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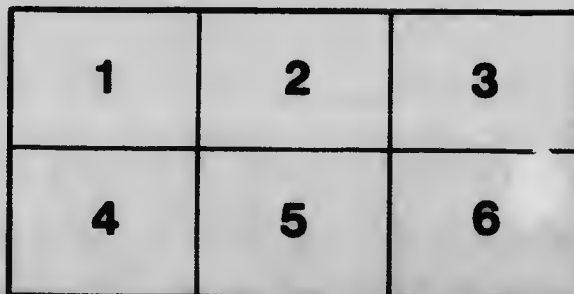
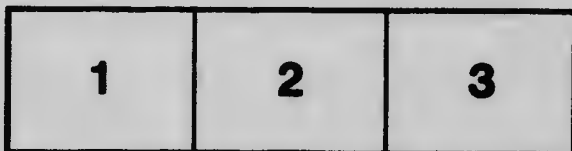
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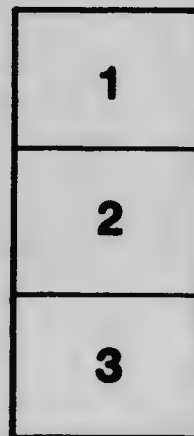
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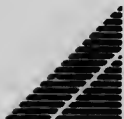
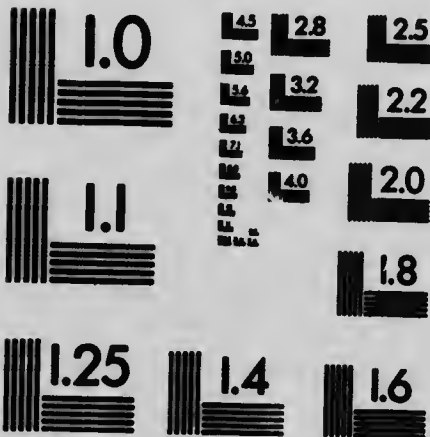
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Text of the "Ne Temere"

With an Explanation by the Rev. H.

Decree of the Congregation of the Council.

THE Council of Trent (Cap. I, Sess. XXIV, de reform. matrim.) made prudent provision against the rash celebration of secret marriages—which the Church of God has always deprecated and forbidden—when it decreed that "those who attempt to contract marriage otherwise than in the presence of their parish priest or of another priest acting with the license of the parish priest or of the Ordinary, and in the presence of two or three witnesses, become thereby incapable of marrying validly, since the Council declares that all such contracts are null and void."

As the Sacred Council prescribed, however, that the above decree should be published in every parish, and was to have force only in those places in which it should be promulgated, it has happened that many places in which the publication has not been made have been deprived of the benefit of the Tridentine law, and, being still without it, they continue to be subject to the doubts and inconveniences of the old discipline.

Nor did all difficulty cease in those places where the new law has been in force. For often there have arisen grave doubts in deciding who is to be regarded as the parish priest before whom a marriage must be celebrated. The canonical discipline did indeed decide that he is the parish priest in whose parish one or other of the contracting parties has his or her domicile or quasi-domicile. But as it is sometimes difficult to say whether a quasi-domicile really exists in a given case, many mar-

riages are exposed to nullity; whilst through ignorance or rendered quite illegiti-

These deplorable circumstances have occurred more frequently of late time on account of the diversity of climate and celerity of communication between different countries, the matter how widely separated they may be. Hence, in the estimation of wise and learned men, it has been deemed expedient to introduce some change into the law, substituting the form of celebrating marriage, and many bishops in various parts of the world, but especially in the more populous centres, with the need of such legislation urged with greater force, have petitioned the Holy See to this end.

It has been requested, therefore, by many bishops in Europe, as well as by others in various regions, that provision be made to prevent inconveniences arising from betrothals, that is, mutual promises of marriage, when privately made. For experience has sufficiently shown the many dangers of such espousals, in that they are an incitement to sin and the cause of misleading inexperienced girls, besides involving subsequent dissensions and endless disputes.

These circumstances have induced the Holy Father, Pope Pius X, in his solicitude for all the churches, to advise some modifications with the object of removing the above-mentioned difficulties and dangers. Accordingly, he committed to the S. Congregation of the Council the task of examining into the matter and of suggesting such measures as it might deem opportune.

He was pleased, also, to ascer-

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In the opinion of the Commission which has been appointed for the codification of Canon Law, as well as of the Cardinals chosen on this special Commission to prepare the new code. These and the S. Congregation of the Council have held for this purpose frequent consultations. Finally, having obtained the reports of these bodies, His Holiness ordered the Sacred Congregation of the Council to issue a decree embodying the new laws, approved by himself on sure knowledge and after mature deliberation, by which the discipline in respect of engagements and marriage is to be regulated for the future, so that the celebration of them may be carried out in a secure and orderly manner.

Pursuant, therefore, to the Apostolic mandate, the S. Congregation of the Council hereby ordains and decrees:

Engagement or Betrothal.

I. Only those matrimonial engagements are considered to be valid and to beget canonical effects which have been made in writing, signed by both the parties, and by either the parish priest or the Ordinary of the place, or at least by two witnesses.

In case one or both of the parties be unable to write, this fact is to be noted in the document, and another witness is to be secured to sign the contract as above, together with the parish priest or the Ordinary of the place, or the two witnesses.

II. By parish priest, as used in the present decree, is to be understood not only the priest who legitimately presides over a parish that is canonically erected, but also, in localities where parishes are not canonically erected, the priest to whom the care of souls has been legitimately entrusted in any specified district, and who is equivalent to a parish priest; and also, in missions where the territory has

not yet been perfectly divided, every priest generally deputed for the care of souls in any station by the superior of the mission.

Marriage.

III. Only those marriages are valid which are contracted before the parish priest, or the Ordinary of the place, or a priest delegated by either of these, and at least two witnesses, in accordance with the rules laid down in the following articles, and with the exceptions mentioned under VII and VIII.

IV. The parish priest and the Ordinary of the place validly assist at a marriage:

(i) from the day on which they have taken possession of their benefice or entered upon their office, unless they have been by a public decree excommunicated by name or suspended from the office;

(ii) but only within the limits of their territory. And in this territory they assist validly at marriages not only of their own subjects, but also of outsiders;

(iii) provided, when invited and requested, and not compelled by violence or grave fear, they ask and receive the consent of the contracting parties.

V. They assist licitly:

(i) after they have ascertained, according to the prescribed forms, that the contracting parties are free to marry, and that they have duly complied with the conditions laid down by the law;

(ii) after they have ascertained, moreover, that one of the contracting parties has a domicile, or at least has lived for a month in the place where the marriage takes place;

(iii) if this condition be lacking, the parish priest and the Ordinary of the place, to assist licitly at a marriage, require the permission of

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the parish priest or the Ordinary of one of the contracting parties, unless it be a case of grave necessity, which excuses from this requirement.

(iv) Except in cases of necessity, it is unlawful for a parish priest to assist at the marriage of persons without fixed abode (*vagos*) until the matter has been duly reported to the Ordinary or to a priest delegated by him, so as to obtain permission to assist at the marriage.

(v) In every case let it be held as the rule that the marriage is to be celebrated before the parish priest of the bride, unless some just cause dispenses from this rule.

VI. The parish priest and the Ordinary of the place may grant permission to another priest, specified and certain, to assist at marriages within the limits of their district.

The delegated priest, in order to assist validly and licitly, is bound to observe the limits of his mandate and the rules laid down above, in IV and V, for the parish priest and the Ordinary of the place.

VII. When danger of death is imminent, and where the parish priest, or the Ordinary of the place, or a priest delegated by either of these, cannot be had, in order to provide for the relief of conscience, and (should the case require it) for the legitimization of the offspring, a marriage may be contracted validly and licitly before any priest and two witnesses.

VIII. Should it happen that in any district the parish priest, or the Ordinary of the place, or priest delegated by either of them, before whom marriage can be celebrated, is not to be had, and that this condition of affairs has lasted for a month, marriage may be validly and licitly entered upon by the formal declaration of consent made by the contracting parties in the presence of two witnesses.

IX. (1) After the celebration of a marriage the parish priest, or he who takes his place, is to register at once in the book of marriages

the names of the couple and of the witnesses, the place and day of the celebration of the marriage, and the other details, according to the method prescribed in the ritual books or by the Ordinary. This obligation holds likewise when another priest, delegated either by the parish priest himself or by the Ordinary, has assisted at the marriage.

(II) Moreover, the parish priest is to note in the book of baptisms the fact that the married person contracted marriage on a certain day in his parish. If the married person was baptised elsewhere, the parish priest who has assisted at the marriage is to send notice of the marriage, either directly or through the episcopal curia, to the parish priest of the place where the person was baptised, in order that the marriage may be inscribed in the book of baptisms.

(III) Whenever a marriage is contracted in the manner described under VII and VIII, the priest in the former case, the witnesses in the latter, are bound conjointly with the contracting parties themselves to provide that the marriage be entered as soon as possible in the prescribed registers.

X. Parish priests who violate the rules here laid down are to be punished by their Ordinaries according to the nature and gravity of their transgression. Moreover if they assist at the marriage of anybody in violation of the rules given under (II) and (III) of No. V, they are not to appropriate the stole-fees, but must remit them to the parish priest of the contracting parties.

XI. (1) The above laws are binding on all persons baptised in the Catholic Church, and on those who have been converted to it from heresy or schism (even when either the latter or the former have fallen away afterwards from the Church), in all cases of betrothal or marriage.

(II) The same laws are binding also, on such Catholics, if they

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contract betrothal or marriage with non-Catholics, baptised or unbaptised, even after a dispensation has been obtained from the impediment *mixtas religionis* or *disparitatis cultus*; unless the Holy See have decreed otherwise for some particular place or region.

(III) Non-Catholics, whether baptised or unbaptised, who contract among themselves are nowhere bound to observe the Catholic form of betrothal or marriage.

The present decree is to be held as legitimately published and promulgated by its transmission to the Ordinaries, and its provisions begin to have the force of law from the solemn feast of the Resurrection of our Lord Jesus Christ, next year, 1908.

Meanwhile let all the Ordinaries see that this decree be made public as soon as possible, and explained in the parish churches of their diocese, so that it may be known by all.

These presents are to have force by the special order of our Most Holy Father Pope Pius X, all things, even those worthy of special mention, to the contrary notwithstanding.

Given at Rome on the second day of August, in the year 1907.

VINCENT,
Card. Bishop of Palestrina, Prefect.

C. DE LAI, Secretary.

Explanation

Having laid down the fact that the above laws are not retroactive, that is, that they do not affect marriages performed before Easter Sunday, 1908, there seems to be in the whole decree only two points about which controversy has been invited by our non-Catholic fellow citizens. The first is the scope of the betrothal clause, (Sec. 1), and the second, the bearing on the civil law of Section No. (XI. 2) which declares that a mixed marriage performed by anyone but a Catholic priest is invalid in the eyes of God and His Church.

With regard to the question of betrothals: If it be first of all remembered that a real betrothal — written or unwritten — was always held as an impediment to the marriage of either of the betrothed parties to a third party, and if it be likewise remembered that very often the priest was in a quandary as to whether

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the verbal engagement had really taken place or not, it will be easily understood why the Church wished to remove all doubt by refusing for the future to recognize any betrothal not in writing. The result now is that if a woman allege that a man promised to marry her, and he deny it, she is asked to produce the betrothal agreement, and failing to do so, is told that there being no witness to her alleged agreement, church law does not recognize it. Thus, all doubt is removed from the mind of the priest as to his method of procedure, and no room is left for a dishonest and designing man or woman who might seek to injure an innocent party by falsely stating that a betrothal existed. There is nothing extraordinary about the exacting of the betrothal agreement in writing and before witnesses. The same is exacted in civil contracts. Of course, there is no compulsion to make any written agreement, and as a matter of fact, it is not likely that more than a half dozen such agreements have been entered into in Ontario since the publication of the *Ne Temere* in 1908. Let it be added that according to natural law, a verbal engagement that entails loss or an injustice of any sort, obliges in conscience the party to due reparation but not to marriage, and there seems little more to be said to make the question of betrothals clear to those willing to see.

Now as to the second point—the invalidity of marriage before non-Catholic clergymen, whether the contracting parties be Catholic on both sides or only on one, and its relation to the civil law—we cannot do better than quote from the *London Tablet*, the official organ of the Archdiocese of Westminster, substituting Ontario for England: "The decree speaks only of canonical nullity or validity of marriages; that is of the nullity or validity in the judgment of the Catholic Church and in the sight of God. The Catholic Church, though she does not acknowledge that the State has any right to determine what marriages shall be null or valid has no power to change the civil law of marriage. Therefore notwithstanding the recent decree, if two persons of any religion whatever, against whose marrying there is no legal impediment (that is, no civil impediment according to the law of Ontario) marry each other in Ontario according to the requirements of Ontario their marriage is (and such

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marriage will continue to be), in Ontario law, valid and binding, whether a priest or other minister of religion be present or not."

Thus it is evident that all agitation to have new laws placed upon the statute book of Ontario to compel the Church to recognize civil marriage is unnecessary. No priest will attempt to separate couples united by the civil law, first because he does not wish to separate them, but only to have the Catholic party enter the holy state of matrimony in the proper way, that is, by receiving the sacrament. And secondly, because if he should attempt to separate a couple so united, he is liable to prosecution under the present laws. Or if a Catholic man marry a non-Catholic woman according to the civil law and desert her, he can be held for non-support. Or again, if he attempt to marry another woman, he can be imprisoned for bigamy. What extra law do the agitators ask? Do they wish to visit the above offenders with capital punishment? The civil law of Ontario with regard to marriage is untouched by the *Ne Temere*. We only claim the right claimed by every religious body,—to say who shall be its communicants. We claim that if one of our members have the temerity to attempt to receive any sacrament in a way contrary to the rules of the Church he shall not approach the Holy Table. She surely has the right to tell her children how they shall receive the sacraments, and since a Catholic cannot, according to her teaching, get married without receiving the sacrament of Matrimony, she has the right to tell him if he attempt to do so, that the Catholic religion does not recognize his marriage.

It might be well in conclusion to draw the attention of those who are so zealous lest the Catholic Church should infringe on the civil law, to a similar condition of things prevailing in England, where the Anglican Church is concerned. It will be remembered that for over 300 years the Anglican Church held that it was contrary to Divine Law for a man to marry his deceased wife's sister, and the Anglican Church being a state Church, the civil law also declared such unions invalid. But a few years ago, the law was changed by the state, and such marriages are now valid. However, a few of the Anglican bishops, and the more logical of the Anglican ministers, could not see how

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even the powerful British Government could change what they had always held as Divine law, and so refused to recognize the validity of a man's marriage with his deceased wife's sister. The result is that hundreds of Anglican ministers will not perform such marriages, and do not hesitate to tell the contractors that their marriage is invalid. I do not speak of the large number of these ministers who refuse to re-marry couples, one of whom has been divorced. But according to the state law of England, a man has the right to marry his deceased wife's sister, and the divorced man has the right to take to himself a new spouse. However, we hear no talk about this opposition to civil law on the part of a Church, which being a state Church, should be expected to coincide with the state law, if that should be expected of any church. It might be well for the defenders of the civil law, who suddenly become so zealous when the Catholic Church is concerned, to first turn their attention to their own Church, especially the great national Church of England. It will be time enough for them to deal with the grand old Church of the ages when they have first dealt with the national Church. But we are convinced that the fair-minded man when he understands the position of the Anglican ministers in the above case, and when he has with an open mind read the explanation of the *Ne Temere*, will not find himself anxious to enter the ranks of the agitators for the purpose of obtaining new legislation on the marriage question.

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