

estis Cristi, ministrata a nobis, et scripta non attramento, sed spiritu dei vivi, non in tabulis lapideis sed in tabulis cordis carnalibus. *II Cor. iii.*⁶²

3. Ex fructibus eorum cognoscetis eos. *Mat. vii.*⁶³ Venite ad me omnes qui laboratis, et onerati estis, et ego reficiam vos. Tollite iugum meum super vos, et invenietis requiem animabus vestris, et discite a me quia mitis sum [f. 243'] et humilis corde. Iugum enim meum suave est et onus meum leve.⁶⁴

4. Peccatum paganitatis incurrit quis dum cristianum se esse asserit, sedi apostolice obedire contempnit. *LXXXI. di., Si qui.*⁶⁵ Et licet quid vix ferendum ab illa sancta sede imponatur, iugum tamen feramus et pia devocione tolleremus. *XIX. di., In memoriam.*⁶⁶

5. Canon, *Si qui* dicit quod nullus presumat audire officium eorum qui in fornicacionis crimine iacent, et qui huic saluberrimo precepto obedire noluerint, ydolatrie peccatum incurrunr.⁶⁷

6. In hoc quod Cristus in altum tolli se permittit [*sic*] sed monenti [*MS*: monere] cadere non obedivit, ostendit ut cuicumque bona et alta imperanti obediamus, sed precipitare volenti contraeamus. *Hec glosa ordinaria, Mat. iiiii, super isto, "Et statui eum super pynnaculum templi," etc.*⁶⁸ Sic obediendum est, non solum probis sed et discolis.

7. In dubiis humanior et tucior est via eligenda, ut *XIII. di., c. ult., ubi dicitur*: In hiis que vel dubia fuerint aut obscura, id noverimus sequendum quod nec preceptis ewangelicis contrarium est, nec decretis sanctorum patrum inveniatur adversum. *Hec ibi.*⁶⁹ Qui omnipotentem deum metuit, nec contra ewangelium, nec contra apostolos, nec contra prophetas vel sanctorum patrum instituta agere nullo modo consentit. *XI. q. iii., Qui omnipotentem.*⁷⁰

8. *Ysyderus [sic]*: Si is qui preest fecerit aut cuiquam quod a domino prohibitum est facere iusserit, vel quod scriptum est preterierit aut preterire mandaverit; Sancti Pauli sententia ingerenda est, dicentis: Eciam si nos aut angelus de celo ewangelizaverit vobis preterquam quod ewangelizavimus vobis, anathema sit. Idem: Si quis prohibet nobis quod a domino preceptum est, vel rursus imperat fieri quod dominus prohibet fieri, execrabilis sit omnibus qui diligunt deum. Idem: Is qui preest, si preter voluntatem dei vel preter quod in sanctis scripturis evidenter precipitur, vel dicit aliquid vel imperat, tamquam falsus testis dei aut sacrilegus habeatur. *Hec XI. q. iii., Si is.*⁷¹

living God; not in tables of stone, but in the fleshy tables of the heart. (*II. Cor. iii, 1-3.*)

3. By their fruits you shall know them (*Mat. vii, 20*). Come to me all you that labor and are heavy laden, and I will give you strength. Take my yoke upon you and you will find rest for your souls; and learn of me, for I am meek, and lowly in heart. For my yoke is sweet and my burden is light. (*Mat. xi, 28-30.*)

4. He incurs the sin of paganism who while asserting himself a Christian, scorns to obey the Apostolic See (*Decretum, LXXXI. dist., c. 15*). And although something hardly to be borne may be imposed by the Holy See, let us nevertheless bear the yoke and support it with pious devotion (*Decretum, XIX. dist., c. 3*).

5. The canon "*Si qui*" states that no one should presume to listen to the divine offices of those who are guilty of fornication, and whoever will not obey this most salutary command incurs the sin of idolatry (*Decretum, LXXX. dist., c. 15*).

6. By the fact that Christ allowed himself to be carried on high, but did not obey the admonition to fall down [and worship], he showed that we should obey anyone commanding good and lofty things, but resist those who would thrust us down. (*The Glosa ordinaria on Mat. iv, 5ff., "And set him upon the pinnacle of the temple," etc.*) It is in this sense that obedience should be shown not only to the upright, but also to the wayward (*Cf. I Pet. ii, 18*).

7. In doubtful cases, the more humane and surer road should be chosen, as is said in the *Decretum, XIV. dist., c. 2*: "In dubious or obscure cases, we know that the course to be followed is one that neither contradicts evangelical precepts nor goes against the decrees of the holy Fathers." He who fears the omnipotent God will in no way consent to act against the gospel, against the apostles, or against the prophets, or the institutes of the holy Fathers (*Decretum, XI. q. iii, c. 95*).

8. *Isidore*: If one who is in command does, or orders someone to do, what the Lord has forbidden, or if he oversteps or orders someone to overstep what has been written, then St. Paul's judgment should be applied, which says: "Even if we or an angel from heaven preach any other gospel to you than that which we have preached to you, let him be accursed" (*Gal. i, 8*). *Again Isidore*: If anyone forbids us what has been ordered by the Lord, or conversely, if he orders us to do what the Lord forbids to be done, let him be held accursed by all who love God. *The Same*: If one in command either says or orders something against the will of God or against what has been clearly set down in the Holy Scriptures, he should be considered as a

⁶² II Cor. iii, 1-3.

⁶³ Mat. vii, 20.

⁶⁴ Mat. xi, 28-30.

⁶⁵ LXXXI. dist., c. 15 (Friedberg, I, 285).

⁶⁶ XIX. dist., c. 3 (Friedberg, I, 60).

⁶⁷ LXXXI. dist., c. 15 (Friedberg, I, 284-285); citacio composita.

⁶⁸ Mat. iv, 5; glosa non ad manum.

⁶⁹ XIV. dist., c. 2 (Friedberg, I, 33).

⁷⁰ XI. q. iii., c. 95 (Friedberg, I, 669).

⁷¹ XI. q. iii., c. 101 (Friedberg, I, 671).

9. Maledicti qui declinant a mandatis tuis. *Psa. cxviii.*⁷² Ve vobis viri impii qui dereliquistis legem domini altissimi, et si nati fueritis in malediccione nascimini, et si mortui fueritis in malediccione erit pars vestra. *Ecclus. xli.*⁷³

10. Si peccaverit in te frater tuus, vade et corripere [f. 244] eum inter te et ipsum solum. Si te audierit, lucratus eris fratrem tuum; si autem te non audierit, adhibe tecum unum vel duos testes, ut in ore duorum vel trium testium stet omne verbum; quod si non audierit eos, dic ecclesie; si autem et ecclesiam non audierit, sit tibi sicut ethnicus et publicanus. Amen dico vobis, quecumque alligaveritis super terram erunt ligata et in celo, et quecumque solveritis super terram erunt soluta et in celo. *Mat. xviii.*⁷⁴

11. Si quis venit ad vos et hanc doctrinam non affert, nolite recipere eum in domum nec ave ei dixeritis; qui enim dicit illi ave comunicat operibus illius malignis. *II Joh. i.*⁷⁵ Quod si quis non obedierit verbo nostro per epistolam, hunc notate et ne commisceamini cum illo ut confundatur. *II Thess. ult.*⁷⁶ Multi enim ambulant quos sepe dicebam vobis, nunc autem et flens dico, inimicos crucis Christi, quorum finis interitus, quorum deus venter est, et gloria in confusione eorum qui terrena sapiunt. *Phil. iii.*⁷⁷ Ne commisceamini fornicariis aut avaris, aut rapacibus, aut ydolis servientibus; si is qui frater nominatur inter vos est fornicator aut avarus aut ydolis serviens aut maledicus aut ebrius aut rapax, cum huiusmodi nec cibum sumere. *I. Cor. v.*⁷⁸ Unde *Osee iii*⁷⁹ dicitur: Quia tu Israhel fornicaris, non delinquas saltem tu Iuda; dimitte eum ne consorcio eius corrumparis; convivium eorum est separatum. *Lira:* id est, excommunicatum.⁸⁰ Nolite errare; neque fornicarii neque ydolis servientes neque adulteri neque molles neque masculorum concubitores neque fures neque avari neque ebrii neque maledici neque rapaces, regnum dei possidebunt. *I. Cor. vi.*⁸¹ Quoniam qui talia agunt digni sunt morte, non solum qui faciunt ea sed et qui consenciant facientibus. *Rom. i.*⁸² Nunc iniusta sententia bene est timenda ex facti occurrence, quia sepe fertur; iusta autem rarissime, quia regulariter non excommunicantur symoniaci, fornicatores, adulteri, prevaricatores, cupidi, elati, blasphemii, raptores, invidii, percussores, ypochrite, nigromantici, sortilegi, mendaces, et alii de quibus supra, sed pauperes pannosi, simplices devoti, legem Christi zelantes et verbo

false witness of God and as sacrilegious. (*Decretum, XI. q. iii, c. 101.*)

9. Cursed are they who err from your commandments (*Psalms cxviii, 21; King James cxix*). Woe to you, ungodly men, who have forsaken the law of the Lord most high. And if you be born, you are born in malediction, and if you die, in malediction shall be your portion. (*Ecclus. xli, 11-12.*)

10. If your brother shall sin against you, go and tell him his fault between you and him alone. If he shall hear you, you have gained your brother; but if he will not hear you, then take with you one or two witnesses, that in the mouth of two or three witnesses every word may be established. But if he shall neglect to hear them, tell it to the church; but if he neglect to hear the church, let him be to you as a heathen and a publican. Verily, I say unto you, whatsoever you shall bind on earth shall be bound in heaven; and whatsoever you shall loose on earth shall be loosed in heaven. (*Mat. xviii, 15-18.*)

11. If there come any unto you, and bring not this doctrine, receive him not into your house, neither bid him God speed. For he that bids him God speed is a partaker of his evil deeds. (*II Joh. i, 10-11.*) And if any man obey not our word by this epistle, note that man and have no company with him, that he may be ashamed (*II Thess. iii, 14*). For many walk of whom I have told you often, and now tell you even weeping, that they are the enemies of the cross of Christ, whose end is destruction, whose God is their belly, and whose glory is in their shame, who mind earthly things (*Phil. iii, 18-19*).

Do not keep company with fornicators or with the covetous nor extortioners or with idolators; if any man that is called a brother among you be a fornicator, or covetous, or an idolator, or a reviler, or a drunkard, or an extortioner, with such a one do not eat (*I. Cor. v, 9-11*). Thus in *Hosea, iv, 15, 17-18*, it is said: Though you, Israel, play the harlot, at least you, Judah, should not fall away; leave him, lest you be corrupted by his friendship: Their fellowship has been severed. *Lira:* That is, excommunicated. Be not deceived; neither fornicators nor idolators nor effeminate, nor abusers of themselves with other men, nor thieves nor covetous, nor drunkards nor revilers nor extortioners shall possess the kingdom of God (*I. Cor. vi, 9-10*). For they who commit such things are worthy of death, and not only they who do them, but also they who consent to them that do them (*Rom. i, 32*).

Nowadays it is well to fear an unjust sentence on

⁷² Psa. cxviii, 21.

⁷³ Ecclus. xli, 11-12.

⁷⁴ Mat. xviii, 15-18.

⁷⁵ II Joh. i, 10-11.

⁷⁶ II Thess. iii, 14.

⁷⁷ Phil. iii, 18-19.

⁷⁸ I. Cor. v, 9-11.

⁷⁹ Hos. iv, 15, 17-18.

⁸⁰ Lira, glosa, in loco.

⁸¹ I. Cor. vi, 9-10.

⁸² Rom. i, 32.

et opere ipsam confitentes, et non mirum quia boni temporibus novissimis habebuntur tanquam excommunicati; *ut dicit Hay[mo] super Apok., et Thomas in compendio.*⁸³

12. *In Meldensi concilio*: Nemo episcoporum quemlibet sine certa et manifesta peccati causa communione privet ecclesiastica; [f. 244'] sub anathemata autem nullum presumat ponere nisi pro mortali crimine, et illis qui aliter non potuerint corrigi. *XI. q. ii., Nemo.*⁸⁴ Anathema * dicitur sententia qua quis separatur a consorcio fidelium, ibi ad mensam. Nullus sacerdotum quemquam recte fidei hominem pro parvis et levibus causis a comunione suspendat; *ibi in c. Nullus.*⁸⁵ Unde reprehenditur quidam episcopus qui pro iniuria propria quemdam excommunicavit: *XXIII. q. iii., Inter, ubi dicitur*: Que res nos vehementer affixit, quia si ita est, nil cogitare te de celestibus ostendis, sed terrenam te habere conversacionem significas, dum pro vindicta proprie iniurie, quod sacris regulis prohibetur, maledictionem anathematis invexisti. Unde de cetero omnino esto circumspectus atque sollicitus, et talia cuiquam pro defensione proprie iniurie inferre denuo non presumas. Nam si tale aliquid feceris, in te scias postea esse vindicandum.⁸⁶

13. Sententia pastoris, seu iusta seu iniusta fuerit, cave, timenda est. *XI. q. iii., Sententia. (per Gregorium).*⁸⁷

14. Nisi in duobus casibus, scilicet cum post appellationem lata et cum continet intollerabilem errorem, *ut Extra de sententia excommunicacionis, Per tuas.*⁸⁸ Ubi dicit Bernhardus in glosa: Error intollerabilis potest dici quodlibet peccatum, vel si precipiat aliquid impossibile, vel turpe.⁸⁹ *Unde dicit idem Gregorius, XI. q. iii.*: Non debet is penam sustinere canonicam in cuius dampnacione non est canonica prolata sententia.⁹⁰ Ipse ligandi ac solvendi potestate se privat, qui hanc pro suis voluntatibus et non subditorum moribus exercet; *hec ille.*⁹¹ *Unde dicitur, ibidem, in Par. Ex hiis*: Non ergo ab eius comunione abstinendum est, nec ab eius officio cessandum, in quem cognoscitur prolata iniqua sententia.⁹² Tercium casum apponunt, cum pro indebitis exactionibus aliquis excommunicatur: *Hec in glosa., c. Sententia.*⁹³ Item, sententia si contra ius scriptum fera-

the basis of experience, because such are often passed; but a just one most rarely. For normally symoniacs, fornicators, adulterers, falsifiers, covetors, people full of vanity, blasphemers, robbers, haters, murderers, hypocrites, sorcerers, soothsayers, liars and others mentioned above—these are not excommunicated, but rather the ragged and poor, the devout simple people, those zealous of the law of Christ and confessing it in word and deed. And no wonder, for in the last days the good will be regarded as the excommunicate, *as Haymo says in his commentary on Apocalypse, and Thomas in his Compendium.*

12. *In the Synod of Meaux*: No bishop may deprive anyone of communion with the church, except by clear-cut reason of obvious sin; and he should not presume to put anyone under anathema, unless for mortal crimes and those that could not be otherwise corrected (*Decretum, XI. q. iii, c. 41*). (Anathema is the sentence by which someone is separated from the fellowship of the faithful, there at the table.) No priest should suspend a man of the right faith from communion for minor unimportant causes (*Decretum, XI. q. iii, c. 42*). For this reason a bishop was reprimanded who, because of personal injury, excommunicated someone: *Decretum, XXIII. q. iv, c. 27, which says*: This matter has distressed us greatly, because, if it is so, you show that you think nothing of heavenly things; rather you indicate that you follow an earthly way of life, when for the vindication of your own injury you have inflicted a curse of anathema—which is prohibited by the holy rules. In the future, therefore, be most circumspct and careful, and do not again presume to pass such sentences on anyone to make good a personal injury. For if you do something like that, know that later you will be punished for it.

13. Take care: the sentence of a pastor, be it just or unjust, must be feared (*Gregory, Decretum, XI. q. iii, c. 1*).

14. Except in two cases, namely when pronounced after an appeal or when it contains an intolerable error; *cf. Decretum, XI. q. iii, c. 1 (Glosa ordinaria)*; and *Decretals, V, xxxix, 40, gloss*: There, in the Gloss, *Bernard [of Parma] says*: An intolerable error can be any sin: or if the sentence orders something which is either impossible or base. *Whence the same Gregory says, XI. q. iii, c. 64*: He should not suffer a canonical penalty in whose condemnation no canonical sentence

⁸³ *Nichil ad propositum in Compendio Theologie Sancti Thome videtur stare, ubi loquitur de iudicio ultimo (cf. I, ccxliii sq., Opera omnia, XVI (Parme, 1865)). In opere Haymonis Halberstatensis, Enarratio in Apocalypsin, lib. iv, super xiii, 17 (MPL, 117, 1102), hoc legitur*: "Tempore . . . Antichristi nemo . . . bonorum praedicatorum . . . poterit praedicare libere Christum, quia carceribus recludentur, et insuper interficientur. . ."

⁸⁴ *XI. q. iii., c. 41 (Friedberg, I, 655).*

* Anathema.

⁸⁵ *XI. q. iii., c. 42 (Friedberg, I, 655).*

⁸⁶ *XXIII. q. iv., c. 27 (Friedberg, I, 912).*

⁸⁷ *XI. q. iii., c. 1 (Friedberg, I, 642).*

⁸⁸ *Glosa ordinaria in verba "timenda est," XI, q. iii., c. 1 (Edit. Lugdun., col. 920).*

⁸⁹ *Bernardi Parmensis, Glosa in verba "intollerabilem errorem," Decretales V, xxxix, 40 (Edit. Lugdun., col. 1912).*

⁹⁰ *XI. q. iii., c. 64 (Friedberg, I, 660).*

⁹¹ *XI. q. iii., c. 60 (Friedberg, I, 660).*

⁹² *XI. q. iii., post c. 64 (Friedberg, I, 661) (Gracianus).*

⁹³ *Glosa ordinaria in verba "timenda est," XI. q. iii., c. 1 (Edit. Lugdun., col. 920).*

tur, nullas vires obtinet; nec contra eam est necessarium auxilium provocacionis. Venales quoque sententias, que in mercede a corruptis iudicibus proferuntur, et citra interposite provocacionis auxilium, infirmas esse decretum est. *Ut II. q. vi., Par. Si sententia.*⁹⁴ Talis sententia nulla est, nec aliquam obligacionem inducit de facto vel de iure. Nam et iuxta legitimas sanxiones pactum turpe, vel rei turpis aut impossibilis, de iure vel de facto nullam obligacionem inducit. *Ut Extra de pactis, c. ult.,*⁹⁵ et in glosa, c. *Per tuas.*⁹⁶

*Pisanus in summa sua*⁹⁷ dicit: In quibus [f. 245] casibus sententia excommunicacionis nulla est ipso iure? Respondit in questionem: *Primus est*: Si ille qui tulit eam non habebat de hoc potestatem, ut quia non erat eius iudex, vel erat excommunicatus, et huiusmodi, *ut XXIII. q. i., Audivimus, dicitur*:⁹⁸ Ligandi namque vel solvendi potestas veris non falsis sacerdotibus a domino tradita est, apostolis enim * dicturus, "quorum remisistis peccata," etc., premisit: "accipite spiritum sanctum"; ut evidenter cunctis ostenderet, eum qui spiritum sanctum non habet peccata non posse tenere vel remittere. *Et sequitur*:^{98a} Cum ergo peccata dimittere vel tenere, excommunicare vel reconciliare, opus sit spiritus sancti et virtus Christi, apparet quod hii qui extra ecclesiam sunt nec ligare possunt nec solvere, nec reconciliando ecclesiastice comunioni reddere nec excommunicando eius societati privare. Qua ipsi heresi vel scismate polluti sive sententia notati penitus probantur carere. Unde cum omnibus discipulis parem ligandi atque solvendi potestatem dominus daret, Petro pre omnibus et pro omnibus claves regni celorum se daturum promisit, dicens: Tibi dabo claves regni celorum; quicumque ergo ab unitate ecclesie que per Petrum intelligitur fuerit alienus, execrare potest, consecrare non valet, excommunicacionis vel reconciliacionis potestatem non habet, etc. *Ut ibi.* Extra enim unitatem ecclesie spiritus sanctus non accipitur, *ut dicit Ciprianus ibi, in c. Loquitur*:⁹⁹ Sic loquitur dominus ad Petrum: Ego dico tibi quia tu es Petrus et super hanc petram edificabo ecclesiam meam. Super unum edificat ecclesiam, et quamvis apostolis omnibus post resurrectionem suam potestatem tribuat: "Sicut pater me misit et ego mitto vos, accipite spiritum sanctum"; [tamen] ut unitatem manifestaret, unitatis eiusdem originem ab uno incipientem sua auctoritate disposuit. Hoc erant utique ceteri apostoli, quod Petrus fuit, pari consorcio prediti et honoris et potestatis. Sed exor-

was pronounced. *And*: He deprives himself of the power of binding and loosing who exercises it not for the morals of those under him, but for his own desires (*Decretum, XI. q. iii, c. 60*). *Whence it is said* [by Gratian], *in Par. "Ex hiis"* (after c. 64): Therefore when it is known that the sentence pronounced on a man is unjust, there should be no abstention from his communion or suspension of his office. A third case is added, when someone is excommunicated for not having paid what has been unduly exacted of him (*Glosa ordinaria, Decretum, XI. q. iii, c. 1*). Further (*Decretum, II. q. vi, VIII. pars, 5*), if a sentence be pronounced against the written law, it has no force, and there is no need to resort to an appeal against it. *And (ibid., Par. 9)*: It has also been decreed that purchasable sentences, pronounced by corrupt judges for a bribe are invalid, even if there has been no resort to an appeal. Such a sentence is of no value and carries no obligation *de facto* or *de iure*; for according to lawful decrees, a dishonorable agreement or one made for either a dishonorable or impossible thing, carries no obligation *de iure* or *de facto* (*Decretales, I, xxv, 8, and the Gloss*).

Pisanus says, in his Summa: In what cases is a sentence of excommunication void according to the law itself? *And he answers this question*: *First*: If the one who has pronounced it had no power to do so; for instance, because he was not a judge in the matter, or he had been excommunicated, and so forth. *Thus it is said in the Decretum, XXIV, q. i, after c. 4*: The authority to bind and loose has been given by the Lord to true and not to false priests. For when he was about to say to the apostles (*John xx, 22-23*): "Whosoever sins you remit" etc., he first said: "Receive ye the Holy Spirit," so as clearly to show all that he who has not the Holy Spirit cannot retain or remit sins. *And [Gratian] continues*: Since, therefore, to remit or retain sins, to excommunicate or to reconcile is the work of the Holy Spirit and the virtue of Christ, it is evident that those who are outside the church can neither bind nor loose, neither restore to the church's communion by reconciling, nor exclude from the church's society by excommunicating. For they themselves are proven to be entirely destitute of this society, who are polluted by heresy or schism, or branded with judicial sentence.

Therefore, when the Lord was giving all the disciples the equal power of binding and loosing, he promised to give Peter before all others and on behalf of all others the keys of the kingdom of heaven, saying (*Mat. xvi, 19*): "I will give unto you the keys of the kingdom of heaven." Whoever, therefore, has been estranged

⁹⁴ II. q. vi., c. 41 (Friedberg, I, 482).

⁹⁵ *Decretales*, I, xxv, 8 (Friedberg, II, 206).

⁹⁶ *Glosa ordinaria in verba* "In Sardicensi autem concilio," *Decretales*, V, xxxix, 40 (*Edit. Lugdun., col. 1912*).

⁹⁷ *Non ad manum*.

⁹⁸ XXIV, q. i., *post c. 4* (Friedberg, I, 967-968) (*Gracianus*).

* Absolutio.

^{98a} *Ibidem*.

⁹⁹ XXIV. q. i., c. 18 (Friedberg, I, 971-972); "Extra . . . accipitur" est titulus capituli.