligitur, quòd teneantur redire ad eos, & quòd non sint adulterii reæ, eò quòd bonâ fide novas contraxerint nuptias.

46. Tertio ratione probatur: Matrimonium est vinculum indissolubile: ergo nec longa captivitas, nec notabilis absentia valet illud dissolvere: ergo viri redeuntes ex longâ captivitate, aut notabili absentia, quos fœminæ putabat fore mortuos, possunt uxores suas repetere ex juris, sive vinculi matrimonialis potestate; sed fœminæ illæ bonâ fide novas celebrarunt nuptias: ergo à crimine adulterii propter ignorantiam excusari possunt.

47. Tandem consentaneè iis inquit Magister: Qui uxorem suam reliquit, & abiens in regionem longinquam contrahit cum aliâ, an in hac secundâ copulâ sit conjugium? Et respondet ipse Magister negativè. Primò: Quia vivente uxore legitimâ nequit vir ducere aliam; sed ex eò quòd aliam non possit ducere vivente uxore legitimâ, nullum est conjugium in secundâ copulâ: igitur qui uxore relicta in patriâ suâ abiit in longinquam regionem, ibique aliam duxit, reverà in hac copulâ nullum adest conjugium.

48. Secundò: Pollutio per adulterium cum fide datâ haud dubiè impedit Matrimonium; sed dum quis aliam ducit, vivente uxore legitimâ, adest pollutio per adulterium cum fide datâ: ergo vivente uxore legitimâ, si quis duceret aliam, nullum in hac secundâ copulâ foret connubium.

49. Amplius inquit Magister: An superstiti primâ, & legitimâ uxore, possit vir secundam sine peccato cognoscere? Et respondet affirmativè, si reddat debitum conjugii ab Ecclesiâ, sive si vir intentat ad primam redire, & non pœsit; sed imopotius cogatur iudicio Ecclesiæ manere cum secundâ; quia Ecclesiæ non constat, eum esse conjugatum cum aliâ jam superstiti; sicque per obedientiam, timoremque excusari incipiat. Undè debet ei reddere debitum, sed nunquam ab eâ petere.

50. Hic Parisienses de more suo Magistrum carpunt, eò quòd docere videatur, licitum fore viro reddere debitum fœminæ, cum quâ, suâ vivente legitimâ uxore, novas celebravit nuptias. Quod reverà ab omnibus improbat; nam ex quò non est uxor ejus legitima, nullo modo licet ei debitum reddere, & multò minus petere.

51. Tamen à Parisiensium censurâ Magistrum immunem passim Expositores adducunt. Primò; quia id non profert absolute Magister; sed quòd fœmina excusatur à reatu adulterii reddens debitum; nihil tamen de viro absolute affirmans, qui nec petere, nec reddere potest; excusari autem uxorem secundam, sanè necessarium erat propter obedientiam Ecclesiæ, quæ ipsos ad conjugaliter cohabitandum copulavit, cum veritas de primo non detegatur conjugio.

52. Secundò; quia esse excusabile non est idem ac esse licitum, cum excusatio etiam sit de rebus, quæ minuunt culpam, etsi ab eâ omninò non absolvat reum: ergo quòd culpa reddendi debitum aliquomodo per Ecclesiæ obedientiam minuatur, nulli erit dubium. Tertio; quia Magistri excusatio potest intelligi de excusatione à pœnâ, & non à culpâ, quam incurrere poterat, si fœminæ postenti debitum non redderet, cum ab Ecclesiâ cogatur reddere. Et hæc de tertiâ, & ultimâ distinctionis parte sufficiant.

QUESTIONES.

43. **Q**UÆSTIO 1. Quid, & quotuplex sit votum? Ex Angelicâ Scholâ D. Thomas 2. 2. q. 88. art. 1. & 2. Prado tom. 2. cap. 31. q. 1. §. 1. Calsianus à S. Eliâ tom. 1. verb. *Matrim.* cap. 21. §. 3. Raynerius de Pisis tom. 3. tit. 10. de voto, cap. 1. & seqq. Anton. à Spirit. S. tom. 2. tract. 5. disp. 2. sect. 1. Raphael de la Torre q. 88.

- art. 1. disp. 3. num. 4. Mauritius à Lezana verb. votum, num. 1. Joan. à S. Thomà tom. unic. disp. 29. q. 88.
54. Ex Subtili Scholà Scotus in 4. dist. 38. q. 1. Frassen tom. 4. disp. ult. art. 3. §. 5. Cotonius tom. 1. lib. 1. Controv. 12. cap. 1. Villalob. p. 2. tract. 34. diff. 1. Castillent. in Polyanth. Seraph. verb. votum, diff. 1. & seqq. Hiquæus in 4. dist. 38. q. 1. art. 1. Portel in dub. regular. verb. votum, num. 1. Matrius in 4. disp. 7. q. 16. art. 2. Carriere tom. 2. art. de Monachismo, per totum.
55. Ex Scholà Eximiâ Suarez tom. 2. de Reling. tract. 6. lib. 1. cap. 13. Castro Palao tom. 3. tract. 15. disp. 1. punct. 1. Azor 1. p. lib. 11. cap. 12. q. 8. Tambur. tom. 1. lib. 3. cap. 9. Sanchez de voto, cap. 1. Valentia 2. 2. disp. 6. q. 9. Carleton tom. 2. disp. 104. sect. 1. Bellarm. lib. 1. de Matrim. cap. 22. Vazquez disp. 165. cap. 2.
56. Ex aliis D. Bonaventura in 4. dist. 38. q. 2. Gaudentius tom. 5. tract. 1. de voto, disp. 1. q. 1. Bassæo verb. votum, num. 1. Trullench tom. 1. lib. 2. cap. 2. dub. 1. Bonacina tom. 2. disp. 4. q. 2. punct. 1. Leander de voto, disp. 1. q. 1.
57. QUÆST. 2. Quid sit, & quomodo differant votum solemne, & simplex? Ex Angelicâ Scholâ D. Thomas in 4. dist. 38. q. 1. art. 2. Sotus in 4. dist. 38. q. 2. art. 1. Petrus Soto lect. 5. de Matrim. Ledesma p. 4. q. 55. art. 1. Palud. q. 4. art. 4. conclus. 11. Joan. à S. Thomà tom. unic. disp. 29. q. 86. Prado tom. 2. cap. 31. q. 3. §. 2. Biescas 1. p. tom. 1. q. 11. dub. 5. Anton. à Spirit. S. tom. 2. tract. 5. disp. 2. sect. 15.
58. Ex Subtili Scholâ Scotus in 4. dist. 38. q. unic. Matrius in 4. disp. 7. q. 16. art. 2. Carriere tom. 2. art. de Monachismo, per totum. Cotonius tom. 1. lib. 1. Controv. 12. cap. 1. Petrus de Aquila in 4. dist. 38. q. 1. Hiquæus in 4. dist. 38. q. 1. art. 2. & seqq. Portel in dub. regular. verb. votum, num. 2. & seqq. Frassen tom. 4. disp. ult. art. 3. §. 6. Castillent. in Polyanth. Seraph. verb. votum, diff. 1. num. 2.
59. Ex Scholâ Eximiâ Suarez tom. 3. tract. 7. dub. 2. cap. 6. Tambur. tom. 2. lib. 8. cap. 4. Carleton tom. 2. disp. 104. sect. 1. Henriquez lib. 1. de Matrim. cap. 5. Valentia 2. 2. disp. 6. q. 9. punct. 5. Azor lib. 12. inst. Moral. cap. 6. quest. 1. Sanchez lib. 7. de Matrim. disp. 25. Tannerus lib. 5. q. 4. num. 63. Lessius lib. 2. cap. 40. dub. 14. Bellarm. lib. 1. de Matrim. cap. 22. Vazquez disp. 165. cap. 2. Castro Palao tom. 3. tract. 16. disp. 1. punct. 1.
60. Ex aliis D. Bonaventura in 4. dist. 38. art. 2. q. 1. Trullench tom. 1. tit. 2. cap. 2. dub. 2. Gaudentius tom. 5. tract. 1. disp. 2. de voto, q. 1. Bassæo verb. votum, num. 2. & seqq. Leander tract. de voto, disp.

1. q. 2. Bonacina tom. 2. disp. 4. q. 2. punct. 1. Diana p. 6. resol. 127.
61. QUÆST. 3. Quamnam sit materia voti? Ex Angelicâ Scholâ D. Thomas in 4. dist. 38. q. 2. art. 1. & 2. q. 88. art. 2. Anton. à Spirit. S. tom. 2. tract. 5. disp. 2. sect. 10. Raphael de la Torre disp. 28. art. 2. conclus. 1. Joan. à S. Thomà tom. unic. disp. 29. q. 88. art. 5. Martinez Prado tom. 2. cap. 31. q. 2. §. 1. Palud. in 4. disp. 38. q. 2. art. 1. Biescas 1. p. tom. 1. q. 11. dub. 6. & seqq.
62. Ex Subtili Scholâ Scotus in 4. dist. 38. q. unic. Hiquæus in 4. dist. 38. q. 2. art. 1. & seqq. Portel in dub. regular. verb. votum, num. 3. & 4. Villalob. p. 2. tract. 34. diff. 2. Carriere tom. 2. art. de Monachismo. Castillent. in Polyanth. Seraphica verb. votum, diff. 1. num. 3. Cotonius tom. 1. lib. 1. Controv. 12. cap. 2. Aquila in 4. dist. 38. q. 1. Matrius in 4. disp. 7. q. 16. art. 3. & seqq. Durand tom. 4. tract. 5. disp. ult. q. ult.
63. Ex Scholâ Eximiâ Suarez tom. 3. tract. 17. lib. 2. de voto, cap. 3. Palao tom. 3. tract. 14. de voto, disp. 1. punct. 8. §. 1. Tambur. tom. 1. lib. 3. cap. 15. §. 1. & seqq. Sanchez lib. 4. cap. 5. num. 6. Valentia 2. 2. disp. 6. q. 6. punct. 2. Azor tom. 1. lib. 11. cap. 14. Henriquez lib. 1. de Matrim. cap. 5. Lessius lib. 2. cap. 40. dub. 15. Bellarm. lib. 1. de Matrim. cap. 22.
64. Ex aliis D. Bonaventura in 4. dist. 38. q. 2. art. 2. Diana p. 2. tract. 6. resol. 86. Gaudentius tom. 5. tract. 1. de voto, disp. 1. q. 7. & seqq. Bassæo verb. votum, num. 6. & 7. Trullench tom. 1. lib. 2. cap. 2. dub. 9. Bonacina disp. 4. q. 2. punct. 4. Leander tract. de voto, disp. 1. quest. 3.
65. QUÆST. 4. An Pontifex possit dispensare in voto solemni castitatis? Ex Angelicâ Scholâ D. Thomas 2. 2. q. 88. art. 11. Labat tom. 7. tract. 3. disp. 6. dub. 8. Gonet tom. 5. tract. 8. disp. 9. art. 2. §. 3. D. Antoninus 2. p. tit. 11. cap. 2. §. 9. Canus in Relect. de paup. part. 5. Petrus de Ledesma tom. 2. tract. 10. cap. 8. dub. 2. Palud. in 4. dist. 38. q. 4. art. 4. Joan. à S. Thomà tom. unic. disp. 29. q. 88. art. 18. & 19. Prado tom. 2. cap. 31. q. 14. §. 1. & 2. Anton. à Spirit. S. tom. 2. tract. 5. disp. 2. sect. 38. Capifuchus Controv. 11. q. unic.
66. Ex Subtili Scholâ Scotus in 4. dist. 38. q. unic. Matrius in 4. disp. 7. q. 20. art. 1. Angles 2. p. q. unic. de voto, art. 8. diff. 1. Cotonius tom. 1. lib. 4. Controv. 5. cap. 5. Boscus tom. 6. disp. 12. sect. 13. Portel in dub. regular. verb. votum, num. 5. Castillentus in Polyanth. Seraph. verb. votum, diff. 3. num. 1. & seqq. Durand tom. 4. tract. 5. disp. ult. quest. ult.
67. Ex Scholâ Eximiâ Suarez tract. de voto, lib. 6. cap. 9. Valentia

2. 2. disp. 6. q. 6. Carleton tom. 2. disp. 105. sect. 4. Henriquez lib. 12. de Matrim. cap. 5. num. 7. Azor lib. 12. cap. 7. q. 1. Sanchez lib. 8. disp. 8. num. 7. Filliucius tract. 10. p. 2. cap. 10. num. 303. Vazquez 1. p. q. 97. art. 4. disp. 178. num. 10. Fagundez praecep. 2. lib. 2. cap. 40. Tannerus disp. 5. q. 6. dub. 6. Dicastillo tom. 3. tract. 10. disp. 8. dub. 1. & seqq.

68. Ex aliis D. Bonaventura in 4. dist. 38. art. 2. q. 1. Faustus lib. 3. q. 36. num. 3. Diana p. 8. tract. 1. resol. 73. Sayrus lib. 6. cap. 11. num. 9. Bonacina q. 3. punct. 15. num. 2. Trullench tom. 1. lib. 2. cap. 3. dub. 10. Bassæo verb. votum, num. 9. & 10. Gaudentius tom. 5. tract. 1. de voto, disp. 1. q. 8. & seqq.

69. QUÆST. 5. An, & quinam possint commutare votum? Ex Angelicâ Scholâ D. Thomas in 4. dist. 38. q. 1. art. 5. & 2. 2. q. 88. art. 10. Anton. à Spirit. S. tom. 2. tract. 5. disp. 2. sect. 19. & seqq. Prado tom. 2. cap. 31. q. 15. §. 1. & seqq. Raphael de la Torre disp. 5. art. 12. num. 5. Capifluchus Controv. 11. q. unic. Joan. à S. Thomâ tom. unic. disp. 29. q. 88. art. 19. & 20. Sotus in 4. dist. 38. q. 2. art. 1. & seqq.

70. Ex Subtili Scholâ Scotus in 4. dist. 38. q. unic. Hiquæus in 4. dist. 38. q. 3. art. 1. & seqq. Castillentus in Polyanth. Seraph. verb. votum, diff. 5. num. 7. Cottonius tom. 1. lib. 1. Controv. 12. cap. 3. q. 3. Croufers in Reg. S. franc. cap. 6. lect. 29. Bofcus tom. 6. disp. 12. sect. 14. Portel in dub. regular. verb. votum, num. 7. Angles 2. p. q. unic. de voto, art. 8. diff. 2. Mastrius in 4. disp. 7. q. 21.

71. Ex Scholâ Eximiâ Suarez tom. 3. de Relig. lib. 6. cap. 14. Palao disp. 2. de voto, punct. 14. & tract. 25. disp. unic. de bull. cruciat. punct. 10. Tambur. lib. 3. tom. 1. cap. 16. §. 5. Sanchez lib. 4. decalog. cap. 49. num. 28. Lefsiô lib. 2. cap. 40. dub. 16. Azor 1. p. lib. 11. cap. 19. q. 21. & seqq. Tannerus 2. 2. disp. 5. q. 4. Dicastillo tom. 3. tract. 10. disp. 8. dub. 1. & seqq.

72. Ex aliis D. Bonaventura in 4. dist. 38. q. 2. art. 1. Gaudentius tom. 5. tract. 1. disp. 1. de voto, q. 32. & 33. Bassæo verb. votum, num. 4. Diana 3. p. tract. 6. miscell. resol. 65. Bonacina tom. 2. disp. 4. q. 7. punct. 7. Faustus lib. 4. q. 3. Leander tract. de voto, disp. 2. q. 3. Trullench tom. 1. lib. 2. cap. 3. dub. 11. & seqq.

73. QUÆST. 6. An, & quo jure vorum solemne castitatis dirimat Matrimonium? Ex Angelicâ Scholâ D. Thomas in 4. dist. 38. q. 1. art. 2. Gonetus tom. 5. tract. 8. disp. 9. art. 2. Labat tom. 7. disp. 6. dub. 8. Contenson tom. 2. lib. 11. p. 4. dissert. 4. cap. 2. specul. 1. Anton. à Sprit. S. tom. 1. tract. 11. disp. 7. sect. 6. Reding tom. 8. q. 11. art. 1. Controv. 1.

Ray-

Raynerius de Pisis verb. votum, num. 7. Mauritius de Lezana verb. votum, num. 9. & seqq.

74. Ex Subtili Scholâ Scotus in 4. dist. 38. q. unic. Mastrius in 4. disp. 7. q. 16. art. 2. Macedo de Clavib. tract. 6. de Matrim. cap. 9. Cottonius tom. 1. lib. 5. Controv. 1. cap. 5. q. 1. dub. 1. Castillentus in Polyanth. Seraph. verb. votum, diff. 7. num. 1. & seqq. Portel in dub. regular. num. 8. Frassen tom. 4. disp. ult. art. 3. §. 5. Durand tom. 4. tract. 5. disp. ult. q. ult. Poncius tract. 11. disp. 49. q. 11.

75. Ex Scholâ Eximiâ Suarez tom. 3. de Relig. lib. 2. cap. 6. Tambur. tom. 2. lib. 8. cap. 4. Sanchez lib. 7. de Matrim. disp. 27. Layman p. 4. cap. 2. Carleton tom. 2. disp. 104. sect. 1. Filliucius tract. 10. p. 2. cap. 4. Dicastillo tom. 3. tract. 10. disp. 7. dub. 17. Vazquez 1. 2. disp. 105. cap. 8. Coninch disp. 31. dub. 6. Henriquez lib. 12. de Matrim. cap. 5. num. 2. Palao disp. 4. punct. 6. num. 4. Bellarm. lib. 2. de Monach. cap. 38.

76. Ex aliis D. Bonaventura in 4. dist. 38. q. 2. art. 2. Gaudentius tom. 5. tract. 1. disp. 5. de voto, q. 3. Bonacin. q. 3. punct. 4. num. 2. Ponze lib. 7. cap. 22. num. 4. Bassæo verb. votum, num. 5. Trullench in decalog. tom. 1. lib. 2. cap. 2. dub. 4. Diana 3. p. tract. 6. resol. 65. & p. 6. tract. 8. resol. 16. Bartho. à S. Fausto lib. 4. q. 3. Leander tract. de voto, disp. 1. q. 1. & seqq.

77. QUÆST. 7. An votum simplex castitatis impediatur valorem, & usum licitum Matrimonii? De quo, hic quest. 6.

78. QUÆST. 8. An votum sit Sacramentum, & cui obliget? De quo, hic quest. 1.

79. QUÆST. 9. An votum ante, vel post carnalem copulam emissum, obliget virum ad continentiam, etiam invitâ uxore? De quo, hic quest. 6.

80. QUÆST. 10. An votum simplex vel privatum frangere sit peccatum? De quo, hic quest. 6.

81. QUÆST. 11. An votum obedientiæ, paupertatis, & castitatis æquè apud Religiones emittatur? De quo, hic quest. 6.

82. QUÆST. 12. An votum simplex castitatis emissum à PP. Societatis Jesu dirimat Matrimonium? De quo, hic quest. 6.