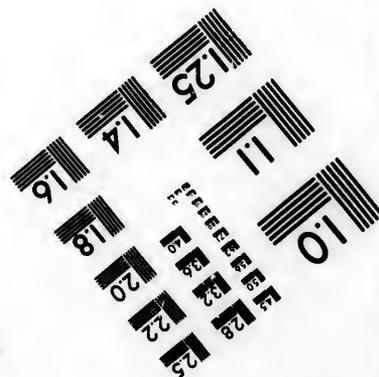
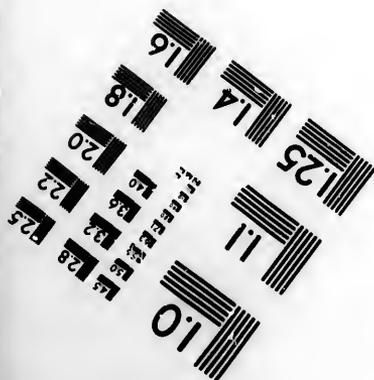
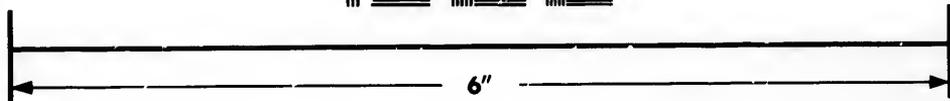
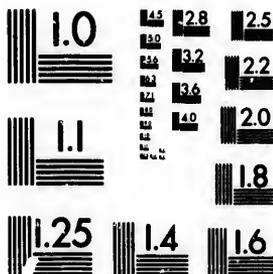


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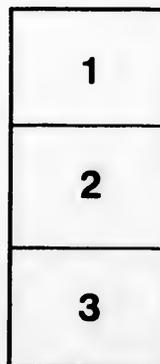
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## JESUIT MAXIMS

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# The Moral Theologian of the "Mail"

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The End and the Means.—Mental Reser-  
vation. Restitution and Charity.

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(No. 2.)



5-

## P R E F A C E .

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The *Toronto Mail* (March 9, 1889, page 8) favours its readers with a long extract from the *English Quarterly Review* of 1875. We must thank "our friends the enemy" that they have, in the present anti-Jesuit craze, shown little inventive genius, but have deigned to confine themselves to the old calumnies so often brought forward, but invariably met with a crushing rejoinder. The motive of our gratitude may be conjectured ; for amid many other and more interesting occupations we have little leisure left to devote to original apologetic papers. But as those of fourteen years ago, and we might just as well add of one hundred and fourteen, meet fully the charges made, we have reproduced in these pages a series of articles from the *London Month*, which we respectfully dedicate to the *Toronto Mail*, whose editors have not blushed to adopt as their MORAL THEOLOGIAN, the Theologian quietly laid to rest by the Reviewer of the *Month*.

This pamphlet forms the second of the series of *Jesuit Maxims*. The following, if our share in the \$400,000 be not entirely exhausted, will treat on Probabilism, Tyrannicide, and Jesuit Loyalty.

A. E. JONES, S. J.

St. Mary's College,  
Montreal, March 12, 1889.

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# THE MORAL THEOLOGIAN

OF THE

## QUARTERLY REVIEW

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### PRELIMINARY REMARKS.

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(The MONTH, London, February 1875, p. 228.)

The *Quarterly* for January contains a paper on the Jesuits, in continuation of the article that appeared in the number for last October. This time the Reviewer addresses himself to the doctrines of the Society. We feel at some loss how to proceed in noticing this fresh effusion, and that for two reasons. In the first place, in our remarks upon his first article we pointed out a considerable number of inaccuracies and misconceptions into which this writer had fallen, both from his own ignorance of the matter on which he professed to treat, and from his relying upon the work of an author whose claims to the title of historian are laughed at in Germany, and indeed, whose authority the Reviewer regarded on his own showing as worthless. As our allegations have neither been admitted as true nor denied as false, we should be quite entitled to regard the Reviewer as outside the boundaries of fair controversy, and so dismiss him as beneath further recognition. We will venture to say that in his wanderings in the labyrinths of Catholic moral theology he has nowhere found a doctrine which teaches that the honest and honourable course for a man detected in the propagation of injurious falsehoods is to take no notice of their exposure, and go on to something else, as if he had no debts of conscience to discharge before he can claim any further hearing.

In the second place, inasmuch as his present article is addressed to the discussion of principles of moral doctrine and casuistry, which are on his own avowal, those that are recognized by the prevailing theological schools of the Church, writers of the Society are free from any special obligation to follow this writer through the mazes of misconception and sciolism in which he involves himself in this equally as in his former paper. At least these considerations leave us at liberty to deal with him at our own convenience, and relieve us from the demand for an immediate reply. We shall therefore content ourselves with

pointing out one or two more palpable absurdities into which the Reviewer has fallen, as samples of the rest.

Of the well-known letters, A.M.D.G., which signify, "to the greater glory of God," we have the following account: "Through the motto abbreviated into these four initial letters, the Society of Jesus ostentatiously advertises itself as in possession of a superior knowledge in divine things, that can furnish means of specific efficacy for insuring the upward progress of humanity towards a state of purified existence: capable of reflecting the bright imagery of God's enhanced glorification." We do not profess to understand this conglomeration of words, but as far as we can extract any sense out of them, they are both false and absurd. The principle of action symbolized by the letters A.M.D.G. is simply this, that the members of the Society should strive to choose such actions, where free to choose, and perform them in such a spirit, as may conduce to the greater glory of God. It is simply a question of proposing the highest possible standard of moral and religious life, not of pretension to higher lights, nor of invidious comparison with other religious corporations. Than such assumption, nothing could be more contrary to the spirit of St. Ignatius.

The Reviewer discourses largely, of course, on Probabilism. Let us take an example of his trustworthiness from his manner of dealing with its first principle. We take his translation of Gury's definition of a probable opinion, as "any judgment resting on some really grave motive, even though combined with dread (*sic*) of the opposite." Whereupon he proceeds to comment—"This means that, notwithstanding an irrepressible inward impression that truth is really in opposition to a given *opinio probabilis*, yet any opinion, in behalf whereof can be adduced what is technically termed a grave motive, may be safely accepted in full warrant for taking action in its sense." Now what does this writer mean by "an irrepressible inward impression"? Does it amount to moral certainty, grounded therefore on certain reasons? If so, there can be no probable opinion opposed to it, for moral certainty excludes all probability on the other side. If this irrepressible impression, on the other hand, does not amount to moral certainty, it is itself only a probable opinion; and then all that remains is a question of balancing probabilities, and of deciding the precise amount of obligation to this line of action or the other. Then what is "termed technically a grave motive," is theologically a motive resting on reasons sufficiently solid to justify the action of a prudent man; and thus the opinion based upon it becomes probable. In short, we have the "gravest motives" for thinking that this Quarterly Reviewer is absolutely ignorant of what the Probabilism means about which he undertakes to write.

Again, the Reviewer says of Gury: "He, then considers whether absolution can be obtained by one who ignores (*sic*) the Mysteries of the Trinity and Incarnation"; and again, after some circumlocution, his conclusion is, "that according to the more probable opinion, he can be validly absolved if only he be living in invincible ignorance." Of course Gury is speaking of a man who is *ignorant of* the Mysteries. His "circumlocution" here referred to only contains some rules to the effect that a confessor cannot absolve such a penitent except in case of necessity, as in danger of death for instance, otherwise he is

to instruct him to the benefit of the sacrament. Should it be found that his ignorance is invincible, then in such case the Sacrament of Penance may be administered: for why should the mercies of God be closed against him?

We take one other example. The Reviewer quotes the dicta of Busebaum, Laymann, and Voit, to the effect that when a legitimate end is in view, it is also legitimate to use the means requisite to the attainment of that end; and hence concludes that the doctrine implies that all means are legitimate and may be used where the end is good. It so happens that Gury explains this maxim by saying that only means that are in themselves indifferent, that is devoid of inherent malice, are permissible; yet the Reviewer is not satisfied with this distinction, but assures us on his own authority that "the words *per se indifferentia* cannot be held to limit in any effective degree the license involved in the other terms of the proposition." Gury also declares that "all choice of evil means is evil;" that "he who uses an evil means to attain a good end, contracts the guilt attaching to the use of such means" (1). That is, this writer's object is to fasten on the Jesuits a charge of maintaining that the end justifies the means. And to attain this holy end of misrepresenting the Jesuits, he has used the equally holy means of attributing to their writers that which they expressly deny.

We close our remarks for the present with the writer's view of invincible ignorance. "Let," he says, "an individual be surrounded by preachers straight from heaven, speaking with tongues of divine persuasion, and yet according to the definitions given of what constitutes invincible ignorance, he might with impunity withhold acquiescence, alleging moral inability to comprehend what was spoken, while in fact he was obdurally bent on not expressing assent, from the design to establish a plea for the indulgence of a selfish purpose."

Now, these words prove at least one thing, the utter ignorance, whether vincible or invincible we do not pretend to decide, of the writer, as to what invincible ignorance is. Gury tells us that vincible ignorance is that which can be dispelled by the use of adequate diligence; invincible ignorance is that which cannot be so removed" (2). But according to the words above quoted it seems that a man may be in invincible ignorance who is "obstinately bent on not expressing assent, from the design to establish a plea for the indulgence of a selfish purpose." Such a man would be in bad faith, and bad faith and invincible ignorance are incompatible. This common-sense doctrine is the best excuse which we can find for the Reviewer. His ignorance is so portentous as to excuse him from the charge of malice. But it is not the less a phenomenon worthy of the attention of all who are interested in English periodical literature, that the pages of our chief Quarterly Review should be open to an article on so important a branch of learning as moral theology, the writer of which displays throughout the most childish ignorance of the very elements of the science and of the meaning of the terms used by its professors.

(1) *Compend. Theol. Mor.* tom. i. p. 29. Rom v. 18:6.

(2) *Ibid* p. 15.

## PART I.

**The End justifies the Means.**

(The MONTH, London, March 1875, p. 362.)

We have already, in our last number, given brief expression to our sense of the value of the paper in the current number of the *Quarterly Review*, on "The Doctrines of the Jesuits." The writer of the article shows, almost in every line, his utter incapacity to deal with the subject he has ventured to treat; so much so, indeed that were it not for the literary dignity of the organ which has admitted his lucubrations into its pages, we should not consider him worthy of further notice. But as the conductors of the *Quarterly* have yielded so far, in a moment of weakness, as to endorse his strictures on the moral doctrines, we will not say of the Jesuits, but of the Catholic Church, a few words to point out one or two of the Reviewer's numberless blunders and misapprehensions may, perchance, have the effect of infusing a little caution into their counsels for the future, and render them less precipitate in giving their sanction to articles that have no higher merit than that of being decorated with a sensational title.

**Have the Jesuits any doctrines peculiar to themselves?**

And in the first place, as we have said, the attack of the Reviewer is levelled not at any special or singular doctrines of the Jesuits, but at the moral teaching of the Catholic Church. It is true the *Quarterly* writer takes especial pains to produce the impression that there are special doctrines upheld by the Society, as distinguished, we presume from the doctrines of the Church, although he is not happy in the proofs he alleges in support of his view. He brings forward Moullet, for instance, as an authority; but Moullet was not a Jesuit. Gury, indeed, recognizes Moullet's authority, as he might well do, for the teaching of the latter was drawn from Jesuit sources; but still his book came out, not with any sanction from the Society, but with the authorization of his own Ordinary, the Bishop of Lausanne, who, as the Reviewer informs us, particularly recommended it to the whole clergy of his diocese on the special ground of its keeping to the happy mean between "rigourism and laxity." So far, then, as the case of Moullet is concerned, it goes to show the identity of the Jesuits' teaching with that of the Church, at least in the instance of the diocese of Lausanne.

But the Reviewer further attempts to fasten the charge of speciality of doctrine on the Society, from the fact that the Society's official *imprimatur* must be affixed to any book published by a Jesuit author, and this, he argues, must throw the responsibility for the opinions contained in any such work upon the whole body of the Society, and that all the more on account of the minute regulations laid down in the Constitutions to secure uniformity of doctrine and opinion in the teaching of the Jesuits. In support of this he says: "In the 'Consti-

tutions' it is written that no differences of opinion are admissible, whether in *conversation* (1), or public discourse, or written books, which last it is not allowable to publish without approval and consent of the General, who, however, may confine their examination to three men endowed with sound doctrine and eminent judgment.

Now here, before proceeding further, let us notice one of the Reviewer's habitual inaccuracies in dealing with the Latin text. The original words in the Constitutions are: "*Doctrinae* igitur differentes non admittantur, nec verbo in concionibus vel lectionibus publicis nec scriptis libris, qui quidem edi non poterant in lucem sine approbatione atque consensu Praepositi Generalis." The literal translation of these words is as follows: "Different doctrines, therefore, are not to be allowed, neither by word of mouth in sermons (*concionibus*) or public lectures, nor in written books, which last may not be published without the approval and consent of the General." There is question, then here of doctrines, and not opinions; for doctrines and opinions may be very different things, and the prohibition of difference in such does not extend to private conversation, as the Reviewer, by his blundering translation of the word "*concionibus*" would imply, but has reference to public teaching, whether in the lecture-room or pulpit.

Then, if the *Quarterly* writer had turned to the Declaration appended to the Chapter of the Constitutions in which the foregoing words are contained, he would have discovered what rule is to be followed by the members of the Society in order to exclude differences of opinion. The Declaration in question is as follows: "New opinions are not to be admitted; and if any one entertains an opinion that differs from that which the Church and her Doctors ordinarily hold, he ought to submit such opinion to the judgment of the Society according to the declaration in the General Examen. And even with respect to opinions in which Catholic Doctors differ or hold opposing views, care must be taken to secure agreement in the Society." (2)

From the above extract the nature of the great rule by which uniformity of doctrine and opinion is to be secured and fostered is abundantly evident; none other, in fact, than conformity to the doctrines and prevailing opinions of the Catholic Church. But here we cannot put the matter more clearly before our readers than by quoting the words of Father de Ravignan.

Has the Society of Jesus any doctrines, properly speaking, peculiar to itself? What spirit directs it in its dogmatic and moral doctrines on religion?

St. Ignatius desired two things: security of doctrine—the spirit of Evangelical Charity and Zeal.

I will state that the Society has no doctrines, properly speaking, peculiar to itself: it follows the most generally authorized doctrines in the Church; and as for free opinions, it leaves liberty of spirit in union of hearts. Such was the wise thought of its founder. A body requires, above all things, interior harmony and peace; the union of its members is its life. Difference of opinion and of doctrine, by creating a division of thoughts, incurs the risk of creating a division of feeling. We may well imagine, then, that St. Ignatius should have recommended the religious of his Society to avoid, as much as possible, that diversity of opinion which, by relaxing union, weakens strength, and causes the ruin of truth itself. The superiors are bound carefully to ward off this danger.

It is with this object, and to watch over the integrity of doctrine, that our Cons-

(1) The italics are ours.  
(2) Const. Pars iii. c. i. § 18, O.

titutions submit to preliminary examination and authorization all the books that a religious of the Society may wish to publish.

This guarantee is necessary; it is morally sufficient. Never, however—and I can easily understand it—has the Society, by those wise precautions, thought of holding out the pretension that the least opinion of its writers or its professors should become the opinion and the doctrine of the whole body; nor that the approbation of three or four examiners and of a superior, should stamp on a Jesuit's book a sanction of irrefragable truth. I see no difficulty in acknowledging that Jesuit authors, their examiners and their superiors, may be, and have been deceived.

But it appears to me evidently as equally repugnant to justice and to good sense, to impute to a whole body the opinions or the errors of some of its members, as it would be that the individuals should be considered irreproachable, whilst the whole body is criminal and worthy of condemnation, since sound members will never form a corrupted body (3).

In a word the opinions of the Society are those which are most approved by the Church, those most in accordance with the common opinions of her Doctors; but more especially St. Thomas is declared to be the theologian to be followed both by masters and pupils in the schools of the Society, without the obligation, however, to follow blindly all and each of his opinions (4). Thus in the fifth General Congregation directions were given to professors:

In any case where the opinion of St. Thomas is ambiguous, or in those questions not perhaps treated of by St. Thomas, in which Catholic Doctors differ, it is permitted to ours to take either side,—

provided always that due charity and consideration be exercised towards those who hold to the opposite view of the question.

And this rule is of great importance, because it has in fact governed the practical application of the other rules of the Society for securing uniformity in doctrine and teaching. In the course of the Society's history there has been no manifestation of that servitude with which the members of the Society have been recently taunted by a great authority, on the part of the great Jesuit writers and theologians. To quote Father de Ravignan once more.

Thus, in questions freely discussed among theologians, the Jesuit is free to embrace that part that is the most consonant to his own views. The only command imposed on him is to observe moderation and charity, *in omnibus charitas*. The authors of the Society are full of these free differences of opinion amongst themselves. Their works are accessible to every one; and what becomes, in the presence of a fact, so easy to verify—what becomes, I ask, of this doctrine, said to be peculiar to the Jesuits, and of this system of teaching that belongs only to them? Now once more, I state, we have no doctrines peculiar to ourselves; we have a spirit of our own, but that is very different.

### **The Reviewer's skill as a translator.**

But enough has been said on the general bearing of the question. Before preceeding to the details, let us point out a few more instances of the Reviewer's skill as a translator; for the mistakes he commits may be taken as no bad index of his competency to deal with the subject—a subject so full of subtle and minute details, and requiring more than any other the possession of accurate technical knowledge on the

(3) *The Jesuits, their Institute, Doctrines, &c.* c. 4.

(4) Const. Pars iv. c. 5, § 4; c. 14. § 1; Congreg. v. d. 41. § 5.

part of any one who undertakes to handle it—into the discussion of which he has so rashly thrust himself.

We have already called attention to his rendering of *ignorans* by "ignoring." Again (5), we meet with the sentence: Father Gury carefully points out that mental reservations are of two kinds, the *strictly* and the *latently* mental." Now Father Gury's words are "Restrictio mentalis est: (1) *purè seu strictè mentalis*, si sensus loquentis percipi nullo modo possit, et hæc, *propriè mentalis*, dicitur; (2) *latè seu impropriè mentalis*, si sensus propositionis ex adjunctis possit colligi" (6). *Latè* is here rendered by *latently*. What might possibly be the difference between a *purely* mental, and a *latently* mental reservation, we do not attempt to realize. Of course the sense of the passage is, "A mental reservation is (1) *purely* or *strictly* mental being such that the meaning of the speaker can in no way be perceived, and this is mental reservation proper; (2) mental in a *wide* or improper sense, being such that the sense of the proposition may be gathered from the circumstances in which it is uttered." And Gury proceeds to say that mental reservation in the strict sense is never lawful; but cases may occur in which it may be used in the wider and improper sense.

Then we have (7) the following case presented. "In the section about Contracts we find this query: 'If a donation has been promised on oath, but has not yet been delivered, is it still binding?' which is answered negatively on the ground that, as the deed is incomplete, it is void in substance, and consequently no oath in reference thereto can be held to have binding force." Father Gury's query is, "An obliget donatio jurata, sed non acceptata?" Does a donation that has been promised on oath bind before it has been *accepted* not *delivered*? To understand the blunder, we must understand what moral theologians mean by a donation. According to them it is a contract, "by which the donor deprives himself actually and in an irrevocable manner, of something in favour of the recipient who has accepted the gift." (8) A gift may be accepted either in the very act of receiving it into possession; or by intimating to the donor the accession of the recipient to the contract even before the gift is actually delivered. Till such acceptance is given, in one way or the other, the contract does not exist; and therefore no obligation that might result from such contract can, according to the opinion of some, be binding. The writer plainly either did not take the pains to read Gury on the matter; or, if, he did read, he certainly did not understand.

But more than this. Father Gury's reply to the query is twofold. In the first place he answers negatively. A man under such circumstances is not bound, because an oath follows the nature of the act; but a donation before acceptance is not a completed contract, therefore the obligation ceases. And in support of this decision he cites St. Alphonsus Liguori. In the next place he gives an affirmative decision, to the effect that the oath is to be observed as long as it can be kept without sin. And for this solution of the question he quotes

(5) P. 64.

(6) Gury, t. i. p. 473, Romæ, 1866.

(7) P. 65.

(8) T. i. 749—751.

Laymann. So that it turns out that the Reviewer is convicted at once of ignorance, of suppression, and of stating what is not the fact. For Father Gury does not answer negatively, as is implied; he gives no reply at all on his own authority; he merely states the conflicting opinions of two most competent authorities in moral theology, St. Alphonsus and Laymann; and as it happens it is the non-Jesuit, St. Alphonsus, who gives the solution as the one commonly received, that the Reviewer seems to reprobate, and the Jesuit Laymann who is opposed to that solution.

Again, (9) we have "*Saltem generatim loquendo; quia excipiunt non pauci,*" (10) thus translated: "I say *speaking generally*, for there are not a few exceptions." The matter under discussion is occult compensation, and Father Gury has answered the query, whether servants can have recourse to occult compensation on the plea that they are underpaid, negatively, at least generally speaking, for *not a few except* three cases—not *many* cases (1). If the labourer has been compelled by force or fear to consent to work for an inadequate wage. (2) If he has been driven by necessity to accept it, provided that the employer could not justly have got others to work for the same low rate of payment, or gave him work merely out of charity. (3) If he is unwillingly burdened with oppressive labour.

It may be said that these mistakes do not amount to much, and perhaps looked at simply and singly in themselves this may be true. But taken altogether they indicate either great slovenliness and inaccuracy on the part of this writer; or they betray what is still worse, as far as truth is concerned, an entire want of due preparation, not to say radical unfitness to treat the subjects he has taken in hand. These blunders go far to destroy confidence in his powers to deal thoroughly and completely with any of the matters, so subtle and so critical in their nature and bearings as so many of them are, that he has put himself forward to discuss, and that too with the view of affecting the reputation of other men by the conclusions that he pretends to arrive at.

Let us now follow the Reviewer more into detail. He says, (11) "Advocate and antagonist will alike admit that the system of tax opinion popularly charged against the Jesuit divines rests on three cardinal propositions—of probabilism, of mental reservation, and justification of means by the end;" and he forthwith proceeds to discuss each subject in turn. We have said proceeds to discuss, though in using such an expression we have conferred an honour on the Reviewer's process which it can lay no claim to. Anything more slipshod than his method of treatment can hardly be imagined. There is nothing to indicate the slightest insight into the principles involved in these momentous questions of moral science; nothing that gives evidence of any consistent study of those principles: nothing beyond a few garbled extracts, *dissecta membra* torn from their context and surroundings as far as principles are concerned, and then a confused mass of cases the bearings of which for the most part the writer

(9) P. 78.

(10) Gury, t. i. p. 611.

(11) P. 59.

grossly misunderstands, is to be found in the dreary waste of pages that he has filled with his helpless guesses and speculations.

We propose to reverse the Reviewer's order of dealing with the subjects that he has selected, and to begin with the last-named, that is, the charge that the Jesuits uphold the principle that the end justifies the means. We give this matter the precedence for two reasons; firstly because, as the Reviewer observes, "no charge has more powerfully tended to raise popular prejudice against the Jesuit Fathers;" and secondly, because a clear understanding of what Jesuit theologians do teach is required absolutely as a preliminary to the discussion of this or any subject whatsoever; for unless we can show the falsehood of this charge, we shall always lie open to the accusation that we are falling back upon the doctrine in question in our very treatment of it, and alleging what we know to be untrue because that is a necessary means for the refutation of the charge and to set ourselves right in the eyes of the world. And in connection with this matter we are here led to enter our protest once for all against the monstrous perversion of truth and outrageous violation of all fairness of interpretation involved in the following propositions.

Once more we impress on the reader that, in deducing inference from propositions in Jesuit writers, we advisedly proceed upon the principle, that the terms to be appreciated at their value, must be tested by every sense they can be made to bear without a glaringly forced strain. For according to Jesuit doctrine any opinion that can be brought into apparent conformity with terms employed by any single writer of authority, may be safely accepted and acted upon by an individual, even in opposition to the mind of his spiritual adviser (p. 89).

It is sufficient for the present to record our refusal to submit the writings of any theologian whatever to a test so utterly subversive of all principles of honest interpretation as that proposed in the first of the above propositions. As regards the latter proposition, we meet it with a point-blank denial of its truth, and we challenge the Reviewer to adduce one shred of proof in support of his assertion.

#### **What the Reviewer considers a demonstration.**

But let us now proceed to see what the Reviewer has to say with reference to the maxim of means being justified in virtue of the end to which they are applied. He proceeds as follows—

We believe it to be demonstrable that the maxim has been broached clearly and definitely, by an unbroken chain of Jesuit divines of first-rank standing, from Busembaum down to Gury and Liberatore.

In substantiation of this statement we submit a series of quotations from writers whose authority cannot be disowned by the Order. The first is from Busembaum (who may be called the patriarch of the maxim), whose *Medulla* has gone through more than fifty editions, and, by its reprint, not many years ago, in Rome, at the press of the Propaganda, can claim the continued and solemn approval of the Supreme Authority of the Church. "Cum finis est licitus, etiam media sunt licita," are his words: and again, "Cui licitus est finis, etiam licent media." (12) Amongst Jesuit luminaries of first magnitude ranks Laymann, of whom Gury says: "Inter maximos theologiarum moralium doctores sine dubio referendus." In his *Theologia Moralium* (Munich 1625) we meet with the same proposition in almost the identical formula: "Cui concessus est finis, concessa etiam sunt media ad finem

ordinata." In 1762 the Jesuit Wagemann, Professor of Morals at the University of Innsbruck, published a Synopsis of Moral Theology, duly authenticated by official approbation, in which occurs this passage: "Is the intention of a good end rendered vicious by the choice of bad means? Not if the end itself be intended irrespective of the means," a proposition which he thus exemplifies: Caius is minded to bestow alms, without at the same time taking thought as to the means; subsequently from avarice he elects to give it out of the proceeds of theft, which to that end he consequently commits; and so Caius would be entitled to the merits of charity, though he has aggravated the offence of violence by the motive of avarice. Wagemann is not a doctor who deals in obscure words, for he says: "Finis determinat prohibitum actus," a definition of singularly neat precision.

### **Catholic teaching on the Morality of Human Acts.**

Before descending to particulars in replying to the above, we will briefly state the doctrine of Catholic theologians with respect to the morality of human acts. When this has been done, we trust that our readers will be in a position to estimate the bearing of the quotations adduced by the Reviewer, and to appreciate, at the same time, the utter shallowness and ignorance betrayed by the interpretations he puts upon them. And here we shall simply follow Father Gury, as his work is accessible to all. After discussing the nature of morality, and some of the conditions that it presupposes in respect of human acts, he proceeds, in his second article to treat of the Sources of Morality, or those principles which assign their specific moral character to human acts or modify them, each within its own specific range. (13) These sources of morality are threefold: (1) The object of the act; (2) the circumstance of the act, or those accidental determinations that accompany its performance, but do not affect its substantial character, though they may have a certain effect upon its moral complexion. Thus an act may be differenced by the accidental character of the agent, whether he be single, or married, or charged with some sacred office; or by the diversity of the quality or the quantity of the object of the act; or by the means and instruments employed by the agent; or by some accidental extrinsic motive apart from the object proper; or by the consideration whether it is performed in good faith or in bad faith, or with a greater or less degree of intensity or advertence; or by the period of time consumed in the operation; (3) the end of the act, or that to which the agent directs his intention in its accomplishment.

### **The Conclusions of Gury, the Jesuit.**

Having established the existence of each of these principles, Father Gury goes on to lay down the following conclusions as resulting from them—

1. The election of evil means is always evil, but on the contrary it does not follow that the election of good means is always good. Thus, no one is held to be worthy of praise because he abstains from drink out of avarice; and he is to be held culpable who steals money in order to give alms.

2. Whosoever chooses an honest means to an honest end, performs an act of double honesty, if the honesty of the act in both cases falls within his intention. In like manner he is guilty of double malice who elects an evil means to an evil end, as for instance, if any one stole money in order to get drunk with it.

3. Whosoever employs an evil means for a good end contracts only the malice

(13) T. 1. p. 27. seq.

arising from the choice of such means, as for instance if any one told a lie to free his neighbor from danger. So, on the other hand, he who makes use of honest means for a bad end contracts only the malice arising from such end.

4. Whosoever makes use of a means indifferent in itself, that is not having any specific character of good or evil, in order to a good or a bad end, contracts only the goodness or malice arising from the end proposed.

It is hardly necessary to point out how entirely opposed these principles are to the construction put by the Reviewer on the passages which he has quoted from Busembaum, Laymann, and Wagemann. To account for such difference we are driven to one of two suppositions. Either Father Gury contradicts the above-named theologians in the principles he lays down on this subject, and then we have a conflict on this fundamental question amongst the Jesuits themselves; or the *Quarterly* writer has mistaken the sense of the passages that he cites in proof of his accusation against the Society. We can only decide which of the two suppositions is the correct one, not by forcing any possible meaning out of the passages in question that the words in themselves may bear, according to the Reviewer's canon of interpretation, but by taking them in connection with the context and scope of the subject matter to which they belong, in agreement with the hermeneutical rules that are followed in all other cases.

If the Reviewer had proceeded in harmony with those rules, and exercised common fairness in their application, he would have escaped from the, at last material, injustice of adducing a chain of Jesuit writers in support of an immoral principle which those writers repudiate or reprobate as fully as himself; and would on the other hand have been guided to recognize the fact that there is a sense of the phrase, "the end justifies the means," that is sound and valid, and which does but express not only a common axiom of law but a dictate of common sense, that the right to the end carries with it the right to employ all lawful means to that end, without for a moment implying that the use of means that are by their own nature evil can be permitted. Had the *Quarterly* writer done this, he would then have been free to inquire whether the Jesuit or other theologians had in any case overstepped the prescriptions of this distinction; and such inquiry could have afforded no ground for complaint as falling fairly within the limits of legitimate controversy.

### The Jesuit Busembaum.

The Reviewer begins with Busembaum by quoting the words, *Cum finis est licitus, etiam media sunt licita*—"When the end is lawful the means requisite to that end are also lawful." We presume it is because of his use of these words, and similar expressions in the second case quoted, that Busembaum is dubbed by the Reviewer as the patriarch of the maxim. But why these two quotations should entitle Busembaum to such as honour we do not know; for the maxim in question, and a very sound maxim it is when rightly understood, is a common axiom in canon law, and we suppose would not be repudiated in civil jurisprudence. (14)

(14) At least we have the analogous maxims: "Propter necessitatem, illicitum efficitur licitum. (Non agitur hic de illicito in se). Plus semper continet in se quod est minus. Cui licet quod est plus, licet utique quod est minus" (*Regule Juris*, apud Craisson, *Man. Jur. Can.* i. p. 132.)

The case in which the first quotation occurs is that of a prisoner who attempts to escape from confinement, and who finds that certain means are necessary to effect his purpose. Take the case of Louis the Sixteenth in the Temple; or that of the Duc d'Enghien at Vincennes. There could be no question as to their right to make their escape if possible; but in order to do so it might be necessary to practise deception on the keepers, to lull them into security, to place food and drink before them to induce carelessness or sleep, to draw them off from their post; or it might be requisite to free themselves from fetters, and otherwise break through opposing barriers as they best could. Should scruples arise as to the legitimacy of using such means of regaining freedom and escaping from death, how would common sense reply to them? Of course you are at liberty to use them; for the actions involved in them are not evil in themselves, and you have a right to your freedom, therefore you have a right also to employ those means by which alone you can regain your freedom. The right to perform any action carries with it the right to use all means necessary to that action provided they be not absolutely evil by their very nature. And this is all that Busembaum means when he says that the means requisite to an end are lawful when the end itself is lawful. But he does not say that evil means can be employed for a lawful end; far less that a lawful end converts bad means into good.

It is true that Busembaum does not confine the application of his principle to innocent prisoners only; but then he considers that under certain circumstances even guilty and condemned malefactors may legitimately effect their escape from prison, a question which we do not enter into here, so that the complexion of the case is in no wise altered as regards the principle at stake." (15)

The second quotation, "To whom the end is lawful, the means also are lawful," has reference to a case in which the performance of a certain natural action is concerned, and the reply of Busembaum simply amounts to this, that means which, if employed to give effect to sinful affections and desires would themselves be sinful, may be used without sin in order to the legitimate act in question, for the plain reason, that they are more or less necessary and natural adjuncts to it. The case therefore is merely a repetition of the one we have just considered. (16)

### **The Jesuit Laymann.**

The Reviewer quotes Laymann, but as he gives no reference, and Laymann's works fill a bulky folio volume, we have been unable to find the passage to which he alludes; but we have no hesitation in asserting that it will admit of an explanation analogous to those already given.

### **The Jesuit Wagemann.**

Wagemann is next quoted—"Is the intention of a good end rendered vicious by the choice of bad means? Not if the end itself be intended irrespective of the means." We do not possess a copy of

(15) Busembaum, l. i. vi. c. 3, *De reo*, art. 2. Romæ, 1844.

(16) Busembaum, l. vi. Tract. vi. c. 11, art. 1.

Wagemann's book, but the case referred to is found in the *Tractatus Prodromus*, written we believe by Wagemann, which is prefixed to Voit's *Theologia Moralit*, a work that is quoted by the Reviewer immediately afterwards. The reply to the above query, which is given under a distinction, stands as follows—

If the end is intended with a determinate relation to bad means, the act is rendered bad; but not if the end be intended without any reference to such means. The following are examples—Titius steals in order to give alms out of the proceeds of his theft; and Caius intends to give alms, thinking at the moment nothing about the means: but afterwards, being moved by avarice, he chooses to bestow his alms by means of theft, which he commits with that end in view: the first intention of giving alms was good in Caius. (17)

The Reviewer omits the last clause, and proceeds to say—"And so Caius would be entitled to the merits of charity though he has aggravated the offence of violence by the motive of avarice." This sentence is clear in nothing save this, that it is an utter misstatement of Wagemann's conclusion; a misstatement indeed so palpable that it strains the Reviewer's title to indulgence on the grounds of his habitual inaccuracy to its utmost limit. The whole question is, whether the *intention* of doing a deed of charity—which is the mental act referred to—is vitiated by the, what he may call, collateral intention of using a bad means to perform that good deed? The reply is given at once. Most certainly. Titius makes an act of the mind that he will steal in order to give alms, and he commits a sin by so doing. Caius, on the other hand, forms his intention irrespective of the means; and his act of the mind is good. It is only subsequently that he commits sin by the election of a bad means to carry out his good intention.

The Reviewer's case is made worse by the fact that he had before his eyes, not more than half a page above the extract that he has given, the following most clear and distinct statement, a statement that entirely coincides with the principles laid down by Father Gury. It is asked—

"Does a choice derive its morality from the means as well as from the end?"

R. If the malice of the means be specifically distinct from the malice of the end, the choice contracts a twofold malice, one from the means, the other from the end, and the result will be a sin of a kind different from either (for as we have already said, there will not be two distinct sins in one act, but one sin of a different species); the same holds good of a good act recognizing and embracing an end and means diverse in specific goodness; for example, he who determines to steal that he may have money to give to his concubine; and he who gives alms to an indigent person who is his enemy that he may effect a reconciliation with him.

The first case of course illustrates the double malice of an act that involves the choice both of an evil end and evil means; the latter the double goodness resulting from the choice of end and means that are both good.

Wagemann then proceeds to say in a corollary—

[1] If the means be *indifferent*, the choice derives neither goodness nor malice from it, as is evident. [2] If the means is of *the same specific malice* or goodness as the end, the choice does not superinduce a new species of morality. [3] Every choice of *evil means* is evil; but on the other hand, not every choice of *good means* is

positively good ; for, as was said above, to will an object that is known to be bad suffices for the participation in evil ; in order to endow an act with the goodness of the object, this goodness must be positively intended, at least in some way, even though it should be confused and undefined.

It is needless to point out how completely the principles laid down in the above extract overthrow the Reviewer's next ignorant objection. "Wagemann is not a doctor who deals in obscure words, for he says—'Finis determinat probitatem actus,' a definition of singularly neat precision." All words are obscure to those who cannot penetrate their meaning ; and the Reviewer has utterly missed the meaning of the words he quotes. "The end determines the probity of the act." Of course it does. The end, as Father Gury has told us, is one of the sources of the morality of actions. But not the only source ; for the object and the circumstances also contribute their share ; and Wagemann has just told us that every choice of evil means is evil ; and Father Gury states that he who employs a bad means to obtain a good end contracts the malice of the bad means. All this is expressed by the axiom—*Bonum ex integra causa, malum ex quocumque defectu.*

### The Jesuit Voit.

The Reviewer passes on to an extract taken from Voit's *Moral Theology*.

He puts the following case—"Arcadius kills Caius in some city where the law inflicts capital punishment on a murderer. Arcadius is delivered up and condemned to death, but he escapes, forcibly breaking out of prison, though foreseeing that he may render his gaolers liable to grievous injury. The question is, whether Arcadius, by escaping after sentence had been pronounced, has done wrong. My answer is in the negative. . . . Has Arcadius then done wrong by rupturing his chains and forcibly breaking out of prison? . . . He has done no wrong, *Cui enim licet finis, ei et media permissa sunt.*" [18]

The case from Voit is correctly stated. Voit grounds his solution on the principles of St. Thomas, and therefore even if the solution were wrong, it is not exclusively Jesuit doctrine" (19). The ground taken by St. Thomas amounts to this, that a prisoner may make his escape because he is not bound by the penalty of the law to contribute in any way to his own death, but only to submit himself patiently to the executioner who carries the sentence into effect. But to remain in prison when he might escape would be to contribute remotely to his own death ; he is therefore quite within his own rights if he avails himself of any chance of escape offered to him. This reasoning rests upon the further principle that the State being charged with the maintenance of public order may use all necessary means not absolutely wrong to attain that end. The punishment of death is one such means, and therefore legitimate under extreme circumstances. But it is a further stretch of power to bind the criminal in conscience to cooperate in any way in his own death ; and such an exercise of power is not required for the attainment of the desired end. Therefore such an application of power would be superfluous ; nor can we conceive that it would be in accordance with the moral order of the

[18] Voit, *Theol. Mor.* p. 98.

[19] St. Thomas, 2. 2 q. 69. a. 4. ad 2.

world that God has established. The reason given why Arcadius does not sin in breaking out of prison even at the expense of his keepers is, that the loss incurred by the latter is not intended, but only follows accidentally on the exercise of Arcadius' right to escape from punishment if he can. And Voit goes on to say that any one who helps him by counsel or otherwise to effect his escape commits no sin, unless indeed he be under some special obligation like that, for instance, imposed on warders. This last clause ought to have shown the Reviewer that not every means was lawful; that a means involving sin could not be lawfully employed: and therefore that the maxim, that the means are permitted to him who has a lawful end in a view, does not include means that are sinful.

### The Jesuit Liberatore.

Then follows Father Liberatore, who after an elaborate argument in support of the indefeasible title of the Church to press into her service the agency of physical means, thinks to strengthen his position by the maxim, "that from the obligation to attain an end arises the right to procure the means needful and useful for obtaining the same." We have not the book referred to at hand, but we accept the Reviewer's authority for the accuracy of his statement, for the case is perfectly clear, and the principle enunciated is one of the merest common sense, upon which indeed the whole fabric of law, and the social order depending upon law, ultimately rest. For we may ask, upon what other principle does the power of inflicting, we will not say capital punishment, but any punishment whatever, depend but this, that the end of all social regulations is the peace of the community, and that the right of employing penal measures follows as a necessary adjunct to the primary necessity of maintaining the well-being of the social organism, for as a matter of fact it is found that society cannot exist without falling back upon such distasteful auxiliaries? The Reviewer does not mean to assert that penal enactments are unlawful?

### Monstrous doctrine imputed to Gury.

We cannot undertake to follow the Reviewer through the heretogeneous mass of cases that he has huddled together; nor indeed is it necessary, for we have laid down, as we trust, sufficiently the principles upon which his objections and misrepresentations may be easily solved. We will therefore touch upon only one more case, and that because it affords a further and very striking illustration of helpless blundering. Father Gury is credited [20] with laying down distinctly the monstrous proposition, "that no evil intention can render wicked any deed which in itself must not by nature be necessarily evil." Passing over the clumsiness of the wording, we presume the Reviewer would make Father Gury say that any action may be good, with whatever evil intention committed, provided the said action be not absolutely evil in itself apart from all question of the intention of the agent. The possibility of such a statement on the part of Father Gury has already been precluded by the principles which we have seen that he

[20] P. 73.

upholds. Besides, the proposition bears so great an absurdity on the very face of it, that the serious attribution of it to, we will not say any grave author, but to any man of ordinary common sense seems to be almost past belief. However, in support of his charge the Reviewer quotes in a note the expression, *Ad injuriam non sufficit mala intentio*—"A bad intention is not sufficient to constitute an injury." We do not find these words in Gury, but we have the following: "*Prava enim intentio non efficit, ut injustum sit illud opus, quod ex se respectu tertii injustum non est*" [21]. The case is that of a man who steals, and escapes suspicion, which rest on a third party who is innocent, and there is question whether the thief is bound in commutative justice to make compensation to the innocent man for any loss he sustains. Gury gives the different opinions on the subject, and amongst them one which denies any liability because, even if the thief has contributed to fasten the false charge on the other man, "his evil intention does not make an action *unjust*, which is not of its own nature *unjust* with respect to the third person in question." Causing suspicion to light on a man is not a thing that of its own nature causes material loss; though such loss is very likely accidentally to follow. The Reviewer therefore translates *injustum* by 'wicked,' instead of by *unjust*, and thus shows that he entirely mistakes the point at issue. Gury does not say that such an act would not be wicked and sinful, but that in the opinion of some it would not be an *unjust* act in the technical sense of the word; that is an offence against commutative justice, and therefore burdened with the obligation of restitution.

#### Indifferent Actions.

We will conclude for the present with a few remarks on the Reviewer's strictures on Gury's doctrine as to the *indifference* of certain actions. He quotes a dictum of Father Gury [22] to the effect that where "the end is lawful, the means also are lawful provided they be *indifferent* in themselves." There is here plainly a limit put to the means available for any end; what that limit is we shall see presently. We will not follow the writer through his confused discussion, but content ourselves with producing his somewhat impressive conclusion—"Here we confine ourselves to the opinion—and we assure those who challenge our view that we have arrived at it not lightly—that according to Father Gury's definitions the words 'per se indifferentia' cannot be held to limit in any effective degree the licence involved in the other terms of the proposition." Well, let us see what Father Gury's definitions are.

In his remarks on the object of an act, regarded as the chief source of its morality, he says that an object may be good, bad, or indifferent, according as it agrees with or is opposed to reason, law, or the right order of things, or as it does not fall within the scope of law and order. Again, an object may be intrinsically good or intrinsically evil; and in what the intrinsic evil of an object exists he explains as follows—

[21] Gury, t. i. p. 647.

[22] P. 71.

Objects that are intrinsically evil are of three classes. 1. Some are such *absolutely*, and independent of all circumstances: because they involve repugnance to the right and absolutely necessary order, as for instance, hatred of God, blasphemy, and so forth.

2. Others are intrinsically evil, not precisely in themselves, but by reason of some adjunct or condition that depends on the sovereign power of God or man: such are taking what belongs to others, injury to body or reputation, and such like, which sometimes become lawful.

3. Others again are only evil by reason of the danger which ordinarily attends them, such as looking at base objects, reading bad books, and so on. These for a reasonable cause, and where the danger is removed, may become licit.

The last mentioned class concerns those who are called to moral, legal, or medical studies for instance, and may be dismissed; but it is the second class that falls more immediately within the scope of our present discussion; though of course our principle is lawful and applies to actions within the sphere of both these classes. Let us illustrate what is meant. Take for instance, a man's right to his property, his good name, his personal security, his life. His right to such things is based upon God's will and order that he should enjoy them. The range of his rights in such matters is commensurate with God's will and appointment with respect to them. To deprive a man of his possessions within that range is to infringe his right; and this is in the ordinary course of things always wrong. But contingencies may arise in which God, with Whom rests the supreme disposing power, may deprive him of them; and if so, God can also delegate to men some portion of His power. Thus He concedes to the State the right to take away life when a man has been guilty of a grave crime against public order; nay, even to a private individual when it is indispensable for just self-defence. But how do we know that God grants those powers? We reason thus. God has committed to the State as an end the care of public order. But the maintenance of public order requires that murderers be put to death. Therefore God must have given to the State the power of life and death in such cases. And why? Because He wills the end, and must therefore to be consistent will the means necessary for its attainment. *Cui conceditur finis, conceduntur media, (necessaria.)*

But as God wills that the criminal's life should be taken from him, the latter has no longer a right to it; consequently the means is not bad the putting him to death, that is, in order to the security of public order, for the condition on which, as Father Gury says, the badness of the act is based, the right that a man has to his life, has been removed.

### **When a right to the End gives a right to the Means.**

From what has been said, then, in order to apply the principle, that a right to the end gives a right to the means, three conditions must be complied with.

1. That the end shall be good.
2. That the means be not sinful.
3. That they be necessary for the attainment of the end.

As regards the second condition, from what has been said, the following conclusions may be drawn. (1) That there are certain means which are absolutely and intrinsically bad in themselves; and such can

never be employed. (2) Others, that are indifferent, that is, have no specific morality in themselves, such as are the actions of walking, sitting, and so forth; and these may be always used. (3) A class which lies between these two, consisting of acts which in the ordinary course of things are bad, but may under peculiar conditions become lawful, and be used as means in cases of a special and abnormal kind.

We could give many references, ranging from page 420 to page 430 of Gury's first volume in confirmation of the above conclusions: but we trust we have said sufficient to show upon what a mass of misapprehension and misrepresentation the Reviewer's attack upon the moral teaching of the Catholic Church is based.

We believe that some time ago offer was made in the *Germania* to bestow a hundred thalers on any one who could produce a *bonâ fide* passage that would convict the Jesuits, or any Jesuit, of teaching the doctrine that the end justifies the means, as that maxim is vulgarly understood. The reward has not been gained in Germany; perhaps England may be more fortunate; and if so we shall be glad to transmit the name of the successful applicant to the bureau of the *Germania*, and we have no doubt his claim will be duly honoured if duly substantiated. But the *Quarterly* Reviewer has certainly so far not established his title to the prize; a matter to be regretted by his friends, as otherwise he might have invested the hundred thalers in a Latin Dictionary, an article that he is manifestly much in need of.

## PART II.

### Mental Reservation, Pure "Latent."

(The MONTH, London, April, 1875, p. 482.)

In our last number we discussed one of what the *Quarterly* Reviewer calls the cardinal propositions on which the popular charges against the moral teaching of the Jesuits rest, that namely which asserts that the end justifies the means. We showed that this maxim may admit of two interpretations: one that where the end is legitimate, the use of means necessary to such end is legitimate, provided that the means involve no sin in themselves; the other that provided a good end is intended, all means whatsoever whether good or bad may be used, for in fact the goodness of the end imparts goodness to the means, whatever their moral complexion may be considered in themselves. The first meaning is the true one, and that accepted by theologians; the second is false, and repudiated not only by every Catholic theologian but by every honest man. How far the Reviewer himself may have adopted this second signification of the maxim in his own literary practice we leave it to the appreciation of our readers to determine. This much, however, we may say is certain, and for the truth of our assertion we appeal as well to what we set before our readers in our last number, as to what we shall advance in our present paper, that the Reviewer in carrying out the end proposed to himself, of fastening on

the Catholic Church a system of absurd and immoral doctrines, an end not justifiable in itself without the gravest and most convincing proofs, has not shrunk from the use of means that if consciously employed would at once brand him with immoral indifference to the character of those means themselves. In his attempts at proof we convicted him of mistranslation, of garbling, and of misrepresentation; and such means will commend themselves to no honest mind as legitimate and justifiable sources of demonstration, even though made use of in support of the loftiest ideal theories of moral purity with which the modern world is dazzled or bewildered, and with which for the most part its practice so painfully contrasts.

### Pascal's Provincial Letters.

We now turn to the Reviewer's second cardinal proposition, that which concerns Mental Reservation. The Reviewer opens fire on this "second capital count in the popular indictment against Jesuit principles" by a quotation from the *Provinciales*. Of course the *Provinciales* contribute greatly to the Reviewer's article in this and in other matters where their inspiration is not openly acknowledged. This is only what was to be expected in the treatment of any subject where Jesuits are concerned; it will not be out of place therefore, before preceeding to the Reviewer's mob of objections, to put once more on record the estimate of these celebrated letters that has been from time to time formed by writers of various schools of French thought. Father de Ravignan, himself a Jesuit, though previously a brilliant member of the magistracy of France, thus expresses the result of his own investigation into the truth of the charges of Pascal, that had created prejudices against the Society in his own mind, and had weighed with him as a serious preliminary objection to which he was bound to seek a satisfactory reply before he could enrol himself in the Institute of Ignatius. He thus gives the conclusion that his inquiry brought home to his mind: "Pascal, your genius has led you into a great crime, that of establishing an alliance, perhaps imperishable, between falsehood and the language of the French people. You have fixed the vocabulary of calumny; it still rules supreme, but it shall not do so with me" (1). And others have appreciated the true place of the *Provincial Letters* in the world of literature, and what is more, their true effects upon society at large. Pascal aimed at blasting the good name of the Jesuits; he succeeded to a great extent, but he succeeded in a great deal more that was quite beyond his wish or intention. He contributed by his satire to level the barriers that opposed the advancing tide of unbelief that was so soon to lay the stately fabric of the French Church, and the proud throne of the Bourbons in the dust. "It was a work," says Lemontey, speaking of the *Provincial Letters*, "that did more harm to religion than honour to the French language" (2). Lermnier says, "Pascal wrote the *Provincial Letters*, and the demon of irony was let loose against holy things. The Jesuits, as far as appearance goes, receive all the blows; but religion is smitten along

(1) De l'Existence de l'Institut des Jésuites, p. 36 Fifth Edition.

(2) Hist. de la Régence, tom. i. p. 153.

with them. Pascal has prepared the way and Voltaire is free to come"(3). After the fall of the Jesuits in 1762, d'Alembert writing to Voltaire, could estimate its effects, and the hand that Jansenism had had in the catastrophe. "By my faith," he says, "this is a very serious matter, and the Parliamentary Courts go to work with no light hand. They think that they are saving religion, but they are aiding reason without suspecting it. They are the hangmen of philosophy, whose sentence they execute without knowing it.....As regards myself, to whom all things appear at present *couleur de rose*, I see the Jansenists quietly dying next year, after having this year brought the Jesuits to a violent end, toleration established, the Protestants recalled, the priests married, confession abolished and fanaticism crushed without any one being the wiser" (4). Such were to be the fruits of Pascal's work.

The passage quoted by the Reviewer from the *Provincial Letters* stands as follows: "'One of the most embarrassing things in the world,' says the Jesuit, 'is to avoid telling a lie, especially when you want something to be believed that is false. Our system of equivocation is a great help in this matter. But do you know how to proceed where equivocal words cannot be found?' 'No father.' I thought as much," said he, 'that is new; it is the doctrine of Mental Reservations.'" Whereupon the Reviewer, having made his quotation, falls straightway into the pitfall of his distinction between purely and latently Mental Reservations.

Now first of all with reference to the quotation itself, Pascal asserts in it what is not true, when he says that the doctrine of Mental Reservation was new, and an invention of the Jesuits. Escobar more especially is the reputed father of the doctrine, but he had no real claim to the parentage; for in maintaining it, he did but pass on the common doctrine of theologians, and he never taught the lawfulness of purely Mental Reservation.

### Elementary notions on Truth and Falsehood.

But in order to the understanding of this question a few words of preliminary matter are necessary. We have first to inquire what is meant by truth, or speaking the truth? Or, again, in other words, what is meant by a lie? As Father Gury is the Reviewer's *bête noire* in this and other matters, we will take his definition of a lie—*Mendacium est locutio vel significatio contra mentem cum voluntate fallendi*. We may explain this definition thus: A lie is a speech or intimation contrary to the mind with the intention of deceiving, or it is a form of words of which the meaning is not in conformity with and does not express the thoughts of the mind of the speaker about any subject of which there may be question, and such form of words becomes a lie formally when uttered with the intention of deceiving others. Truth, then, as far as intercourse with our neighbour is concerned consists in the agreement of the words we utter with the thoughts of our mind on any given subject. A lie is the wilful departure from such agreement with a deceitful intention: these two conditions being requisite to constitute

(3) *Revue des deux Mondes*, 15 Mai. 1842.

(4) Letter to Voltaire, May 4, 1762.

a lie in its formal character. For instance, when I say John is a good man, really believing and thinking him to be such, I speak the truth; but when I say, notwithstanding my well-grounded belief to the contrary, that John is a bad man, and am moved to such utterance by the desire to injure John's character by deceiving his employer, I tell a lie in the formal sense of the word. Now the whole of the present discussion hinges on the question whether in any possible conjuncture of circumstances, the departure from the conformity between word and thought which constitutes the truth of any utterance, can be considered lawful? And if in any case allowable, the further question arises as to the degree of such departure. May we legitimately under given possible circumstances utter words in direct contradiction with our thoughts, with what we know to be the facts of the case; or are we not bound by the very nature of truth to maintain agreement of word and thought, though the agreement may be of such a kind as to be capable of misinterpretation? For example, John comes to our house with a gang of ruffians to murder James, who is lying concealed within, and asks us who know with absolute certainty what John's intention is, whether James is here, can we reply absolutely, No, he is not, in order to prevent the perpetration of crime and to save James' life? Or, in order to keep up conformity between word and thought, ought we to have recourse to some such device as this: we are standing near the door of our stables, and we answer, No, he is not here, meaning within the stables, though knowing well that John's question applies to the premises at large, and that he will therefore be deceived by our answer. This is a case of mental reservation in the wide or improper sense, for the words of the answer agree with the thought in our mind, and though John, not being able to see what is in our mind, interprets them according to his own meaning, and so is deceived; yet he might by a little reflection have detected the lurking equivocation, and pressed his question home by saying, I do not mean here in this stable, but is James concealed within your premises at all? In such a case, where similar questions may be pressed until further reservation becomes well-nigh impossible, what answer shall be finally given? Shall we give John to understand that we answer No, according to his own sense of the question? or shall we, by acknowledging his presence, leave James to his fate?

**Sir Henry Wotton's description of an Ambassador.—  
Guizot's reserve.—Lord Palmerston's Blue Book.**

Now it is clear that cases like the above will arise in the various relations of life, in which there will be an apparent conflict between positive duties. There is on the one side the obligation to speak the truth; on the other, the claims of charity, or of public duty, or of self-preservation, which will be set aside and sacrificed in divers cases by speaking the truth. The existence of such difficulties is acknowledged on all hands, and they receive a practical solution by men of the world without much attempt at the construction of a scientific system of the moralities of speech. It is not too much to say that such solutions are too often guided by the rule of thumb alone. As far as statesmen are concerned this is notorious. Without committing themselves perhaps

to the full to the acceptance of the famous dictum that language was given to conceal men's thoughts, or Sir Henry Wotton's description of an ambassador, as a good citizen sent to lie abroad for the good of his country ; it is to be feared that modern statesmen are not troubled with many scruples about acting more or less freely on the spirit of those sayings. Even the proper and precise M. Guizot could say in a debate in the French Chambers: " I have a few preliminary remarks to offer. When an ambassador does me the honour to call on me and ask me questions, it is not to an interrogatory that I submit. I am in such a case bound to the truth, but I only reply so far as suits the interest of my country " (5). When we find M. Guizot thus falling back upon the principle of reserve in the conduct of international affairs, we are quite prepared for a wide adoption of the same by one so little troubled with scruples of any kind as Lord Palmerston. The notorious " Afghanistan " Blue Book is a case in point, wherein despatches were either entirely suppressed or partly mutilated, and important matter thus withheld from the knowledge of Parliament by tampering with documents professedly prepared for its instruction and enlightenment. The defence of Lord Palmerston for such garblings and omissions was no doubt that advanced by M. Guizot for the economy of speech, the interests of the public service and the good of the country. (6)

#### **The Dean of Chester's various shades of meaning.**

Nay, even beyond the range of worldly politics we have had a recent avowal not only of the adoption of the principle of reserve, but even of mental reservation in what the Reviewer would call its most Jesuitical phase, by a somewhat prominent dignitary of the Anglican Church, in the region of theological discussion. The Dean of Chester felt called upon last autumn to busy himself with the Old Catholic Assembly at Bonn, and being of a loquacious turn made use of certain language that was objected to by some of his more matter-of fact brethren. The Dean's ground of defence in his own words was as follows: " At Bonn it was our wisdom to keep many things in the background. We were reaching out our hands towards those who had been separated from us for centuries, if by any means, even by the temporary use of language admitting of various shades of meaning, we might come to a mutual understanding " (7). There is a delicacy and finish in the Dean's appreciation of his own performances at Bonn that would have rejoiced Pascal as manifesting the work of an adept in the art of mental reservation. The " temporary use of language admitting various shades of meaning," bespeaks a proficient at the least. Whether the Dean's reservations were " latently " mental we leave to the Reviewer to decide.

#### **St. Thomas and Scotus' Principles.**

The above examples sufficiently show the nature of the difficult circumstances in which men will from time to time be placed in.

(5) February 5, 1847.

(6) Fischel. *The English Constitution*. Shee's Translation, p. 430.

(7) *Pall Mall Gazette*, October 7, 1874.

practical life, when they are called upon to decide between the claims of two apparently conflicting duties, and the various methods they naturally employ to escape from the difficulty, without perhaps troubling themselves to construct theories on the subject. And yet the two methods that we have given do in fact illustrate the two different principles that Catholic theologians have supplied for its solution. The first system is that of St. Thomas, in whose view a lie is always *malum in se*, intrinsically and absolutely evil (8). Nothing, therefore, according to this teaching, can justify the use of utterances not in conformity with the contents of the mind. Under such a system, which he it remarked is distinguished by the strictest and most delicate and jealous care for the maintenance of truth, there is no other means of meeting difficulties like those we have been considering than recourse to equivocation and mental reservation in the wider acceptance of the term. If we are asked by a murderer whether his intended victim lies concealed in our house, which is the actual fact, unless we are prepared to sacrifice the life of another by the most rigid construction of St. Thomas' principle, we must fall back upon the Dean of Chester's different shades of meaning in the framing of our answer, for the protection of the man who has put his life into our keeping.

The other view is that intimated by Scotus, (9) who regards truth as a part of justice, and implies that in consequence critical circumstances may arise in which the obligation to truth loses its force; just as the law "Thou shall not kill" is suspended when the public good requires the execution of a criminal, or under the exigencies of self-defence. Thus, then, in the case above given, this view would sanction direct denial in reply to the murderer's question, because the law of truth, or of conformity of word with thought, does not hold in the face of the much greater evil that would result from the death of an innocent man, than from the apparent violation of the law.

### **Jeremy Taylor, Milton, Paley and Johnson on the difficulty.**

Other theories have been constructed in support of the above conclusion. That for instance which distinguishes between communicable and incommunicable knowledge. The physician, the lawyer, the confessor has cognizance of the things, the knowledge of which he is by common consent not only allowed but bound to deny. Again with the same view, a lie has been defined to be "a speech contrary to the mind of the speaker, made to another from whom he has no right to conceal the truth." Cases where the right to conceal the truth would exist are similar to those which we have adduced above, or like those mentioned by Dr. Newman in the passage where he exhibits the agreement of many English writers of great authority with what we may call the Scotist view.

Great English authors, Jeremy Taylor, Milton, Paley, Johnson, men of very different schools of thought, distinctly say that under certain extraordinary circumstances it is allowable to tell a lie. Taylor says: "To tell a lie for charity, to

(8) St. Thomas. 2. 2. q. 110. a. 3.

(9) *Summa*. 2. 2. q. 110. 3, dist. 38.

save a man's life, the life of a friend, of a husband, of a prince, of a useful and a public person, hath not only been done at all times, but commended by great and wise and good men. Who would not save his father's life, at the charge of a harmless lie, from persecutors or tyrants?" Again, Milton says: "What man in his senses would deny that there are those whom we have the best grounds for considering that we ought to deceive—as boys, madmen, the sick, the intoxicated, enemies, men in error, thieves? I would ask, By which of the Commandments is a lie forbidden? You will say by the ninth? If then my lie does not injure my neighbour, certainly it is not forbidden by this Commandment." Paley says: "There are falsehoods which are not lies, that is, which are not criminal." Johnson: "The general rule is, that truth should never be violated; there must however be some exceptions. If, for instance, a murderer should ask you which way a man is gone." (10)

In putting these two views before our readers, while avowing our own preference for the latter, we had chiefly for our object the endeavour to place before them the nature of the circumstances under which the Catholic theologians who uphold the lawfulness of equivocation in the modern sense of the word, or of mental reservation, consider its application permissible; and having done this, we may ask them whether the principle is of such a nature as to merit the obloquy that has been cast upon it from the time of Pascal to our own. The system in fact has been excogitated out of the tenderest regard for the interests, and on the highest possible estimate of truth; whether its application to cases in the concrete has been always capable of justification is a matter of detail, which we shall deal with when we come to consider some of the Reviewer's examples. That Father Gury guards against misapplication, is most evident from the rules that he lays down with respect to the cases in which mental reservation is not lawful. He declares that equivocation in the wide sense, cannot be employed, without reason or with the sole intention to deceive; nor if the interrogator has a right to the truth; nor if any damage to one's neighbour should result from it, against the precept of charity; nor in the framing of contracts, where justice is concerned. (11)

We feel that we have laid ourselves open to the charge of tediousness by dwelling at such length upon a subject that has been worn well-nigh threadbare: our only apology is that for dense ignorance like that manifested by the *Quarterly Reviewer*, no amount of explanation can be sufficient. In any case we feel that we cannot conclude this branch of our subject better than with the words of the *Saturday Reviewer*, speaking of Father Morris' edition of Father Gerards' Narrative of the Gunpowder Plot. "The Editor has given in addition a brief account of the remaining thirty-one years of Gerards' life, after which he proceeds to institute a deliberate defence of his veracity, and enters into the general question of equivocation and direct lying under certain difficult circumstances. This dissertation seems to us wholly superfluous. The whole question has been discussed with unequalled delicacy and refinement in Dr. Newman's *Apologia*, and the treatment it received from that master-hand is familiar to all who care anything at all about the subject." (12)

(10) *History of my Religious Opinions*, p. 274. Cf. note 9.

(11) *Theol. Mor.* tom. i. p. 474.

(12) *Saturday Review*, April 20, 1872.

### The Reviewer's garbled extracts.

Let us now pass on to the disjointed mass of garbled extracts that the Reviewer heaps together under the head of Mental Reservations. After his novel and ingenious discovery of the distinction between purely and latently mental reservations, the Reviewer proceeds as follows—

“For grave reasons” it is “lawful at times to make use of *latent* reservations, as also of equivocal terms,” it being quite essential, however, that the terms be such “as make it possible for the listener to understand a matter as it really is, and not as it may sound. In other words, it is a condition *sine quâ non* for this device to pass muster, that it should be carefully constructed out of terms into which a double meaning can possibly be imported.”

### Promises and Oaths.

He then proceeds—

Consistently with this ruling, we learn that no oath need be binding of which it can be alleged that a sense of pressure conduced at the time to its having been sworn. Coercion may very fairly be taken as an extenuating circumstance for departure from an engagement; but it is startling to find it enunciated as a principle, in the standard handbook for the instruction of Roman Catholic youths in moral obligations, that an oath may be repudiated with perfect impunity, if only the person who has sworn pleads to having been influenced in his mind by some apprehension of possibly injurious consequences, unless he did so swear (p. 64).

We select the above passage because it gives a sample of the Reviewer's method of treatment throughout his article. There is in the first place a patching of things together that have no necessary connection. What bearing has the question of the obligation of the oath taken on compulsion with equivocation? The matter to be decided is the binding force of an act, not the interpretation of a form of words. Next there is gross and most unfair garbling and what we may call letting down of the force of words, so as to give the passage referred to a sense not at all intended, if not actually opposed to that of the original. Thus we here have it stated that an oath taken under a *sense of pressure* (the italics are ours) need not be binding. And again, that an oath may be repudiated with perfect impunity, if only the person who has sworn pleads to having been at the time influenced in his mind by *some apprehension of possibly injurious consequences*.

### Paley and Gury on Promises.

Now how does Gury put the case and solve it? (13) *An obliget juramentum promissorium metu gravi et injusto extortum?* Does a promissory oath bind that has been extorted under the pressure of weighty fear unjustly unflicted? Not, mark, under a *sense of pressure*, or *of some apprehension of possibly injurious consequences*; but under fear caused by grave and unjust concussion. Gury replies thus: “This is a matter of controversy. The first and more common opinion is that it is binding, because although the simple contract would be void as far as natural law is concerned, yet it becomes binding in virtue of the oath that has been superadded; for an oath must be kept *ex religione*—

(13) *Theol. Mœr* tom. i. p. 346. Romæ, 1866.

by force of the virtue of religion—as often as this can be done without sin.” In support of this view Gury quotes St. Alphonsus, adding that nevertheless the upholders of this opinion maintain with St. Alphonsus that a dispensation from such an oath may be legitimately sought ; or that even if the terms of the oath have been complied with, the injured party may seek remedy at law, or, where all other means of obtaining his rights fail, indemnify himself by occult compensation.

“The second opinion, which seems to be sufficiently probable, denies the obligation of the oath, since an oath cannot confirm that which is null and void by the law of nature ; for an oath follows the nature of the act.” Our readers can now form a judgment of the Reviewer’s trustworthiness. For ourselves, we do not hesitate to brand his treatment of the above question—and it is only one sample out of many—as a fraud upon the public, our hope being at the same time that by his utter incompetency to deal with the subject, he will be relieved from the penalties that would attach to conscious deliberation.

As a comment on the above solution of the difficulty by Gury, we give Paley’s way of meeting the question. But first we will quote what he says as to the obligation of promissory oaths. He simply says, “Promissory oaths are *not binding*, where the promise itself would not be so” (14). Having laid down this principle, let us see how he deals with a promise extorted by fear or violence.

It has long been controverted amongst moralists, whether promises be binding which are extorted by violence or fear. The obligation of all promises results, we have seen, from the necessity or the use of that confidence which mankind repose in them. The question, therefore, whether these promises are binding, will depend upon this, whether mankind, upon the whole, are benefited by the confidence placed in such promises? A highwayman attacks you—and being disappointed of his booty, threatens or prepares to murder you;—you promise, with many solemn asseverations, that if he will spare your life, he shall find a purse of money left for him at a place appointed;—upon the faith of this promise, he forbears from further violence. Now, your life was saved by the confidence reposed in a promise extorted by fear ; and the lives of many others may be saved by the same. This is a good consequence. On the other hand, a confidence in promises like these would greatly facilitate the perpetration of robberies ; they might be made instruments of almost unlimited extortion. This is a bad consequence ; and in the question between the importance of these opposite consequences, resides the doubt concerning the obligation of such promises. (15)

Paley then on his own utilitarian principles gives the same solution as Gury ; that is, he gives the two different opinions entertained by moralists on the matter, and there leaves the question.

### **Obligation of Promises before acceptance.**

But let us proceed—

It is well (the Reviewer says), to follow out Gury’s doctrine as to the force of solemnly contracted promises. In the section about Contracts we find this query : “If a donation has been promised on oath, but has not yet been delivered, is it still binding?” which is answered negatively on the ground that, as the deed is incomplete, it is void in substance, and consequently no oath in reference thereto can be held to have binding force.

We have already pointed out the blunder of the Reviewer with reference

(14) *Moral Philosophy*, bk. iii. pt. i. c. 16.

(15) *Ibid.*, c. v.

to the word "delivered;" the proper translation is, "accepted." (16)

Now what does Paley say about the obligation of promises *before acceptance*? That they are not binding, for they are only in that case to be regarded "as a resolution in the mind of the promiser, which may be altered at pleasure" (17). But he has already told us that oaths are not binding when the promise itself is not so; therefore in the present case Paley agrees with Gury in deciding that the oath is not binding.

### Other Limitations.

The Reviewer goes on—

Father Gury—and he is in accord with the divines of his Order—has, however, more to say in limitation of the obligation following on oaths. He lays it down, that according to more probable opinion, no oath is binding "if made with the intention indeed of swearing, but not of binding," though he admits that to go deliberately though the semblance of an oath without any intention to keep it, does involve "a venial sin amounting to a lie, with a taking in vain of God's name."

As usual the Reviewer here jumbles things up together that ought to be kept distinct. In the place referred to Gury treats of two separate questions; first he says that a fictitious promissory oath, uttered that is externally, without the intention of swearing, is not binding for want of the will to make it so. But he adds that a person thus simulating an oath sins, more probably venially only, *per se loquendo*, looking that is at the mere nature of the act itself, for the matter does not amount to more than a lie, to which the taking God's name is added. But he proceeds to say, the sin may often become mortal, by reason of the private or public loss that may ensue. And Father Ballerini in a note cites a proposition condemned by Innocent the Eleventh to the effect, that "when cause is given, it is lawful to swear without the intention of swearing, whether in a trifling or in a weighty matter." Ballerini adds, that St. Alphonsus indeed agrees with Gury in the above solution about a fictitious oath, in saying that the offender sins venially only, but that he limits this opinion by saying that it is true only if the person fictitiously swearing, really has *the intention of fulfilling his promise*; for *otherwise*, the Saint says *he would sin mortally*.

Gury then passes on to the consideration of another case, and states that the more probable opinion is that an oath taken with the intention indeed of swearing but not of binding oneself *ex religione*, that is to say, by the sanctions of the virtue of religion, is null and void; and that for the reason that such an act is nugatory, carries with it in fact its own nullification. To understand this we must bear in mind that the theologians define an oath to be, *invocatio divini nominis in testimonium veritatis*; a calling upon the name of God, that is, in testimony of the truth of an utterance, or, we may add, in confirmation of a promise. An oath thus regarded they moreover consider to be an act that falls under the virtue of religion, or that virtue which corresponds to the prescriptions of the first table, to render due honour and worship to God. If then a man were to take an oath expressly excluding at the same time any obligation arising from this virtue of religion, he would

(16) P. 65,

(17) Loc. cit.

simply be taking away from his act the essential character of an oath, and be pretending to do that which he was especially guarding himself against doing. His act from the very nature of the case would be a pretence and a nullity. And this is the reason why in our courts of law the oath of a man who does not believe in God is not accepted; for an oath involves the existence of God, and the recognition of Him in the very act of swearing, and thus carries along with it its own religious sanction and binding force. But a man who does not believe in God practically puts it out of his power to enter into such relations with Him.

But Gury proceeds to say, an oath taken with the intention of swearing, but not of obliging oneself *ex justitia aut ex fidelitate*, in justice and good faith, is still a valid oath. Clearly, whatever may be said about obligations from other motives, such an oath is a religious act, and as such bears with it its own binding force.

We are perhaps trying the patience of our readers by entering into what they will think very subtle niceties, but we consider it absolutely necessary to do so in order thoroughly to expose the juggling method of treatment adopted by the Reviewer. With the cunning sleight of hand of the conjurer with his cups and balls, he changes and mixes up one subject with another till he throws what he professes to be treating of into an obscurity that utterly confuses the reader's mind, and renders it capable of only one conclusion, that there is evidently something in such doctrines profoundly bad and immoral, though he has no more notion of what those doctrines themselves are, nor in what their immorality consists, than most probably the Reviewer himself.

The Reviewer continues on his way —

To remove all doubt as to what is implied, this explanation is given: "The binding force of an oath has to be interpreted according to the tacit conditions either included or implied (*subintellectas*) therein; which are: [1] If I could have done so without grave injury; [2] if matters had not notably changed; [3] if the rights and will of the Superior were not contrary; [4] if the other had kept his faith; [5] if the other does not waive his right." [18]

The connection between this citation and what has gone before is not at all obvious. There has been question hitherto as to the existence of an oath under certain circumstances; and the Reviewer now passes on to discuss the obligations of an oath when it exists, which is quite another matter. Besides, he only drags in one portion of Gury's statements in relation to the determination of the extent to which this or that oath obliges, not his whole explanation on the subject. But let this pass. Then he proceeds—

Whatever may be said for several of these relieving conditions, the first virtually puts it within every one's power to repudiate his oath whenever he sees fit to allege that its observance would be accompanied by what *he himself thinks to be serious discomfort*; for here again, *no qualification* limits the faculty of the interested party to impart, of his own mere will, a justification to the action that may suggest itself as *pleasant for adoption*.

We have here supplied the italics in the above passage for the purpose of asking our readers to compare the expressions thus emphasized with the first condition to which reference is made. *Si potuero sine gravi*

*damno*, says Father Gury. If I could have done so without *grave injury*, says the Reviewer; and then straightway, in the face of his own translation, tones down the words *grave injury*, involving in the mind of Father Gury the notion of heavy loss, (*gravi damno*) into *serious discomfort*, and then adds that it is left quite to the mere will of the person bound by oath to find out some such discomfort as may be a justification for breaking his oath, when the breaking of it may be *pleasant* to him rather than the keeping of it—a case, we fear, not unlikely to happen.

We ask, not whether such tampering with and gross misinterpretation of technical words having a fixed and definite meaning in moral science be worthy of a scientific mind, but whether it be consistent with fairness and honesty? We are quite willing to leave this question to the judgment of our readers. Then the Reviewer asserts in his own involved and roundabout style that there is no check placed upon the interested party to hinder him from falling back upon fictitious motives for breaking his oath in any given case to his own advantage. No check except this—that Christian divines are writing for the guidance of Christian men; that both one and the other acknowledge an all-seeing God Who will one day judge them according to their words and works. And this is a check to which the Reviewer would do well to pay heed, for it is one that especially demands that in moral matters words should be used rigidly according to their recognized scientific meaning.

#### **Another instance of the Reviewer's fraudulent method.**

We will take one more example of the Reviewer's fraudulent method of dealing with Gury.

The prohibition against spiritual advisers interfering to make so-called penitents entertain a rigid sense of duty are elaborately explicit. Though he might have grounds to entertain "doubts as to the sincerity of the penitent," the confessor is yet simply to accept his statements. Even in the case of "having certain knowledge that a sin has been kept back or denied," the confessor is not to extract its admission unless in a roundabout manner, but he shall grant absolution because the penitent must be believed, whether speaking for or against himself; and "if he really did commit the sin in question, it may be presumed he has forgotten it, or confessed it to another, or has some great cause for keeping it secret, or that the informers were deceived." [p. 65].

We have here, if possible, a worse case of disingenuous misrepresentation than those we have considered. In the first place the opening clause involves positive untruth. No such prohibition exists; the supposition that confessors are to be kept from forming as rigid a sense of duty as possible in the minds of those who seek their ministry is a gratuitous calumny. Again, we have another instance of two cases being fused together in such a way as entirely to obscure the bearing of the question, and to present the matter to the reader in the worst possible light. Then, when he says that where the confessor has a certain knowledge that a sin has been kept back or denied, the penitent is to be absolved, for he must be believed, whether speaking for or against himself, the Reviewer states precisely the opposite to Gury's solution. The latter says, if the confessor is quite certain that the sin was committed by the penitent he cannot absolve him while he denies

it, that is, if he is also certain that the man has not forgotten it, or has no just ground for withholding it. The rule, "The penitent is to be believed for as well as against himself," holds indeed where certainty is wanting, not where it is present.

The other case is to this effect—If the confessor knows that the sin has been committed from information received out of confession from a third party, the penitent has as much right to be believed as the other, and therefore absolution may not be withheld. But this is merely a question of probable evidence, not of certainty, and the penitent having a strict right to absolution on the supposition of his sincerity, the doubt that may exist in the confessor's mind, after having taken all means to arrive at a right decision, is not a sufficient ground for withholding the enjoyment of his rights from the penitent. The questioning in a roundabout manner by the confessor to which the Reviewer refers, is connected with an entirely different case; that in which the confessor has obtained the knowledge of some sin of one penitent through the confession of another, perhaps an accomplice; and such knowledge cannot be used in any way that might betray the source of his information, for that would involve a breach of the seal of confession. In such a case therefore he can only proceed with the greatest possible caution in his endeavours to help the penitent to realize his state before God. In short, the whole question is an evidence of the care with which the Church proceeds, and is bound to proceed, in a matter of such delicacy as that of voluntary confession, where the penitent is at once accuser and accused; and it shows moreover the groundlessness of the charge of tyrannizing over consciences in the tribunal of penance by the ministers of the Church. Every precaution is taken to give perfection to a voluntary act of humiliation, and to secure to the penitent his just freedom in the discharge of a solemn duty which concerns himself alone. (19)

The Reviewer then tacks on to what has been said above a case which has no possible connection with it.

What room for equivocation is afforded by this ruling, the following exemplification will show. "Anna having been guilty of adultery, and being interrogated by her husband, who has formed a suspicion, answers the first time, that she has not violated wedlock; the second time, having in the interval obtained absolution, she replies, *I am guiltless of such crime*. The third time she absolutely denies the adultery, and says, *I have not committed it*, meaning within herself such particular adultery as I am bound to reveal, or, I have not committed an act of adultery that has to be revealed to you. Is Anna to be blamed?" Gury's reply, too long to be given here, justifies each answer of the adulterous woman, supporting his ruling by a grave array of Jesuit authorities, among which figure Suarez and St. Liguori—

St. Liguori not being a Jesuit all the same.

We repeat here that the two cases are quite distinct. In the former there was question of a priest in the tribunal of penance who had a right to interrogate so far as was necessary to the discharge of his office; in the latter case the interrogator had no such right.

Then, the Reviewer keeps back the truth, that none of Anna's equivocations would have been lawful if her husband had possessed the right to question her, she was not therefore bound to answer him,

and was free to protect herself as she could. To help her to do that, those who hold that the law of truth can never be suspended, would permit her to have recourse to equivocation and mental restriction. On the other hand, those who take the opposite view, would say with Paley, that "where the person you speak to has no right to know the truth," a falsehood ceases to be a lie; or, that in this case the principle of English law applies, that no one is bound to speak the truth, "when a full discovery of the truth tends to accuse the witness himself of some legal crime." In other words, no one is bound to criminate himself, unless a grave public danger requires it. Now this was Anna's case. Had she acknowledged her crime, she would have been liable to legal penalties; therefore the law of truth was suspended in her case; her husband was seeking to know what he had no right to ask; she could then reply by flat and absolute denial. For ourselves we can only say that the latter solution commends itself to us as most in keeping with straightforwardness and common sense. The matter may perhaps be made a little clearer by reversing the case. Suppose that it had been Anna who was questioning her husband William about his violations of wedlock, would William have felt himself bound to give categorical answers to Anna's interrogations? Most probably the answer would have been, You have no right to ask me such questions; mind your own business. But if the urgency of suspicion was not thus easily to be put aside, would William in the long run have hesitated to use Anna's equivocations, or to answer, No? Our space compels us to pause here for the present, but we have by no means yet done with the Quarterly Reviewer.

### PART III.

#### Restitution and Charity.

(The MONTH, London, May 1875, p. 71).

We propose to conclude our notice of the *Quarterly Theologian* by a few remarks in the present paper upon two subjects that exercise him sorely and betray him into endless confusion. We confine ourselves to these, because it would be quite impossible to follow him through his motley mass of disingenuous patchwork without committing ourselves to the composition of sundry and lengthy moral treatises. Two of his topics, besides, have already been discussed in the pages of the MONTH, and dealt with sufficiently by anticipation to dispose of the Reviewer's blundering and misleading method of handling them. We refer to Probabilism and Tyrannicide. The former was treated of in our January number of 1868, in a Paper entitled, "What is Probabilism?" and the latter in an article contained in the number for March—April, 1873.

The points to which we shall now direct our readers' attention are Restitution and Charity; subjects to which the Reviewer addresses himself more or less from page 72 to 85 of his article. We shall not attempt to follow him in all his details, but shall content ourselves, in

the first place, with laying down the general theological principles which govern these matters ; and then, in the second place, showing from some of the examples adduced by the Reviewer, and from his attempts to understand them, how entirely he is without any intelligent grasp of the principles in question.

### Duties of Justice.

To begin with Restitution, which is a part of natural justice, and therefore, under certain circumstances, an obligatory duty. All our duties spring from the various relations in which we stand, either to God, to ourselves, or to our fellow-men. Our duties to our fellow-men are of two kinds : duties of justice and duties of charity. Justice is defined by Father Gury as a moral virtue, which constantly inclines the will to render his rights to another, or to each individual man. The intention, then, of justice is to insist that all shall have their due, and to maintain due equality amongst men in general, or between man and man in particular. Justice, therefore, has regard to such matters as the restitution of what has been unjustly taken from another, the reparation of injury, abstention from fraud, the keeping of faith in compacts, and the maintenance of every man in the full enjoyment of his rights.

Again, the duties prescribed by justice are divided into different classes, according to the different aspects under which justice is viewed ; for there is a legal justice, a distributive justice, a vindictive justice, and a commutative justice. The three first refer to the relations of the ruler to the subject ; the last, that is, commutative justice, refers, it is sufficient for our present purpose to say, to the relations between private persons. It is under commutative justice alone that cases of restitution fall ; for restitution simply means the giving back what belongs to another person when it has been wrongfully taken from him. Hence it follows that for an obligation of restitution to exist, there must exist on the other side a right to receive it.

The obligation to restitution may arise in three ways : from taking or receiving what belongs to another unjustly ; from unjustly causing damage in goods, in person or in character, to another ; or from unjust co-operation, which results in either of the above ; thus, in matter of fact, the last-mentioned ground of restitution resolves itself into one of the two former grounds.

### Forum Externum et Forum Conscientiæ.

There is still another matter which requires to be made clear in connection with the obligation to restitution, and that the more urgently because of the utter confusion of mind betrayed by the Reviewer on the subject. We refer to the distinction between the *Forum Inter- num* and the *Forum Externum*. The word *Forum* may be taken for jurisdiction, or judicial power in general. The *Forum Internum* refers often entirely, always principally, to the secrets of the heart. Thus it is sometimes called the *Forum Conscientiæ*, because it takes cognizance of acts by which a man, knowing himself in relation to the great law of right and wrong, impressed upon his intelligence by the hand of God, conforms himself or places himself in opposition to that great law.

The peculiarity of this court is that there is but one witness who is able to give testimony. "No man knoweth the thoughts of a man save the spirit of a man that is within him." The accused and the accuser are identical. But what guarantee is there that the evidence given by such a partial witness shall be true? There is this guarantee, and it is abundantly sufficient. The absolution given in the tribunal of Penance, the special court of this *Forum Internum*, must indeed be pronounced by God's Minister, but God Himself must ratify and execute it. God cannot be deceived. If he who accuses himself tells the truth, and is otherwise properly disposed, the pardon pronounced will take effect; if he tells untruths, the pardon is worthless—nay, worse than worthless, for it adds the guilt of sacrilege to his other sins.

In the *Forum Externum*, on the other hand, it is the Church or the State, each in its own respective courts, which both pronounces and executes the sentence. The matter to be judged consists of external acts and of intentions only so far as they can be judged of from their outward expression. The accused may elude by untruths the sentence of such a court; it becomes his interest then to bear false witness. But on the other hand, the matter of offence being external, is such that others also can bear testimony to its existence and its nature. Thus, in this external court, it is both necessary and possible to hear witnesses other than the accused, and to suspect him rather than to trust him in his own cause.

The bearing of this distinction between the *Forum Internum* and the *Forum Externum*, more especially upon the question of restitution, will be evident from the following principles laid down by Father Gury in connection with the obligation to repair any loss that may have been unjustly caused to another; in the case, that is, where injury has been done to the rights or goods of another person without any benefit accruing to him who causes the injury. It is clear that the matter of restitution pertains both to one Forum and the other; this being so, the question naturally arises whether the decisions of the two separate courts may not sometimes come into collision.

### **Principles which regulate Restitution in the Forum Conscientiæ.**

Now, the principles that regulate the *Forum Conscientiæ* in this matter of restitution are (1) That the action causing the loss for which restitution is sought, shall be unjust; for otherwise, where there is no violation of strict right, or of commutative justice, no obligation to restitution can exist. If John's cattle damage a field unjustly occupied by James, whatever restitution may be due, it is certainly not due to James. (2) Then, the action causing the loss, must be the truly efficacious cause; must be such, that is, that the loss can be truly said to follow from it; and also, that it be truly imputed to the person incriminated. For clearly, no action can be imputed to a person unless it be his own proper action; nor can the loss resulting from any action be attributed to the doer, unless that action be the true and efficacious cause of damage. Thus, if William gives Peter a sword without the slightest suspicion that Peter will make bad use of it, could William for

one moment be accounted responsible for the murder committed by Peter with that sword, or for the damage resulting to the family of the murdered man? Or again, suppose Edward rushes hastily into the middle of the Strand to save a child's life that is in danger of being run over, and by so doing causes a carriage-horse to take fright and rush through the plate glass of a jeweller's window, to the sore detriment of both window and carriage; would any one in his senses say that Edward would be liable to restitution? His praiseworthy action would be said to be the *accidental*, but certainly not the efficacious cause of the loss ensuing; it could not be imputed to him with a view to restitution in any real sense.

But let us vary the supposition. Instead of a man engaged in a benevolent action, take the case of a thief who has been detected in the very act, and is rushing across the street with the police in full pursuit. A dog, terrified by the uproar takes to flight, and dashes amongst the legs of the horses of a passing carriage. The catastrophe supposed in the last case is repeated; horses and carriage, and windows and jewels, come to great grief. Who is responsible for the damage? Would any court of justice in the world say that the thief was? The unjust action which was the origin of the whole affair, was obviously of such a kind that no ingenuity could twist it into the relation of efficacious cause with respect to the remote consequences that followed from it. As far as these consequences are concerned, the whole thing can only be regarded as accidental. Nor again, is the connection of the consequences with the act of pilfering so close, as in any way to imply the omission of any prudent precaution that might have prevented the disaster. The results were beyond the ordinary range of human prevision; there could be, therefore, no valid plea of negligence against the culprit, nor again of evil intention. The whole occurrence in the street could not but be utterly unforeseen.

All this brings us to another condition that theologians require that the obligation of restitution may lie in any given case, at least in *Foro Interno*. The damificatory act must be theologically culpable. By *theological fault* is understood a fault which in the forum of conscience involves an offence against God either mortal or venial.

There is also according to the Roman law a fault that is called *juridical*, which involves some degree of negligence, varying in degree, by which loss is entailed on another in person or property. Now, it is clear that such negligence may involve sin, or it may not; it may arise from sheer inadvertence, without the slightest prevision, even in a confused way, of the evil consequences that may ensue from it; or it may be negligence voluntarily allowed with the bad intention of bringing about the very consequences that follow. Of such intention the *Forum Externum*, conversant as it is with external acts, can take no cognizance, nor again can it judge of the measure of advertence or inadvertence. The *Forum Externum* can only proceed by the constructive method; judge, that is, whether such external indications exist, as to justify the imputation of negligence or evil intention. If such indications are sufficiently ascertained, then the presence of negligence or bad intention is considered to be sufficiently made out for all legal purposes.

On the other hand, in the forum of conscience, the conscience itself

claims to be heard, and appeals to the judge that judges righteous judgment in the last resort, when cases of this kind occur.

Occasionally, then the two judicatures will come into collision and the *Forum Internum* will sometimes pronounce the accused guiltless and free from all obligation, when the *Forum Externum* judges him to be guilty, and burdens him with the obligation of restitution. At the same time the Inner Forum is careful to uphold the authority of the Outer Forum, and acts upon the principle that, where the fact of negligence has been established, even though inadvertent and free from all bad intention, and the sentence of a court of law has imposed the obligation of restitution, then such sentence is also binding in *Foro conscientiae*; and this on the broad ground that the public security depends on obedience in such cases, and therefore obedience cannot be withheld. The exception, however, must always be made of the case where there is a false presumption of fact, for the law always presupposes the fact, something that has been done, in which negligence has intervened, though possibly without blame in the Forum of Conscience. But if such fact be falsely imputed, then the sentence is unjust and can carry no obligation to restitution with it. Such briefly is the teaching of Father Gury on this subject. (1)

#### **The Reviewer's derogatory expressions. Their Untruthfulness.**

Having laid down these principles let us now turn to the Reviewer's examples and interpretations. But, in the first place let us premise, that the explanation we have given, of the distinction between the *Forum Externum* and the *Forum Internum*, at once shows the futility and untruthfulness of the derogatory expressions with which the Reviewer so plentifully interlards his pages. These expressions are inspired by his estimate of "that capital feature of the Jesuit doctrine, providing the unfailling sanction for laxness in the application of principles, namely, the unlimited discretion accorded to the individual in assertion of justificatory pleas" (2) Thus we have phrases like these used with reference to a penitent in the tribunal of penance, "provided he will allege;" "the unlimited discretion accorded to the individual;" "will possess an inward disposition;" "that a person should vehemently affirm;" and so forth; the object of foisting such phrases into, or of connecting them with Gury's text, being entirely to falsify his decisions as interpreted by the principles that he lays down. They refer of course to the solemn act by which a penitent by his own act and deed constitutes himself a criminal in some degree or other before God; he opens his mind to his confessor, and it then becomes the confessor's part not to be satisfied with allegations, or vehement assertions, or any amount of professions; but to judge that the penitent is sincere and truthful in his statements and accusations. Even when satisfied on this point, his subsequent action can only be equivalently interpreted in some such fashion as this. "Well, I accept the truth of your statements, and in consequence I can only declare that this or

(1) Gury. *De Jure of Justitii*, cap. ii. art. 1, 2.

(2) P. 76.

that obligation rests upon you in the matter of commutative justice—for it is that which we are discussing at present—or that you are free from all obligation ; but then remember after all that you are here speaking especially before God, and He will judge all this just as it is. If such be the true testimony of your conscience, He will ratify what I have done and decided ; if it be false, you will have to answer to Him. Upon your own soul be the responsibility." Either conscience is to have something to say in such matters or it is not. If the latter, then *cadit questio* ; if the former, then we cannot conceive any other manner in which its claims can be recognized and its dictates allowed their due weight than that which is based on the principles of Catholic theology on the subject. And these principles are, that man knowing himself, and not only knowing himself but knowing himself relatively to God and to God's law, is ultimately responsible for his own judgments. His judgments when according to such knowledge, are the practical guide of his life. When in practical opposition to such knowledge, they are the grounds of his final condemnation. Nothing can release him from this responsibility of standing or falling by the judgments formed at every moment in the innermost recesses of his intellect and heart. No mere human law can oblige or absolve, where the practical dictates of man thus consciously acting, acting that is with the full knowledge of himself, of his relations, and of the facts in any particular case, pronounce against obligation or absolution. It is into this supreme court of conscience that a man puts himself when he enters the tribunal of penance, and according to the true dictates of his conscientious intelligence in that tribunal he must stand or fall. If then our readers would substitute the word "is" for the misleading expressions so freely used by the Reviewer, or rather so ignorantly and unfairly inserted into Gury's text, such as "if he but professes," "if he alleges," and so forth ; they would find that doctrines, which according to the Reviewer's method of handling them, seem to outrage every right instinct, resolve themselves into conclusions in agreement with the highest right and the soundest common sense.

#### **A few choice examples from the Quarterly.**

Now for one or two of the Reviewer's examples ; we shall not weary our readers with many. The first we shall cite is that of Quirinus, which the Reviewer introduces with the following remark : "The following exemplification of what roguery may perpetrate with every security against disturbance of conscience, will probably seem yet stranger." Who says that the act that the Reviewer proceeds to comment upon can be "perpetrated without disturbance of conscience ?" Certainly not Father Gury ; certainly no Catholic moralist. The man would be guilty of sin who did such act, and would be amenable to God in the forum of conscience for it. But sin is one thing, and the effects of sin, as affecting the question of commutative justice, another. The man would be a sinner before God, most certainly ; but would the obligation of repairing the damage following upon his bad act exist in such a case ? That is the question Father Gury considers, and not whether there would be disturbance of conscience or not. Disturbance of conscience there must be, if the malefactor ever came to reflect. But

this is only one other instance of the helpless incapacity of the Reviewer to see the most common distinctions. If he dislikes the charge of ignorance, we can offer no other alternative than that of wicked and criminal misrepresentation. There is no middle term between these two extremes.

### Quirinus the Burglar.—Liability according to Chitty.

But let us have the case. It is this. "Quirinus, with the intention to steal a piece of cloth, breaks into a shop at night and lights a candle, taking due precaution to guard against the danger of fire; but by some sudden chance, for instance, the leap of a cat, the candle is pitched into the straw; quickly the whole shop is in flames, and the thief taking flight only just gets off safe. What about Quirinus? Why he is *liable to* nothing, inasmuch as he never contemplated the danger. He is certainly not liable for the cloth it was his intention to steal, even though he had laid his hand on it, for its destruction is also involuntary; neither is the seizing of the cloth the cause of the injury, nor did the carrying of the candle create the immediate peril of conflagration, sufficient care having been employed." (3)

Now, as has been said, there is no question here about the sin of Quirinus. That is clear and admitted. The sole question is about the damages ensuing. Is he liable to restitution; and, if so, to what amount of restitution? Gury's reply is that he is not liable to all; and for the two fold reason, that in the first place the theft of the cloth had not been accomplished; and in the second place, the conflagration could not be attributed to the criminal act of trespass of which he had been guilty by his burglarious entrance into the house, for conflagrations do not follow upon acts of that kind in the ordinary course of things. Nor, again, however guilty he was in his burglary, as far as the fire was concerned no fault, either theological or juridical, can be attributed to Quirinus, for there was no intention to burn the house; and not only that, he had taken all the ordinary, prudent precautions against such a concurrence. We are not sufficiently versed in English Common Law to offer a definite opinion on the question as to how far the presence of Quirinus in the house with a felonious intention would affect the question of consequential damages. It is certain that the charge of arson could not be sustained. And it is equally certain that the question of wilfulness or inadvertence enters into the estimate of damages from trespass, as well as in cases of consequential damages in breaches of contract. Thus Chitty says that a claim for such damages may be made good, "provided such damages may be fairly and reasonably considered, either as arising naturally—*i.e.*, according to the usual course of things—from the breach of contract itself, or may reasonably be supposed to have been in the contemplation of the parties, at the time they made the contract, as the probable result of the breach of it." (4) Here the element of absence of wilfulness and of advertence is fully admitted in abatement; but how far an English court would carry it in the present case we do not undertake to decide.

(3) P. 75.

(4) Blackstone, *Com.* iii. bk. iii. c. 12; Chitty, *Law of Contracts*, p. 810.

### Case of Extreme Necessity.

The Reviewer next rises to a great height of moral indignation at Gury's doctrine of Extreme Necessity.

Just as for the probability of opinions and the invincibility of ignorance, so also the determining test for the plea of authorising an invasion of other people's property rests on the *ipse dixit* of the party interested in exemption from established law; for who can verify the existence of an inward apprehension as to necessity being *imminent*? All that is wanted in the eyes of Gury is, that a person should vehemently affirm his having been prompted by some inscrutable dread of threatened distress. Of necessity, itself, however, a definition is given. It is of three degrees: ordinary, in which pauper mendicants as a rule find themselves; grave, in which life is kept up with great labor; and 'extreme, in which life itself is in risk.' An individual in this last plight is pronounced to be entitled 'to make use of as much of another person's property as may suffice for relieving himself from the said necessity, on the ground that *division of goods, however it may have been made, never can derogate from the natural right appertaining to every one to provide for himself, when suffering from extreme necessity. In such circumstances all things therefore become common, so that any one receiving another person's property for his own succour receives a truly common thing which he converts into his own, just as if this were happening before the division of goods. Consequently he commits no theft* (p. 76).

### A Disgraceful Falsification.

We have here, in the first place, one of those disgraceful falsifications of Gury's doctrine, and not his alone, but that of St. Thomas and St. Alphonsus as well, of which we have already so many times convicted the Reviewer. In the present case, however, he convicts himself. He states what according to Gury extreme necessity is; that, namely, in which a man's life is in peril from want; and then Gury's doctrine that a man in this plight may take what is required to sustain life without being guilty of the sin of theft. This doctrine is twisted into a case of conscience after the act—as to whether a man when he took something belonging to another, really was in extreme necessity or not, and if so how it can be verified. We reply as before, in no other way than by the testimony of a man's conscience speaking before God, accompanied by such indications as justify a prudent judgment of veracity. But to twist the matter into a case of this kind is to alter the whole issue of the question. It is not the question whether this man or that is sincere in stating that he was on a certain occasion in extreme necessity, and took something belonging to another to relieve it, but whether granting the fact that a man *is* in such necessity, the taking so much as enables him to sustain life is a sin and a theft or not. It is no question as to whether a man "vehemently affirms," or is "*prompted by inscrutable dread of threatened distress,*" (5) but whether he *is* in *actual*, not *threatened* distress; whether in one word he is starving, and within a few hours of the end of his life unless his hunger be relieved. In such a case Gury says, the starving wretch who snatches a loaf from the baker's stall does not commit the sin of theft; and that, as we have seen, on the ground that the law of property yields in such an emergency to the great law by which every one has a right to his life. Property then becomes common, so far as such community is necessary to meet the exigencies of the case.

(5) The italics are ours.

### Paley's Principle Corroborates Gury's.

Nor is Gury alone in holding this principle. Paley makes statements that lead directly up to it. He says, speaking on what the right of property is founded ; "We now speak of Property in Land ; and there is a difficulty in explaining the origin of this property consistently with the law of nature ; for the land was once, no doubt, common, and the question is, how any particular part of it could justly be taken out of the common, and so appropriated to the first owner, as to give him a better right to it than others, and what is more to exclude all others from it." (6) Subsequently Paley states that "the real foundation of our right is *the Law of the Land.*" Property then rests on positive law, according to this ; the right that a man has to his life, and therefore the means of life, rests on natural law ; therefore in a case of collision between the two the inferior must yield to the superior ; positive law to the law of nature.

But this is not all. Paley bases the obligation to bestow relief on the poor precisely on this principle. He says—"Besides this, the poor have a claim founded in the law of nature which may be thus explained : All things were originally common. No one being able to produce a charter from heaven, had any better title to a particular possession than his next neighbour. There were reasons for mankind's agreeing upon a separation of this common fund : and God for these reasons is supposed to have ratified. But this separation was made and consented to upon the expectation and condition that every one should have left a sufficiency for his subsistence, or the means of procuring it : and as no fixed laws for the regulation of property can be so contrived as to provide for the relief of every case and distress which may arise, these cases and distresses, when their right and share in the stock was given up or taken from them, were supposed to be left to the voluntary bounty of those who might be acquainted with the exigencies of their situation, and in the way of affording assistance. And, therefore, when the partition of property is rigidly maintained against the claims of indolence (*sic*) and distress, it is maintained in opposition to the intention of those who made it, and to *His* Who is Supreme Proprietor of everything, and Who has filled the world with plenteousness, for the sustentation and comfort of all whom He sends into it." (7)

### Dr. Whewell and Blackstone on Cases of Necessity.

Again, Dr. Whewell, speaking of cases of necessity, says—

In such cases it has been decided by the Roman Law and its commentators, that the Right of Property must give way. Necessity, they say, overrules all laws. But this is to be required only in extreme cases, when all other courses fail. To which is added by most Jurists, that when it is possible, restitution is to be made for the damage committed. A like rule is recognized in English Law.

It has been held by some English lawyers, that a starving man may justly take food ; but others deny that such a necessity gives a right ; inasmuch as the poor are otherwise provided for by Law. (8)

(6) *Moral. Phil.* bk. iii. c. 4.

(7) *Moral. Phil.* bk. iii. p. 2. c. 5.

(8) *Elements of Morality*, n. 700. Cambridge. 1864. Whewell cites in support of these statements, Grotius ii. 2, 6, 4 ; Kent's *Commentaries*, ii. 338, bk. iv. 52.

This last is Blackstone's doctrine. But notwithstanding Poor Laws and charitable organizations, every now and then we hear of some poor wretch's being found stiff and stark, and wasted to a skeleton under an archway on a bitter winter's morning. How did poor laws and flowing soup kitchens help that poor soul in the last bitter agony of hunger and thirst? If you tell us that such a man was guilty of sin before God for stretching out his hand to a loaf to save himself in his bitter extremity, we can only say in the name of outraged humanity, and in the name of the God of love and mercy, "Out upon you, hypocrites! you forget that man was not made for the law, but the law for man." This is certainly true of all human law; a truth borne out in the present case by that eternal law according to which man has been fashioned, and which alone is a rule of life that admits of no dispensation. Of course what has been said would have much greater force where poor laws do not exist.

### Is it Communism ?

The passage that we have been discussing is followed by another page filled with base insinuations on the subject of Communism, the presence of which the Reviewer affects to detect under the above principle of Roman Law. Communism we have always understood to mean the denial of the rights of private property altogether. To attempt to confound this with the above principle as applied and confined to the case of extreme necessity, betrays the source of the writer's inspiration. It is merely one more shaft drawn from the quiver of German misrepresentation; it is worthy of Bismarck and his unprincipled crew of slaves and scophants, but shameful as proceeding from one of free English blood. Mistranslations and blunders as usual abound in the page in question; but out of mercy to our readers we abstain from exposing them. We pass, therefore, on to one other topic, that we shall constrain ourselves to touch upon as briefly as possible.

### The Quarterly's muddled notions on the Law of Charity.

The Reviewer has, as we have seen, been placing the law above all the dictates of what we should call charity in the preceding case. He now passes to the other extreme, and gives charity a development that might have very uncomfortable consequences in respect of some of his readers, if fully realized in actual practice. We will let him speak for himself.

Amongst not a few Christians it has become an accredited notion that charity is a virtue of capital merit: but if we accept Father Gury's ruling we can hardly avoid looking upon it as a trivial, if not a downright silly practice. In the section devoted to a definition of what is demanded by love of one's neighbour, we find the following canon: "First Rule—Every one is bound *simply and absolutely* to love himself more than his neighbour, for the reason that every one stands nearer to himself than does any one else. Hence, love of oneself is by Christ laid down as the standard for love of a neighbour—*Love thy neighbour as thyself*. This, besides, is clear from the natural and insuperable disposition to love oneself more than one's neighbour, whence the common maxim—*Charity, well understood, begins at home.*" In Montaigne or La Rochefoucauld such a sentence would have sounded not out of character, but in an approved "handbook of morals," it falls on us with a rather startling ring (p. 72).

With a startling ring doubtless in empty heads, but not in others it would seem. A Catholic theologian regards man as a being composed of soul and body, and believes that the end of his creation is the union of the soul with God in eternity. This end indicates man's place in the divine order of creation, and it supplies also the divine rule of his being and of his life. For a man, therefore, to prefer anything to the attainment of this end, or to speak in ordinary terms, to his own salvation, would put him out of harmony with the divine order, and be a breach of that highest charity by which he is united to God even in this world, and is intended to be united to Him in fullest measure in the world to come. It would therefore be a violation of God's order, a contravention of His designs, a contradiction to the fundamental principles of his own being, for a man to love in this sense any created thing as much as himself.

### **St. Thomas and Gury on well-ordered Charity.**

And this is the meaning of the somewhat subtle reasoning by which St. Thomas arrives at the same conclusion. He says, "A man loves God as the principle of good, which is blessedness; he loves himself, as a sharer in that good; but he loves his neighbour as associated with himself in the enjoyment of the same good. But it is a weightier motive for loving to participate of blessedness in oneself than to have a fellow-sharer in that blessedness; just as unity transcends union; therefore a man by virtue of charity ought to love himself more than his neighbour." (9) In other words, God is the Supreme Source and the Supreme Object of love; to be united to Him, therefore, in one's own person must supply a greater motive of love and gratitude than the mere fellowship of another with us in the same union and resulting blessedness.

The full bearing of this doctrine will be brought home to us more clearly by considering Gury's rules in regard to the order of charity; rules which the Reviewer as usual garbles and misrepresents. Thus Gury says that we must succour our neighbour in extreme spiritual necessity, that is, where his salvation is at stake, even at the risk of our own life; and this for the reason that the eternal life of our neighbour is of higher value than our own temporal life.

On the other hand, in extreme temporal necessity, where, that is, there is danger of temporal life, we are bound to succour our neighbour at the risk of great loss, but not of the greatest; of laying down our own lives, for instance; for this exceeds the demands of duly ordered charity.

These instances are sufficient to illustrate the meaning of the maxim, "Charity, well understood, begins at home" In other words, the prescription, "Thou shalt love thy neighbour as thyself," even if taken to involve equality of affection as regards our neighbour and ourselves, cannot be taken to mean equality as to effects. To suppose that a man is bound to show the reality of his love for his neighbour in the only way in which it can be shown, by its real effects, in precisely equal measure, first to himself and then to each man and woman in the

(9) St. Thomas, 2. 2. q. 26. a. 4.

world, would be a simple absurdity, which it requires no words to expose. There must therefore be order in giving effect to our love for our neighbour, and if so, such order must have a starting point; and where can that starting point be but in ourselves?

### **Protestant Divines on the love of our Neighbour.**

What has been said is borne out by Protestant divines. Pole in his Synopsis, commenting on the words "Thou shalt love thy neighbour as thyself," after a preliminary discussion of the text, in which he says it is not prescribed, "more than thyself, that is, in the same order of benefits, but we ought to sacrifice our lesser good for the greater good of our neighbour; thus for our brethren, that is for their salvation, we ought to lay down our temporal life," so agreeing with Gury's rule; goes on to add: "Christ here wished two things; (1) To correct that vice of selfishness by which, to the neglect of others, we care only for ourselves; (2) to prescribe the mode of loving our neighbours. He therefore here places our neighbours on an equal footing with ourselves, and joins each and all in one body and as in one mutual embrace. But if you understand by this that we should regard all with the same love as ourselves, it would follow that there are no degrees of love, but that all are to be equally loved, since the love with which we love ourselves in one. The meaning therefore is, as has been said, Be thou thyself the measure of thy love to thy neighbour. Love each as thou wouldst be loved by them wert thou in their place."

We have in the new *Whole Duty of Man* the following passage: "In like manner, the duty to love our neighbour as ourselves is not, either that we should love any neighbour with equal tenderness as ourselves—for that I conceive is hardly possible—or that we should love every neighbour alike, which, if we suppose possible, were neither just nor natural; or that we should do for our neighbour all that he now does or that we, if in his circumstances, might perhaps wish and desire to be done for ourselves for such desires may be irregular, or if not sinful, yet unreasonable; but it is to do all that for him which, were our case his and his ours, we should in reason expect and be glad to have done to ourselves." (10)

### **Butler on the same subject.**

So again, Butler, in his second sermon upon the love of our neighbour, on the hypothesis that an equality of affection is commanded, shows that even so there must be inequality of effects, from the very of man's nature as regards our love to ourselves and our love to our neighbour; and that for the sole reason that no man can be closer to any one than to himself. The passage is somewhat long, but it is worth quoting at length—

If the words "as thyself" were to be understood of an equality of affection, it would not be attended with those consequences which perhaps may be thought to follow from it. Suppose a person to have the same settled regard to others as to himself; that in every deliberate scheme or pursuit he took their interest into

count in the same degree as his own, so far as an equality of affection would reduce this; yet he would, in fact, and ought to be, much more taken up and employ'd about himself, and his own concerns, than about others and their interests. For, besides the one common affection towards himself and his neighbour, he would have several other particular affections, passions, and appetites which he could not possibly feel in common both for himself and for others. Now these sensations themselves very much employ us, and have perhaps as great an influence as self-love. So far indeed as self-love and cool reflection upon what is for our interest, would set us on work to gain a supply of our own wants; so far the love of our neighbour would make us do the same for him; but the degree in which we are put upon seeking and making use of the means of gratification, by the feeling of those affections, appetites, and passions, must necessarily be peculiar to ourselves.

That there are particular passions [suppose shame, resentment] which men seem to have, and feel in common both for themselves and others, makes no alteration in respect to those passions and appetites which cannot possibly be thus felt in common. From hence [and perhaps more things of the like kind might be mentioned] it follows, that though there were an equality of affection to both, yet regard to ourselves would be more prevalent than attention to the concerns of others.

And from moral considerations it ought to be so, supposing still the equality of affection to be command'd; because we are in a peculiar manner, as I may speak, intrusted with ourselves; and therefore care of our own interest, as well as of our conduct, particularly belongs to us.

To these things must be added that moral obligations can extend no further than to natural possibilities. Now we have a perception of our own interests, like consciousness of our own existence, which we always carry about with us; and which, in its continuation, kind, and degree, seems impossible to be felt in respect to the interests of others.

From all these things it fully appears, that though we were to love our neighbour in the same degree as we love ourselves, so far as this is possible; yet the care of ourselves, of the individual, would not be neglected; the apprehended danger of which seems to be the only objection against understanding the precept in this strict sense.

In a word, the view taken by Catholic divines on the question may be summed up in the words of St. Thomas, that "the love a man bears to himself is as it were the exemplar of the love which he bears to others. But the example is higher in degree than that which is moulded on the example. Therefore a man ought out of charity to love himself more than his neighbour." In fact the words of our Lord in the text under consideration denote similitude rather than equality.

### **Further misrepresentations of Gury's teaching.**

We will venture to notice one more passage—

To clear away all ambiguity, Father Gury explains that acts of charity are incumbent only on those who "are tolerably well off, and either the absolute lords and administrators of their properties;" and that in cases of ordinary necessity, the obligations of charity cannot involve more than certain assistance, "out of superfluities, to the extent of some privation of pleasures." Even in cases of "extreme necessity..... no one is bound to lay out any large sum of money for relieving a poor man from peril of death." Only in cases of the gravest necessity does a call exist for some contribution "out of the strict necessities for the donor's station," which are enumerated as comprising not merely "what is needful for the education of the family, but also the maintenance of servants, the reception of guests, the cost of fitting presents, and of customary entertainments." It seems to us that in virtue of this definition of "necessaries," any one disinclined to charity might escape its calls on the plea of impecuniosity, while this had been artfully incurred by wasteful expenditure on lavish feastings, with the express view of securing a plea which must be held valid by a Jesuit confessor for shirking an irksome obligation. For Father Gury lays it down distinctly, that no evil intention can render wicked any deed which in itself must not by nature be necessarily evil—a proposition illustrated by various remarkable exemplifications. A

judge is declared free from blame who may have condemned a murderer to death, though he was actuated in pronouncing the sentence by personal hatred, because the sentence was within his legal attributes [pp. 72, 73].

Now here, first of all, in the edition of Gury before us, the words "who are tolerably well of," do not occur. (11) Then as to almsgiving the whole question discussed by Gury is that of strict obligation, and not that of voluntary generosity. He states that there exists a true and real precept imposing the obligation of almsgiving; and that this obligation is under pain of mortal sin in cases of extreme or of grave necessity; and then proceeds to consider what is the precise measure of strict obligation under the varied circumstances of those upon whom the precept rests. We cannot follow the Reviewer into details, but we assert without fear of contradiction that if any one will study Father Gury's exposition of the subject, they will find his requirements rise beyond what it is to be feared is the common practice of the world in the matter of almsdeeds.

#### More Dishonest Distortion.

We pause a moment again to point out another instance in this passage of the dishonest distortion and mixing up of things that have no connection that prevade the whole article. A man, it is stated, may, on the plea of impecuniosity, brought on by his own wasteful expenditure, indulged in simply in order to evade the obligation of almsgiving, shirk an irksome duty with the approbation of a Jesuit confessor. He might so act, but whether with or without the consent of a Jesuit or any other confessor, he would do so at the expense of mortal sin. Moreover we are certain that no confessor who had studied Gury could approve such an evasion of a solemn obligation. Then comes the old story that "no evil intention can render wicked any deed which in itself must not by nature be necessarily evil." Gury says no such thing. He is speaking of justice, and not of wickedness in general. The case of the judge is, where he justly and legally sentences a murderer to death; in such a case, though his breast may be filled with rancorous hatred against the criminal, his judicial act is no infringement of the murderer's rights, and therefore no offence against justice. There can therefore be no question of damages; no obligation to restitution. Sin there is; wickedness there is; but he must answer for that to God. In such a case Gury says, the evil intention could not make an act unjust, *injustum*, which was *just* in itself. The intention was sinful; though not a sin against justice. The judge therefore is not declared free from blame, but only from the effects of a sin against justice. (12)

Other inaccuracies and interpolations might be pointed out in the above citation. For instance, the Reviewer uses the words absolute lords, so as to convey the impression that only very wealthy persons are bound; whereas Gury uses the phrase in antithesis to wives, children, and servants, with reference of course to their master's property. Again, the words "to the extent of some privation of pleasures," are not found in our edition of Gury.

[11] T. i. p. 222. Romæ 1866.

[12] Gury, t. i. p. 592.

### Preaching and Practice.

We cannot conclude this subject however without a few remarks on this new view of charity and almsgiving, thus given to the world under the auspices of the *Quarterly*. According to the Reviewer, charity and almsgiving would seem to be convertible terms ; and as he repudiates the maxim that you are bound to love yourself more than your neighbour, he must be held to admit that he is bound to love his neighbour as much if not more than himself. What a vista resplendent with the rectification of the abuses and miseries of ages, is thus opened out to the poor human race ! Father Gury indeed does state that we are bound to help our neighbour in his extreme spiritual necessity at the risk of our life ; and in his extreme temporal necessity generally at great though not excessive loss to ourselves ; but this does not satisfy the expansive benevolence of the Reviewer. He can only show his appreciation of these rule by falsely saying that a man is, according to Gury, bound to prefer any want however slight of his own, to any need however great of his neighbour. Poor Father Gury's rules are all too narrow for his large heart. Let then the sounds of joy and gladness be heard in St. Giles', and Whitechapel, and the Isle of Dogs ! The Gospel according to the *Quarterly* has gone forth : the golden age has come. Violets will bloom in the Seven Dials ; and the rose and the honeysuckle shed sweetness in Spitalfields, It is now no matter of generous self-sacrifice to help your poverty-stricken neighbours ; you are bound to—to divest yourself of appliances generally thought to be necessary for your station in life at the cry of ordinary need. The great Conservative party will no doubt at once respond to the new revelation ; its peers and members will lay aside their carriages and prancing steeds, and modestly go down to the House on velocipedes ; while the Radicals not to be outdone, will go on foot to St. Stephen's in goloshes and waterproofs, with cotton umbrellas in their hands. As for the aristocratic Whigs, how they shall comport themselves under the change, we must leave to the grave decision of Earl Russell at the least. We might suggest a line of omnibuses, from which, despite the name, the general public should be rigidly excluded. But then, being, only of enslaved intellects, our suggestion would most probably be at once laughed to scorn. Mayfair will languish and Belgravia become a wilderness ; the turtles will gambol uncaptured in tropic seas ; Mansion House banquets will subside into frugal suppers, and there will be no demand for citrate of magnesia or Holloway's pills. Rookeries will disappear, and the festering dens of poverty, of wretchedness, and of crime will be swept away ; starving men and women will no longer slink into quiet corners to die, nor will the muddy waters of the Thames again be appealed to by the desperate leap to quench the last gnawings of hunger, and still the bursting brain.

We shall not grieve over such results ; on the contrary we shall rejoice at them. The old Catholic teaching that men should not be satisfied with the bare discharge of strict obligation, but should stretch beyond that in the spirit of generous self-denial, has no doubt been a teaching fruitful of untold good and blessing to the poor and needy, so much so that we seem to have recollections of reproaches being

levelled at it as something quite overdone ; but notwithstanding it cannot be said to have done all that might have been done, or reduced the mass of misery to a minimum in the world, Let us trust that the new principles of strict obligation will have better success.

### **The State misappropriating Charitable Bequests.**

At the same time we are haunted by an uncomfortable misgiving. We seem to remember hearing within the last year or two of moneys left for pious and charitable purposes being confiscated for the uses of the State, or otherwise diverted from the objects to which the donors had devoted them. Communities of men and women too, who had dedicated their lives, given up not their substance only, but themselves, to the work of relieving human distress, have been driven out of European lands, and their loving labours thus frustrated and brought to nought. What we fear is that this spirit of Swiss honesty, Italian uprightness, and German culture will militate against the grand future that has been opened to mankind. But no doubt the Reviewer is deeper in secrets of this kind than we are, and we can only express the hope that our apprehensions will prove groundless.

### **Conscience vs. Military Discipline.**

There is one other point upon which we will touch very briefly. The Reviewer says : " It is declared that every soldier who consents to serve in an unjust war will be *directly chargeable* with responsibility for every act of injury perpetrated by himself individually during its course, and *proportionally* for the total injury wrought by the army ; thus introducing a principle absolutely subversive of all military discipline, that at every call to arms each soldier is to make himself judge whether to obey it will be in accordance with his conscience."

So then it seems soldiers are to leave conscience behind them when they enter the ranks, and to content themselves with killing any one they are told to kill. An army is to be regarded in fact as a collection of bravos. And perhaps this is only the necessary sequence of the vast system of standing armies that oppresses the world. At any rate it is well to have this principle avowed and plainly put before us.

But it is not thus that Catholic theologians look upon war and the soldier's trade. According to them war is the last weapon in the hands of justice, and can only be used justly. And every soldier can demand some guarantee, and ought to demand it, that the war in which he is asked to engage is just. This guarantee is, that due examination into the causes of the war has been made by the competent authorities, that reparation has been sought for at the hands of the aggressor, and that a solemn judicial pronouncement, after all such preliminary steps duly taken, has issued, sanctioning the declaration of war. Upon such a guarantee every soldier can, and is bound to form his conscience as to the justice of the war in which he engages ; if such guarantee is wanting, war not having been declared in legal form, he cannot embark in it with a safe conscience. Legal declaration of war is not a final proof of the justice of the war, but it furnishes the presumption of that justice sufficiently for the formation of the conscience of the soldier.

and of the nation. Such presumption would not yield to anything short of positive proof of the injustice of the war. Such is the teaching of Father Gury and of Catholic theologians generally on this subject. Nor of Catholic theologians alone. Grotius, for instance, says, "That if soldiers were certain that the prince was doubtful as to the justice of the war, it would not be lawful for them to fight, how much soever they might be his subjects, because such war would be unjust; just in the same way as a lictor could not lawfully execute the sentence of a judge that he knew to be unjust (13)

### **The Westminster Review, F. W. Newman and Toulmin Smith on War.**

In a very able paper in the *Westminster Review* (14) Mr. F. W. Newman says, "There is no more fundamental principle of freedom (for it is even admitted under despotism), than that no nation shall be dragged into a war by its executive against its will and judgment;" and he proceeds to show by a mass of precedents collected by Mr. Toulmin Smith, that in former times the greatest care was taken to give those who engaged in a war the guarantee spoken of above. It was not left in old England, to the freaks and perverse judgment of a practically irresponsible minister to drag the country into war, but the consent of the Great Council and of the Parliament elicited after due examination into its causes, was necessary before a war could be lawfully entered upon. And we know that the first Chinese war was branded by the English courts as piracy because the steps necessary to guarantee its justice had been neglected. But this is too large a subject to discuss in the present article.

### **Confront the Quarterly's Quotations with the Original.**

We cannot follow the Reviewer into further details; but we trust that sufficient has been said to show his utter untrustworthiness, his total incapacity in any point of view to speak on the subject with which in an evil day for himself and for the *Quarterly Review* he has presumed to meddle. By way of still further illustration of the Reviewer's manner of treatment, we will, in conclusion, draw the reader's attention to page seventy-nine of the *Quarterly* article. In this page alone, and almost the same may be said of the following page, at least nineteen blots may be detected by a careful collation of the so-called quotations with the original. These blots consist of garblings, suppressions, the use of ambiguous words, so as to give a false colouring to the author's meaning and to insinuate bad impressions, dove-tailings of things together that have no immediate connection, substitution of suppositions for facts, and all with the view of putting the basest construction upon every line he touches; to say nothing of the lamentable ignorance that is displayed at every turn of the process.

To give a sample or two. There is the old trick of putting "will profess" instead of *is* with reference to the disposition of the woman

[13] *De Belli et Pacis Jur. Præm.* s. 29, 30.

[14] No. 34, April, 1860.

mentioned to make her abstractions good. There are also suppressions in the statement of the case. Then there is the insertion of the word "it follows," connecting a case of grave injury with theft, and thus perverting the meaning, and mis applying the solution. And this is the more disingenuous, because Father Gury expressly says that the case of injury differs from that of money accumulated up to a grave sum by petty thefts. In the latter case he decides that the thief is bound to restore *sub gravi*. (15) And Father Ballerini in a note on the solution of the case of injury, disagrees with Gury, and holds the opposite view. Besides it is not true to say that the injurer is free from all obligation. He is bound to make good under pain of venial sin for each petty act of injury that he has been guilty of. Then there is the usual insinuation conveyed by the words "shrewd enough;" "if he has only been careful to scatter the injury over various victims;" intended to indicate that the man has been acting on a deliberate system derived no doubt from his moral instructors.

Again it is stated that "an incendiary who has burned down a stranger's house, in the mistaken belief that it belonged to one he hated, is free from obligation of compensation because such an action was unintentional towards the sufferer." Now will the reader believe that in this case Father Gury's first solution is suppressed, in which he affirms the obligation of restitution; while in the second given by the Reviewer, he merely says that some deny this because the action was not voluntary in relation to the injured person; but, he adds, "this reason from what has been said, seems to carry little weight with it?" (16) Let this example stand for the rest; we cannot venture to weary our readers with further instances. Sufficient has been said to show that our assertion with reference to this and the succeeding page is not mere assertion, but can be abundantly substantiated. And indeed well might the same may be said of every page of the article.

### **The Mail's Theologian a Disgrace to English Fairness.**

The whole production is discreditable to English literature, a blot upon English fairness and disreputable to the pages of the *Quarterly Review*. What would be said of a man who, without any further knowledge of law than that obtained by a cursory perusal of "cases" and other law books not even amounting to the respectable process of cramming, should presume to appear before the Lord Chief Justice to plead in an intricate cause? We can imagine the fiasco that would ensue.

And yet this is pretty well the exact parallel of the Reviewer's position, though his conduct is rendered even worse by the number of cases he blunders upon. Would it not savour more of English manliness and straightforward dealing, instead of viewing questions of moral theology through the distorting medium of Pascal's Letters and German obfuscations, to enter into communication with those with whom such questions are a matter of daily practice, and try to ascertain

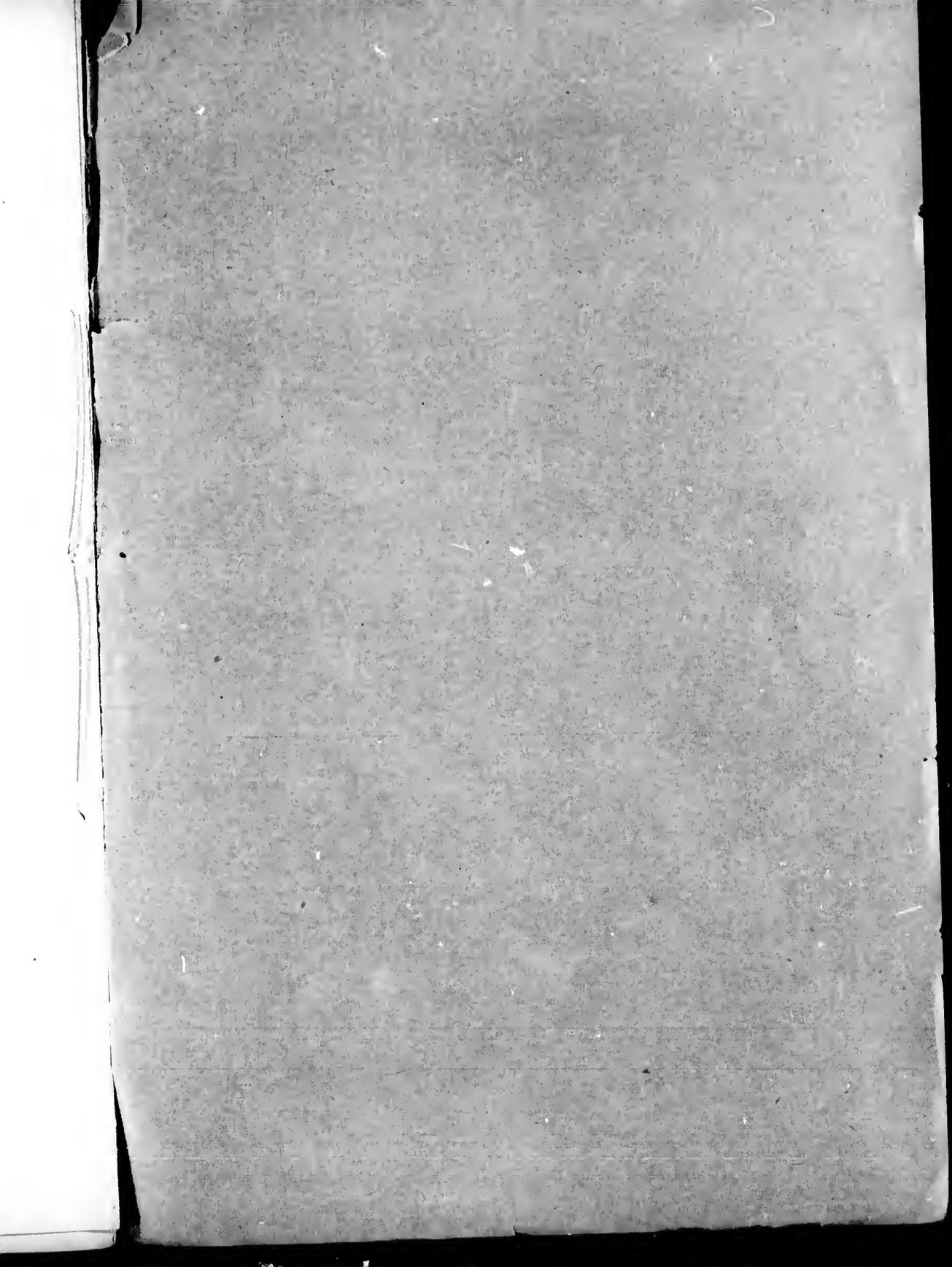
[15] Gury i. n. 666, 630.

[16] I. p. 644, n. 644.

the application that they give to the principles, and the construction they put upon statements that have involved the Reviewer in such endless trouble and confusion? Such an act of frankness would contribute very materially to the clearing of his mental atmosphere. And we can assure him that every facility will be most cordially extended to him by living Catholic theologians if he should see fit to condescend to so sensible and profitable a course.

In the meantime, in parting for the present with the Reviewer, we feel bound to say that we can in no wise withdraw any hard expressions that we may have indulged in against his production. On the contrary, the more we have looked into it, the more unfavourable has our judgement of it become. The whole structure of the article in the *Quarterly* is just such as might have proceeded from one who set about of set purpose to produce the worst possible impressions in a moral point of view of those that were opposed to him; impressions utterly unwarranted by any fair and straightforward construction of their writings. How far this may have been the case is a question that can only be decided by the Reviewer himself. We would hope for the honour of English literature and of the English name that such a surmise is groundless; but we must say that as far as external appearances are concerned, the weight of proof goes far to justify the opposite conclusion.





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