

## **Short Discourse Concerning the Observance of the vow of Poverty of the Friars Minor**

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### 1. [Introduction]

682 [11v] Although the whole Rule of Saint Francis is optimum and perfect, and the three vows, in as much as their observance is concerned, are equally binding, yet as our father Saint Francis knew that poverty required greater protection because of the sensual condition of disturbed nature (which regards what is pleasurable as being a necessity),<sup>2</sup> the hidden and very dangerous tricks of the devils, the open transgressions and damnable relaxations which were perpetrated in respect of poverty and the lack of foresight and remedies. Therefore both in the Rule and Testament as well as in his life and words he exalted, extolled and praised her all the more and showed that most worthy poverty had engraved herself on his heart more than the other vows.<sup>3</sup>

Therefore for the general convenience of the true zealots of most high poverty and the fervent followers of such a Father, I thought that I would review all the most important and necessary points that touch on poverty in a short summary so that the true sons of the seraphic patriarch might observe them with greater ease as would have them always close at hand and read them frequently and put them into practice, and carry them with them together with the rule and Testament. Our Father Saint Francis blessed those brothers who freely considered and spoke about the rule and carried it with them and died with it beside them.<sup>4</sup>

Therefore note carefully all that is written below.

### 2. [*The need to know the Rule*]

683 The most important observance of the three vows which we have promised is very necessary to the extent that those who observe them are in good circumstances and continuous merit and thus when they die are certain of salvation. Those who do not observe them are in bad circumstances and continuous disadvantage and are damned when they die.

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<sup>2</sup> Cf. *Major Legend* 5,1; 1C, 51, (FA:ED II, p. 560 and I, p. 227). This idea returns in the *Constitutions* of 1536, n. 51.

<sup>3</sup> Cf. AC 102; 1MP 44; ScEx 1-2 (FA:ED II, p. 206,III, p. 251,I, p. 529): Hugh of Digne, *Disputatio inter zelatorum paupertatis et inimicum domesticum eius* (*Spec. Minorum*, Venetiis 1513, pars III, f. 130v; and also in A. Sisto, *Figure del primo francescanesimo in Provenza*, Firenze 1971, 349). See also *Const. 1536* nn 126 and 27.

<sup>4</sup> Cf. 2C 208; 2MP 76-77 (FA:ED, II, p. 380, III, p. 323); *Spec. Minorum*, pars I, f. 21 vb (= *Laudes Regulae fratrum minorum a beato Francisco prolatae*).

Although they provide a partial excuse (in as much as they are not as serious a sin as affected ignorance) crass and supine ignorance do not stop the transgression of a precept from being a mortal sin. It occurs when a person does not exercise sufficient care about knowing what things are necessary for salvation.

[12v] The Four Masters say that ignorance of the statutes also does not excuse.<sup>5</sup>

Affected ignorance about things which are necessary for salvation does not excuse either in part or completely. It occurs when, out of malice or contempt, a person refuses to learn or study the things that are necessary for salvation to which he is bound by precept and vow. It is worse when it holds those who do observe them in contempt.<sup>6</sup>

We are obliged to be careful about our salvation, since if we hold it in contempt we place ourselves in a bad situation. Therefore we should study the Rule well and observe it, and not live blindly, or follow the common very dangerous abuses.

We are obliged to tend towards perfection, that is with total love of God, care and fervour to strive to recognise, know and practice the things that we are bound to do and to avoid the opposite; to go from virtue to virtue,<sup>7</sup> because on the road to God and the observance of the Rule not to move from what is good to what is better is to go backwards, as Augustine<sup>8</sup> says.

### 3. [*Nature and scope of Franciscan poverty*]

684 Our poverty is of the highest kind above all other poverty in the world, because it is voluntary, because it embraces complete<sup>9</sup> abnegation of all temporal things with respect to ownership and the use of even necessities, because it is like the poverty of our Lord Jesus Christ and his most holy Mother and his disciples. See Bartolo in the *Minorica*.<sup>10</sup> This is confirmed by Saint Bonaventure who seriously reprimands those who

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<sup>5</sup> In fact the Four Masters only speak of the brothers' inexcusable ignorance of the Rule. It is Anthony the Archbishop of Florence (*Summula confessionis* Venetiis 1511, f. 105v) who adds that ignorance of the statutes and Constitutions is inexcusable and this detail was added to subsequent editions of the *Short Discourse*, as is noted in its Latin edition. For the quote from the *Expositio quatuor Magistrorum* cf. *Speculum Minorum* pars III, f. 15vb; ed. L. Oliger, p. 124, 21.

<sup>6</sup> Cf. *Ignorantia* in *Dict. Morale et canonicum* a cura di P. Palazzini – F. Galea, II. Romae 1965, 609-613.

<sup>7</sup> "To tend towards perfection as the basic commitment of religious life, which is defined as the state of perfection by the practice of the Gospel counsels of obedience, poverty and chastity," See what the author wrote in his *Dialogue* (530-531).

<sup>8</sup> Cf. *Guigonis epist. seu tractatus ad fratres de Monte Dei*, cap. IV (*PL* 184, 315); "Servo Dei aut semper proficiendum, aut deficiendum est, aut sursum nititur, aut in inferiora urgetur"; while the expression "in via vitae non progredi, regredi est" is from Saint Bernard.

<sup>9</sup> Omnimoda = complete.

<sup>10</sup> Cf. *Minoricae decisiones domini Bartoli de Saxoferrato*, in *Spec. Minorum*, pars III, f. 188va: "cum idem Confessor summe affectaret suae regulae professores esse astrictos totaliter ab affectu et desiderio terrenorum et specialiter a pecunia et eius usu totaliter inexpertes, sicut probat prohibitio de recipienda pecunia in Regula saepius repertita etc. Ecce statum eorum in altissima paupertate fundatum: qualiter statum inter seculares homines ob aliquam causam nullo iure institutionis est inventum".

were poor in the world but who wish to be rich in the Order.<sup>11</sup> This is confirmed by Saint Francis. He says in chapter six of the Rule: “this is the sublime height of most exalted poverty” etc. Let those who profess such high poverty listen carefully to these words.

The Friars Minor profess poverty in such a way that it implies not only not owning anything, but also includes the poor use of necessary things. There is no poverty where there is superfluity and abundant usage. Let those who hold the opposite pay careful attention to chapter *Exiit, de verborum signif. in 6<sup>o</sup>* where it says that all usage of things is not lawful for us, but only of things that are necessary for sustaining nature and the carrying out of our duties.<sup>12</sup>

If we were not bound to poor use, but only to lack of ownership, we could<sup>13</sup> enjoy opulent and rich usage, as do the rich people in the world and have vineyards and fields, as long as the ownership was not ours but was vested in others; which is false.

685 The Pisan says with respect to the words in chapter 6: *Haec est illa celsitudo altissimae paupertatis, etc.*, that there is no aspect of Gospel poverty which the Rule does not intend to impose on the brothers.<sup>14</sup> *Cui, dilectissimi fratres, totaliter inhaerentes, etc.* Brother Hugo says: “The full observance of poverty is included here where it says: ‘never seeking anything else under heaven for the name of our Lord Jesus Christ’, that is apart from the highest poverty, both with respect to ownership and usage.”<sup>15</sup> The whole of chapter 6 proclaims that we promise poverty. Chapter 5 speaks of: *Paupertatis sanctissimae sectatores, etc.*

Nicholas III says that this Order is based and founded on poverty. In § *Nec quisquam* he says that we spontaneously make a vow to imitate Christ in poverty.<sup>16</sup> In § *Ceterum* Clement V says that Saint Francis placed those who professed the Rule in the highest poverty. In § *Proinde* while criticising sumptuous, superfluous and extravagant houses Clement V says: “so that the [14r] poverty that was promised may not be departed from.”<sup>17</sup> Innocent IV and Alexander IV say: “You who in the name of Christ suffer extreme poverty”.<sup>18</sup> Brother Hugh says that whoever promises to observe this life and Rule promises to observe poverty.<sup>19</sup> Regarding chapter 6 Saint Bonaventure says: “As the friars profess highest poverty it is required that that everything that they have for their

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<sup>11</sup> Saint Bonaventure, *Expositio* (*Spec. Minorum* cit. f. 31va; *Op. omnia* VIII, 434b, nota 10).

<sup>12</sup> Nicholas III, *Exiit*, § *Ad haec*, in *Spec. Minorum* cit. f. 5ra.

<sup>13</sup> *Porissemo* = *potremo*.

<sup>14</sup> This is a mistake made by the author because of the entry in the margin or the incorrect heading in *Spec. Minorum*, which has *Compillatio Barth. De Pisis super regula*, instead of *Expositio edita a quibusdam patribus Ordinis*, f. 69rb: “Assertoria extollentia paupertatis est: per quam concludit quod nihil potest esse paupertatis evangelicae quod Regula fratribus non intendat ponere.”

<sup>15</sup> Cf. Hugh of Digne, *Expositio* 164, 14ss; *Spec. Minorum*, pars III, f. 46 va.

<sup>16</sup> “Verbum condecens fuit ei professioni quod sponte devovit Christum pauperem in tanta paupertate sectari” (*Spec. Minorum* pars III, f. 4va). This is the motivation for the “sequela Christi” the Gospel justification for poverty.

<sup>17</sup> “Nos autem considerantes attente intendisse sanctum Franciscum suae regulas professores quos fundaverat in maxima paupertate ...” (*Spec. Minorum* cit., f. 8vb, 9va).

<sup>18</sup> Cf. Constitution *Vobis extremam* (between 1243 and 1255), in *Spec. Minorum*, pars II, f. 109a.

<sup>19</sup> *Expositio*, cit., p. 102; *Spec. Minorum*, pars III, f. 34vab.

use, in as much as possible, should be worthless, rough and poor; three qualities that are a consequence of poverty”<sup>20</sup> In fruit 16 of the *Book of Conformities* the Pisan says expressly that we profess extreme poverty (and he says wonderful things regarding the intention of Saint Francis about poverty).<sup>21</sup> All the doctors of the Order are in agreement with the Pontiffs. John Pecham adds that we are prohibited from having cellars for wine, granaries, extravagant houses and all superfluity.<sup>22</sup>

#### 4. [*Concerning the use of things*]

686 Ownership of anything is forbidden by the perfection of the Rule and our profession as it says at the beginning of chapter six. According to Nicholas III<sup>23</sup> we only have in fact the use of necessary things and we are to use them as if they were not our own in such a way that when using them we do not have [14v] dominion or ownership, but use everything with the permission of the superior, in such a way that we do not own even the habit<sup>24</sup>, the tunic, the cord and draws but simply use them as John Pecham says.<sup>25</sup>

When using something ownership occurs when a brother keeps something in his place, and does not want others to use it except himself and anyone that he pleases. This is an act of ownership which is forbidden to us. The usual sign of this is when one locks cells, coffers, studies or footstools and the like. The old friars had everything in common to cater for their needs including breviaries.<sup>26</sup>

Usage which is in fact poor restricted and strict is set out in the intentions of the Rule and Saint Francis as well as by Nicholas III and Clement V near the end. It does not apply to everything but what is required for the sustenance of nature and the execution of the duties of the Order.<sup>27</sup>

It is evident that Saint Francis wanted us to adopt poor restricted and strict usage when he prohibited the acceptance of money, which enabled a person to live opulently and in a grand manner, and from what he said in chapter six concerning highest poverty. This is what is in the declarations [15r] of the fathers of the Order.<sup>28</sup>

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<sup>20</sup> Saint Bonaventure, *Expositio* (*Op. omnia* VIII, 422, n. 15; *Spec. Minorum* f. 28ra).

<sup>21</sup> *Conf.* V, 100ss.

<sup>22</sup> John Pecham, *Declaratio super Regulam*, in *Spec. Minorum* pars III, f. 73va.

<sup>23</sup> Nicholas III, *Exiit*, § *Nec quisquam* (*Spec. Minorum* pars III, f. 4av).

<sup>24</sup> Avito = abito, habit.

<sup>25</sup> *Declaratio* cit., in *Spec. Minorum* cit., f. 76rb.

<sup>26</sup> Hugh of Digne, *Expositio*, 124, 6-12; *Spec. Minorum*, pars III, f. 38vb.

<sup>27</sup> Cf. *Declaratio Nicolai papae III, Exiit* (*Spec. Minorum*, pars III, f. 5ra); *Decl. Clentis papae V, Exivi*: “Dicimus quod fratres Minores ex professione Regulae specialiter obligantur ad arctos usus seu pauperes...” (*ibid.* f. 10rb).

<sup>28</sup> Cf. *Spec. Minorum*, pars III, f. 69ra.

John of Pecham says that when using things the brothers should abide by the strictest poverty. When Saint Francis allowed only a habit and tunic he wished that we have them according to strict usage.<sup>29</sup>

687. Saint Francis wished that a few friars live in a place because it appeared difficult for poverty to be well observed where there was a crowd.<sup>30</sup> Father Brendolino says the same thing.<sup>31</sup>

Ubertino says the commendation concerning poverty issued by Saint Francis in chapter six would be frivolous and ridiculous without strict use. Further, it would not have been right for the Supreme Pontiffs to speak of poverty as being of the highest quality.<sup>32</sup>

Saint Bonaventure says that it is a dreadful thing and a profane lie to make profession of highest poverty and not wish to experience penury in things.<sup>33</sup>

Clement V says that the necessary use of things is allowed to brothers but not the use of superfluous things.<sup>34</sup> A thing is superfluous which if it were taken away what remained would suffice. Two things are superfluous if one would suffice. A thing is sumptuous if something rough would suffice. A thing is extravagant if something cheap would suffice.<sup>35</sup>

In his *Defensorio de la po-[15v]vertà* Saint Bonaventure does not defend every type of poverty, rather he defends Gospel and penurious poverty and states that the vow binds us to the strict use of necessities and avoidance of superfluity. He says this is the poverty of Christ and the Apostles, of Saint Francis and of those who profess his Rule. In this way the needs of nature are provided for and strict usage not neglected, *This is what Bonaventure says.*<sup>36</sup>

Brother Hugh says in the beginning there were few brothers who were content with a few common things. Often they sustained their life with a little bread and water;

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<sup>29</sup> *Declaratio* cit.; *ibid.*, f. 73ra: “in extrema paupertate fratribus minoribus congruit victitare adeo quod nec propria nec communia habent”.

<sup>30</sup> Cf 2C 70; 2MP 10 (FA:ED, II, p. 294, IIIp. 263); *ConfV*, 105.

<sup>31</sup> Cf. *Expositione de la Regula di frati Menori*, Venezia 1533, f. 93v.

<sup>32</sup> From *Serena conscientia*: “Prorumpit beatus Franciscus in tanta commendatione sublimitatis Regulae nostrae quoad altissimam paupertatem ostendens eam esse excellentissime fructuosam et ea altior nulla potest inveniri. Alias nequaquam summus pontifex sustineret quod sub bulla sua sic praedicaretur altissima. Et cuius patet quod sine uso stricto rerum haec commendatio falsa et frivola appateret” (*Spec. Minorum*, pars III, 136va).

<sup>33</sup> Saint Bonaventure, *Ep. Ad omnes Ordinis Minorum provinciales et custodes de reformandis fratribus sui Ordinis*: “Fodus est enim prophanumque mendacium summae paupertatis voluntariae professors se asserere er rerum penuriam pati nolle” (*Spec. Minorum*, pars III, f. 79ra: *Op omnia* VIII 471, n. 4). This expression of Bonaventure is continually repeated in the early “Capuchin” commentaries on the rule.

<sup>34</sup> *Spec. Minorum* cit., f. 10ra: BC VI, 88.

<sup>35</sup> “Est autem superfluum illud, quo ablato, sufficit reliquum... Duo igitur superfluunt, si unum sufficit; multum si parum; sumptuosum, si vile; speciosum, si despicabile” (Hugh of Digne. *Expositio* chapter six, 155, 7-10; *Spec. Minorum* cit., f. 44vb; see also id. *De finibus paupertatis* in *AFH* 5 [1912] 289).

<sup>36</sup> Saint Bonaventure, *Determinationes quaestionum circa Regulam fratrum Minorum*, in *Spec. Minorum* cir, f. 81vb; *Op. omnia* VIII, 341 (q. VI); see also *Apologia pauperum. Ibid.*, 272s, n. 3.

sometimes only fruit; thinking themselves to be better off rubbing the ears of corn with the apostles than having the abundance of plates of flesh with the Egyptians. Now the immoderate craving for sensual abundance is the cause of great ruin. Notice how many things he says in his Declaration against those who despise those who follow severe and strict usage and look for what is superfluous and abundant.<sup>37</sup> He also says that those things the use of which is not expressly permitted in the Rule can only be used out of necessity and with permission, if not it is a case of ownership.

##### 5. [*Concerning privileges*]

688 Concerning privileges Alvarus says that a Friar Minor can have no greater ownership than having privileges because as they are totally committed to the Gospel they should be subject to every human creature for the love of God, especially superiors. How can they be lesser brothers in the world if they have become greater through privileges?

Thus they have become a contradiction to their name and profession as is evident when we consider this situation, except with respect to the privilege of the confirmation of the Rule, Thus with the excuse of privilege it has become the usual thing for sick brothers to have money, to accept it and use it in a bad manner against the Rule. Even though the Roman Church acting with good intent allowed them to do this because of the lax majority to whom the course of action appeared too to be too straight and narrow with respect to money, and because the original apostolic fervour and that of Saint Francis had become cold in the Order and brothers who lived in simplicity had departed and others had begun to follow the path of knowledge and inquiry, nevertheless given the situation with money and privileges a great transgression of the Rule and of poverty had occurred within the Order. *This is what Alvarus says.*<sup>38</sup>

689 John Pecham says that privileges and dispensations were granted [16v] on account of the flesh and sensuality.<sup>39</sup> The Supreme Pontiffs had granted them because the brothers had asked for them to satisfy their imperfection, and since they wished to live with abundance and not according to strict poverty they made them grant privileges of having procurators, funeral services and the like which relax the purity of the Rule. The Supreme Pontiffs, like caring fathers, granted privileges because they were harassed by the brothers, granting privileges because the brothers claimed that the need was urgent. They said “If the situation is as you say it is, let it be so,” always referring the matter to their consciences. But Saint Francis never intended that there be privileges, because he was aware of the great damage that would result regarding money, buildings, and vestments, great excesses in food and clothing, and infinite evils. *This is what he says.* The companions of Saint Francis said the same thing.<sup>40</sup>

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<sup>37</sup> Hugh of Digne, *Expositio*, 136, 19-24; *Spec. Minorum* cit., f. 41rb.

<sup>38</sup> Cf. A Pelagius, *De planctu Ecclesias*, Lugduni 1517, f. 204r; but the text is taken from *Serena conscientia* (*Spec. Minorum*, pars III, F. 137ra).

<sup>39</sup> “Quia in maiori parte hominum dispensation est data in occasionis carnis” (Ioannes de Pechano. *Declaratio* cit., in *Spec. Minorum*, pars III, f. 73vb).

<sup>40</sup> *De planctu Ecclesiae*, II, c. 66, Venetiis 1560, f. 167r; *2MP*50, 6; *AC*20, (FA:ED, III, p. 294, II, p. 134).

The brothers, whether superiors or subjects, should not advise those who enter the Order regarding the disposal of their belongings but should send them to some God fearing persons, as the Rule states, who are outside the Order [17r], as is stated in Clement's *Exivi*, § *Nos autem* and by Martin V, and the Pisan;<sup>41</sup> nor should they persuade them to give anything to the brothers but let them do as they like.

6. [ *What the Rule allows to the brothers* ]

690 The Rule does not expressly allow the brothers the use of anything, except the habit, cord, draws and the breviary;<sup>42</sup> everything else whatever it may be requires necessity and permission. Anyone who does not have either of these is exercising ownership.

In conscience the brothers may not have two habits for their use, nor may the superiors allow this. Brother James of Mantova offers many proofs of this in his *Collectanea*.<sup>43</sup>

According to Clement V, Martin V and Saint Bonaventure and other doctors of the Order the brothers' clothing should be made of poor quality cloth, worthless and rough.<sup>44</sup>

Saint Francis used to say that it was a sign that the spirit had died when a Friar Minor dressed in soft and fine clothes and that the devils attacked him with greater force. Therefore he strongly rebuked and criticised them. He wore his habit covered with patched of sacking to embarrass them. See fruit 16 in the *Book of Conformities*.<sup>45</sup> Thus in the Rule he wanted the habits patched with sacking, so that the material would be so wretched that among [17v] themselves pieces of sacking would be a sign of belonging and a mark of honour not disgrace. *This is what Ubertino says*.<sup>46</sup> The Pisan<sup>47</sup> says that it is very shameful for a Friar Minor to wear soft and extravagant clothing because he more than any other religious has professed poverty more strictly.

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<sup>41</sup> Clement V, *Exivi*, (*Spec. Minorum* cit. f. 8vb); *Constitution of Martin V* (*ibid.*, f. 13rb); Bartholomew of Pisa, *Compilatio* (*ibid.*, f. 58rb).

<sup>42</sup> LR 2, 9; also Test. 16 (FA:ED, I, p. 101, p. 125).

<sup>43</sup> James of Mantova wrote some comments on the Rule under the title of *Collectanea Minorica*, but they do not appear to have been published.

<sup>44</sup> Clement V, *Exivi* (*Spec. Minorum*, pars III, f. 9ra); *Constitution of Martin V* (*ibid.*, f. 13rb; Saint Bonaventure, *Expositio* (*ibid.*, f. 23ra; *Op. omnia* VIII, 405, n. 24).

<sup>45</sup> Bartholomew of Pisa, *Compilatio* (*Spec. Minorum* cit., f. 59vb; *Conformities*, V, 103s).

<sup>46</sup> "Ubertino on the words: Possint repeciare de saccis, dicit: Ita quod velle videtur quod inter pannum quod fratres debent indui et vilitatem sacci sit vicina conformitas" (*Sarena Conscientia*, in *Spec. Minorum*, cit., f. 140rb).

<sup>47</sup> "Ad verecundiam veri est fratris minoris deferre mo;;em et preciosis vestimentem qui prae cunctis religiosis servandam paupertatem arctius promisit" (*Compilatio*, cit., in *Spec. Minorum*, f. 59vb).

691 Healthy brothers should never sleep on a featherbed or on mattresses or between sheets or have a feather pillow under their head, or wear night-gowns or, consequently, have linen next to their skin. See Farinerio, chapter 2, and Martin V.<sup>48</sup>

They should keep books in common and not have them personally, as Innocent IV says.<sup>49</sup> The Pisan, quoting Brother Leo, says that this was Francis' intention.<sup>50</sup> In those days they had breviaries in common. Brother Leo was about to drown because he had a breviary as other brothers drown as he saw in a vision.<sup>51</sup> Ubertino says that Saint Francis did not want to allow any brother the personal use of any book.<sup>52</sup>

## 7 [Money]

692 It is never allowed for the brothers to accept coin, that is legal tender, or money that is anything that could be used as payment for something that is purchased and which is accepted in order to be sold. This is in chapter four of the Rule [18r]. The meaning of what is said at the end of chapter four of the Rule: *saving always that they do not receive coin or money*, is that if Saint Francis did not wish that there be any dispensation where money was concerned in the case of the sick or for clothing (which are very necessary), how much more would this apply things that are not necessary. *This is what the fathers of the Order say.*<sup>53</sup>

As Nicholas III says, according to the Rule we cannot have recourse to spiritual friends except for those who are sick, or for clothing and similar necessities to these two.<sup>54</sup> Clement V says, § *Porro*: "Let the brothers beware that for no reason, except what is mentioned above, may they have recourse to spiritual friends."<sup>55</sup> Peter John says the causes for recourse have to be urgent and unavoidable to be of equal necessity to the needs of the sick or for clothing.<sup>56</sup>

The brothers may not accept coin or money either by themselves or through any other means, or spend it or command that it be spent or keep accounts or exact accounts of the expenditure or ask for the return of the money or deposit it or demand that it be deposited, or carry it, or have boxes in which it is kept or have the keys to these boxes. Clement *Exivi*, § *Porro*.<sup>57</sup> The general statutes prohibit the brothers touching coin under

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<sup>48</sup> Cf. *Constitutiones Guliemi Farinerii* (*Spec. Minorum*, pars III, f. 212va; also in *AFH* 35 [1942] 88, n. 12 and 89, n. 15); *Constitution of Martin V* in *Spec. Minorum* cit., f. 13va. We see many examples of this kind of austerity in the chronicles (Cf. part II, section IV).

<sup>49</sup> Cf. *Ordinem vestrum* (14 Nov, 1245): *ibid.*, f. 2av.

<sup>50</sup> "Ex quo poterunt fratres breviaria suppleri in communi et alios similiter, sed non in speciali, prout dixit frater Leo sanctum Franciscum intendisse" (*Compilatio*, in *Spec. Minorum* cit. F. 60ra).

<sup>51</sup> *Conf.* IV, 190, 18-28; V, 110, 8-16; ABF, chapter 60; LFI chapter 36 (FA:ED III, p.550, p.627). *Chron.* XXIV Gen. 69.

<sup>52</sup> *Serena Conscientia*, in *Spec. Minorum* cit. f. 149ra.

<sup>53</sup> *Brevis exposition* cit. *ibid.*, f. 69ra.

<sup>54</sup> *Exiit* but the text is taken from *Serena conscientiae*, *ibid.*, f. 142va.

<sup>55</sup> *Ibid.*, f. 9rb.

<sup>56</sup> *Ibid.*, f. 112rb.

<sup>57</sup> *Ibid.*, f. 9va. (FA:ED III, p. 776).



pain of proprietorship.<sup>58</sup> Saint Francis ordered a brother who had touched coin to place it in the dung of an ass with his tongue.<sup>59</sup>

693 If the brothers have bought anything they may ask someone who wished to give alms to pay for it in whole or in part as they wish or to give it to them to give to someone else. If he is unwilling to do one or the other having obtained his consent the brothers may approach someone who will carry this out or make the payment, or approach the family of the person who has to be paid. They may never make such a payment without the consent of the person who gave the alms as they could not be certain whether he wants to make the payment personally. See *Exiit* § *Ceterum*.<sup>60</sup> Note that according to the Rule the spiritual friend, or his delegate, is precisely the principle manager of the alms. All that he does is not done under his authority or that of the brothers but under the authority of the donor. I say the same regarding those delegated by the donor. See *Exiit*, § *Quia vero*.<sup>61</sup>

Let the brothers be aware when arranging a payment that they do not agree to or falsely allow that more is given than what is bought is worth. They should not buy anything for which there is not a real, specific necessity which is either present or imminent. Clement *Exivi*.<sup>62</sup> Therefore it is never allowed to have recourse to spiritual friends for things which are not completely necessary and unavoidable and which might be procured through begging [19r]. Whoever goes against this, sins mortally.

694 Peter John says that the brothers may not keep money collected in Church.<sup>63</sup> Clement V, § *Porro* says that all kinds of asking for money, accepting what is offered in Church or elsewhere or placing coffers or boxes in church to receive money or any other recourse to coin is prohibited to the brothers. Capistran confirms this.<sup>64</sup>

It is not lawful for the brothers to engage families (much less brothers) to look after altars or tables set up for such offerings, especially on All Souls' Day or where offerings are collected for miracles. Father James of Mantua says that it is not lawful to appoint a procurator and whoever does so is guilty of proprietorship and sins mortally. The same applies to offerings left in front of the crucifix on Good Friday.<sup>65</sup>

It is not lawful for brothers to seek money from traders or soldiers, or in any situation for future and unspecified needs. Nicholas III § *Ceterum* and Martin V.<sup>66</sup> Whoever orders anyone to do this and whoever obeys them sins mortally.

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<sup>58</sup> *Ibid.*, f. 212vb.

<sup>59</sup> Cf. 2C 65 (FA:ED II, p. 290); *Conf.* V, 330. Compare this passage to *Const 1536*n. 57, 8 (n, 239).

<sup>60</sup> *Spec. Minorum*, pars III, f. 5rb.

<sup>61</sup> *Ibid.*, f.. 6ra.

<sup>62</sup> *Ibid.*, f. 9ra.

<sup>63</sup> *Serena Conscientia*, *ibid.*, f. 142va.

<sup>64</sup> "Caveant insuper omnino ne annuos redditus vel pecuniarias oblations in altari, cippo vel trunco in aliquot aliquorum nostrorum locorum recipeant vel acceptant" (Clem. V, *Exivi*; *Const. Generales Guillelmi Farinerii: Spec. Minorum* cit., f. 9ra., 225rb).

<sup>65</sup> Cf, note 42.

<sup>66</sup> It appears here that John of Fano is citing the teaching in a general way and not making a specific reference. Cf. Nicholas III, *Exiit: Spec. Minorum* cit. 5vab; Martin V: *ibid.*, F. 13vb.

695 The control over and ownership of money always remains with the donor until is converted into the designated object. Nicholas III, § *Ceterum* and § *Quia oportet*.<sup>67</sup> It is not right for the brothers to do such things, or undertake administration, or prosecute the donor or his agent either at law or outside it. Nicholas III, § *Ceterum*.<sup>68</sup> All that they should do is make known their need and ask that it be addressed. Friars who become involved in litigation or instigate it act against their profession. Clement *Exivi*, § *Proinde*.<sup>69</sup>

The alms which are offered to the brothers may not in any way be deposited with others, not even procurators, without very evident, unavoidable, specific, sure, present and imminent necessity. This may never happen for future unspecified needs. If anything is left over from the alms that have been given for the aforementioned necessities this must be returned to the donor. Nicholas III, § *Quia vero*.<sup>70</sup>

The procurator or agent cannot change, either on his own authority or on that of the brothers, the purpose for which money is given without the special permission of the donor.

#### 8 [*Control and ownership of things*]

696 It is required that the donor expressly designate someone nominated by himself or the brothers to spend the money for the needs of the brothers, once this is done [20r] the brothers may have recourse to this nominee, notwithstanding objections on the part of heirs or the death of the donor, who shall spend the donation for their needs. Nicholas III, § *In eo vero casu*.<sup>71</sup>

Although the simple use of things remains the right of the brothers, the control and ownership of them remains under the control of the donor to do with them as he wishes, except for churches and oratories which belong to the Apostolic See. If such things do not have a donor or if he is dead and has not left any other stipulations they belong to the Apostolic See. Nicholas III, § *Ad haec* and Clement V, § *Proinde*.<sup>72</sup> Since the Roman Church has retained to herself the ownership of the things which are necessary for the brothers, but not superfluous, all excess, abundance, hoarding, provision for the future that is for unspecified needs is forbidden (Nicholas III, § *Ad haec* and Clement V, § *Proinde*).<sup>73</sup> Consequently ownership of excess and precious things etc. is vested in the brothers and they become owners.

697 Ownership of money always remains with the donor, who always retains the right to take it back as long as it has not been spent for the needs of the brothers. However, since the Apostolic See only accepts the ownership of things that can be used lawfully by

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<sup>67</sup> *Ibid.*, f. 5rb-5va.

<sup>68</sup> *Ibid.*,

<sup>69</sup> *Ibid.*, f. 9va.

<sup>70</sup> This citations gives the meaning: *ibid.* f. 6ra.

<sup>71</sup> *Ibid.* f. 5bv.

<sup>72</sup> *Ibid.*

<sup>73</sup> *Exiit: ibid.* 4vb-5ra; *Exivi: ibid.*, f. 9va.

the brothers, it does not accept ownership of money which has no donor such as that given without specification, that which is left on the altar or given for Masses or services rendered or on the spur of the moment as often happens, where the donor is commonly understood to have relinquished ownership intending to give it without reservation to the brothers (Nicholas III and Clement V *as above*). It is certain that it is not lawful or the brothers to accept the ownership or use of money. See Clement V, § *Porro*<sup>74</sup>, where it says that this was the intention of Saint Francis. Since such money is not owned by the donor nor by the Apostolic See it follows that it is owned by the brothers.

698 Here we see just how dangerous it is to hold unspecified donations in the hands of agents, families or others who are neither procurators nor agents either in the sacristy or elsewhere, including those offered for Masses, or services rendered or the like because when they are accepted wrongly it is worse to hold or deposit them and very wrong to spend them in a forbidden way on superfluous and extravagant things at the bidding of sensuality in food, clothing, buildings and other trifles.

It is never lawful for the brothers to have coin or money [21r] put aside for future, uncertain or unspecified needs or to have it held by any person in any way. It may be held only for certain, specified and necessary things by the donor or someone designated by him. The brothers have no rights<sup>75</sup> inside or outside law regarding this and may only humbly ask that their needs be met. Gregory IX, Innocent IV, Nicholas III and the Pisan say this.<sup>76</sup>

#### 9. [*Spiritual Friends*]

699. It is never lawful for the brothers to procure something that is really necessary through spiritual friends or any other pecuniary means when it can be procured by alms or begging. This applies also to the needs of the sick and for clothing. Nicholas III and the doctors of the Order.<sup>77</sup> Thus many things are bought that could be procured by begging to avoid embarrassment, to have greater abundance and excess. This is against the Rule and the intention of Saint Francis. Let those who buy ornate rosaries, knives, hats and other trifles, extravagant objects and luxuries to eat etc. Know that they will have to render an account to God and Saint Francis.

When the spiritual friends or procurators (according to the concession of Martin V) are holding unspecified alms the brothers may not procure other payment or hoard [21v] the unspecified alms.<sup>78</sup> Nicholas III, § *Ceterum, cessantibus elemosinis*.<sup>79</sup>

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<sup>74</sup> “Porro cum dictus Sanctus volens fratres suos super omnia a denariis seu pecunia esse totaliter alienos...” (*Ibid.*, f. 9rb).

<sup>75</sup> That is, to take legal action.

<sup>76</sup> Cf. Greg IX, *Quo elongati*: *ibid.*, f. 1va; Innocent IV, *Ordinem vestrum*, *ibid.*, f. 2ra; *Exiit*: *ibid.*, 61 vab.

<sup>77</sup> *Exiit*: *ibid.* F. 5rb; *Brevis exposition* cit.: *ibid.*, f. 69rab.

<sup>78</sup> “Sparagnar” is dialect for “risparmiare”.

<sup>79</sup> *Exiit*: *ibid.*, f. 5rb.

10. [Some abuses]

700 It is not lawful for the brothers to procure and accumulate monetary alms through litigation, law suits or calling in debts or to persuade those who are dying to make legacies or bequests<sup>80</sup> to their friaries, or demand pecuniary compensation in Confession or in any other way. Whoever acts contrary to this is in a sinful state.

Saint Bernardino mentions carrying money bags to be a case of ownership irrespective of the amount.<sup>81</sup>

Extravagant, expensive and superfluous buildings are completely forbidden to the brothers. Clement V, § [*Hinc est etiam*].<sup>82</sup> Wherever Saint Francis found them he destroyed them. Once when he went to Bologna and saw that the brothers' house was too large he did not want to stay there but went to the house of the Friar Preachers.<sup>83</sup>

Clement V says that the vestments used in the church, chalices and the like should be few and poor and in accord with holy poverty.<sup>84</sup>

When referring to depositing money, Alvarus says that the superiors and the whole Order cannot give permission to the brothers personally or in common to deposit money except according to what is laid down in *Exiit* and Clement's *Exivi*.<sup>85</sup>

701 Clement's *Exivi*, Bartolo in the *Minorica*<sup>86</sup> and Panormitanus [22r] in the chapter *Nimis prava de excessibus prelatorum* say that the brothers are in no way able to collect annual rents. They cite the example of the legacies<sup>87</sup> left to the brothers at the Hospital of Santa Maria de la Scala in Siena with an obligation of giving *a certain amount each year* to the brothers forever saying that the brothers cannot accept this.<sup>88</sup> This is confirmed in chapter six of Capistran.<sup>89</sup> At present such legacies are to be found in many places.

Clement V says that that the brothers should not in any way be executors for last wills or in any way accept such an office since it is against the Rule and causes scandal among seculars.<sup>90</sup>

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<sup>80</sup> "rekicti" = "lasciti".

<sup>81</sup> Cf. *Casus in quibus secundum S. Bernardinum et alios frater Minor potest dici proprietarius: ibid.*, f. 170va; it is the fourth case.

<sup>82</sup> *Exivi: ibid.*, f. 10rab.

<sup>83</sup> Cf. 2C 58; 2MP 6; LMj, 7, 2; (FA:ED II, p. 286; III, pp. 259-260; II, p. 578). See also *Conf. V*, 108.

<sup>84</sup> *Exivi: Spec. Minorum*, pars III, f. 10rb.

<sup>85</sup> Cf. *Serena conscientia: ibid.*, f. 136vb-137ra (both Bulls are cited).

<sup>86</sup> Cf. *Minoricae decisions domini Bartoli a Saxoferrato: ibid.*, f. 195rb.

<sup>87</sup> See note 79.

<sup>88</sup> Abbas Panormitanus, *Commentaria in Decretalium libros*, t. VII, Venetiis 1617, p. 186.

<sup>89</sup> Cf. *Const. beati fr. Ioannis de Capistrano*, in *Spec. Minorum*, pars III, f. 225rb.

<sup>90</sup> *Exivi, ibid.*, f. 9va. The management of money was inadmissible. The *Constitutions* of 1536n. 59, 6 rejected any kind of legacies.

The Four Masters say that when the brothers want to buy something that is an unavoidable necessity and they cannot beg for it, they may only ask for whatever is required to buy it and pay for it through the spiritual friends (as was said above). However they may not set the price or even discuss the price.<sup>91</sup>

## 11. [Contracts]

702 Selling is forbidden to the brothers since it denotes ownership. When it happens that something has to be sold because there is no more need for it or it is of no further use to the brothers the procurator may sell it and channel the payment received towards other real needs of the brothers. See Nicholas III *Exiit*, which authorises the procurator to do this but not to do anything else.<sup>92</sup>

[22v] Borrowing or indeed lending is not permitted to the brothers since it implies ownership. *Nam mutuum de meo fit tuum*. Nicholas III. § *Ceterum*, and the Four Masters.<sup>93</sup>

It is not up to the brothers to rent out immobile property since they cannot own it. They may hire out their services and without making a contract accept wages for their trouble, according to the discretion of the one who employs them. They may not accept coin or money but only support for living. See Clement V and the Four Masters.<sup>94</sup>

With respect to giving away, Alvarus says that to give and take without permission is an act of ownership and is not allowed for the brothers. They may use things which have been given to them with the permission of their superiors and with the donor's permission allow others to use them. To give and take worthless and small things with permission is allowed in the Order. However to have recourse to money to buy things to give away is diabolical. The superiors cannot give permission for such a thing because neither they nor the whole Order can give away a cent, not even as a gift for the love of God. This is stated by Alvarus in agreement with Nicholas III and Clement V: *quod bene advertant, qui ad pauca respiciunt*, etc.<sup>95</sup>

It is not lawful for the brothers to beg for things which are superfluous or which are for sensual pleasure. Saint Francis used to say that to beg for what is superfluous is robbery.<sup>96</sup> Scotus agrees with this in book 4, distinction 15 [23r] question 2, article 3.<sup>97</sup> Capistran says that it is not lawful for the brothers to divert, sell, change or trade for payment things which have either been bought or obtained by begging.<sup>98</sup> When

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<sup>91</sup> *Quat. Mag.*, 153, 30-35; *Spec. Minorum* cit., f. 18ra.

<sup>92</sup> Cf. *Spec. Minorum* cit., f. 6rb-6va.

<sup>93</sup> *Quat. Mag.*, 154, 44-47; *Spec. Minorum*, f. 18ra; *Exivi. ibid.*, f. 5rb.

<sup>94</sup> *Expositio* cit. ed. L. Olier, p. 155, 60-63; *Spec. Minorum*, f. 18ra.

<sup>95</sup> *Serena conscientiae: ibid.*, f. 145va; *Exiit. ibid.* f. 6va.

<sup>96</sup> 2C

<sup>97</sup> What is written in the original text which appears in MHOC V, 416, is 2, 2 instead of q. 2 in the quote from Duns Scotus that corresponds to; *Questiones in IV librum sententiarum*, dist. 15, q. 2, art. 3 (Cf. *Opera omnia* XVIII, Parisiis 1894, 333-335).

<sup>98</sup> Cf. *Spoec. Minorum* pars III, f. 225r.

something is left over they should give it back to the donor or give it away for the love of God. Indeed they sin gravely when they beg for what they do not need for their specific and poor use.

12. [Concerning those who cannot observe the Rule spiritually]

703. Wherever they may be, when they realise that they cannot observe the Rule spiritually, they must (*this is a precept*) and can (*they may not be prevented*) have recourse to their ministers. The Four Masters, Hugh, Bonaventure and the Pisan say that not being able to observe the Rule spiritually means not being able to observe it in its rigour and purity or without going into the proximate occasion of sin, especially with respect to spiritual matters such as peace of mind and purity of conscience or not being able to observe it according to its true interpretation as expressed to perfection in it by the Holy Spirit. *This is what the fathers of the Order say.*<sup>99</sup>

Saint Francis used to say: “That which is carried out spiritually is performed simply and with a religious intention, following the spirit and not the flesh.” However, there are some who observe the rule in the flesh but not spiritually, when filled with an erroneous spirit they despise [23v] the circumstances within the Order and other things which the brothers observe spiritually and always disapprove of those who are good and do not believe that they are living according to the Rule.<sup>100</sup>

Thus wherever one sees a danger to obedience, poverty, chastity, charity and to other things which are essential to the Rule, he should leave that place and go the ministers, etc.<sup>101</sup> As Martin V says: “In a place when property is taken possession of, the care of souls undertaken, or because of scarcity it is necessary to exceed the general custom of the Order in storing things and corruptly begging against the purity of the Rule or where there is corrupt coterie of brothers who are especially intolerant of the simple, the uneducated and the weak and the like.”<sup>102</sup>

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<sup>99</sup> *Quat. Mag.*, 165, 14-20; *Spec. Minorum*, f. 18vb; Hugh of Digne, *Expositio*, 182, 25-30; *Spec. Minorum*, f. 50ra; Bonaventure, *Expositio. Op. omnia* VIII, 432, n. 4. “Et ubicumque sunt fratres qui scirent se per experientiam et cognoscerent per rectum iudicium se non posse Regulam spiritualiter observare, hoc est in his praecipue, quae spiritualia sunt, ut tranquillitas cordis et puritas conscientiae” (*Spec. Minorum*, f. 30vb); Bartholomew of Pisa, *Compillatio: ibid.*, f. 67va; *Expositio super Regulam fratrum Minorum edita a sanctis Patribus Ordinis, ibid.*, f. 69vb: “quando scirent et cognoscerent evidenter non per fantasticam imaginationem quod impediuntur ab observantia regulae secundum verum intellectum quem Spiritus Sanctus exprimit in ea de cuius perfectione, et hoc est quod dicit: Spiritualiter observare, tunc tenentur recurrere pro adiutorio ad praelatos et hoc est quod dicit: Debent.”

<sup>100</sup> Hugh of Digne, *Expositio*, c. 10: “Beato Francisco mos fuit dicere spiritualiter fieri quod pure sue religiose fiebat. Unde Regulam spiritualiter servare non potest qui debite ac religiose non potest. (ed. D. Flood, p. 182, 30-33: *Spec. Minorum*, f. 50ra).

<sup>101</sup> *Ibid.*; “Ubi ergo castitatem, caritatem, paupertatem, quietem mentis ad Deum vel alia quae sunt Regulae periclitari seu notabiliter impediri vel certe intolerabilem alicui prosua debilitate vel alia necessitate rigorem esse vel aliquem in praedictum erroris spiritum incidisse contingit ...” (Ed. Cit., p. 183, 4-8; *Spec. Minorum*, f. 50ra).

<sup>102</sup> *Const. et declarat. Martini V*: “scilicet ut cum tali loco morantur annexa est proprietates vel cura animarum pueros baptizandi, et alia parochialia faciendi, aut quia dominio reclamante ibi morantur fratres, aut quia propter necessarios penuriam operum eos in congregationibus vel questibus inhoneste contra regulae puritatem et usum Ordinis generalem excedere aut propter consuetudinem inhonestam et importabilem

704. Ubertino and the *Serena Conscientia* say that the brothers should have recourse, etc., when they are prevented from wearing worthless clothing and living an austere life as the Rule demands, or when places have legacies or annual rents or quest for money, or embark on inordinate and prohibited questing for other things, or where there is the danger of the annoying companionship of those who do not observe the Rule and prevent others from doing so.<sup>103</sup>

Let the ministers receive them with kindness and charity. Let them be as friendly towards them as would become servants of the brothers. Saint Bonaventure says that in such circumstances the superiors [24r] should not utter an arrogant word to the subjects and refrain from anything that might display a show of power over them.<sup>104</sup> The fathers of the Order say that in these circumstances the subjects may instruct, constrain and stop the superiors if they act differently since they must cater for regular observance.<sup>105</sup>

Thus good brothers who are zealous for observance of the Rule are given great freedom to put into practice and carry out their good resolution to observe it. Because this holy freedom had been hindered, our Lord Jesus Christ and our father Saint Francis provided the holy reform of the Capuchins for their faithful servants.<sup>106</sup>

*Benedictio, claritas et sapientia, et gratiarum actio, honor, virtus et fortitudo Deo nostro in saecula saeculorum. Amen.*<sup>107</sup>

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fratribus praesentibus redibus et infirmis huiusmodi causas et similiter...” *Spec. Minorum*, pars III, f. 15ra; *Serena Conscientia: ibid.*, f. 148rb).

<sup>103</sup> “Quorum dictum allegat Ubertinus addends quod non postest Regula spiritualiter observari videlicet ad literam, ut puta si non permittant fratres vestimentis vilibus uti, aut austere vivere sicut regula praecipit, aut quia locus habet annuos redditus et proventus, aut quaestus pecuniae aut aliarum rerum inordinatos et prohibitos; vel propter periculum pestiferae societatis fratrum aliquorum Regulas observantiam impediendum...” (*Serena Conscientia: ibid.*, f. 149vb). In the booklets of the Rule nine cases are listed in a summary manner, “in which the friar Minor may and should have recourse to his ministers” (Cf. *n. 1609*).

<sup>104</sup> Saint Bonaventure, *Expositio*: “ne facot aut verbo praetendant fastum qui possit repellere subditos a fiducia ad ministros in necessitatibus recurrendi” (Op. *Omnia* VIII, 432, n. 5; *Spec. Minorum*, f. 31ra).

<sup>105</sup> “Nihil plus praecipit regula nec intendit quam quod de eius plena observantia praelati subditis servant. Et de hoc est quod subditur; Nam ita debet esse. Et hoc possunt subditi praelatos cogere vel repellere si contrarium faciunt, quod eis servant de onservantia regulari” (*Expositio ... a sanctis Patribus Ordinis*, in *Spec. Minorum* cit., f. 69vb).

<sup>106</sup> This is the reason for the Capuchin reform.

<sup>107</sup> Apoc. 7, 12.