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CHURCH LEGISLATION ON OBSCENITY

MAURICE AMEN, C.S.C.*

IT IS evident that there was a gradual development in the ecclesiastical condemnation of obscene literature, and that this process was similar to that which is detectable in many other matters with which the Church has been concerned. At its founding the Church did not immediately set up a panoply of detailed legislation; yet, where its viewpoint on some matter was demanded, the Church did not hesitate to legislate. Some ecclesiastical legislators delineated those specific books which were to be considered prohibited reading for the faithful under their jurisdiction, whereas others were content to promulgate general laws concerning literature. The faithful were then to apply these general norms to any individual book in order to determine whether the book was prohibited. The general laws of the Church are derived from these earlier specific condemnations and/or general prohibitions.

It is not at all certain at what precise time the Church first prohibited any specific book, but the first indication of there being a war against all evil literature is given in the Acts of the Apostles (19: 19-20). It is entirely probable that the earliest known prohibitions were concerned only with heretical or spurious books. In a general way these spurious books were literary products of the human imagination, but whether or not any of them were obscene is not at all clear. The pastoral concern of the Fathers of the Church, however, soon led them to single out for special condemnation the obscene literature of the pagan authors. These pastors of souls endeavored to inform the newly-organized Christian communities of those elements which were to characterize their conduct, because there were many aspects of the Graeco-Roman world of the time that were contrary to the spirit and practice of Christianity. Obscenity was one of these aspects, and it appeared in various forms, especially in the plays, in the art, and in the literature of the day: the fables, the songs, and the poetry. The opposition of the Fathers to this prevalent obscenity was constant.¹

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¹ For the texts of the Fathers of the Church I have for the most part used J. P. Migne, *Patrologiae Cursus Completus, Series Latina* (Paris, 1844-1864), 221 vols. [=PL]; and *Series Graeca* (Paris, 1856-1866), 161 vols. [=PG]. Whenever it was possible I have indicated a published English translation. All translations whose authorship is not specifically indicated are the work of the writer.

I. The Patristic Condemnation of Obscene Literature

In discussing obscenity, Suarez gives a general principle which he feels adequately summarizes the patristic teaching about obscenity and the realistic reason which necessitated the Fathers' condemnation of obscenity:

Under the disguise of eloquence and sweet-sounding Latin phrases, and through the pleasures of telling fables, the pagan authors arouse depraved thoughts and teach depraved customs; it is in these ways that the mind is excited to the passion of wantonness.²

This reasoning closely parallels that of Isidore of Seville (570-636), who is ranked as one of the Fathers of the West: "Therefore the Christian is not to read the writings of the pagan authors because his mind will be excited to wantonness through the pleasure of reading fables."³ The "wantonness" that both these authors are referring to seems to be depraved speech; hence, the patristic axiom: *Venenum in auro, turpitude in eloquentia*.⁴

In the Eastern sector of Christendom, Origen (ca. 185-254) felt that some poets who seemed to treat of ethical matters were in reality injecting the poison of idolatry and depraved speech under the pretense of imparting true learning.⁵ Origen effectively condemns obscenity in literature by the following understatement:

If we avert our hearers' attention from the teachers of obscene comedies and licentious iambs, and from many other things which

do not improve the speaker or benefit the hearers, we are not ashamed to confess what we do in following such a course.⁶

The other Greek Fathers are just as adamant when they speak of inculcating obscenity; for example, Clement of Alexandria (ca. 150-220) states: "Depraved speech is the way to immodesty, and the final result is the spreading of depraved words and actions."⁷ St. John Chrysostom's (345-407) remarks are similar.⁸

In the East, condemnation of obscenity was by no means limited to the Fathers of the Church; capable philosophers had similar condemnatory words, among them Philo Judaeus⁹ and, even earlier, Aristotle: "the light utterance of shameful words leads soon to shameful actions."¹⁰ The tenor of Aristotle's words is certainly the same as the patristic style.

If titles give any indication of the content of a work, then it would seem that St. Basil the Great's (ca. 330-379) "Homily for Adolescents, on how they can derive benefit from the books of the gentiles" would contain the most thorough and concise presentation of the matter at hand. St. Basil is content, however, to stress the fact that there are some admirable explanations of morality in pagan literature, and that young men can learn virtue by reading about virtuous men in pagan literature. He points out that there are a few passages that will have to be expurgated, but, in general, a directed

² *Opera Omnia*, ed. nova (Paris, 1866), tom. 16 (bis), n. 7, p. 832.

³ *De Summo Bono*, lib. 3, cap. 13—PL LXXXIII, 685.

⁴ Suarez, *loc. cit.*

⁵ *Hom. 2 in Jerem*, *Die Griechischen Christlichen Schriftsteller* (Leipzig, 1901), VI, 16-20 [=GCS]. The Latin version is given by Suarez, *loc. cit.*

⁶ *Contra Celsum*, lib. 3, cap. 58—GCS (Leipzig, 1899), III, 252-253.

⁷ *Paedagogus*, lib. 2, cap. 6 (*De turpiloquio*)—PG VIII, 451-456.

⁸ *Homiliae in Epistolam ad Ephesios*, Homilia XVII, 3, *Oeuvres Completes de S. Jean Chrysostome* (Paris, 1872), XVIII, 333.

⁹ In St. John Damascene's *Sacra Parallela*, lib. 1, cit. 46—PG XCV, 1254.

¹⁰ *Politics* (New York, 1943), lib. VII, cap. xvii, p. 318.

reading program can be most beneficial in the formation of any young man. He adds, however:

To accustom oneself to depraved speech is the way to begin using depraved speech oneself. For this reason every care is to be taken to avoid adapting to our own lives the imprudent and sometimes salacious speech of these authors. We should not praise any poet who portrays crime or jests about propriety, who depicts lovers or drunks, or who proposes an overflow of food or dissolute songs as a means of happiness. . . . We should remove from the scene all accounts of the adultery of the gods, of their loves and open embraces, and especially the doings of Jupiter who, as the poets point out, is the supreme prince of everything (if anyone says this of any man or of any brute animal, he should be ashamed).¹¹

In his treatise on spectacles, Tertullian (*ca.* 160-230) severely rebukes those who attend and those who take part in the productions, because of the obscenity contained in them. Whenever a man attends these spectacles, his mind is aroused and his passions stirred;¹² the greatest attraction of the theater seems to be the various forms of impurity that are presented on the stage, and all Christians are commanded to avoid every kind of impurity.¹³ Tertullian's condemnation also includes obscene literature:

Now, if tragedies and comedies are bloody and wanton, impious and prodigal inventors of outrage and lust, and recounting of what is atrocious or base is no better; neither is what is objectionable in deed acceptable in word.¹⁴

¹¹ *Homilia XXII—PG XXXI*, 563-590.

¹² *Liber de Spectaculis*, cap. 15—*PL I*, col. 722, n. 648.

¹³ *Ibid.*, ca. 17—*PL I*, col. 723-724, n. 649.

¹⁴ *Ibid.*, cap. 18—*PL I*, col. 725, n. 650. The translation is taken from *The Fathers of the Church: Tertullian—Disciplinary, Moral and Ascetical Works*, ed. Joseph Deferrari et al., trans. Rudolph Arbesmann, O.S.A. et al., vol. 40 (New York, 1959), p. 89. Cf. Tertullian's *Liber de Virginibus Velandis*, cap. 2—*PL II*, col. 939, n. 891. St.

Arnobius (*fl.* 300) condemns persons who engage in obscene activity,¹⁵ and Lactantius (*fl.* 306), in referring to those who refuse to accept the truth of Christianity, states that literature, especially that literature which treats of obscene matters in a pleasurable way, is one of the deterrents to this acceptance.¹⁶ St. Hilary of Poitiers (d. *ca.* 367), like Tertullian before him, believes that obscene tales are to be condemned in the same manner that obscene plays are condemned.¹⁷ St. Ambrose (340-397), Bishop of Milan, condemns accounts which treat of homicide or adultery, because they tend to lead any reader to commit similar acts, but he shows how biblical accounts of the same sins are justified: he explains David's adultery and his murder of Uriah in terms of God's forgiveness of those same sins, which takes away any attractiveness the narration of the sins might have had for the Christian reader.¹⁸ Whenever it is a pagan author who is treating of these matters, however, the Christian reader should be wary of such accounts which might lead him into sins of impurity because of the obscenity contained in the writings.¹⁹

Cyprian (d. 258) also has a *Liber de Spectaculis*—*PL IV*, col. 811-819, nn. 781-788, which reflects Tertullian's opinions.

¹⁵ *Disputationum Adversus Gentes*, lib. 2, cap. 42—*PL V*, col. 881-883. Cf. *The Ante-Nicene Fathers*, ed. Alexander Roberts and James Donaldson, American reprint of Edinburgh ed. (New York, 1903), VI, 450.

¹⁶ *Divinarum Institutionum*, lib. 5, *De Justitia*, cap. 1—*PL VI*, col. 549. Cf. *The Ante-Nicene Fathers*, VII, 136.

¹⁷ *Tractatus in CXVIII Psalmum*, littera v, "He"—*PL IX*, col. 540, n. 311.

¹⁸ *Apologia Altera Prophetiae David*, cap. 1—*PL XIV*, col. 887-888, nn. 707-708.

¹⁹ *Ibid.*, cap. 2-3—*PL XIV*, col. 888-893, nn. 708-713. Cf. *Epistolae in Duas Classes Distributae, Prima Classis*, ep. lxiii, 45—*PL XVI*, col. 1201, n. 1033; *De Excessu Fratris sui Satyri*, lib. 2, 12—*PL XVI*, col. 1376, n. 1138.

St. Jerome (340-420) directs most of his words about obscene literature to those who wish to practice or are practicing virginity. He tells them that it is expected of the Christian (*virgo Christiana*) that he or she is not to know the meaning of or to use licentious words, and should ignore the songs and poems of the world because they contain obscene words.²⁰ He warns a mother and her daughter that the narrators of worldly tales are to be compared with the sirens who lured the sailors to their death in the sea through the lurid songs they sang.²¹ If the Christian is to read, he should avoid the obscene writings of the pagans entirely.²² About the same time, St. Augustine (354-430) recounted the extent to which his reading of Greek literature moved him as a young man²³ and the adverse effect of Terrence's plays upon him.²⁴ St. Augustine states elsewhere that tales are generally characterized by solicitation to some sexual pleasure or by leading one to believe some lie.²⁵ The Christian is to remove himself far from the temptations offered by pagan literature, for the many matters narrated in pagan tales are contrary to the Christian

spirit.²⁶ There is a great danger in reading the Greek and the Latin plays because they can corrupt.²⁷ This is not to say that there are no books whatever that inculcate proper Christian morals. Even some of the pagan works accomplish this, but only in part, and without the ramifications of true Christian morals.²⁸

St. Prosper of Aquitaine (*ca.* 456) restricts the value of pagan literature to the historical narration of purely human accomplishments, without adding anything whatever to the pursuit of Christian ideals.²⁹ St. Salvianus (*ca.* 460) is equally convinced of the uselessness of obscenity in literature.³⁰ St. Leo the Great (390-461) fears that the faith and the modesty of Christians will be simultaneously lost through contact with obscene tales,³¹ whereas St. Peter Chrysologus (d. 450) warns his flock that seeing or reading about licentious things will lead them to commit sexual sins of the mind and, possibly, physical sins. Pictures and books are alike dangerous in this regard; obscene plays blaspheme Christian teaching and practice. "He who desires to sin worships and venerates the authors who write about sinners." All human writing should reflect the dedication of the author to his God; the writings of Christians are to be

²⁰ *Epistola xvii*, 4—*PL XXII*, col. 871, n. 681 (*Epistola ad Laetam: De Institutione filiae*). Cf. St. Cyprian, *Liber de Habitu Virginitatis*, 19 and 20—*PL IV*, col. 471-472, nn. 458-459, which expresses the same opinion as St. Jerome's epistle.

²¹ *Epistola cxvii ad Matrem et Filiam in Gallia Commorantes*, 6—*PL XXII*, col. 957, n. 787.

²² *Epistola xlviii seu Liber Apologeticus, ad Pammachium, pro Libris contra Jovinianum*, 2 and 3—*PL XXII*, col. 494-495, nn. 213-214; cf. 12, col. 501, nn. 221-223.

²³ *Confessionum libri tredecim*, lib. 1, cap. 14—*PL XXXII*, col. 671.

²⁴ *Ibid.*, cap. 16—col. 672-673. Cf. *The Confessions of St. Augustine*, trans. Edward Pusey (New York, 1949), pp. 19-20.

²⁵ *Soliloquorum libri duo*, lib. 1, cap. 11—*PL XXXII*, col. 894.

²⁶ *Contra Faustum Manichaeum*, lib. 20, cap. 9—*PL XLII*, col. 374-375.

²⁷ *De Civitate Dei*, lib. 2, cap. 8—*PL XLI*, col. 53. Cf. *The City of God*, trans. Marcus Dods (New York, 1950), p. 47. Cf. cap. 13-15—*PL XLI*, col. 58-60.

²⁸ *Ennaratio in Psalmum xxxi*—*PL XXXVI*, col. 270. Cf. *De Anima et ejus Origine*, lib. 3, cap. 17—*PL XLIV*, col. 510.

²⁹ *Expositio Psalmorum a centesimo usque ad cl.*, *Psal. cxviii*, vers. 85—*PL LI*, col. 350, n. 450.

³⁰ *De Gubernatione Dei*, lib. 4, cap. 12—*PL LIII*, col. 84, n. 79.

³¹ *Sermo xvi, De Jejunio decimo mensis v*, cap. 5—*PL LIV*, col. 179, nn. 50-51.

characterized by modesty and purity, because God, to whom they are dedicated, is purity itself. The writings of the pagans, however, abound in the narration of obscene activity.³²

St. Maximus of Turin (d. 466) suggests that one remedy for the inclinations and temptation to sexual sin would be the removal of the incendiary accounts in the literature of the day.³³ He uses the Siren-image (which St. Jerome used some years previously) to convince his listeners of the evils in the world about them; one of these evils is certainly obscene literature, which fosters an increased tendency towards depravity.³⁴

Near the beginning of the eleventh century, a certain John, Abbot of Gorze, recounts how he avoided the comedies and writings, especially poems, which the Christians have condemned as profane and dangerous reading.³⁵ A century later St. Bruno of Asti (d. 1123) counsels his flock:

I ask you to consider the harbingers of lust who sit near the north gate of the city and announce their scandalous desires for love by composing and singing love-stories and love-songs. Certainly these creatures and their companions hinder our young men from working in the vineyards of the Lord,

³² *Sermo CLV—PL LII*, col. 610-611.

³³ *Sermo CXI, Contra loquendi pravitatem—PL LVII*, col. 751-752, n. 682.

³⁴ *Homilia XLIX, De Passione, et Cruce Domini, I—PL LVII*, col. 340, nn. 151-152. St. Maximus' parallel, however, is greater than merely comparing the evils of the world to the Sirens. He wants to stress the analogy between Ulysses strapping himself to the wood of the mast (thereby achieving victory over the attraction of the Sirens) and Christians saving themselves from worldly attractions by attaching themselves to the wood of the Cross. In St. Maximus' analogy, the effort of evil stories is only incidental to what he essentially wants to convey to his audience.

³⁵ *Vita Joannis abbatis Gorziensis*, n. 101—*PL CXXXVII*, col. 292.

from entering the Church, from praying as they should. It is for this reason that there are holy laws forbidding these young men to become priests or bishops (unless they have successfully avoided such contact with wantonness).³⁶

This passage is interesting for two reasons: (1) it stresses the effects that any obscenity in action or in literature might have on the adolescent especially; and (2) it seems to indicate some legislation with regard to such action and literature.

The tone discernible in the remarks of John and St. Bruno differs substantially from that in the writings of the earlier Fathers of the Latin Church. Those earlier passages, ending with the sixth century, were justifiably harsh in their condemnation of pagan literature, whether it was publicly dramatized or not. Then there seems to be silence for almost four centuries. Such apparent silence is understandable when one recalls that during these centuries the learning of the masses was negligible, and the preachers would not have to contend with sources of evil which flowed from supposed cultural refinement. If most of the people could not read, there was little danger of their reading obscene literature. The mode of passing on obscene stories would have been oral.

In commenting on St. John's Apocalypse, Rupert of Deutz (d. 1135) interprets the breath of one of the beasts as expressing itself in the literature of the twelfth-century world in which he lived.³⁷ John of Salisbury, Bishop of Chartres (d. 1182), is just as strong in his condemnation of obscene literature as any of the earlier Fathers; his special target is a group of Phrygians, who are

³⁶ *Homilia XXII, Dominica in Septuagesima—PL CLXV*, col. 772, n. 397.

³⁷ *Commentarium in Apocalypsim*, lib. 9, cap. 16—*PL CLXIX*, col. 1124, n. 475.

writers of obscene verses. It is the purpose of these writers to describe lascivious and corrupting things.³⁸ In the letters of Peter of Blois (d. 1200), a certain friend of the writer is dissuaded from reading love-poems and other ludicrous verses and is exhorted to read poetry with more meaning to it and poetry that is written in a more mature style.³⁹ In another letter the same author tells his correspondent that tales and popular songs are of no use and are to be spurned in favor of higher intellectual (and spiritual) pursuits.⁴⁰

Although he does not explicitly mention obscenity in literature, Alain de Ryssel (d. 1203) extols the mind that is rid of all uncleanness, an uncleanness that had its origin from many external sources.⁴¹ Near the beginning of the thirteenth century, Abbot Absalo condemned all writers of evil literature.⁴²

The following things should be stressed as flowing from the teaching of the Fathers on obscenity, especially obscenity in literature: (1) the very close connection between obscene literature and obscenity on the dramatic stage (in this regard, note their use of *scena*, stage, and its connection with a compound derivative, *obscena*; the meaning of the Latin *ludicrum*, theatrical performance, and its relation to the meaning of the English derivative, *ludicrous*); (2) the stress some of the authors have placed on the effect of obscene literature on the adolescent; (3) the main effect of obscenity being the occasion of the perversion of the mind

and the consequent perversion of morals; (4) the almost total absence of any clear allusion to ecclesiastical legislation against obscene literature. The Fathers of the Church display concern over obscenity in literature shortly after Apostolic times, and this concern continues until the thirteenth century. During this time, however, the Church as a legislative body was not entirely inactive.

II. The Ecclesiastical Prohibitions of Obscene Literature

Before the Council of Trent

The first mention of any prohibition of books because of some factor which might well include obscenity is, it seems, a canon of the IV Council of Carthage (398): *Episcopus libros gentilium non legat, haereticorum autem pro necessitate aut tempore*.⁴³ The interpretation given to this canon is that the bishops were not habitually to read books of pagans to the exclusion of sacred literature; that they were not to read the most scandalous of the pagans' works; and that, whenever any need of their pastoral office demanded such reading, they could read heretical (but not obscene) books in order to refute them.⁴⁴

The *Apostolic Constitutions* (ca. 400) include a similar law whereby all Christians are forbidden to read the books of gentiles.⁴⁵

³⁸ Can. XVI, in Joannes Mansi, *Sacrorum Conciliorum Nova et Amplissima Collectio* (Florentiae, 1752-1792), III, col. 952 [=Mansi].

³⁹ *Epistola LVII ad amicum G. de Alneto—PL CCVII*, col. 172.

⁴⁰ *Polyceticus*, lib. 1, cap. 4—*PL CXCIX*, col. 390, cap. 6—*PL CXCIX*, col. 403.

⁴¹ *Epistola LXXVI—PL CCVII*, col. 237.

⁴² *Summa de arte Praedicatoria*, cap. 14—*PL CCX*, col. 139, n. 73.

⁴³ *Sermoes. Serm. VI in Natali Domini—PL CCXI*, col. 47.

⁴⁴ *The Ante-Nicene Fathers*, VII, 393 (*Apostolic Constitutions*, I, c. vi: "Abstain from all heathen books. For what hast thou to do with such foreign discourses, or laws, or false prophets, which subvert the faith of the unstable? . . . Do thou therefore utterly abstain from all strange and diabolical books.") These Constitutions go back to the *Didascalia* (250-300), from which they were taken.

The *Decretum Gelasii* (ca. 496) reaffirms that all Christians are to be concerned only with those books which are good and useful. The decretals also point out specific examples of the writings they foster: the Scriptures, the writings of the Fathers, and other good and pious works.⁴⁶

These legislative acts are indicative of the Church's concern with bad literature in the early centuries of the Christian era. Until after the Renaissance, however, most ecclesiastical prohibitions were levied because of the heresy contained in the books, the false attribution of books to the Apostles, and because of open attacks against the clergy and religious of the Church. With regard to obscene literature, the Church settled the matter by forbidding its members to read the works of the pagans whenever they contained obscenity. Such laws remained to guide the Christians of the time, and so it was not until a new literature arose that the Church was forced to make some statement of renewed policy. Some of the Humanist literature during the period of the Renaissance was certainly obscene, and the popular literature of the time was not any less corrupting.

In a polemic against the Church's prohibition of books, one author makes a significant comment about this period of the Renaissance (roughly, 1350-1550):

The plain fact is that for two centuries a literature of extreme sexual license circulated in Italy (and elsewhere), and hardly any Pope in that time took any notice of it, except to read and enjoy it. For thirty years comedies of this type were presented in the Vatican.⁴⁷

⁴⁶ Mansi, VIII, col. 38: *Decretum Gelasii*, cap. 3.

⁴⁷ Joseph McCabe, *The History and Meaning of the Catholic Index of Prohibited Books* (Girard, Kansas, 1931), p. 25 [=McCabe]. In mentioning thirty years specifically, McCabe is probably re-

The relationship between the papacy and the Humanists of the Renaissance is one that is difficult to understand. The popes became the patrons of art, and as a consequence their withholding of subsidy to any writer achieved much the same effect as would legal prohibition in deterring the writer from writing obscene works and then distributing them.

Nicholas V (1447-1455) invited Francisco Filelfo (1398-1481), a writer of filthy poems, a "perfect master in the art of scurrilous vituperation," to Rome, and this writer was "loaded with favours when he got there."⁴⁸ During the same pope's reign, Lorenzo Valla (1406-1457), a "dissolute satirist . . . to whom nothing was sacred,"⁴⁹ wrote a work called *De Voluptate*. Nevertheless, Nicholas V made Valla an apostolic notary and further subsidized him by entrusting to him the task of translating Thucydides into Latin. There seems to be no indication whatever that Pope Nicholas acted against the writers of obscenity, although it seems Valla was persecuted when he attacked the papacy itself.⁵⁰ It is undeniable that the Renaissance brought with it a revival of the obscene classics. Many of the popes throughout this period were concerned with the Humanists to the extent that they paid for and fostered translations from the Greek writers and editions of Latin

ferring to the reigns of the Medici Popes, Leo X and Clement VII. For a verification of McCabe's statement, cf. G. F. Young, *The Medici* (New York, 1933), pp. 297 and 303; and John Addington Symonds, *Renaissance in Italy* (New York, 1935), I, 225 and II, 215 [=Symonds]. Ludwig Pastor, *The History of the Popes from the Close of the Middle Ages* (St. Louis, 1891-1953), X, 341 [=Pastor].

⁴⁸ Pastor, II, 197.

⁴⁹ *Loc. cit.*

⁵⁰ McCabe, *loc. cit.*

texts.⁵¹

Aeneas Sylvius Piccolomini, later Pius II (1458-1464), was certainly acquainted with the erotic literature of his time: "He freely enjoyed the pleasures of youth, and thought it no harm to compose novels in the style of Longus and Achilles Tatius. . . . A change, however, came over him when he assumed the title of Pius II with the tiara."⁵² It should be pointed out that Pius II later condemned one of his own books.⁵³ During Pius' reign, Filelfo "ruined his fortunes by his 'shameless importunity,'" ⁵⁴ which probably means that he fell into the pope's disfavor, but that no legal procedure was taken against the poet of obscene verse. Lack of intellectual respect for "versifiers of the calibre of Gianantonio Porcello . . . who shared the impure tastes of Antonio Beccadelli" probably led Pius II to refrain from acting against writers of petty, though obscene, poetry.⁵⁵ Pius II seemed content to oppose such literature as he opposed the heathen authors, by aversion rather than by legislation.⁵⁶

One writer of obscene poetry, Aretino, had once been subsidized by Pope Leo X (1513-1521), highly favored by Cardinal Medici, and in the favor of Clement VII (1523-1534), but ultimately he fell into

disfavor and condemnation.⁵⁷ Clement VII acted against Marcantonio Raimondi "for having made copperplates of some obscene drawings of Giulio Romano; had not the latter already made his way to Mantua, the anger of the Pope would have fallen upon him heavily."⁵⁸ It has been alleged that Aretino composed scandalous sonnets for these pictures, "describing and commenting upon the lewdness of each picture."⁵⁹ This would certainly explain Aretino's discreet retirement from Rome for a season immediately after the imprisonment of Raimondi.

Italy was certainly not the only country where obscenity was running rampant. These last centuries of the Middle Ages brought obscene riddles to England⁶⁰ and the infamous literary genre of the *fabliaux* to France.⁶¹ From France the *fabliaux* entered into vernacular Italian literature during the next few centuries. Thus there were

⁵⁷ *Ibid.*, VIII, 217-218; X, 341. Aretino's books were placed on the Index of 1559, the first one published. Cf. Symonds, II, 407. Aretino was on the Tridentine revision of the Index in 1564 and remained on subsequent editions of the Index until 1887.

⁵⁸ Pastor, X, 346.

⁵⁹ The quotation continues: "Of the three accomplices in this act of high treason, Aretino was undoubtedly the guiltiest . . . he takes credit to himself for having procured the engraver's pardon and liberation from Clement VII." Symonds, II, 389. Cf. Pastor, X, 346, fn. 2. Pastor admits that Aretino wrote the obscene sonnets, although he states that it was done at a later date and not so immediately connected with the actual printing of the pictures. It seems, too, that Aretino was very highly favored after this incident by a subsequent Pope, Julius III (1550-1555). Pastor, XIII, 329-330.

⁶⁰ In the Exeter Book, the Vercelli book, the Junian manuscript, and, to some extent, in Beowulf. St. John-Stevas, *op. cit.*, pp. 3-4.

⁶¹ These obscene stories flourished in France from about 1159 until 1340. Cf. Joseph Bedier, *Les Fabliaux*, 5me ed. (Paris, 1925), p. 41.

⁵¹ Norman St. John-Stevas, *Obscenity and the Law* (London, 1956), pp. 2-3, enumerates the obscene classics with which the Humanists would have come into contact.

⁵² Symonds, I, 403. Cf. Pastor, II, 39.

⁵³ In the bull *In Minoribus Agentes* which he sent to the University of Cologne on April 26, 1463. *Magnum Bullarium Romanum*, edit. de 1673, I, 392. Cf. Augustin Fliche et Victor Martin, *Histoire de L'Eglise*, XV: *L'Eglise et la Renaissance* (1449-1515) par Roger Aubenas and Robert Ricard (s.l., 1951), 54.

⁵⁴ Pastor, III, 38.

⁵⁵ *Loc. cit.*

⁵⁶ *Ibid.*, p. 39.

two strong external forces influencing Italian literature during the period of the Renaissance: the (obscene) Greek and Latin classics and the French *fabliaux*.

There was also an internal force at work: that realism in art and letters which dominated the artistic scene during the Renaissance. The influence of Boccaccio in this regard was paramount during the fourteenth century:

He was the first who frankly sought to justify the pleasures of carnal life, whose temperament, unburdened by asceticism, found a congenial element in amorous legends of antiquity. . . . He prepared the nation for literary and artistic Paganism by unconsciously divesting thought and feeling of their spiritual elevation.⁶²

But Boccaccio was not the only one writing such tales, nor was he the first of these writers. Even ecclesiastical compilers gathered short stories to assuage the popular literary taste for stories. Many of these collections "contain a variety of tales, many of them surprisingly indecent, veiling spiritual doctrine under obscenities which horrify a modern reader."⁶³ Boccaccio, however, avoided all the abstractions of allegory and used concrete facts to describe the world as he saw it.⁶⁴ Realism, under Ariosto's imagination, was sensuous but indescribably rich in objectivity. It did not take long for this sensuousness to degenerate into sensuality.⁶⁵

At Treviso in 1467, Francesco Colonna, a Dominican monk, wrote "Poliphil's Strife of Love in a Dream," a poem extolling *il talento*, simple appetite.⁶⁶ Il Lasca (1503-1583), the author of *Le Cene*, a novelle and a collection of *canti*, wrote in the "raciest

Tuscan idiom, and [his stories] are redolent of the humour particular to Florence. . . . Still the specific note of Il Lasca's novels is not pure fun. He combines obscenity with fierce carnal cruelty and inhuman jesting, in a mixture that speaks but ill for the taste of his time."⁶⁷ It is, then, undeniable that there was an immense body of erotic and obscene literature during the Renaissance. Some action on the part of the Papacy was demanded, and it came with Paul III (1534-1549) and Paul IV (1555-1559).

While Paul III was awaiting the assembling of the general council which he had once postponed, he issued a bull in 1542 which instituted the Universal Roman Inquisition or the Congregation of the Holy Office.⁶⁸ It was the function of this congregation to safeguard the purity of the faith; to judge the doctrines propounded in any area of the Church, whether these doctrines were issued orally or in writing; and to examine and condemn bad books. Some years later, in 1557, Paul IV instructed this congregation to compile a complete catalogue of condemned books.⁶⁹ This first proposal for an index was prepared by Antonius Bladus, but was not published.⁷⁰

The first *Index Librorum Prohibitorum* was published in 1559.⁷¹ It seems that the erotic literature contained in this catalogue was forbidden especially because of the description of the looseness of bishops, monks, and nuns. The Index itself was concerned primarily with heretical writers,⁷²

⁶² Symonds, I, 374.

⁶³ *Ibid.*, I, 900.

⁶⁴ *Ibid.*, I, 896.

⁶⁵ *Ibid.*, II, 457.

⁶⁶ *Ibid.*, I, 962 and 969.

⁶⁷ *Ibid.*, II, 214.

⁶⁸ Bull *Licet ab Initio* of July 21, 1542—*Bullarum Privilegiorum ac Diplomatum Romanorum Pontificum Amplissima Collectio*, opera et studio Caroli Cocquelines (Romae, 1739-1744), tom. IV, i. 2 [= *Bull. Rom.*].

⁶⁹ Cf. Pernicone, p. 46.

⁷⁰ Pastor, XIV, 278.

⁷¹ *Ibid.*, 277.

⁷² *Ibid.*, 278.

although Boccaccio's *Decameron* was listed, as were the *Priapeia*, all the works of Aretino, and certain medieval romances.⁷³

With regard to this period immediately before the Council of Trent several points should be enumerated: (1) the Church was more concerned with heresy and attacks against the Church's clerics and religious than it was with obscenity; (2) the Church gave the benefit of the doubt to a Catholic writer, and chose to prohibit books only after the author's death—even then, the Church asked for a correction of an expurgation where such was possible; for works of obscenity, *donec expurgetur* clearly meant a mitigation or removal of the offensive passages; and (3) when the Church did finally set about condemning books because of obscenity, its condemnations were few and were apparently not very effective even in Italy.

The fifteenth century brought with it the advent of printing presses. Books were multiplied by the hundreds, and, consequently, new methods had to be devised to cope with the ease and rapidity with which these books could be printed and spread abroad. It is all too evident that even at this time the presses were used as means for the dissemination of works which were harmful to religion and good morals. It is in the sixteenth century, with the convening of the Council of Trent, that the Church set about examining more closely the principles upon which it would base its legislation with regard to literature.⁷⁴

⁷³ Symonds, II, 621.

⁷⁴ Leo X (1513-1521) in his constitution *Inter Sollicitudines* of May 4, 1515, in the V Lateran Council, reflects this multiplication of texts and the problems occasioned by the number and content of so many of these books. *Bull. Rom.*, tom. III, iii, 409-410; *Codicis Iuris Canonici Fontes* cura Emi. Petri Card. Gasparri editi, cura et studio Emi. Iustiniani Card. Seredi editi (Romae, 1923-1939),

Obscene literature and the Council of Trent (1545-1563)

With the convening of the Council, there was promise of some legislation against obscene literature. In the IV session of the Council (April 8, 1561) a decree was drawn up, but it was not until the XVIII session (Feb. 26, 1562) that a committee was formed whose task was to study the questions of the censorship of books and the revision of the Index of 1559. By the final month of the following year this committee had finished its task and presented the legislation it had drawn up to the Fathers of the Council.⁷⁵ This suggested legislation included (1) a list of ten general rules which were to regulate the censorship, prohibition, expurgation, and reading of books;⁷⁶ and (2) a catalogue or Index of forbidden books.

It is the seventh of these general rules that concerns obscene literature:

Books which professedly deal with, narrate or teach things lascivious or obscene are absolutely prohibited, since not only the matter of faith but also that of morals, which are usually easily corrupted through the reading of such books, must be taken into

n. 68 [= *Fontes*]. Leo X and the Council then enacted legislation which demanded the censorship of books prior to their being printed. This action was based on a similar method of coping with the literature of the time by Innocent VIII (1484-1492) in his bull *Inter Multiplices* of Nov. 17, 1487. Innocent VIII demanded that all books be submitted to the Master of the Sacred Palace in Rome and to the ordinary elsewhere before publication.—*Collectio Bullarum, brevium aliorumque diplomatum sacrosanctae basilicae Vaticanae*, tom. II ab Urbano V ad Paulum III productus (Romae, 1750), 89.

⁷⁵ Council of Trent, session XXV (Dec. 4, 1563). H. J. Schroeder, *Canons and Decrees of the Council of Trent* (St. Louis, 1941), pp. 297-299 and 519-520 [= Schroeder].

⁷⁶ Approved by Pius IV's constitution, *Dominici Gregis*, of March 24, 1564—*Bull. Rom.*, tom. IV, ii, 174-175; *Fontes*, n. 105.

consideration, and those who possess them are to be severely punished by the bishop. Ancient books written by heathens may by reason be their elegance and quality of style be permitted, but may by no means be read to children.⁷⁷

This marks the first appearance of a specific prohibition against obscene literature. This complete and developed legislation was to remain in force for the next three hundred and fifty years, that is, until the time of Pope Leo XIII.⁷⁸

After stating the prohibition of obscene literature, the Fathers of the Council went on to explain, partially, the principle upon which they had based their prohibition. Evidently the Fathers wished to stress that they were empowered to detect and condemn doctrinal errors and to proscribe morally corrupting books. By reading obscene literature many are drawn to commit moral evil more easily than they are otherwise prone to such depravity. Hence the special mention of those who are found to have obscene literature in their possession. The one exception to the general rule as presented by the Council is in the nature of a favor to ancient literature: whenever the obscene book is a classic by an ancient writer, then it might be read by adults, who are presumed to be able to withstand the sexual attraction such books would have. The adults who study these books for their construction and style are presupposed to be men capable of reading such works for a valid reason and not because of prurient interest.

This rule, along with the nine other rules, was published in the initial part of the Tridentine Index of 1564, which was promulgated under Pius IV (1559-1566) and

which was, for the most part, a reworking of the Index of 1559 in the light of the new legislation. The list of prohibited books was arranged alphabetically by author's name. There were a number of authors condemned by name; thus the Church dealt with "that rank growth of licentious literature which had sprung up during the Renaissance period"⁷⁹ in a general law and in specific prohibitions. The legislators looked upon their laws as quite precise; most readers would know which works were to be considered as forbidden reading because of obscenity simply by consulting the general norms laid down during the Council, but the following men were placed on this Index by name because of obscenity: Rabelais, Aretino, Boccaccio (*Decameron*), Franco, Poggius, and Valla.⁸⁰ It should be pointed out, however, that during the Council of Trent Becadelli declared that an expurgation of Boccaccio would spoil his works: "let certain obscene or impious expressions be expunged, and say nothing about the rest."⁸¹

The Church also extended this control over obscenity to the universities, where only those obscene classics that had been sanctioned by Rome could be used in the classroom. So extensive was this ruling that many professors were tied down, at some universities, to a study of Cicero and Aristotle,⁸² although the second part of the Tridentine legislation contained an absolute permission for the reading of the obscene works of classical poets. Perhaps university students were considered as falling under

⁷⁷ Schroeder, pp. 275 and 547-548.

⁷⁸ Redmund Burke, *What is the Index?* (Milwaukee, 1952), p. 7.

⁷⁹ Symonds, II, 621.

⁸⁰ Other authors and their works: Laurentius Abstemius's *Fabulae*; Henricus Bebelius's *De Institutione Puerorum*, *Facetiarum libri tres*, and *Triumphis Veneris*; Petrus Ligneus's *Lepidissima Parabola*.

⁸¹ Pastor, XVI, 19, fn. 4; XIV, 277.

⁸² Symonds, II, 616-617.

the category of the "children" mentioned in the law.

The expurgation of obscene literature

Even after the Council of Trent had formulated its policy against obscene literature, there is still evidence that papal patronage of literature continued. Pius V (1566-1572) severely punished one poet who had composed pasquinades, although it is not known that he ever rewarded any other poet in this way.⁸³ In 1570 St. Pope Pius V requested the Master of the Sacred Palace to expurgate some books. These books had been forbidden by the pope, but he felt that they would be of great service (especially to students) after they had been purged of offensive passages.⁸⁴ The benefit of certain expurgated books is pointed out by the original prohibition stating that this given book is to be considered prohibited *donec expurgetur*, and it seems that the emphasis is to be placed on the word *donec*.

It is debated whether there ever was an official publication of a work entitled *Liber Librorum Expurgatorius*, or whether it was

⁸³ Pastor XVII, 128.

⁸⁴ *Motu proprio* of Nov. 19, 1570, to Manriquez, the Master of the Sacred Palace, giving him simultaneously the fullest powers to carry out his task. Cf. Pastor, XVII, 203; and Joseph Hilgers, *Der Index der verbotenen Bücher* (Freiburg, 1904), pp. 510-513 [=Hilgers]. The precedent for this type of procedure had been set in 1148. In that year Gilbert de la Porree's *Commentary on Boethius* had been condemned with the clause *nisi prius eum Romana ecclesia correxisset*. The more abbreviated form of this clause is *donec corrigatur*. The phrase was replaced by *donec expurgatur* whenever it was a question of obscenity, as was the case with Boccaccio's *Decameron*. These phrases were used in many prohibitory decrees, especially when the author in question was a Catholic. By this type of condemnation the Church enabled the author to conform more properly to Christian doctrine and morals. Cf. Pernicone, pp. 35-36.

only a projected catalogue; at any rate the procedure was used. After the deletion or amendment of certain offensive and specified passages the works could be read.⁸⁵ There is evidence that at least some expurgations were carried out, and the criterion used in purging the text is interesting: all the gallantries, indecencies, and impurities are retained, but the clerical sinners are changed into laymen. "Immorality in short was secularized. But the book still offered the same allurements to a prurient mind."⁸⁶ In all fairness, however, it should be pointed out that Sixtus V (1585-1590) expressed great disapproval of such expurgations.⁸⁷

Expurgation of obscenity was considered the remedy whereby the prohibition of the Church is lifted. The classics which were obscene did not have to be purified unless they were to be read by young students. But old and young alike could not read the "modern classics" until they were expurgated. From the examples cited, it seems that what was objectionable, that is, what was not in accord with the standards of the time, was the narration of obscene things in connection with ministers of the Church.

Legislation from the Council of Trent until Leo XIII

In 1571 the Congregation of the Index was established as an executive agency of the papal government. As the name of this body indicates, the congregation was to have charge of the prohibition of books and to place them on the Index if they were found to be offensive to either faith or morals.⁸⁸ Any book whose obscenity was in

⁸⁵ Symonds, II, 607.

⁸⁶ *Ibid.*, II, 621-622.

⁸⁷ *Ibid.*, pp. 622-623.

⁸⁸ The first meeting of the Congregation took place on March 27, 1571, although the preceding *motu*

question could be submitted to this congregation for judgment.

Gregory XIII (1572-1585) confirmed St. Pius V's formation of the Congregation of the Index, and gave to it exclusive and universal powers to implement the legislation of the Council of Trent.⁸⁹ Sixtus V (1585-1590) reorganized the Roman congregations, and, although he made no changes in the Congregation of the Index, he did define its rights.⁹⁰ During this period the Holy Office continued to examine and proscribe books whenever there was any question of a book's destroying faith or morals, but almost without exception the condemnation of works because of obscenity came from the Sacred Congregation of the Index.

In 1589 the Congregation of the Index prepared to print a new Index, in which the general rules of the Council of Trent were to be replaced by twenty-two new rules. This edition of the Index, however, was never officially promulgated as Sixtus V died before its publication and his successors never promulgated it. With the advent of Clement VIII (1592-1605) a new Index was ordered, and the Pope promulgated it in 1596 with an accompanying bull, *Sacro-sanctum Fidei*.⁹¹ This Index retained the

proprio of Pius V (cf. fn. 84) had, in effect, implied the power to form this special Congregation of the Index. Cf. Pastor, XVII, 203.

⁸⁹ In the bull *Ut Pestiferarum* of Sept. 13, 1572—*Analecta iuris pontificalis*, 1st series (Rome, 1885), 2256. Cf. Hilgers, pp. 514 ff.; Pastor, XIX, 319-320.

⁹⁰ Bull. *Immensa Aeterni Dei*, Jan. 22, 1587—*Bull. Rom.*, tom. IV, iv, 392-401. Cf. Pastor XXI, 196; Hilgers, p. 11.

⁹¹ Oct. 17, 1595 and May 17, 1596. The first is the date of the bull's promulgation; the second, the date of the publication of the Index with the bull accompanying its promulgation.—*Bull. Rom.*, tom. V, ii, 82-83. Cf. Pastor, XXIV, 217; Hilgers, pp. 536 ff.

general rules of the Council of Trent and condemned the following works under Rule VII: (1) some stories taken from the Old and New Testaments, together with two comedies which depicted the corrupt customs of the day; (2) a book of *exempla* (or tales) about virtue and vice; (3) the books of the ten rings of Venus; (4) the *Priapeia*; and (5) two collections of poems and epigrams.⁹²

Throughout this period action against obscenity was not limited to placing books on the Index. Clement VIII himself, some four years before the promulgation of his Index, demanded that bishops throughout the Catholic world enforce the promulgation of the Index within their territory and enacted legislation concerning the expurgation and the printing of books. Under the section *De Correctione Librorum* of this instruction, the pope decreed the method to be followed in expurgating obscene texts: (1) everything which slanders one's fellowmen, especially members of the clergy or leaders of the country, or which is contrary to upright conduct or Christian teaching is to be removed; (2) any *exempla* which ridicule ecclesiastical rites, religious orders, or the position and dignity of any person must be expurgated; (3) coarse jokes or witticisms are to be omitted; (4) anything which can be considered lascivious or harmful to good morals is to be deleted; and (5) any obscene images or drawings which appear in any book whatever are to be oblit-

⁹² In subsequent editions of the Index (until 1892) the Clementine Index along with the Tridentine Index, was looked upon as a complete list of prohibitions for the times in which they were issued. All entries lack a precise date: those works prohibited by the Council of Trent are marked *Ind. Trid.*; those by the Clementine Index of 1596 are marked *App. Ind. Trid.*

erated.⁹³

In the seventeenth century, periodic condemnations of works because of obscene passages continued to flow from the Congregation of the Index, and occasionally both this Congregation and the Holy Office chose to condemn the same book (in this latter instance there were two decrees prohibiting the book, frequently issued several years apart). Some samples of works condemned follow: "The Little Book on the Secrets of Women," falsely attributed to Albert the Great; Castiglione's *Il Cortegiano*;⁹⁴ Marino's poem, *Adonis*, and the book, *The Nights of Love*; Pallavicino's love letters and *Vulcan's Goal*. During this century, however, there seems to be one instance of papal subsidy to a collector of salacious stories. Poggio (or Francisco) Bracciolini (1566-1646) was an intimate of Pope Urban VIII (1623-1644) and was appointed secretary to the pope's brother, Antonio. The obscene stories that Bracciolini collected underwent some twenty-six editions before they were noted for expurgation. It seems that this collection of stories did have a moral intent: through the personification of virtues and vices it was hoped that the reader would be led to imitate the virtues and avoid the activity of vice. Evidently the portrayal of vice became more of a source of attraction to the reader than an incentive to avoid it. Even though there is sufficient evidence to support Bracciolini's being poet laureate for Urban VIII, there is no indication that there was ever any official papal approval of this particular collection of stories.⁹⁵

In the 1730's Clement XI sent Cardinal

⁹³ *Fontes*, n. 426.

⁹⁴ An expurgated version of the *Cortegiano* was published in 1584.—Pastor, XIX, 320, fn. 3.

⁹⁵ Pastor, XXIX, 423-424.

de Tournon as legate and apostolic visitor to India. One of the cardinal's disciplinary acts concerned the prohibition of obscene literature because it tended to corrupt morals: he enforced a *latae sententiae* excommunication on anyone who read such works or retained them in his possession. Clement XII's (1730-1740) apostolic letter of 1734 demanded that Cardinal de Tournon's decision and disciplinary acts be followed.⁹⁶ Clement XII's successor, Benedict XIV (1740-1758), promulgated an Index which contained several new condemnations of obscene literature: Chorier's book on Cupid and Venus; John Simon's writings on conjugal impotency and on love potions; Richardson's *Pamela* (the French translation); and one of the several *Anti-Pamelas* which Richardson's work occasioned. This Index included the Tridentine rules, but in the following year (1753) the two congregations of the Holy Office and the Index issued the constitution *Sollicita ac Provida*,⁹⁷ chose to reaffirm the need for and applicability of the VII rule against obscene literature, and then set about the revision of the Index, freeing it from typographical and other errors which, in the course of time, had crept into the previous editions.

Clement XIII's (1758-1769) encyclical letter of 1766 called attention to the perversity of the literature of his day:

Should not anyone become indignant at these books which corrupt with great wickedness, the modest behavior of men by recounting most foul actions and by using

⁹⁶ Litt. ap. *Comperum exploratumque*, August 24, 1734, dub. xvi—*Fontes*, n. 296. This document is supported by Clement XII's litt. ap. *Concredita Nobis* of May 13, 1739 and by Benedict XIV's const. *Omnium Sollicitudinum* of Sept. 12, 1744—*Fontes*, n. 300, sect. 14, dub. xvi; sect. 40, n. 348.

⁹⁷ Benedict XIV, const. *Sollicita ac Provida*, July 9, 1753—*Fontes*, n. 426.

extremely obscene words; at these books which persuade the minds of incautious readers to live in a deplorably licentious manner, and give such a distorted account of piety? Why? Because these writings are sprinkled throughout with an elegance of style, with alluring embellishments of language, and with other inducements so that the minds of readers are more easily ensnared and become corrupted by the poison of this serious misconception of life.⁹⁸

Until the time of Leo XIII there was no significant development in the legislative norms against obscene literature, but the Index was published anew from time to time, and there were always a few condemnations because of obscenity. The most familiar authors condemned for obscene literature during this century and a half (from 1760 until 1896) were the following: Casanova, George Sand, Eugene Sue, Dumas *père* and Dumas *filis*, Balzac, Stendal (Henry Beyle), and Gustave Flaubert. One has only to look at some of the titles of condemned books to see the reason for the condemnation: *The Art of Love*, *Voluptuous Lives of the Capuchins*, *Erotica*, *The Art of Knowing Women*, *The Story of Prostitution*, to name but a few.

Perhaps the most interesting condemnation during this period is the one which follows, for it is one instance when the Sacred Congregation of the Index chose to announce that it was condemning the works because of Rule VII of the Tridentine legislation, the rule prohibiting obscene literature.

Mantegazza, Paolo. Senatore del regno. Igiene dell'amore. Milano, 1881.—Fisiologia dell'amore. Milano, 1882.—Gli amori degli uomini, saggio di una etnologia dell'amore. Milano, 1886. *Opera praeadamnata ex VII.*

⁹⁸ *Christianae Reipublicae*, Nov. 25, 1766—*Fontes*, n. 461; *Bull. Rom.*, tom. III, 225-227.

*reg. Ind. Trid. Decr. 25. Jun. 1886.*⁹⁹

During the nineteenth century the Sacred Congregation of the Index or the various popes themselves issued *monita* to the bishops of the world, asking them to take care that harmful literature should not fall into the hands of the faithful who, in the providence of God, have been placed under their care. In most of these warnings, however, obscenity is not mentioned explicitly, although it certainly falls within the comprehensiveness of the warnings.¹⁰⁰

In 1864 the Sacred Congregation of the Index issued an encyclical letter on the prohibition of books, entitled *Inter Multiplices*. Before demanding that the bishops of the world effectively prohibit harmful books within their individual dioceses, the Congregation pointed out:

Among the many disasters by which the Church of God is pressed from all sides in these lamentable times, we must examine the collections of depraved books which are flooding almost the entire world; for through the labors of impious and profligate men the divine religion of Christ, which is to be held in reverence by everyone, is despised; good morals, especially those of incautious youth, are interiorly weakened, and the normal rank and order of social custom are turned around and almost brought into complete confusion.¹⁰¹

⁹⁹ *ASS* 19, 96.

¹⁰⁰ Gregory XVI (1831-1846), ep. encycl., *Mirari Vos*, Aug. 15, 1832, sect. 5—*Fontes*, n. 485. Cf. sect. 8. Pius IX (1846-1878), ep. encycl. *Nostis et Nobiscum*, Dec. 8, 1849, sects. 8, 13, 14—*Fontes*, n. 508; ep. encycl., *Cum nuper*, Jan. 20, 1858, sect. 2—*Fontes*, n. 523. Decretum S. C. Indicis, March 26, 1825—*Fontes*, n. 5146; *Collectanea S. C. de Prop. Fide* (Rome, 1907), I, n. 785, p. 456 [= *Collectanea*]. Monitum S. C. Indicis, March 3, 1828—*Fontes*, n. 5148; *Collectanea*, I, n. 1261. Monitum S. C. Indicis, Jan. 5, 1836—*Ibid.*, p. 695.

¹⁰¹ S. C. Indicis. litt. encycl., Aug. 24, 1864—*Fontes*, n. 5148; *Collectanea*, I, n. 5148, p. 695.

In addition to this encyclical letter, the same Congregation clarified two aspects of its method of prohibiting books: (1) when the Congregation announces that it has dismissed a book (in the formula used on this occasion the operative word is *dimittatur*), the book is to be considered as not prohibited;¹⁰² thus when a supposedly obscene work is referred to this Congregation for a judgment, and the work is dismissed, the Congregation has not deemed to prohibit that book by entering it in the *Index*; (2) when the work is dismissed from the Congregation, it is not to be considered immune from all error as regards faith or morals.¹⁰³ Thus, when an allegedly obscene work is dismissed, this fact alone does not necessarily mean that the work is still not prohibited in virtue of the general norms imposed by the Council of Trent. From these two replies, it is evident that not every obscene book has been entered in the lists of prohibited books. There are some works whose obscenity is not in question; it is sufficient that these works remain prohibited in virtue of the general law of the Church condemning obscene literature.

Further prohibitions of obscene literature by the American bishops

The American bishops responded to the warnings (and the demands) of the Holy See by issuing a joint pastoral letter at the III Provincial Council of Baltimore in 1837; part of it concerns obscene literature:

Nothing is more surely calculated for the destruction of that purity which is the soul of virtue, than the perusal of lascivious tales; and never did the most unprincipled author compile any work more foul in this respect,

than the productions of our assailants, and never was there exhibited a more voracious appetite for mischievous aliment than that which they have unfortunately excited. With what avidity have not the numerous and heavy editions of those immodest fictions been taken up, disseminated through the country, purchased and introduced in the name of religion amongst the aged and the young of both sexes, in every state and territory of our Union? . . . Affecting the guardianship of virtue, they undermine its foundations.¹⁰⁴

The American bishops also touched upon the matter of obscene literature, especially in connection with American youth, in the three Plenary Councils of Baltimore.¹⁰⁵ The bishops meeting at the II Plenary Council lament anyone's words or actions which served to accustom or exhort adolescents to any usage which would undermine modesty or piety. They realize the sheer number of perverse books, pamphlets, novels, and even magazines that were being spread throughout the country. They feel it their peculiar duty to exhort, even to demand, that the individual pastors of souls warn those under their care of the harm that could come from such insidious and obscene literature.¹⁰⁶ One effective means of subverting the appeal of evil literature, the bishops feel, is the spreading abroad of good literature. This is to be the task especially of Catholic authors, publishers, and book sellers.¹⁰⁷

¹⁰⁴ *The National Pastorals of the American Hierarchy (1792-1919)*, ed. Peter Guilday (Washington, D. C., 1923), pp. 23-24.

¹⁰⁵ I Plenary Council of Baltimore: May 9, 1852; II Plenary Council of Baltimore: October, 1866; III Plenary Council of Baltimore: November, 1884.

¹⁰⁶ *Concilii Plenarii Baltimorensis II, Decreta* (Baltimore, 1868), n. 426, p. 220 and n. 495, pp. 250-251.

¹⁰⁷ *Ibid.* nn. 498-501, pp. 252-254.

¹⁰² S. C. Indicis, decr., June 21, 1880—*ASS* 13, 92.

¹⁰³ S. C. Indicis, decr., Dec. 5, 1881—*ASS* 14, 288.

The bishops of the III Plenary Council suggest various methods of subverting the effects of evil literature: scriptural and patristic readings; fostering the production of literature in various fields by Catholic clerics and lay men and women; a diocesan paper within each bishop's diocese, even daily papers in the larger cities; telling the Catholic populace that every writer who travels under the sign of Catholicism is not by that fact alone a true Catholic writer: his doctrine and his practice must prove the fact; demanding perfect obedience to the bishop's legislation within his diocese. The bishops feel that a special condemnation is to be made of those who foster writing which breaks the laws of Christian modesty.¹⁰⁸ The American bishops not only proclaim their open hostility to obscene literature; they are implementing their resolutions.

The Leonine reform of the ecclesiastical prohibition of obscene literature

In the years immediately preceding 1896, the situation was analogous to that preceding the Council of Trent: effective means were needed to cope with the ever-increasing flood of bad literature. The Tridentine laws were hard to observe in the late nineteenth century because some of these laws had been abrogated by new decrees, and some contrary customs had been allowed to develop. The ecclesiastical prohibitions against obscene literature, however, remained fairly constant. Only the following needed correcting: (1) the multiplicity of papal documents and, in some instances, the unavailability of some documents; and (2) the excuses some people found for the non-observance of the prohibition of obscene

literature. Pius IX had allegedly asked some experts in the field whether the rules of the Index needed changing and received an unqualified "Yes" for an answer. It seems also that many of the bishops assembled for the I Vatican Council desired a change in the rules of the Index, but unfortunately the council disbanded before anything could be done in this regard.¹⁰⁹

Leo XIII entrusted the work of revision to the Congregation of the Index, and in 1897, with the constitution *Officiorum ac Munerum*,¹¹⁰ revised the general rules for the prohibition of books. Chapter IV under title I, *De Prohibitione Librorum*, is concerned with obscene literature:

Books which professedly treat of, narrate, or teach lewd or obscene subjects are entirely prohibited, since care must be taken not only of faith but also of morals, which are easily corrupted by the reading of such books.

The books of classical authors, whether ancient or modern, if disfigured with the same stain of indecency, are, on account of the elegance and beauty of their diction, permitted only to those who are justified on account of their duty or the function of teaching; but on no account may they be placed in the hands of, or taught to, boys or youths, unless carefully expurgated.¹¹¹

Three years later Leo XIII published a revised edition of the Index¹¹² and promulgated it with the brief *Romani Pontifices*.¹¹³

One of the most significant general commentaries on this new legislation is the preface to the revised edition of the Index by

¹⁰⁸ *Acta et Decreta Concilii Plenarii Baltimorensis Tertii* (Baltimore, 1886), n. 225, p. 125.

¹⁰⁹ Pernicone, pp. 59-60.

¹¹⁰ Of Jan. 25, 1897—*ASS* 29, 388-400.

¹¹¹ *Ibid.*, 393. The English translation is taken from *The Great Encyclical Letters of Pope Leo XIII* (New York, 1903), p. 413.

¹¹² *Index Librorum Prohibitorum SS. D. N. Leonis XIII Iussu* (Rome, 1900).

¹¹³ Sept. 17, 1900—*ASS* 33, 301-303.

Father Thomas Esser, O.P.¹¹⁴ Another commentary was published in the *Acta Sanctae Sedis*.¹¹⁵ These new general decrees “entirely abolish all previous legislation in this field, even the Tridentine Rules, but not the Constitution *Solicita ac Provida* of Benedict XIV.”¹¹⁶

In his preface Esser points out that Catholics commonly but mistakenly believe that a book not listed as prohibited in the Index is not prohibited at all. The correct viewpoint, he stresses, is that for any book to be permitted by the Church, it is necessary that it neither be contained in the Index nor prohibited in virtue of one of the general classifications of prohibited books. The difference between these two methods is that there is always a particular reason for placing a book on the Index. In most instances this special reason is furnished by the fact that the book has been denounced to the Holy See; the examiners then judge the book, and, if they find it to be of special danger to the reading public, they place it by name on the Index listing. If, after reviewing several books by the same author, the examiners find all of them to be of special danger, they sometimes condemn all the works of the author. This explains the need for the Index, over and above the general classes of books prohibited by the Church.¹¹⁷

¹¹⁴ This appeared in the 1900, 1907 (Pius X), 1917 (Benedict XV), 1922, and 1924 (Pius XI) editions of the Index. It was first omitted from the 1929 edition.

¹¹⁵ Iosephus Pennacchi, *In Constitutionem Apostolicam Officiorum ac Munerum de Prohibitione et Censura Librorum a Leone Divina Providentia Papa XIII latam Brevis Commentatio—ASS* 30 (1897-1898), 33-96, 161-224, 289-352, 385-416, 481-534. *Ad Commentarium in Constitutionem Officiorum Additiones—ASS* 33, 301-340.

¹¹⁶ Pernicone, p. 60.

¹¹⁷ Thomas Esser, *Praefatio to the Index Librorum Prohibitorum* (Rome, 1907), pp. xii-xiii.

Once a book is placed on the Index, the prohibition binds the whole world, just as the general prohibitions bind.¹¹⁸ It is in this context, then, that the new Leonine legislation proscribing obscene works is to be considered.

Leo XIII's prohibition of obscene literature “implies that immoral literature has a baneful influence on the whole moral character. . . . Affecting the exercise of the mental faculties, immorality directly affects in consequence the practice of all the intellectual virtues as well.”¹¹⁹ The first part (Rule 9) of the condemnation in *Officiorum ac Munerum* of obscene literature is substantially the same as the first sentence of the Tridentine legislation. The present legislation, however, omits any reference to those possessing an obscene book and to the severity with which such possessors are to be punished. It is the first part of the sentence that the legislator adopted in the formulation of the Code's prohibition of obscene literature in canon 1399, n. 9. This sentence forms the unbroken legal heritage of the ecclesiastical prohibition of obscene literature.

The second part of the Leonine legislation (Rule 10), however, extends the privilege that was originally granted by the Council of Trent. This new permission to read the obscene classics includes modern classics as well as the classics of the ancient writers. A classic may be defined as any one of the literary models for each national literature.¹²⁰ The following differences exist

¹¹⁸ Reply of the S. C. Indices of May 28, 1898—*ASS* 30, 698.

¹¹⁹ Timothy Hurley, *A Commentary on the Present Index Legislation* (Dublin, 1907), p. 35 [=Hurley].

¹²⁰ A. Boudinon, *La Nouvelle Legislation de L'Index* (Paris, 1925), p. 115 [=Boudinon].

between the Tridentine and the Leonine legislation in regard to this particular exemption: (1) the Tridentine rule mentions works of ancient authors only, whereas the Leonine rule mentions only those works of the ancient writers which are *classics* and then extends the privilege to include modern classics; (2) the Tridentine legislation permitted the reading of the ancient writers to anyone, making no exception for persons other than young men, whereas Leo XIII chose to restrict this permission to those whose tasks or office demand that they be familiar with such works; and (3) the Tridentine rule forbids absolutely the use of obscene works for the instruction of children, while the Leonine rule allows such use to students as long as the obscene texts have been expurgated.¹²¹ Thus the latter rule restricts the first part of the Tridentine rule, and grants a favor beyond the second part of the Tridentine legislation.¹²² It seems, however, that one must except from this general permission those works which have been entered on the Index because of obscenity.¹²³ In addition, any reader must always obey the norms imposed on him by the natural law in this regard.¹²⁴

With the publication of the revised Index, one of the rules of the Leonine legislation was used in erasing many of the earlier prohibitions (including most of those which had been condemned for obscenity by the Tridentine and the Clementine Indexes):

All those books which either the Supreme Pontiffs or Ecumenical Councils condemned before the year 1600, and which

are not now contained in the new Index, are to be considered in the same manner in which they had been originally condemned; but with the exception of those which are now permitted with this General Decree.¹²⁵

The publication of the new Index surpassed all expectations: all disarrangements had been cleared up, and the edition was nearly perfect typographically.¹²⁶ Thus Pope Leo XIII was responsible for an almost complete revision of the ecclesiastical prohibition of literature and made some significant changes in the prohibition of obscene literature. He was also responsible for withdrawing from the Index some obscene works (prohibited before 1600), but these works, with the exception of the classics among them, were to be considered as falling within the scope of the general ecclesiastical prohibition of obscene literature.

In 1908 Pope Pius X (1903-1914) reorganized the Roman Curia, although he did not change the task of the Congregation of the Index with regard to prohibiting books.¹²⁷ This congregation continued to prohibit obscene books until it was abolished and the work was assumed by the Congregation of the Holy Office in 1917, under Benedict XV (1914-1922).¹²⁸ It is the province of the Holy Office to safeguard the doctrines of faith and morals, and so to this congregation falls the task of prohibiting any obscene work which has been referred to it for a judgment.

During the years just mentioned there were several condemnations of authors,

¹²¹ *Ibid.*, pp. 114-115. Cf. ep. of Febr. 15, 1867 of the S. C. S. Off.—*Fontes*, n. 1000; *Collectanea*, II, n. 1303.

¹²² Hurley, p. 86.

¹²³ Boudinhon, p. 115.

¹²⁴ *Ibid.*, p. 116.

¹²⁵ *Officiorum ac Munerum*, tit. I, cap. 1, sect. 1—*AAS* 29, 391.

¹²⁶ Pernicone, p. 63.

¹²⁷ Const. *Sapienter Consilio*, June 29, 1908—*ASS* 41, 432-433; *AAS* 1, 13.

¹²⁸ *Motu proprio Alloquentes*, March 25, 1917—*AAS* 9, 167.

most of them novelists, for the obscenity contained in their works: Emile Zola, Gabriele D'Annunzio, Antonio Fogazzaro, Mario Palmarini, Tommaso Gallarati Scotti, Luigi Renzetti, Maurice Maeterlinck, and Pierre de Coulevain.¹²⁹ It should also be repeated that many of the novelists who had been condemned before the Leonine reform were still considered condemned under the new Leonine legislation. Those authors especially who remained on the revised Index are to be looked upon as falling within the limits of the Leonine rules, just as they fell within the limits of the Tridentine legislation, under which they were originally condemned.

In the formulation of the Code, the legislator looked to historical precedents for each of the canons. These pages have been an attempt to provide the historical background for the present-day ecclesiastical prohibition of obscene literature.

In every political body there is some norm for handling obscenity in whatever form it appears. The present-day concern over obscene literature in the law courts of the English-speaking world is an example in point. Those who are testing the obscenity laws in the courts in the various political states are concerned primarily with one form or other of human freedom, and not

immediately with the ultimate and spiritual welfare of the individual. The Church in its legislation has the spiritual good of its members primarily in mind, and the Church's prohibition of obscene literature stems primarily from the divine law.

The prohibition of the ecclesiastical law is based on that of the natural law, but it does not extend beyond it very far. The natural law proscribes, in effect, in a manner that is more or less grave, depending upon the object and the individual circumstances, not only what is *ex professo* obscene, but also whatever is simply immoral, dangerous, for one to read.¹³⁰

The laws of the state appear to stem from a seemingly righteous concern for human welfare, but with overtones of a puritanical approach to matters of sex on the one hand, and of irrational assertion of individual good over common good on the other hand. The basis for what is obscene has become only what the majority of people feel to be obscene, and this can do away with all objectivity in the matter by fastening prohibitory laws on books which are by no means obscene in themselves, or allowing salacious detail to pass unprohibited because of an apologetic cry that the book which contains the salacious passages is "great literature." Only where there is some conformity of political legislation to the legislation of the Church, which determines the natural law in this matter, will there be that blending of truth and circumstances, of theory and practice, that is unimpeachable.

¹²⁹ S. C. Indicis decr., Jan. 25, 1895—*ASS* 27, 443. Aug. 21, 1896: *ASS* 29, 125. Sept. 1, 1898: *ASS* 31, 192. May 8, 1911: *AAS* 3, 200. Febr. 1, 1912: *AAS* 4, 103. Jan. 22, 1912: *AAS* 4, 56. June 16, 1912: *AAS* 4, 277. Jan. 26, 1914: *AAS* 6, 21. April 12, 1915: *AAS* 7, 180.

¹³⁰ Boudinhon, p. 112.