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The Ordinary Processes  
in Cause of  
Beatification and Canonization  
A HISTORICAL SYNOPSIS AND A COMMENTARY

BY

DAMIAN JOSEPH BLAHER, O.F.M., A.B., J.C.L.  
Priest of the Province of the Most Holy Name of Jesus

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I'PRINCIPIBVS EMINENTISSIMIS  
CAROLO CARDINALI SALOTTI  
SACRORVM RITVVM CONGREGATIONIS  
PRAEFECTO OLIM PRAECLARO  
TOTIVSQVE MINORVM FRATRVM ORDINIS  
PROTECTORI INCLYTO  
IAMVERO IN CHRISTI PACE OVIESCENTI

EIVSDEMQVE SVCCESSORI

TANTI GEMINIQUE MVNERIS SERAPHICI  
CLEMENTI CARDINALI MICARA  
CHRISTIFIDELIVM SANCTITVDINI COMPROBANDAE  
PRAEPOSITO  
FAMILIAEQVE PAVPERCVLI TVTORI PATERNO  
SVMMA PIETATE FRATERCVLVVS AVCTOR  
HOC OPVSCVLVM  
D. D. D.

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## Fore word

In the niches between the colossal columns supporting the great arches of the Vatican Basilica of Saint Peter stand the heroic figures of the sainted Founders of religious Orders. The most recent addition to this heavenly band of holy men and women caused the hearts of American Catholics from coast to coast to swell with legitimate pride, and not without reason. At last, for all the world to see, an American Citizen Saint had taken her place among the great of other times and of other lands.

The recent canonization of Saint Frances Xavier Cabrini and the subsequent momentous unveiling of her statue in the Vatican Basilica were indeed a revelation to those who wrongly supposed that heroic sanctity was the sole prerogative of other times and other places. Here was a woman who had lived and worked for twenty years in modern America, who had fervently and actively labored for the cause of the Gospel in many cities throughout the length and breadth of our land, a woman to whom the sidewalks of New York were as familiar a sight as the iron lace grille work of New Orleans, a woman who had crossed and recrossed the fruited plains of America, who had contemplated the snow-capped majesty of her mountains, who had lived and labored for God in such great cities as Chicago, Denver and Seattle. Indeed it was in Seattle in 1909 that Frances Cabrini became a citizen of that country which she had come to know so well and to love so fondly. She had become a part of the American scene; she had practiced heroic virtue, proving beyond all shadow of doubt that there is sanctity in America.

That there is sanctity in America should not come as a surprise to anyone; the Church has flourished in America for many many years, and one of the lustrous marks of her divine origin is her ability to produce saints. The number of those who have died for the faith or lived lives of heroic sanctity in America is truly remarkable. To be convinced of this one need but read the delightful little volume entitled "Sanctity in America" which was first published a few years ago by His Excellency, The Most Reverend Amleto G. Cicognani, Apostolic Delegate to the United

States. This volume was compiled, as the distinguished author says, "in the desire to show that, in the United States, 'floribus eius nec rosae nec lilia desunt'—'neither roses nor lilies are wanting among its flowers'."

Since there is sanctity in America, the people of America may with sanguine spirit consider the recent canonization of a modern American citizen as a foretoken, an auspicious foretoken one may say, of things that are to come. If this be so, and who can doubt it, one may expect that as time goes on more and more beatification and canonization causes will be set in motion by the bishops of America.

It was with this thought in mind that the present work was composed. It is a well known fact that the Church does not proceed to beatify or canonize a Servant of God until long and careful investigations have been made; the investigations are of the most searching character, and it has properly been said "that the history of secular jurisprudence can show us nothing approaching the extreme circumspection observed in these investigations." The preliminary steps in these causes are conducted in judicial form by the local ordinary with the assistance of others. The norms to be followed are to be found in the Code of Canon Law; the present work is meant to be an explanation of those norms and, as it were, a manual for those who are privileged to play some part in the handling of a beatification and canonization cause before the tribunal of the local ordinary. It is the first time that an attempt has been made to present the pertinent material in English, and therefore it seemed advisable for the sake of completeness not to omit points which may sometimes appear to be of only minor importance. In keeping with the purpose of the work, emphasis has been placed on the practical rather than on the theoretical, although the latter has not been entirely neglected; in this connection one may mention the brief historical synopsis which is included with a view to providing a proper background and perspective for the canonical commentary. It is the hope of the author that his efforts may help in some small way to promote causes of beatification and canonization in America, and thus may add to the "powerful spiritual currents" of which the late Pope Pius XI so frequently spoke when discussing the American causes.

### *Poreword*

It can be said without the slightest hesitation that the present work could not have been prepared without the help of others. If it is of any value at all, a large share of the credit should go to those who in one way or another made it possible. The writer is deeply grateful to all those who by their constant prayers, inspiring encouragement, unfailing support and wise advice contributed to the completion of this work; the fact that they cannot all be publicly thanked here by name is no indication that the author has forgotten the part they played, or that he is in the least unmindful of the debt of gratitude which is owed to them.

The writer takes this occasion to give public expression of his indebtedness to his religious superiors for giving him the privilege of advanced study in Canon Law, as well as to all the members of the Faculty of the School of Canon Law for making that study both profitable and pleasant.



## Part I—Historical Synopsis

### CHAPTER I

#### HISTORICAL ANTECEDENTS

##### Article I. Early Procedure

Although the present day legal processes by which the reputation for sanctity, virtues and miracles or the martyrdom of a Servant of God are examined are of relatively late origin, their roots are to be found in antiquity.

The veneration of the martyrs in the early Church owed its beginning to the spontaneous devotion of the Christian people.<sup>1</sup> Guided by a natural instinct they honored and venerated those who had gone before them bearing the glorious palm of martyrdom.<sup>2</sup>

<sup>1</sup> Kuttner, "La Réserve Papale du Droit de Canonisation,"—*Revue Historique de Droit Français et Étranger*, 2nd series, XVII (1938), 173 (hereafter cited as "La Réserve Papale"). For a brief outline of the history of beatification and canonization see most of the standard authors; cf. especially Wernz, *Ins Decretalium* (2. ed., 6 vols., Romae et Prati, 1906-1913), III, par. 369 ff; Hinschius, *Das Kirchenrecht der Katholiken und Protestanten in Deutschland* (6 vols., Berlin, 1869-1897), Vols. I-IV, *System des katholischen Kirchenrechts* (Berlin, 1869-1888), IV, 239 ff (hereafter cited *Kirchenrecht*); Coronata, *Institutiones iuris Canonici* (Vols. I, II, 2. ed., 1939; Vols. III, IV, V, 1933-1936, Taurini: Marietti), III, 444 (hereafter cited *Institutiones*); Vermeersch-Creusen, *Epitome iuris Canonici* (5. ed., 3 vols., Mechliniae-Romae: H. Dessain, 1933-1936), III, 162-163 (hereafter cited *Epitome*); Macken, *The Canonisation of Saints* (Dublin and New York: Benziger Bros., 1909), pp. 11-33.

<sup>2</sup> Saint Augustine was one of the first to point out the nature of this veneration. "Colimus ergo martyres eo cultu dilectionis et societatis, quo et in hac vita coluntur sancti homines Dei, quorum cor ad talem pro evangelica veritate passionem paratum esse sentimus; sed illos tanto devotius, quanto securius post certamina superata, quanto etiam fidentiore laude praedicamus iam in vita feliciore victores quam in ista adhuc usque pugnantes. At illo cultu, quae Graece *latría* dicitur, latine uno verbo dici non potest, cum sit quaedam proprie divinitati debita servitus, nec colimus, nec colendum docemus, nisi unum Deum."—*Contra Faustum*, lib. 20, cap.

Spontaneous though this devotion was, it was not indiscriminate.<sup>3</sup> It must be remembered that beatification and canonization are rooted in the liturgy; they are concerned essentially with public cult or worship, and consequently the right and duty of the bishop, and *a fortiori* of the Pope, to intervene could never be questioned. Beatification or canonization and the resultant public cult could never be legitimate without official ecclesiastical approval or sanction of some kind, since it was that very approval or sanction that gave it its legitimate character; anything else would be an abuse. Thus, from the very beginning some intervention of authority was necessary for a valid and licit beatification or canonization.<sup>4</sup> The early cult of the martyrs, for the most part local in character, was regulated by the bishop of the diocese. He it was who examined the facts in the case, he it was who passed judgment on the legitimacy of the veneration.<sup>5</sup> Some more or less detailed examination on the part of the bishop was ordinarily necessary to distinguish martyrs for the true faith from fanatics

21.—*Corpus Scriptorum Ecclesiasticorum Latinorum, Editum Consilio et Imperio Academiae Litterarum Caesareae Eindobonensis* (71 vols., Vindobonae et Lipsiae: Geroldi Filium, 1866-), XXV, pars I, p. 562 (hereafter cited as *CSEL*). Cf. also Migne, *Patrologiae Cursus Completus, Series Latina* (221 vols., Parisiis, 1878-1890), XLII, 384 (hereafter cited as *MPL*).

3 M. Toynbee, *Saint Louis of Toulouse and the Process of Canonization in the Fourteenth Century*, British Society of Franciscan Studies, Vol. XV (Manchester: Manchester University Press, 1929), p. 134 (hereafter cited as *Saint Louis of Toulouse*); Wernz, *Ius Decretalium*, III, par. 369; Benedictus XIV (Prosper Lambertini), *De Servorum Dei Beatificatione et Beatorum Canonizatione* (2. ed., 4 vols., Patavii, 1743), I, 3 (hereafter cited as *De Beatificatione*).

4 The present day distinction between the terms *beatification* and *canonization* was not known in earlier times. For an interesting discussion concerning the use and meaning of these two terms see Kuttner, "La Réserve Papale", p. 175. Cf. also Benedictus XIV, *De Beatificatione*, I, 6, 9 and I, 39, 2-3; Wernz, *Ius Decretalium*, III, par. 370; Hertling, "Materiali per la storia del processo di Canonizzazione",—*Cregorianum*, XVI (1935), 180 (this article will hereafter be cited as "Materiali per la storia"); Kieda, "Infallibility of the Pope in His Decree of Canonization"—*The Jurist*, VI (1946), 402 (hereafter cited as "Infallibility").

5 Benedictus XIV, *De Beatificatione*, I, 2-3; Wernz, *Ius Decretalium*, III, par. 369; Matthaeucci, *Practica Theologo-Canonica ad Causas Beatificationum et Canonizationum Pertractandas* (Venetiis, 1732), tit. I, Cap. I, N. 1.

and imposters. In this regard miracles were of great assistance to the bishop in forming his opinion. Miracles have always been and always will be considered as an indication of divine sanction and a guiding norm, even for the Pope; they are, as it were, the finger of God. It was necessary, however, to show great caution in accepting miracles, for the true had to be separated from the false; this fact presupposed some kind of examination.

In the fifth century episcopal and synodal intervention in these matters became more and more frequent. This was no doubt occasioned by the growing cult of confessors which had arisen in the previous century.<sup>6</sup> It was, indeed, generally more difficult to prove sanctity of life than it was to prove the simple fact of martyrdom. The causes of confessors, of their very nature, required more frequent intervention and more detailed examination on the part of ecclesiastical authority; of necessity the demanded proofs would be fuller and more elaborate. Great care had to be exercised since there was always present some danger of partiality on the part of loving friends and spiritual children towards their spiritual shepherds (*pastores animarum*'), out of gratitude; towards their neighbors, out of local pride. By 813 a council at Mainz forbade *translation*<sup>8</sup> to an altar of worship "*sine consilio*

<sup>6</sup> Kuttner, "La Réserve Papale", p. 173.

<sup>7</sup> Benedictus XII<sup>3</sup>, *De Beatiificatione*, I, 5, 3-4; Wernz, *Ius Decretalium*, III, par. 370. Among the first of the confessors was Martin of Tours (ca. 316-397), whose holy life, prudence, patience, spirituality and accomplishments were easily equivalent to martyrdom.

<sup>8</sup> The words *translation* and *canonisation* were often employed as synonyms in early times. Cf. Herding, "Materiali per la storia", p. 173; also note the following examples cited by Kuttner, "La Réserve Papale", p. 174: the chronicler of the canonization of Saint Gothard by Innocent II in 1131 promised to recount *quo ordine translatio praedicti confessoris nostri facta fuerit* (*Mon. Germ., Script.*, XII, 639); the chroniclers of the thirteenth century used the expression *canonizare corpus* when speaking of the translations of Saint Ladislaus the King (1192) and Saint Peter of Trevis (1215)—*Acta Sanctorum* (Editio Novissima, curante Joanne Carnandet, 67 vols., Vols. I-LXIV, Parisiis, 1863-1887; Vols. LXV-LXVII, Bruxellis, 1894-1910), lxxii tom. VII, 287, and Aug.—VI, 645. This work will hereafter be cited as AA SS. The decretist Huguccio (+ 1210) also used the term *corpus canonizatum*,—cf. Kuttner, art. cit. p. 174, note and appendix



*principis vel episcoporum sanctaeque synodi licentia.*"\* This must not, however, lead one to infer that intervention on the part of ecclesiastical authority was not necessary before that time. Without at least episcopal sanction the public cult, could hardly be looked upon as official or legitimate.

Precisely what process was followed in the early days of episcopal inquiry is not known, since the sources for those times are scant and often non-contemporary. Suffice it to say that some kind of an examination was conducted before judgment was passed. It is a universally observed fact that some persons are more precise than others in their actions; some when asked to render a decision proceed more cautiously than others. Realizing these differences that exist between human beings, one may legitimately surmise that in the early days the extent and scope of the examination conducted prior to raising a Servant of God to the honors of the altar were often determined by the character of the ecclesiastical superior whose duty it was to render the decision.

Then, again, the circumstances in each individual case could have an important bearing on the nature of the examination to be conducted; sometimes the gathering and weighing of evidence was relatively simple, at other times most difficult.

With the introduction of the monastic rules the task of the bishop was often made easier. The rules gave the ideal norm for the monastic life; it was simple, therefore, if the Servant of God had been a monk, to measure his sanctity by his observance of his holy rule; the rule was the yardstick and measure of sanctity for him. It would, however, be erroneous to suppose that there were any general laws governing the manner of procedure in early times. This is plainly indicated by the absence of any such laws

9 Can. 51—*Monumenta Germaniae Historica*, Legum Sectio III, *Concilia*, Tom. II, Pars II (ed. A. Werminghoff, Hannoverae, 1908), p. 272; Kuttner, "La Réserve Papale", p. 174: for other examples of similar regulations see Benedictus XIV, *De Beatificatione*, I, 6, 3; Wernz, *Ius Decretalium*, III, par. 370, note 50; Hinschius, *Kirchenrecht*, IV, 242, note 1.

10 In the fourth century Optatus of Mileve (†ca. 387) censured a certain woman for venerating the bones of a martyr not yet vindicated, i. e. approved.—*De Schismate Donatistarum adversus Parmenianum*, lib. I, cap. XVI—*CSEL*, XXVI, 18; *MPL*, XI, 916-917; Benedictus XIV, *De Beatificatione*, I, 2, 13.

at a much later date. It would have been the tendency for such laws, if they existed at all, to develop rather than to fall into desuetude; their later absence is a clear indication of their previous non-existence.<sup>11</sup>

The examination conducted by the bishop and the legal process of a later age are not as widely separated as they could appear to be. They were both directed toward the same end and object. Both were concerned with the facts of martyrdom and miracles, virtues and sanctity of the proposed Servant of God. Both ultimately had in view a decision concerning the public cult. For this reason one can say that the roots of the judicial processes are to be found in the episcopal and synodal examinations of an earlier day.

## ARTICLE II. PAPAL CANONIZATIONS

In the year 993 there took place a momentous event which in time was to influence the whole question of beatification and canonization. Early in that year Pope John XV (985-996) convened a council at the Lateran.<sup>12</sup> Among the assembled Fathers was Luitalfus, Bishop of Augsburg (973-996). Luitalfus, having asked leave of the assembled Fathers, read an account of the life and miracles of Ulrich (Udalricus), his predecessor in the See of Augsburg (923-973). He then petitioned the Pope to enroll Ulrich among the Saints. This life and list of miracles (*libellus de zdta et miraculis*) was favorably received, for before Luitalfus

<sup>11</sup> Particularly noteworthy is the absence of any such legislation in the *Decretum Gratiani*; if such legislation had existed in his time, Gratian would have had ample opportunity to treat of it either when dealing with processes or when treating of canonization. The only reference in Gratian is the above mentioned canon of the Council of Mainz (813) which forbade translation "*sine consilio principis*, etc." (c. 37, D. I. *de cons.*) Commenting on this canon, the decretists made no mention of any special laws governing procedure.

<sup>12</sup> Jaffé, *Regesta Pontificum Romanorum ab condita Ecclesia ad annum post Christum MCXCI'III* (2. ed., correctam at auctam auspiciis Guilehni Wattenbach curaverunt F. Kaltenbrunner (ad annum 590), P. Ewald (anno 590-882), S. Löwenfeld (anno 882-1198), Lipsiae, 1885-1888), n. 3848 (hereafter cited as JK, JE, JL. Cf. also Baronius, *Annales Ecclesiastici* (34 vols., Lucae, 1738-1756), anno 993, η. I.

had departed for the north, Ulrich had become officially acknowledged a Saint.<sup>13</sup>

At that time this act was considered less a juridical innovation than it actually was; it was considered rather only as a special ceremony.<sup>14</sup> It will be recalled that it was an age when, as an aftermath of Iconoclasm, everything liturgical was being checked with what was done at Rome. The action of the Lateran Council of 993 did not put an end to episcopal canonizations; it elid, however, set a precedent, so that petitions for papal canonizations became more and more frequent from that time.

The procedure followed by Luitalfus in presenting a life and list of miracles to a council was not entirely new. There is record of an official life having been presented to a council more than a century and a quarter before.<sup>15</sup> The act of Luitalfus did, however, set a norm for those who wished to petition a papal canonization. It was only logical that one who sought a canonization from the Pope would look to the procedure in this case and then proceed in like manner. Thus it actually happened in papal canonizations; it was the procedure for the next hundred years to present a written life, a list of the miracles and a petition for canonization.

During the hundred years following the canonization of Saint Ulrich other Saints were canonized by the Popes, both in and out of councils. Toynbee<sup>16</sup> and Herding<sup>17</sup> are not correct when they say that the first papal extra-synodal canonization was made by Pope Eugene III (1145-1153).<sup>18</sup> Actually this happened much earlier as examples cited by Benedict XIV (1740-1758)<sup>19</sup> and documents given by Fontanini<sup>20</sup> will show. During that period

<sup>13</sup> Bulla *Cum conventus*,—JL, n. 3848; Fontanini, *Codex Constitutionum quas Summi Pontifices ediderunt in Solemni Canonisatione Sanctorum* (Romae, 1729), η. I. This work will hereafter be cited as *Codex Constitutionum*.

<sup>14</sup> Kuttner, "La Réserve Papale", p. 179.

<sup>15</sup> This was the life of Saint Othmar (Othmarus, + 759) by Walafrid Strabo. Cf. Iso, *De Miraculis S. Othmari*, I, 2—*MPL*, CXXI, 782.

<sup>16</sup> *Saint Louis of Toulouse*, p. 138.

<sup>17</sup> "Materiali per la storia", p. 193.

<sup>18</sup> Cf. JL, n. 8882.

<sup>19</sup> *De Beatificatione*, I, 10, 1-2.

<sup>20</sup> *Codex Constitutionum*, nn. II, VI, XIX. The canonization of Saint Theobald (ca. 1066-1073) is attributed to Alexander III (1159-1181) in Fontanini, *op. cit.*, η. XIX; it belongs rather to Alexander II (1061-1073).

### *Historical Antecedents*

the favorite method of fostering devotion, at least private devotion, was to write and preach about the wondrous deeds of the Servant of God, so that people in all kinds of distress would call upon their saintly favorites.

Hardly had Pope Urban II (1088-1099) ascended the papal throne when a tremendously important change was introduced in the then existing process of canonization. This change was to set in motion a parade of events which ultimately led to the employment of the judicial form in beatification and canonization processes, and formed the basis on which the legal processes, medieval and modern, were built. It is, therefore, to the time and the acts of Urban II, the great crusading Pope, that one must look to find the beginning of a trend big with judicial implications.

#### Article III. Necessity of Witnesses

Under Pope Urban II (1088-1099) a new element was introduced into the procedure of papal canonizations. Urban had not long been Pope when he was approached by Bernard, Abbot of Quimperlé in Brittany, with a request for canonization. Bernard was intent on having his predecessor, Gurlocs (+ 1057), raised to the glories of the altar. In a private letter Pope Urban replied to Bernard's request: "Porro quod de beati Gurloësi celebratione . . . non eadem potuit facilitate concedi. Non enim Sanctorum quisque debet canonibus admisceri, nisi testes *adsint*, qui ejus visa miracula suis oculis attestentur, et plenariae synodi communi firmetur assensu."<sup>21</sup>

This letter of Pope Urban in which he refused to canonize any candidate for sainthood unless there were eyewitnesses who gave testimony concerning the miracles, can hardly be over-emphasized. The idea of living witnesses, it is true, was not new,<sup>22</sup> but the

In this regard *ci. JL*, n. 4756, *Multa praeclara: MPI*, CXLVI, 1413; *AA SS*, June—V, 596; Kuttner, "La Réserve Papale", p. 181, note 3.

<sup>21</sup> *JL*, n. 5732; *AA SS*, August—V, 274; cf. also Toynbee, *Saint Louis of Toulouse*, p. 137.

<sup>22</sup> There are other previous instances of oral testimony having been given in canonization causes, to say nothing of the fact that in the early centuries the testimony must generally have been oral. Notable among the early processes with oral testimony is that of *Saint Bathikiis* (+ 680)—*AA SS*, Jan.—III, 362; Hertling, "Materiali per la storia", p. 187; cf. also the cause

definite emphasis placed on it by Pope Urban, who refused to canonize, *nisi testes adsint*, marks the beginning of an entirely new trend. This was the first sign of an informative process exclusively concerned with the miracles.<sup>23</sup>

From that time onward canonization became more and more difficult, as even a cursory examination of representative causes will show. Indeed, these ever mounting difficulties were echoed in the bitter complaint of William of Malmesbury (c. 1095-1143), in which he rather sarcastically referred to those who insist upon more and more proofs.<sup>24</sup>

Pope Urban II had previously insisted upon this closer examination in causes of canonization. When the Archbishop of Trani recited the written miracles of Nicholas Peregrinus of Trani (1075-1094) at a council held at the Lateran,<sup>25</sup> Urban committed the case to the Archbishop for further examination.<sup>26</sup>

Thirty years or so after the death of Pope Urban II in 1099 the requirement of witnesses seemed to be the ordinary thing in canonization causes. The procedure in the cause of Godehard (4-1038), who was canonized in 1131 by Pope Innocent II (1130-1143),<sup>27</sup> gives an indication of the conditions existing at that time.

of Wiborada (4-925), in which the Abbot conducted an informative process in the year 927 with oral testimony—AA SS, May—I, 296; Hertling, *art. cit.* p. 192.

<sup>23</sup> Hertling, "Materiali per la storia", p. 188.

<sup>24</sup> In his life of Wulstan (-J- 1095) he stated: "Et profecto, si facilitas antiquorum hominum adiuvaret, iamdudum elatus in altum Sanctus praedicaretur. Sed nostrorum incredulitas, quae se cautelae umbraculo exornat, non vult miraculis fidem adhibere, etsi conspiciat oculo, etsi palpet digito." —*Life of Saint Wulstan*—AA SS, Jan.—II, 609. A hundred years after the time of William of Malmesbury, the cardinals who were appointed to report on the miracles of Edmund of Abingdon (1180-1242) said: "Quin immo sanctorum patrum merita antiquorum si ita fuissent examinatione seu purgatione decocta, vix eorum quispiam ad canonizationis apicem pervenisset." —Martène et Durand, *Thesaurus Novus Anecdotorum*, II, 1851 (1717), as quoted in Toynbee, *Saint Louis of Toulouse*, p. 143.

<sup>25</sup> Urban II held two councils at the Lateran, one in 1098 and the other the following year; this could have been at either of these. Nicholas had died four or five years earlier.—AA SS, June—I, 244.

<sup>26</sup> . . . ut, quod ei [i. e. archiepiscopo], revelante Domino, visum fuerit, maturiori deliberatione constituat . . . —Bulla, *Cum, largiente Domino*, —JL, n. 5677; Fontanini, *Codex Constitutionum*, η. V.

<sup>27</sup> JL, n. 7496.

Bernard, Bishop of Hildesheim (1130-1153), had approached Pope Innocent and the Curia, recited the life of Godehard and petitioned his canonization. Since it was the custom of the Roman Church to canonize in largely attended councils, the Pope promised to canonize Godehard at the coming council at Rheims (1131). Bernard attended the council accompanied by Norbert, the Metropolitan of Magdeburg (1126-1134), who was very prominent in ecclesiastical circles at that time. Bernard again approached the Pope and the cardinals; at the session on the following day the Pope himself brought up the question of the canonization. During the discussion one of the bishops indicated the order that was to be followed, saying that if the alleged facts were proved by *witnesses and oaths*, they could proceed to the canonization. The Pope interrupted him with the information that these things had already been proved when the first request was made, and thus there was no need for them to be confirmed again. When the Pope had pointed this out, all agreed and Godehard was canonized.<sup>28</sup>

It is to this period that the famous decretal *Audivimus* of Pope Alexander III belongs.<sup>29</sup> It dealt with the fact of the papal reservation of canonization rather than with the details of the procedure to be followed in the process itself.<sup>30</sup>

<sup>28</sup> AA SS, May I, 527-528. At the time of Godehard's canonization there was also mention of a canonical "censure"—"Sed cum *canonica censura*", propter illusiones daemonum, quae frequenter in Ecclesia Dei in talibus contigerunt, statutum sit, ne quis sine Apostolica Auctoritate, et vita ipsius per viros acutiores approbata, canonizaretur,"—AA SS, May I, 527-528; Hertling, "Materiali per la storia", p. 192. It was, however, only the chronicler who spoke of this "*censura*", for actually no such law in the sense of a penalty existed. On this question cf. Kuttner, "La Réserve Papale", p. 190.

<sup>29</sup> C. I, X, *de reliquiis et veneratione sanctorum*, III, 45; JL, n. 13546.

<sup>30</sup> For a fuller treatment of the question of papal reservation of canonization see Kuttner, "La Réserve Papale", pp. 172-228; and especially his conclusions on p. 211. Kuttner contends that the reservation of the exclusive right of canonization to the Holy See is the result of a rather complicated historical development. He shows that the letter *Audivimus* of Pope Alexander II concerned a *particular case* of canonization; it was not until that letter was incorporated into the Decretal Collection of Pope Gregory IX that the exclusive right of canonization was expressly reserved to the Holy See. "Ainsi donc, à notre avis, contrairement à ce qu'on a enseigné jusqu'à présent, ce n'est pas Alexandre III, ce n'est que son

The distinguishing feature of this whole period was the ever increasing insistence on a more thorough examination. The emphasis was placed on the introduction of living witnesses. It was no longer sufficient to present a written life and a list of miracles in order to obtain a canonization. In fact, a written life seemed no longer necessary, for in the case of Saint Hugh of Grenoble (1053-1132) one finds that Pope Innocent II (1130-1143), in writing a letter to Guigo I, Prior of the Carthusians (1115-1137), told him to write a life and furnish a list of miracles of the Saint, since he had *already* canonized him at a council held at Pisa (1134).<sup>31</sup>

The process itself was becoming more and more complicated. That probably resulted, at least partially, from the fact that the requests for canonization were increasing.<sup>32</sup> The age was likewise an age in which the new types of religious life, more active externally, were beginning to blossom forth. There were new founders, preachers, teachers, so outstanding that they could not be ignored, yet they were severely criticized in some circles and praised in others. It had been relatively easy to check the life of a monk against his rule; it was not so easy in the case of those

huitième successeur, Gregoire IX, qui a expressément réservé au Saint-Siege le droit exclusif de canonisation."—Kuttner, "art. cit.", pp. 211-212. Kemp, on the other hand, modifies Kuttner's opinion with regard to the letter *Audivimus* of Alexander III; he says: "If our conclusions are correct we shall agree with Dr. Kuttner that the Pope had no intention of making a far-reaching change in the law, but we should maintain that his words are . . . an expression of what he believed to be the law, possibly unwritten and customary, but still the law about the papacy and canonization".—"Pope Alexander III and the Canonization of Saints,"—*Transactions of the Royal Historical Society*, 4th series, XXVII (1945), 13-28.

<sup>31</sup> JL, n. 7742, AA SS, April—I, 37; Bulla *Divinis respondentibus*,—Fontanini, *Codex Constitutionum*, η. VIII; MPL, CLXXIX, 256; Mansi, *Sacrorum Conciliorum Nova et Amplissima Collectio* (53 vols, in 60, Parisiis, 1901-1927), XXI, 418; Baronius, *Annales Ecclesiastici* (34 vols., [Vols. XX-XXXIV ab Odorico Raynaldo], Lucae, 1738-1756, an. 1134, η. II.

<sup>32</sup> When Pope Alexander III was in Paris in 1174, he was requested to canonize Bernard of Clairvaux (1091-1153), but he refused for the time being because he was deluged by so many requests for canonizations from the various provinces.—Bulla, *Contigit olim*—JL, n. 12328; Fontanini, *Codex Constitutionum*, η. XV, AA SS, Aug.—IV, 244; MPL, CLXXXV, 622; cf. also Herding, "Materiali per la storia", p. 189.

who were following a life of variegated outward activities. Often

enough they did not stay in one place, which fact only added to the difficulty of checking. Thus, it is not surprising that the method by which the information was collected concerning the life of a Servant of God was to become more and more complicated.

The period from Urban II (1088-1099) to the thirteenth century is the time to which the introduction of the witnesses belongs; yet it cannot be truly said that the clear-cut judicial form of the process existed in that period. The examinations were far from orderly, and besides were of a non-judicial character and form. The *articuli* and *interrogatoria* had not yet been introduced. The method of procedure differed from case to case, and the details in particular lacked uniformity. However, one can easily follow the general trend, and can readily see in what direction it was leading. It was to be left to the legal-minded Pontiffs of the thirteenth and fourteenth centuries to organize and systematize the procedure and to give it a definite judicial form.



## CHAPTER II

### THE PROCESS IN JUDICIAL FORM

#### Article I. Sworn Witnesses

With the thirteenth century begins the series of processes which are preserved in legal documentary form.<sup>1</sup> That many of these were written up *ex officio* and preserved as evidence was not due to mere chance. It was at that time that the processes began to be conducted as a lawsuit; the written *acta* were the work of the notaries, who were then and still are now important officials in all judicial procedure.

The medieval mind was quick to grasp the analogy between the processes in causes of canonization and in lawsuits. Indeed, the analogy was well drawn, for while the process in canonization causes was neither contentious nor criminal, it could quite profitably and naturally use all the substantial elementary features of a well organized judicial trial. That the canonization processes utilized judicial procedure resulted principally from two reasons. First there was the nature of the subject matter; the material and the proofs dealt with in these causes lent themselves admirably to a legal and judicial form of procedure. The second reason was one of coincidence; papal canonizations became more frequent at the very time that the judicial procedure itself was receiving great recognition and impetus from legal-minded Pontiffs.

It was in the classic age of the Decretals, during the pontificates of Alexander III (1159-1181), Innocent III (1198-1216), Honorius III (1216-1227), Gregory IX (1227-1241), and Innocent IV (1243-1254) that legal judicial processes were elaborated, and it was during that same period that the processes in canonization causes began to take on a judicial form. It is easy to recognize the connection between these two facts. The details of contemporary judicial procedure, ready-made subsidiary helps that they were, were gradually and regularly applied to canonization

<sup>1</sup> Toynbee, *Saint Louis of Toulouse*, p. 144.

procedure, so that by the fourteenth century the canonization process was similar to a highly organized judicial trial with all the legal forms.

Since late in the eleventh century, from the time of Pope Urban II, witnesses had been insisted upon in canonization processes, not necessarily as a legal part of the process but at least as a logical requisite for proof.<sup>2</sup> More than one hundred years later (1203), on the occasion of the canonization of Saint Wulstan

1095), the Bull of Pope Innocent III indicated the method for seeking the necessary evidence: "... non per testimonia tantum, sed *per testes* et famam vulgatam, et authenticam scripturam de virtute morum, et veritate signorum operibus videlicet, et miraculis, diligenter inquirerent veritatem. . . . Ipsi ergo cum ad Wigornienensem Ecclesiam accessissent, juxta mandatum Apobolicum processerunt: et qui [atque] pauca de multis miraculis ejus, *super quibus testes deposuere jurati*, et quorum testimonio tota civitas acclamabat."<sup>3</sup>

In 1218 Pope Honorius III, the successor of Innocent, commissioned Bishop William of Auxerre (-p 1231) and two Cistercian abbots to make the necessary examinations in the cause of William of Bourges (+ 1209).<sup>4</sup> These three were instructed to proceed "iuxta mandati nostri tenorem, *de illius conversatione ac vita, ac deinde miraculis* inquisitionem facientes per legitimos testes et omni exceptione majores, *adstrictos juramenti vinculo*. . . ." <sup>5</sup>\* In the Bull of Canonization of William of Eskill (-f- 1203), in 1224, there also was mention of sworn witnesses.<sup>6</sup>

In 1225 Pope Honorius had occasion to mention the manner in which the witnesses were to be examined in canonization processes. The Bishop of St. Pol de Léon and the Abbot of the

<sup>2</sup> See above. Chap. I, Art. I.

<sup>3</sup> Bulla *Cum secundum*—Potthast, *Regesta Pontificum Romanorum inde ab anno post Christum natum MCXCVIII ad annum MCCCIV* (2 vols., Berolini, 1874-1875), n. 1900 (hereafter cited Potthast). Cf. also Fontanini, *Codex Constitutionum*, η. XXX.

<sup>4</sup> Bulla *Etsi electi*—Potthast, n. 5803; Fontanini, *Codex Constitutionum*, η. XXXIII.

<sup>5</sup> Bulla *Etsi electi*—Potthast, n. 5803; Fontanini, *Codex Constitutionum*, η. XXXIII.

<sup>6</sup> *Sacrosancta Ecclesia*—Potthast, n. 7146; Fontanini, *Codex Constitutionum*, η. XXXVI.

Monastery of Saint Leo in the diocese of Quimper had sent him some sworn testimony concerning a proposed Servant of God. Although the testimony had been fortified by oaths, Honorius wrote to the Bishops of Quimper and Tréguler, commissioning them to take the testimony over again, since he feared that the witnesses had not been examined singly and with that diligence which was to be customarily employed in the examining of witnesses.<sup>7</sup> Approximately nine years later the dispositive part of this letter was incorporated into the Decretal Collection of Gregory IX by Saint Raymond of Penafort (1175-1275).<sup>8</sup> This is the only piece of procedural legislation in the Decretal Law which can be said to deal *ex professo* and directly with the canonization process. Other laws on procedure, as will be shown, also applied to canonization processes, but this is the only canon which makes precise mention of causes of canonization.

#### Article II. Life and Miracles

In the cause of William of Bourges (-1209) the three delegated commissioners conducted a twofold process, one on the life, the other on the miracles. They had been instructed to proceed in this manner by Pope Honorius III,<sup>9</sup> who expressly pointed out that piety of life and miracles after death were essential for the canonization of any Saint (" . . . opera pietatis in vita et miraculorum signa post mortem . . . ").<sup>10</sup> This process in the cause of William of Bourges is an early example of a

<sup>7</sup> C. 52, X, *de testibus et attestationibus*, II, 20, as restored from *Compilatio C* and found in Friedberg, *Corpus Iuris Canonici* (ed. Lipsiensis Secunda, 2 vols., Lipsiae: Ex Officina Bernhardi Tauchnitz, 1879-1881. Editio anastatice repetita, Lipsiae: Tauchnitz, 1928), II, 339.

<sup>8</sup> "Venerabili fratri nostro episcopo et capitulo Corisopitensi, ac universis abbatibus apud Cistercium in generali capitulo congregatis, . . . Discretionem vestram mandamus, quatenus testes, quos abbas et monachi S. Martini Cisterciensis ordinis super vita et miraculis pie memorie M. abbatis monasterii supradicti duxerint producendos, examinare sigillatim curetis cum ea diligentia, quae solet et debet in receptione testium adhiberi."—c. 52, X, *de testibus et attestationibus*, II, 20.

<sup>9</sup> ". . . iuxta mandati nostri tenorem, de illius conversatione ac vita, ac deinde miraculis inquisitionem facientes . . . —Bulla *Etsi electi*—Potthast, n. 5803; Fontanini, *Codex Constitutionum*, η. XXXIII.

<sup>10</sup> Bulla *Etsi electi*—Potthast, n. 5803; Fontanini, *Codex Constitutionum*, η. XXXIII.

process conducted separately on the virtues and the miracles by three delegates.<sup>11</sup>

The Decretal Law ruled that in canonization causes testimony was to be taken on the life and miracles (*de vita et miraculis*),<sup>12</sup> The glossator pointed out that it was not sufficient to consider only miracles; the life also had to be examined.<sup>13</sup> In our day it may seem strange that the glossator had to call attention to such an elementary fact, but it must be remembered that previous to the time of Innocent III and Honorius III the emphasis had been placed on the miracles more than on the life. From the time of

<sup>11</sup> Hertling ("Materiali per la storia", p. 190) is not entirely correct when he indicates that this is the *first* sign of a new emphasis, on the basis that prior to that time the miracles had been the principal object of the process: "X'ediamo spii per la prima volta il processo sopra le virtù nettamente distinto da quello sopra i iniracoli dopo la morte, e il primo pareggiato all'altro mentre finora i iniracoli erano stati l'oggetto principale dei processo." In 1199 Pope Innocent III, on the occasion of the canonization of Saint Homobonus (+ 1197), had determined very distinctly the necessary conditions for the canonization of St. Homobonus—Potthast, n. 573; Fontanini, *Codex Constitutionum*, η. XXVIII: "... duo tamen, virtus videlicet morum et virtus signorum, opera scii, pietatis in vita et miraculorum signa post mortem, ut quis reputatur sanctus in militanti ecclesia, requiruntur." (Italics added). Again in the decree of canonization of Saint Cunegunda (-f. 1039), virgin consort of Emperor Henry II (1002-1024), Innocent III stated: "... ad hoc tamen, ut ipse sanctus apud homines habeatur in ecclesia militante, duo sunt necessaria: virtus morum et virtus signorum, videl. merita et miracula, ut et haec et illa sibi invicem contestentur. Non enim aut merita sine miraculis, aut miracula sine meritis plene sufficiunt ad perhibendum inter homines testimonium sanctitatis. . ."—Potthast, n. 1000; Fontanini, *Codex Constitutionum*, η. XXIX. Cf. also the Decree of Canonization of Saint Wulstan in 1203—Potthast, n. 1900; Fontanini, *op. cit.* η. XXX. Concerning this whole question see Kuttner, "La Réserve Papale", pp. 207, 225. The canonist Bernard of Compostella (Antiquus) took the formula from the Decree of Canonization of Saint Cunegunda (Potthast, n. 1000) and inserted it as a decretal in his *Collectio Romana* under the title *De canonizatione sanctorum* (III, 30, c. un.); the decretalist Ambrosius reproduced a great part of it in his *Summa super Titulis* Decretalium under the title *De Sanctorum reliquiis venerandis*—Cf. Kuttner, "La Réserve Papale", p. 207, note 1. These texts are reproduced in the above-mentioned article of Kuttner, appendix 6, pp. 224-228.

<sup>12</sup> C. 52, X, *de testibus et attestationibus*, II, 20.

<sup>13</sup> *Glossa ordinaria* ad c. 52, X, *de testibus et attestationibus*, II, 20, s. v. *vita et miraculis*.

Gregory IX, however, great emphasis was placed on the hfc. This was probably occasioned in some degree by the truly catholic lives of Saint Francis of Assisi (1181-1226), of his conn «anion Saint Clare (ca. 1193-1253), and Saint Anthony of Padua (119?-1231).

Saint Francis was canonized by Pope Gregory in 1228,<sup>14</sup> only two years after his death. In the Bull of Canonization<sup>15</sup> Gregory placed great emphasis on the holy life of Saint Francis, for the Lady Clare, Abbess of San Damiano, Gregory himself had great reverence and respect as is evidenced by his letter to her.<sup>16</sup> Pope Innocent IV would have canonized her on the day of her burial had not the cardinals present advised against such hasty procedure.<sup>17</sup> Saint Anthony of Padua was canonized less than a year after his death by Gregory IX. These canonizations showed the possibility of an exceptional brevity of time and of the avoidance of needless delay in establishing miracles and sanctity of life under the accompaniment of a vociferous appeal of petitioning clients.

In the same vein as had been done by the glossator mentioned above, Panormitanus (Nicholaus de Tudeschis), also known as Abbas Siculus (1386-1453), indicated that a good life without the subsequent established fact of miracles did not prove sufficient for canonization, nor did miracles without the established fact of a good life.<sup>18\*</sup> Previous to this Cardinal Hostiensis (Henricus de Segusio, + 1271) had maintained the same in his *Commentaria*.<sup>19</sup> Elaborating on the fact that a good life was necessary for canonization, Hostiensis specifically mentioned sense aspects of that life which called for investigation. Was the life one of

<sup>14</sup> Potthast, n. 8242.

<sup>15</sup> *Mira circa*,—Potthast, n. 8242.

<sup>16</sup> *Chronica XXIV Generalium Ministrorum Ordinis Fratrum Minorum—Analecta Franciscana* (Ad Claras Aquas [Quaracchi], 1885-), III (1897), 183.

<sup>17</sup> *Legenda Sanctae Clarae Virginis* (ed. per curam Francesco Pennacchi, Assisi. 1910), leg. 47.

<sup>18</sup> *Commentaria in Quinque Libros decretalium* (5 vols, in 7, Venetiis. 1588), ad c. 52, X, *de testibus et attestationibus*, II, 20, n. 1 (hereafter cited as *Commentaria*).

<sup>19</sup> *Commentaria in Quinque Decretalium Libros* (5 vols, in 3, Venetiis, 1581), ad c. 1, X, *de reliquiis et veneratione sanctorum*, III, 45, n. 6 (hereafter cited as *Commentaria*).

many labors, vigorous acts and chaste morals? What of simplicity and humility? Did the Servant of God suffer persecutions during this life; were they suffered out of charity.<sup>20</sup> This more complete examination was necessary only in the causes of confessors: when there was question of a martyr it was sufficient to inquire about the miracles and the reason why he suffered death.<sup>21</sup>

The miracles had to be approved by the Church as facts established through legitimate witnesses.<sup>22</sup> Not only the miracles before death but also those after death had to be examined.<sup>22</sup> And this for a good reason, for the miracles in evidence before death could be simply *gratiae gratis datae*; they did not necessarily furnish proof of sanctity; at most they furnished evidence of faith.

Before the fact of a miracle could prove acceptable in a process of canonization four things were necessary:<sup>24</sup> 1) the miracle had to come from God; 2) it had to transcend the powers of nature; 3) it had to be accomplished in view of the merit of the one who performed it, and not *ex virtute verborum*, as, for instance, in the case of the Holy Eucharist; and 4) it had to be performed as an act corroborative of the faith (*ad corroboracionem fidei*).

The witnesses in causes of canonization had to be examined singly and secretly;<sup>25</sup> this was necessary for validity.<sup>26</sup> It was felt that if the witnesses were not examined singly one could

<sup>20</sup> *Commentaria*, ad c. 52, X, *de testibus et attestationibus*, II, 20, n. 2; cf. also c. 5, D. LXI; c. 3, X, *de presumptionibus*, II, 23; c. 36, C. VII, q. 1; *Glossa ordinaria* ad c. 52, X, *de testibus et attestationibus*, II, 20, s. v. *diligentia*.

<sup>21</sup> Hostiensis, *Summa Aurea* (Venetiis, 1580), ad c. 52, X, *de testibus et attestationibus*, II, 20, n. 3.

<sup>22</sup> *Glossa ordinaria*, ad c. 1, X, *de reliquiis et veneratione sanctorum*, III, 45, s. v. *miracula*; *Glossa ordinaria* ad c. 2, X, *de reliquiis et veneratione sanctorum*, III, 45, s. v. *auctoritate*.

<sup>23</sup> Hostiensis, *Commentaria*, ad c. 52, X, *de testibus et attestationibus* II, 20, n. 2.

<sup>24</sup> Hostiensis, *loc. cit.*

<sup>25</sup> C. 52, X, *de testibus et attestationibus*, II, 20

<sup>26</sup> panormitanuSj *Commentaria*, ad c. 52, X, *de testibus et attestationibus*, . n. JJ Panormitanus' *Commentaria*, ad c. 37, X, *de testibus et attestationibus*, II, 30, n. 5; *Glossa ordinaria* ad c. 37, X, *re testibus et attestationibus*, II, 20, s. v. *procures*.

influence the other, and thus it would be difficult to determine whether or not they were giving false testimony.<sup>21</sup> The witness was also to be examined *de circumstantiis*.<sup>27</sup> In common processes a witness did not have to give the reason why he stated such and such a thing, unless he was asked by the inquisitor.<sup>29</sup> However, in causes of canonization, and especially when the question of miracles was dealt with, the witness had to offer this information even if he was not asked to do so; otherwise the testimony was of no value.<sup>30</sup>

In the thirteenth century, in order to facilitate the examination of the witnesses, the *articuli* and the *interrogatoria* were introduced into canonization processes.<sup>31</sup> At that time they were in use in canonical judicial procedure, having originally been borrowed from Germanic usage and custom.<sup>32</sup> Hostiensis made mention of these when he outlined the complete procedure to be followed in canonizations.<sup>33</sup>

In the thirteenth century a formula for the interrogatories concerning miracles must have existed, for an identical wording is

<sup>27</sup> *Glossa ordinaria* ad c. 52, X, *de testibus et attestationibus*, II, 20, s. v. sigillatim; cf. also reason given by Ioannes Andreae, In sex Decretalium Libros *Novella Commentaria* (6 vols, in 5, Venetiis, 1581), ad cap. idem, n. 7 (hereafter cited *Novella Commentaria*).

<sup>28</sup> Hostiensis, *Commentaria*, ad c. 52, *de testibus et attestationibus*, II, 20, s. v. *de causis*.

<sup>29</sup> *Glossa ordinaria*, ad c. 37, X, *de testibus et attestationibus*, II, 20, s. v. *de causis*.

<sup>30</sup> Innocent IV in his commentary on c. 37, X, *de testibus et attestationibus*, II, 20, as quoted by Benedictus XIV, *De Beatificatione*, II, 49, 10.

<sup>31</sup> The *articuli* were brief statements of facts that were to be proved by the witnesses; the *interrogatoria* were a series of questions used to bring forth the proper information from the witnesses. Cf. *Glossa ordinaria*, ad c. 2, *de testibus et attestationibus*, II, 10, in VI<sup>o</sup>, s. v. *articuli, interrogatoria*: Benedictus XIV, *De Beatificatione*, II, 44, 2-3.

<sup>32</sup> Roberti, *De Processibus*, I (ed. altera, impressio tertia, Romae: Apud Custodiam Librariam Pontificii Institutii Utriusque Iuris, 1941), p. 5.

<sup>33</sup> “. . . iterum [Papa] scribit eisdem vel aliis, quod veritatem inquirent, primo, de fama; secundo, de vita; tertio, de miraculis exacte, diligenter, fideliter et prudenter secundum articulos et interrogatoria quae sub bulla sua transmittit.”—*Commentaria*, ad c. 1, X, *de reliquiis et veneratione sanctorum*, III, 45.

found in the remissorial letters<sup>34</sup> of Gregory IX,<sup>35</sup> Innocent IV<sup>36</sup> and Innocent V (1276).<sup>37</sup> The witnesses were to be asked:

“ . . . quomodo sciant, quo tempore, quo mense, quo die, quibus praesentibus, quo loco, ad cuius invocationem, et quibus verbis interpositis, et de nominibus illorum, circa quos miracula facta esse dicuntur, et si eos ante cognoscebant, et quot diebus ante viderint eos informos, et quanto tempore visi sunt sani, et de quo loco sunt oriundi, et interrogentur de omnibus circumstantiis diligenter, et circa singula capitula fiant, ut expedit, quaestiones praedictae, et sic series testimonii, et verba testium fideliter redigantur in scriptis.”<sup>38</sup>

The first evidence of the use of the *articuli* in canonization causes is to be found in the Cause of Saint Hildegarde (1098-1179) of the Order of Saint Benedict in 1233.<sup>39</sup> It may well be

34 Pena (1540-1612) in his *I'ta Sancti Raymundi de Pennafort.*, lib. 3, cap. 24, page 269, as quoted in Benedictus XIV, *de Beatificatione* II, 44, 3, explained the meaning of the term *remissorial letters*: “Remissoriam, sive Litteras Remissoriales Romana Curia vocat eas, per quas Iudices causarum aliis Iudicibus locorum, ubi probationes ad causam instituendam parari possunt, potestatem evocandi, recipiendique testes, aliasque probationum species tribuunt: quod, commoditatis, et plerumque necessitatis causa, legitimo iure introductum est; cum valde dispendiosum, et plerumque impossibile foret, testes e remotis Provinciis ad Iudicii locum evocare. Id cum in ceteris causis observari soleat, in causis etiam Canonizationis Sanctorum specialiter permissum est.”

35 In the cause of Ambrose of Massa (J-ca. 1236)—Potthast, n. 10891.

36 In the cause of John Buoni of Mantua (J- 1249)—AA SS, Oct.—IX, 772.

37 In the cause of Margaret of Hungary (+ 1270)—AA SS, Jan.—III, 515.

38 Innocent IV, Remissorial Letters in Cause of John Buoni of Mantua—Potthast, n. 14338; AA SS, Oct.—IX, 772; concerning the date of these letters see especially Wadding, *Annales Minorum* (Vols. I-XX, 3. ed.; Vols. XXI-XXV, 2. ed., Ad Claras Aquas [Quaracchi]: Collegium S. Bonaventurae, 1931-1934), II (*Afiologcticus*, 2), 504.

39 *Acta Inquisitionis de virtutibus et miraculis S. Hildegardis—Analecta Bollandiana* [32 vols., Bruxelles et Parisiis, 1882-), II, 118-129. Cf. also Hertling, “Materiali per la storia”, p. 193. In this case the writings of the Servant of God were also examined; this seems to be the first record of the process on writings (*processiculus diligentiarum*). The present day *processiculus diligentiarum* is so called because of the great diligence that is used in gathering the writings of a Servant of God.



that their introduction was due to some negligence on the part of the examiners appointed by Pope Gregory IX. He had appointed them to examine into the life and miracles of Hildegard; when they sent the results of their examinations, however, he was far from satisfied. The examination had not been conducted properly and according to his instructions. He therefore ordered that the testimony be taken again. The second examination is the one that is preserved; it is decidedly well-ordered, and it is very evident that the *articuli* were used. The witnesses were questioned '*de miraculis, de vita, de conversatione, de fama, de meritis, de signis, de circumstantiis*'<sup>40</sup>

When the Decretal Collection of Gregory IX was compiled by Saint Raymond of Penafort, the previously mentioned decretal *Audivimus* of Pope Alexander III was included.<sup>41</sup> Hostiensis in treating of this decretal in his commentary outlined a summary of the complete process of canonization which was followed in his day.<sup>42</sup> It would be difficult to overemphasize the value of this summary, for it has formed the basis of much subsequent writing on this decretal by other authors.<sup>43</sup> For that reason it is thought best to reproduce here the summary of the whole procedure as outlined by Hostiensis. He summed up the whole procedure of canonization in this manner:

1. Some properly identified persons of honorable character inform the Roman Pontiff of the case and petition the canonization.

2. If the supplications on the part of the petitioners continue, and if likewise the evidence for miracles has not ceased, the Pontiff consults with the cardinals and then appoints some bishops or other honorable and discreet persons of incorruptible character, co-patriots of the Servant of God, who will conduct a preliminary examination on the reputation for sanctity, on the devotion of the people, on the miracles and on other things (*de fama et devotione populi, de miraculis et aliis*). This examination is to be general

<sup>40</sup> *Acta Inquisitionis—Analecta Bollandiana*, II, 118-129.

<sup>41</sup> C. 1, X, *de reliquiis et veneratione sanctorum*, III, 45.

<sup>42</sup> Hostiensis, *Commentaria*, c. 1, X, *de reliquiis et veneratione sanctorum* III, 45.

<sup>43</sup> Benedictus XIV, *De Beatificatione*, I, p. Ivi.

and not detailed; they are to report on the reputation for sanctity (*fama*) as it exists, and not on the relative merits of that reputation.

3. After the report is made, if it seems that a further examination should be conducted, the Pope again consults with the cardinals, and then determines whether or not to continue with the cause.

4.If the inquisition is to continue, the Pontiff sends remissorial letters to the same examiners or to others, ordering them to make an examination *de fama, de vita, de miraculis*. This examination is to be made *exacte, diligenter, fideliter et prudenter* in line with the enclosed *articuli* and *interrogatoria*. These are transmitted under seal.

5. After the results have been submitted to the Pope, he commits them to some responsible persons in the Curia, in order that summaries may be made of them.

6.These summaries are examined by the Pope and the cardinals; the Pontiff then asks the advice of the cardinals concerning the canonization.

7. The Pope secretly informs the cardinals of his decision.

8.In public Consistory the Pontiff announces to the bishops and the archbishops who are present in Curia what has been done and what has been proved, not mentioning, however, what decision has been made.

9.He appoints a time and a place for the gathering of all the cardinals, prelates and people. On the appointed day all gather and amid great ceremony and splendor the Pope preaches and asks the people to pray that he will not be subject to error regarding the very important matter in hand.

10.On bended knee he recites the *Veni Sancte Spiritus* or some other appropriate hymn or antiphon.

11. The Pope rises from prayer and defines that the Servant of God is a Saint, and then he appoints the feast-day of the new Saint.

12.The *Te Deum* is sung and Mass is celebrated by the Pontiff in honor of the new Saint.

This whole procedure was not followed exactly in every detail in all cases. This was especially true in the causes of martyrs,

precisely because these latter causes presented fewer obstacles, and hence they could be dealt with more expeditiously.<sup>44</sup> Regularly, however, before the act of canonization was decreed, there had to exist evidence *de fide, et de excellentia vitae et de operatione miraculorum* of the Servant of God.<sup>45</sup>

From the viewpoint of procedure, one of the most highly developed causes conducted in the thirteenth century was that of John Buoni of Mantua (+ 1249). The ordinary process did not exist at that time.<sup>46</sup> The apostolic process in this cause was drawn up by authority of Pope Innocent IV in 1251; it was conducted between the years 1251 and 1254.<sup>47</sup> The process was conducted in this manner:

The Bishop of Modena, the Prior of Saint Mark's in Mantua and the Provost of the Church of Mantua were appointed as commissioners to conduct the examination. In the remissorial letters the Bishop of Modena received the faculty to conduct any session of the process, provided either one of the assessors was present. This latter faculty was actually used on more than one occasion. The first solemn act of the process was the reading of the papal letters. This took place in the presence of a large gathering of people in the courtyard of the Church of Saint Mark in Mantua. The letters which had been presented by a certain Guizo, who was postulator in the cause,<sup>48</sup> were opened by Albert, Bishop of Modena, and then were read to the gathering. The letters contained two parts: the first part was concerned with the appointment of the commission; the second part contained the formula of the *interrogatoria*. The following day the examination of the sworn witnesses began in the chapter house of Saint Mark's.

<sup>44</sup> Hostiensis, *Commentaria*, ad c. 1, X, *de reliquiis et veneratione sanctorum*, III, 45. The fourteenth century *Ordo Romanus XIR* of Cardinal Gaetani gives a very similar summary of the procedure to be followed. Cf. edition of this *Ordo* in Mabillon, *Museum Italicum* (2. ed., 2 vols., Lutetiae Parisiorum, 1724), II, 418 ff.

<sup>45</sup> Hostiensis, *loc. cit.*

<sup>46</sup> That is, the process drawn up by the authority of the local ordinary. This belongs to a later period.

<sup>47</sup> *Acta Processus*—AA SS, Oct.—IX, 771-886.

<sup>48</sup> There is at least one other cause in which it is noted in the **acts** that the postulator presented the remissorials; that was in the cause of Saint Louis of Toulouse (1274-1297) in the fourteenth century.—Toynbee, *Saint Louis of Toulouse*, p. 162.

The first process consisted of two parts: the first part treated *de vita, de conversatione et de miraculis ante mortem*; the second part was *de miraculis post mortem*. Both parts were conducted at Mantua from the 27th of July, 1251, to the 6th of August of the same year. A total of eighty-three witnesses was cited; seventeen of these were confrères of John; sixty-six were seculars.

The testimony was sent to Rome, but it seemed not to be sufficient. As a result, Magister Michael, Chaplain of Cardinal William de Fieschi, nephew of Pope Innocent IV. was appointed as commissioner to conduct a further examination. At the time additional *articuli* were incorporated. This second process was divided into four parts. The first part was conducted at Mantua from the end of November to the end of December 1253. The second part was held in January of the following year at Cesena. The remaining two portions were held at Mantua some time later. One hundred and forty-nine witnesses were interrogated: nineteen of these were confrères of John, and one hundred and thirty were seculars. Oaths were taken in the church, and the testimony was taken in some convenient place, such as the chapter house. This second process treated of the faith of the Servant of God, and additional information was sought on the miracles after death. A notary was present at all the sessions of the process.<sup>49</sup>

The procedure followed in the numerous causes of the thirteenth century did not agree in every detail. Thus one could conclude that there were no general laws governing the details of these processes. It is plain, however, from a perusal of the works of Hostiensis (+ 1271), of Ioannes Andreae (-R- 1348), and of Panormitanus (+ 1453), that the general laws which governed judicial procedure governed also the processes in causes of canonization. Although these authors did not assert this in so many words, their numerous cross references to various canons on common judicial procedure leave no doubt about it. Quite naturally the safest way to avoid unnecessary repetitions and needless complications in these causes was to follow the general rules of judicial procedure. Therefore, one is not surprised to note the employing of notaries and of procurators, the administering of oaths, the adhering to the rules of evidence, etc., in these processes. The rules of evidence naturally had equal application

and pertinence, if suitable adaptations were made, in all processes, whether they dealt with criminal charges, with contested claims, with impugned marriages, or with the question of canonization.

A guide for fourteenth century processes was the *Ordo Romanus XIR of Cardinal Gaetani*.<sup>50</sup> The work of the fourteenth century, particularly of the Avignon Popes, was to crystallize the procedure in canonization causes and to give it a more careful and orderly arrangement. The two most noteworthy advances between the fourteenth century and the early sixteenth century in the process of canonization were the introduction into these processes of the promoter of the faith (*promotor fidei*):<sup>51</sup> the so-called "devil's advocate", and the formal discrimination in the concepts of beatification and canonization.<sup>52</sup>

In order to complete the picture of the late medieval processes, it will help to consider briefly in the following article the functions and duties of some of those who took part in the processes.

### Article III. Those Who Took Part in the Process

#### a. delegated judges

After a petition for canonization had been made to the Pope, and after the preliminary examinations had been made, remissorial letters were sent to one or more persons instructing them to conduct the process concerning the life and miracles of the

<sup>50</sup> James Gaetani Stefaneschi, Cardinal Deacon of Saint George in Velabro. He died around the year 1343; he had been raised to the Cardinalate by Boniface VIII. Cf. Toynbee, *Saint Louis of Toulouse*, 150. A later edition of the *Ordo* with some interpolations is to be found in Mabillon, *Museum Italicum*, II, 418 ff. A comparison of the order to be followed in canonizations as found in the *Ordo* of Cardinal Gaetani with that given by Hostiensis leaves no doubt of the dependence of the former on the latter. In view of this obvious dependence, Toynbee seems to attach too much value to the *Ordo* of Cardinal Gaetani. It may be that Toynbee was unaware of the summary given by Hostiensis, since the sources used by her seem to be generally hagiographical rather than legal.

<sup>51</sup> First mention of this is in the cause of Saint Lawrence Justinian (1381-1455) under Pope Leo X (1513-1521). Cf. Benedictus XIV, *De Beatificatione*, I, 18, 8; Hertling, "Materiali per la storia", p. 194.

<sup>52</sup> This was by Pope Julius II (1503-1513) in the cause of Notker (4-912) in 1512—Hertling, "Materiali per la storia", p. 193.

Servant of God.<sup>53</sup> The persons to whom the remissorial letters were sent were known as the *indices reiissoriales* or delegated judges.<sup>54</sup> The *indices remissoriales* were delegates who possessed a mandate of instructions.<sup>55</sup><sup>56</sup>

In the thirteenth century the remissorial letters were usually sent to two bishops and one or more regulars; to one bishop and two priests, regular or secular; to three or more priests, regular or secular. The number three, however, was not rigid; sometimes the commission was given to more than three, sometimes to two or even one.<sup>50</sup> The variety in the appointments would seem to indicate the absence of any fixed rule determining the number and the character of the men to whom the letters of delegation were to be sent. This is quite easily explained by the fact that the judges were actually only delegates. Delegation naturally depended much on the will of the one delegating. This is especially true when, as in these cases, the one who delegated was the Pope himself. The chief difference between the thirteenth and the fourteenth century appointments seems to have centered in the relative ecclesiastical dignity of the persons delegated. The appointees in the fourteenth century processes seem often to have been men of a higher rank in the hierarchy of the Church. This was probably in accord with the generally growing practice of selecting a prelate or a dignitary of some sort to execute all important commissions.

<sup>53</sup> Hostiensis, *Commentaria*, ad c. 1, X, *de reliquiis et veneratione sanctorum*, III, 45, n. 5.

<sup>54</sup> Benedictus XIV, *De Beatificatione*, IV, Index, p. xviii.

<sup>55</sup> It will be recalled how Pope Urban II (1088-1099) had commissioned the Archbishop of Trani to conduct a further examination in the cause of Nicholas Peregrinus of Trani (1075-1094). The Archbishop of Trani can thus be considered as one of the forerunners of the later *indices remissoriales*. Cf. Bulla *Cum, largiente Domino*,—JL, n. 5677; Fontanini, *Codex Constitutionum*, η. V.

<sup>56</sup> *Prooemium ad Processus in Causa Canonizationis B. Joannis Buoni confectos*,—AA SS, Oct.—IX, 768-769; Benedictus XIV, *De Beatificatione*, II, 45, 11. In the inquiry concerning King Louis of France in 1278 four delegated judges were appointed to assist the Papal Legate. Cf. Toynbee, *Saint Louis of Toulouse*, p. 156. In the second process in the cause of John Buoni of Mantua only one delegated judge was appointed; this was Magister Michael, Chaplain to Cardinal William de Fieschi, who was a nephew of Pope Innocent IV. Cf. *Acta Processus*—AA SS, Oct.—IX, 814; also *Prooemium ad Processus*—AA SS, Oct.—IX, 769.

Often the remissorial letters when sent to three persons contained a clause which permitted any two of the three to proceed with any of the sessions if the third one was impeded.<sup>57</sup> In the cause of John Buoni of Mantua this faculty was actually used/\* The delegated judges examined the witnesses personally, for it was generally held that they could not ordinarily sub-delegate their authority.<sup>58</sup>

## B. NOTARIES

Present at all legal processes were the notaries; the office of notary was a canonical institution.<sup>60</sup> It was the duty of the notary to record in writing all the proceedings of the trial, and to give them an official character with his seal. The notary also administered the oath to the witnesses,<sup>61\*</sup> and he himself took the oath

<sup>57</sup> Cf. the general law on judges delegate, especially see c. 21, X, *de officio et potestate iudicis delegati*, I, 29; Benedictus XIV, *De Beatificatione*, II, 45, 11-12 and II, 46, 1-2.

<sup>58</sup> *Acta Processus*: . . . praeposito quidem Mantuae absente, justo impedimento detento. . . —AA SS, Oct.—IX, 797.

<sup>59</sup> Panormitanus, *Commentaria*, ad c. 52, X, *de testibus et attestationibus*, 20, n. 2; Ioannes Andreae, *Novella Commentaria*, ad eund., can.; Cf. also c. 3, X, *de officio et potestate iudicis delegati*, I, 29. The questions dealt with in canonization causes were of vast importance and of a specialized type, and hence the delegates were considered as having been appointed *intuitu personae*. There were, however, instances in which the judges delegate did sub-delegate their authority. In the cause of Saint Dominic the delegates sub-delegated other inquisitors to take testimony at Tolosa, since they could evidently not go there personally. Cf. AA SS, August—I, 524.

<sup>60</sup> C. 11, X, *de probationibus*, II, 19.

<sup>61</sup> A typical example of the oath of the witnesses is to be found in the records of the cause of Thomas of Hereford (ca. 1218-1282). It reads: “. . . jurent testes, sacrosanctis Evangeliiis manu tactis et coram ipsis testibus recipiendis astantibus, quod super omnibus et singulis contentis in praedictis litteris Apostolicis (quae litterae prius legantur et exponatur ipsis testibus) et super omnibus litteris contingentibus, et toto negotio, de quo agitur, dicent ipsis dominis commissariis et cuilibet eorum . . . totam, plenam, puram, meram et simplicem veritatem, quam sciunt, vel credunt, vel audiverunt, quotiescumque . . . fuerint interrogati, usquequo dictum negotium fuerit terminatum: etiamsi non interrogarentur. . . . Item quod propter gratiam, vel favorem, vel amicitiam, vel propter privatum commodum, quod per se vel per alios ex hoc jam habuerint, vel habituri sint, vel habere sperarent, vel pro timore aut odio non testificabuntur; et quod per aliquod ingenium non admiscebunt aliquam falsitatem, nec, supprimunt aliquam veri-

to fulfill his office faithfully and to observe secrecy.<sup>62</sup> It was once disputed whether or not a notary who had been appointed by civil authority could take down the proceedings in causes of canonization.<sup>63</sup> There is no doubt as to how this dispute was solved in practice, for civil notaries were sometimes found performing the notarial duties in these causes.<sup>64</sup> It must be remembered, however, that the civil notaries of the thirteenth and fourteenth centuries ordinarily were officials of an officially Catholic state.

In at least one thirteenth century cause there arose a peculiar situation in which the notary himself was called in as a witness. One could expect in that event that another notary would then have taken down the testimony; yet that was not done, and thus there occurred the odd situation in which a person acted as notary and witness at the same time, apparently writing down his own testimony.<sup>65</sup> Situations of this kind were later to be perfected and remedied in consequence of juridical provisions which were better suited to respond to all emergent contingencies.

## C. POSTULATORS

After the delegated judges one of the most important persons in these canonization processes was the postulator.<sup>66</sup> The postulator was generally appointed by the chief petitioners;<sup>67</sup> his duty was

tatem, nec aliquid de suo adjiciet testimonio suo, et quod testimonium suum nulli pendent, donec attestaciones super hoc negotio fuerint publicatae. Sicut autem hic est scriptum, et ipsis testibus lectum et expositum fuerit, jurent dicti testes, hoc servare, tactis sacrosanctis Evangeliiis: Sic Deus eos adjuvet, et praedicta sancta Dei Evangelia.”—AA SS, Oct.—I, 588.

<sup>62</sup> *Acta Processus in Causa S. Thomae de Cantilupe*, “Nos . . . juravimus, tactis sacrosanctis Evangeliiis, fideliter scribere omnia, quae scribenda erunt in negotio et processus praesenti, et depositiones testium et alia, quae secreto tenenda sunt, secreta tenere, et in omnibus, quae ad nostrum officium pertinent, in toto isto negotio et processu fideliter nos habere.”—AA SS, Oct.—I, 588.

<sup>63</sup> Benedictus XIV, *De Beatificatione*, II, 47, 8.

<sup>64</sup> Cf. cause of John Buoni of Mantua, “Ego Lanfrancus, Pergamensis, sacri imperii notarius, . . .”—AA SS, Oct. IX, 813.

<sup>65</sup> Cause of John Buoni of Mantua (-f- 1249)—*Actus Processus*—AA SS, —October IX, 813.

<sup>66</sup> The postulator was often referred to as *procurator* or *proctor*.

<sup>67</sup> There is at least one instance in which the postulator was appointed by the Pope himself. This was in the cause of Peter of Luxemburg (1369-

to represent these petitioners by prosecuting the cause before the competent judges. Included in that general duty was the obligation: 1) of introducing the witnesses;<sup>68</sup> 2) of drawing up the articuli; and 3) of postulating, i. e., urging on the cause if there were any delays.

Important as the postulator was, there is evidence of thirteenth century processes in which there was no mention of a postulator. At that time, however, it was believed that an *ex officio* designated postulator acting with a special mandate was not necessary.<sup>69</sup> It was thought that any of the faithful could perform the duties of that office without a special mandate.<sup>70</sup> This opinion was later abandoned in practice.<sup>71</sup> Usually only one postulator was appointed, but there were notable exceptions to that rule.<sup>72</sup> In the cause of Louis of Toulouse (1274-1297) there was the amazing number of five postulators.<sup>73</sup>

At the beginning of the process the postulator was obliged to take the oath.<sup>74</sup>

1387) in 1390 in which William, Bishop of Viviers, the originator of the proceedings, was appointed postulator. Cf. Toynbee, *Saint Louis of Toulouse*, p. 159.

68 In the cause of Thomas of Hereford, at least in the first part of it, the judges themselves introduced the witnesses. Cf. AA SS, Oct.—I, 586.

69 Benedictus XIV, *De Beatificatione*, II, 47, 6.

70 Benedictus XIV, *loc. cit.*

71 Benedictus XIV, *loc. cit.*

72 In the cause of Thomas of Hereford the original postulator received the faculty to appoint another *ad nutum*; this seems to be the first instance of a vice-postulator on record. The following year another was added to the first "... sic ut ambo conjunctim et divisim et quilibet in solidum. ..." Later still another was added; it is not evident, however, whether he was appointed to work with the first two or take the place of one of them. AA S-S, Oct.—I, 586.

73 Toynbee, *Saint Louis of Toulouse*, p. 159.

74 An example of the postulator's oath is to be found in the *Acta Processus* in the cause of Thomas of Hereford. "Item post praedicta dicti domini commissarii receperunt corporale juramentum, tactis sacrosanctis Evangeliiis, praestitum a dicto magistro Henrico, procuratore capituli Herefordiensis, in animam suam et in animas illorum a quibus constitutus est procurator, quod in negotio isto et in processu toto nonaget, nec faciet aliquid, nec aliquas probationes inducet per calumniam vel malitiam, et quod in toto negotio isto et praesenti processu utetur veritate, et dictam veritatem dicet, et respondet, quandocumque et quotiescumque fuerit interrogatus vel requisitus



## D. PROMOTER OF THE FAITH

First mention of the promoter of the faith in canonization causes is to be found in the cause of Saint Lawrence Justinian (1381-1455) during the pontificate of Pope Leo X (1513-1521).<sup>75</sup> The promoter of the faith was nothing more than the curial promoter (*promoter fiscalis*) in a highly specialized form.<sup>76</sup>

The duty of the promoter of the faith was to oppose the canonization. In the fourteenth century it had been the practice that if anyone opposed the canonization he would be heard, but if he was not heard the acts were not thereby rendered null?<sup>77</sup> He was not, however, to be heard if it was known that he was prompted to appear not out of zeal but out of hatred or for some other base motive.<sup>78</sup> Although after the time of Pope Leo X there are other examples of the participation of the promoter of the faith in canonization processes, still the full development of this office belongs to the time of Pope Urban VIII (1623-1644).<sup>79</sup>

## Article IV. The Congregation of Rites

On January 22, 1588, Pope Sixtus V (1585-1590) established fifteen Congregations of Cardinals, of which number there were four that were taken over from his predecessors.<sup>80</sup> Among these fifteen Congregations was the Congregation of Rites, with the duty: 1) of looking after the observance and the improvement of the Ritual; 2) of settling disputes about precedence at processions and divine worship; and 3) of *conducting processes of beatification and canonization*.<sup>81</sup>

a dictis domini commissariis, vel altero eorumdem, seu ab alio vel aliis vice eorum."—AA SS, Oct.—I, 588.

<sup>75</sup> Pope Leo ordered that the witnesses in the cause be examined, . . . *from motoreque fidei adhibito*.—Benedictus XIV, *De Beatificatione*, I, 18, 8.

<sup>76</sup> Benedictus XIV, *De Beatificatione*, I, 18, 5-11.

<sup>77</sup> Benedictus XIV, *De Beatificatione*, I, 18, 7.

<sup>78</sup> Benedictus XIV, *loc. cit.*

<sup>79</sup> Benedictus XIV, *De Beatificatione*, I, 18, 10.

<sup>80</sup> Bulla *Immensa aeterni Dei*—*Bullarum Diplomatum et Privilegiorum Sanctorum Pontificum Taurinensis Editio* (25 Vols. Augustae Taurinorum, 1857-1872).

<sup>81</sup> Bulla *Immensa aeterni Dei*—*loc. cit.*; cf. also Hilling, *Procedure at the Roman Curia* (New York: Wagner, 1907), pp. 85-89; Martin, *The Roman Curia* (New York: Benziger, 1913), pp. 92-110.

Previous to that time the canonization matters had been handled by the Rota and the cardinals. It is interesting in this connection to note that shortly after Pope Sixtus had established the Congregation of Rites he canonized Saint Didacus (ca. 1400-1463) without referring the matter to the newly formed Congregation. It may have been, as Pope Benedict XIV indicated, for the reason that the cardinal members of the new Congregation had not yet been appointed.<sup>82</sup> On the other hand, Pope Sixtus did not refer the canonization of Didacus to three cardinals, as had been the custom up to that time; instead he referred the matter to a commission of eight cardinals.<sup>83</sup>

<sup>82</sup> Benedictus XIV, *De Beatificatione*, I, 16, 2.

<sup>83</sup> Benedictus XIV, *loc. cit.*

### CHAPTER III

#### FROM POPE URBAN VIII (1623-1644) TO THE CODE OF CANON LAW

On the 13th of March, 1625<sup>1</sup> and again on the 2nd of October of the same year,<sup>2</sup> the *Holy* Office expressly forbade the public cult and veneration of those who were not as yet beatified or canonized by the Apostolic See. Almost ten years later, Pope Urban VIII confirmed the decrees of the Holy Office *in forma specifica*.<sup>3</sup>

Not content, however, with a mere confirmation of the former decrees, the Holy Father added a new and, from the viewpoint of canonization processes, important note. It was forbidden thenceforth to begin the process of beatification unless a process to prove the non-existence of public cult (*de non cultu*), distinct from that on the reputation for sanctity, virtues and miracles [*de fama sanctitatis, virtutum et miraculorum*], was instituted. After the process *de non cultu* the judge was to render a decision whether or not the decrees forbidding the cult had been observed.<sup>4</sup>

On the other hand, the Pope did not wish or intend to prohibit the veneration of those who already possessed a cult either from the common consent of the Church, or from time immemorial, or from the writings of the Fathers or of holy men; nor did he intend to prohibit the public veneration of those who had possessed a cult for a very long time with the knowledge and tolerance of the Apostolic See or of the ordinary.<sup>5</sup> Thus, along with the

<sup>1</sup> S.C.S. *Off.*, *deer.* 13 mart. 1625—*Codicis Iuris Canonici Fontes* cura Emi Petri Card Gaspard Editi (9 vols., Romae [postea Civitate Vaticana] : Typis Polyglottis Vaticanis, 1923-1939. Vols. VII, VIII et IX ed. cura et studio Emi Iustiniani Card. Serédi, η. 719 (hereafter this work will be cited as *Fontes*).

<sup>2</sup> S.C.S. *Off.*, *deer.* 2 oct. 1625—Lauri-Fornari-Santarelli, *Codex pro Postulatoribus Catisarinn Beatificationis et Canonizationis* (4. ed., Romae: Ex Typographia Agostiniana, 1929), Appendix I (hereafter this work will be cited as *Codex pro Postulatoribus*).

<sup>3</sup> Const. *Coelestis Hierusalem*, 5 iul. 1634—*Fontes*, n. 213.

<sup>4</sup> Urbanus VIII, const. *Coelestis Hierusalem*, 5 iul. 1634—*Fontes*, n. 213.

<sup>5</sup> Urbanus VIII, *loc. cit.*

causes proceeding *per viam non cultus*, one finds another group proceeding *per viam cultus*. This latter type of cause was generally referred to as the *casus exceptus*.

From the time of Pope Urban VIII there have been three distinct processes in causes of beatification and canonization. The first process dealt with the reputation for sanctity, virtues and miracles (*de fama sanctitatis, virtutum et miraculorum*); it was always conducted by the ordinary or his delegate. The second process treated of the existence or non-existence of public cult (*de non cultu vel super casu excepto*); it was conducted either by the ordinary or by his delegate, or by the delegate of the Apostolic See. The third process was always conducted by the authority of the Apostolic See.<sup>6</sup> This third or apostolic process usually consisted of two parts; the one concerned the reputation for sanctity etc. in general (*fama in genere*), the other concerned the virtues, miracles and, if the case called for it, the martyrdom in particular (*in specie*).<sup>7</sup>

#### ARTICLE I. THE PROCESS CONCERNING CULT

##### A. THE PROCESS ON NON-CULT

Pope Urban VIII not only prohibited any public cult toward those who were not yet beatified or canonized by the Apostolic See, but he also forbade any ordinary to inquire into the reputation for sanctity, virtues and miracles of a reputed Servant of God, unless it was first proved by means of a legitimate process that the decrees forbidding public cult had been obeyed, and unless a sentence to that effect had been issued by the ordinary or his delegate.<sup>8</sup>

This process *de non cultu*, as it was called, was generally conducted by the ordinary or his delegate, and it preceded the ordinary informative process. In the event, however, that the process *de non cultu* was not conducted by the authority of the ordinary,<sup>9</sup>

<sup>6</sup> Benedictus XIV, *De Bcatificatione*, II, 43, 1.

<sup>7</sup> Benedictus XIV, *De Bcatificatione*, II, 43, 1.

<sup>8</sup> Urbanus VIII, const. *Coelestis Hierusalem*, 5 iul. 1634; Benedict XIV, *De Bcatificatione*, II, 15, 1; and *ibid.*, 43, 3.

<sup>9</sup> The ordinary could sometimes proceed to the process *de fama etc.*, without first conducting the process *de non cultu*. This is evident from the *Forma Commissionis Generalis* as found among the *Decreta Generalia* of

and consequently no sentence had been issued concerning this matter, this process was later drawn up by apostolic authority.<sup>10</sup> If the process was drawn up by apostolic authority, the ordinary could no longer act in the matter, since once the Holy See had put its hand to the affair, no inferior could have any jurisdiction.<sup>11</sup>

The process *de non cultu* was conducted with all the rules and solemnities of a regular judicial procedure. The postulator in the cause had to seek to prove his point "*per legitimas iuridicæ susceptas probationes.*"<sup>12</sup> The results of the investigations along with the decision of the judge were sent to the Congregation of Rites for the final decision.

One of the most important steps in the process *de non cultu* was the visitation of the sepulcher of the Servant of God. Quite obviously one of the first places where a person could expect to find a cult existing was the place where the body of the Servant of God was resting. For that reason the sepulcher received special mention in the decrees of Urban when he forbade any and all public cult toward those who had not yet been beatified or canonized.<sup>13</sup>

The proof of the non-existence of any public cult at the place

Pope Urban VIII concerning beatification and canonization. The text of these decrees may be found in Appendix I of the second volume of the work of Benedict XIV, *De Bcatificatione*. The decrees have also been collected in a work entitled. *Urbani Fili Pontificis Optimi Maximi Decreta servanda in Canonisatōne, et Bcatificatione Sanctorum, Accedunt Instructiones, et Declarationes quas Emi et Rami S.R.E. Cardinales Pracsulcsque Romanæ Curiae ad id muneris congregati ex eiusdem Summi Pontificis mandato condiderunt* (Romae, 1642 [this collection will hereafter be referred to as *Urbani UHI Decreta*]) ; ci. Benedictus XIV, *De Bcatificatione*, II, 15, 2.

<sup>10</sup> *Forma Commissionis Generalis*.—Benedictus XIV, *De Bcatificatione*, II, Appendix I, and *ibid.*, 15, 2; *Urbani VIII Decreta*, p. 29.

<sup>11</sup> C. 1 et 2, X, *de confirmatione utili vel inutuli*. II, 30; c. 56, X *de appellationibus recusionibus et relationibus*, II, 28; c. 12, X *de temporibus ordinatorum et qualitate ordinandorum*, I, 11; *Decreta Generalia Urbani VIII*—Benedictus XIV, *De Bcatificatione*, II, Appendix I; *Urbani VIII Decreta*, p. 61; S.R.C., decr. 11 febr. 1894—*Codex pro Postulatoribus*, Appendix IX; Benedictus XIV, *De Bcatificatione*, II, 35, 12; and *ibid.*, 53, 7.

<sup>12</sup> Urbanus VIII, const. *Coelestis Hierusalem*, 5 iul. 1634—*Fontes*, n. 213.

<sup>13</sup> S.C.S. Off., decr. 13 mart. 1625—*Fontes*, n. 719; Urbanus VIII, const. *Coelestis Hierusalem*, 5 iul. 1634—*Fontes*, n. 213.

of the sepulcher had to be most conclusive. The non-existence of this cult was sufficiently proved if witnesses who had seen the sepulcher many times freely testified that they had never seen any accepted signs of public cult there, such as votive lights, lamps, tablets, images, etc., which objects could have lent encouragement to the faithful for the practice of public cult, or perhaps indicated its very existence among the faithful.<sup>14</sup>

After the witnesses had given testimony, the judge along with the curial promoter and the notary visited the sepulcher. Arriving at the sepulcher, they looked to see if there were any signs of public cult. After examining the place of the sepulcher, they then examined the rest of the Church and of the monastery or the house connected with the Church, entering, if necessary, even the cloister of nuns.<sup>15</sup> The official visit to the sepulcher was never omitted, unless of course there were no sepulcher, or unless the visitation of the sepulcher was otherwise impossible.<sup>16</sup>

Although the first place to look for any public cult was the site of the sepulcher itself, that was not the only place. It was quite conceivable that a public cult could exist in other churches and places in the same city where the sepulcher was, or possibly in the place where the Servant of God was born, where he had worked or lived, and so on. Hence it was that in the process *de non cultu*, the investigations were not confined to the place of the sepulcher alone.<sup>17</sup> Proof was obtained also from witnesses who were so situated that, if a cult did exist in their locality, they would have known about it.

In the formula which the judges were accustomed to use in giving their sentence the following words are found :

“Definitive sententiamus, circa Sepulchrum, Imagines, et Reliquias, aut alibi circa personas, et memoriam dicti Servi Dei nihil penitus, nullibi quidquam reperiri, quod publicae Venerationis, et Cultus signum praeseferat.”<sup>18</sup>

<sup>14</sup> Benedictus XIV, *De Beatificatione*, II, 15, 7.

<sup>15</sup> Benedictus XIV, *De Beatificatione*, II, 15, 8.

<sup>16</sup> Benedictus XIV, *ibid.*, 15, 9.

<sup>17</sup> Benedictus XIV, *loc. cit.*

<sup>18</sup> Benedictus XIV, *op. cit.*, II, 15, 12.

B. THE EXCEPTED CASE (*De CQSU CXCCpto*)

The *casus exceptus* was so called because it was made an exception by the decrees of Urban VIII. The general rule was that a public cult or veneration could not be given to those who were not yet beatified or canonized. An exception was made, however, for those who already possessed a cult either from the common consent of the Church, or from time immemorial, or from the writings of the Fathers or of holy men, or for a very long time with the knowledge and tolerance of the Apostolic See or of the ordinary.<sup>18</sup>

The process *super casu excepto*, in respect to its object, was the direct opposite of the process *de non cultu*. The purpose of it was to prove the existence of a cult. It was conducted, however, along the judicial lines of the process *de non cultu*; this is evident from the decrees of Pope Urban.<sup>20</sup>

In two instances the process *de casu excepto* could be omitted: first, when the postulator obtained a dispensation to that effect, and secondly, when there could be shown a document which proved that the cult had been granted by the Pope or by the Congregation of Rites.<sup>21</sup>

Over a period of years this ancient discipline, so wisely established, gave way to an easier and more expedient procedure. Strictness, however, was necessary in this matter, especially in view of the fact that confirmation by the Holy See of a cult which had been permitted or consciously tolerated was equivalent to beatification. Therefore, it became necessary for various Popes to restore the ancient discipline in these matters. Thus over the years a unified and coherent procedural system was restored and completed by the decrees of the Popes and the Sacred Congregation of Rites.

<sup>18</sup> Urbanus VIII, const. *Coelestis Hierusalem*, 5 iul. 1634—*Fontes*, n. 213.

<sup>20</sup> "Particularis processus cum subsequent! pronuntiatione Ordinarii, seu Apostolicae Sedis Delegati, sicut praecedere debet ex forma praedictorum Decretorum super Cultu non adhibito, ita etiam praecedere debet, et ab eisdem respective faciendus est, quando aliquis Postulator allegaret, se versari in uno ex Casibus exceptis."—Urbanus VIII, *Decreta Generalia*—Benedictus XIV, *De Beatificatione*, Appendix I; *Urbani VIII Decreta*, p. 20; cf. also Benedictus XIV, *op. cit.*, II, 17, 1, and II, 43, 3.

<sup>21</sup> S.R.C., decr. 27 maii, 1645—Benedictus XIV, *De Beatificatione*, II, 17, 5.

Most active in this work were Innocent XI (1676-1689) and Benedict XIV (1740-1758). The former prescribed new norms for the examination of the witnesses in both the ordinary and apostolic processes; determined rigorous norms for the transcription and the safe-keeping of the acts in the cause; regulated the activities of the proxies and advocates; defined particulars relative to the office and work of the promoter of the faith, and outlined the part to be played in these causes by the Sacred Congregation of Rites.<sup>22</sup> The latter was most active in matters pertaining to the causes of beatification and canonization. Before he was elected to the papacy, he had served for years on the Congregation of Rites as the promoter of the faith. He had had a most vast experience in these causes, and his knowledge of the law and jurisprudence was most profound. His great work *De Servorum Dei Beatificatione et Beatorum Canonizatione* remains today as the outstanding contribution in the field.

Most important among his legislative acts pertaining to causes of beatification and canonization are: the constitution *Ad sepulcra* of November 23, 1741, on the canonization of the Blessed;<sup>23</sup> the decree *Cum ex relatione* of July 17, 1744, concerning witnesses and the miracles required for canonization;<sup>24</sup> the letter *Sollicitudini* of October 1, 1745, on the activity of the bishop in the causes of saints;<sup>25</sup> the constitutions *Ad universae* of September 3, 1746,<sup>26</sup> and *Quamvis iusto* of April 30, 1749,<sup>27</sup> besides other subsequent letters and documents that have an important bearing on beatification and canonization causes.

The Decree of 1870 on the excepted case and the offices of the tribunal,<sup>28</sup> and the Instruction of 1878 on the preparation of the ordinary processes,<sup>29</sup> were important pieces of legislation. Other valuable contributions were: the decree of 1826;<sup>30</sup> that of 1868;<sup>31</sup>

<sup>22</sup> S.R.C., deer. 15 oct. 1678—*Fontes*, n. 5626.

<sup>23</sup> *Fontes*, n. 320.

<sup>24</sup> *Fontes*, n. 343.

<sup>25</sup> *Fontes*, n. 362.

<sup>26</sup> *Fontes*, n. 371.

<sup>27</sup> *Fontes*, n. 398.

<sup>28</sup> S.R.C., deer. gen. 22 dec. 1870—*Fontes*, n. 6034.

<sup>29</sup> S.R.C., instr. a. 1878—*Fontes*, n. 6104.

<sup>30</sup> S.R.C., deer. 20 dec. 1826—*Fontes*, n. 5851.

<sup>31</sup> S.R.C., deer. 10 dec. 1868—*Fontes*, n. 6025.

the decree of 1897;<sup>32</sup> and those of 1912<sup>33</sup> and 1913.<sup>34</sup> The last two mentioned decrees made important changes in the causes conducted by way of cult (*per Ziam cultus sen casus exceptus*).

## Article II. The Informative Process

The informative process was so called because its purpose was to gather information about the reputation regarding the sanctity, the virtues, the miracles and, where pertinent, the martyrdom of the Servant of God. The process was to be conducted by the ordinary, and it was to concern the reputation *in genero*.<sup>35</sup> It was, as it were, a preliminary investigation to determine whether or not it was worth-while for the Holy See to take up the cause.

It will be recalled that in the early days of the development of the process in judicial form in the causes of canonization, the Holy Father upon being petitioned to canonize a Servant of God, in the event that the petitions continued and the manifestation of the miracles had not ceased, consulted with the cardinals, and then appointed some bishops or other honorable and discreet persons of incorruptible character to conduct a preliminary examination *do fama et devotione populi, de miraculis et aliis*. This examination was to be of a general nature which abstracted from all details. A report was to be given on the reputation (*fama*) as it existed, and not on the relative merits of that reputation (*fama*).<sup>36</sup> This process was the forerunner of the ordinary informative process as it exists today.

The informative process, as has already been mentioned, was to be drawn up by authority of the ordinary. This was altogether

32 S.R.C., deer. 12 mait 1897—*Fontes*, n. 6274.

33 S.R.C., deer. 11 nov. 1912—*Fontes*, n. 6389; *Acta Apostolicae Sedis* (Romae, 1909-1928; Civitate Vaticana, 1929-), IV (1912), 705-707 (hereafter cited as *AAS*).

34 S.R.C., deer. 26 aug. 1913—*Fontes*, n. 6393.

35 It was sufficient that the examination be made *in genere*. It was, however, recommended that the examination *in specie* also be made at the same time, so that later on, if the process had been properly conducted, the proofs could be joined with those offered in the apostolic process. As regards this point see Benedictus XIV, *De Beatificatione*, II, 7, 9; also S.R.C., instr. anno 1878—*Fontes*, n. 6104.

36 Hostiensis, *Commentaria*, ad c. 1, X, *de reliquiis et veneratione sanctorum*, II, 45.



proper, for the ordinary inherently was the accredited judge (*'index natus'*) in his own diocese. From his very office he had jurisdiction in ecclesiastical matters regarding cult in his diocese.<sup>37</sup> The rights of the ordinary in this matter were supported by the common law, by conciliar rulings and by a long tradition of customary usage.

By the common law the ordinary had jurisdiction in ecclesiastical matters regarding the faith, the morals, the discipline of the people and their public worship,<sup>38</sup> for nowhere in the law were cases of this kind withdrawn from his jurisdiction. It is true that it was forbidden to venerate a person as a saint without the authority of the Roman Church;<sup>39</sup> this, however, referred to the final judgment, and not to the preliminary examinations.

The rights of the ordinary in this matter were likewise supported by the Council of Trent, when it ruled that no evidence of miracles was to be admitted unless it was inspected and approved by the ordinary.<sup>40</sup>

Customary usage in this matter was of long standing. For centuries the ordinaries had exercised authority in matters of this kind. With the papal reservation of canonization the rights of the ordinaries became somewhat clouded for a time. With the beginning of the ordinary process, however, they were once more clarified. At the time of Benedict XIV (1740-1758) it was the custom not to accept any beatification or canonization causes in Rome unless the informative process had first been conducted by the local ordinary.<sup>41</sup>

On the 12th of March, 1631, an encyclical letter was addressed to all Patriarchs, Archbishops and Bishops by the Congregation of Rites.<sup>42</sup> In this letter the ordinaries were confirmed in their rights of instituting the process. If the ordinary was impeded he

<sup>a7</sup> C. 16, X, *de officio iudicis ordinarii*, I, 31; c. 13, X, *de foro competenti*, II, 2; Benedictus XIV, *De Beatificatione*, II, 1, 1.

<sup>38</sup> *Loc. cit.*

<sup>38</sup> C. 1, X, *de reliquiis et veneratione sanctorum*, III, 45.

<sup>40</sup> Cone. Trident., sess. XXV, *de invocatione, veneratione et reliquiis sanctorum, et sacris imaginibus*.

<sup>41</sup> Benedictus XIV, *De Beatificatione*, II, 1, 4.

<sup>42</sup> S.R.C., litt. encycl. 12 mart. 1631—*Fontes*, n. 5336. A previous letter on this same subject had been prepared but was not approved by the Sacred Congregation, and hence was not sent. Cf. Benedictus XIV, *De Beatificatione*, II, 43, 7-9.

could examine the witnesses either through his vicar general or through some other ecclesiastical dignitary. In the event, however, that the ordinary did not personally conduct the process, his delegate was to have two assistants, one a doctor of theology, and the other a canonist.<sup>43</sup>

On the same day that the encyclical letter was issued by the Congregation of Rites there was published a decree which forbade all others to take testimony concerning the sanctity and miracles (*de sanctitate et miraculis*) of a Servant of God.<sup>44</sup> Thus the rights of the ordinaries in this matter became exclusive, saving, of course, the rights of the Holy See.

For the validity of all processes conducted by the ordinary it was sufficient to observe simply those things which were demanded by the common law in the construction of any process.<sup>45</sup> Nevertheless, in the ordinary processes the ordinaries were expected to observe all the solemnities which were prescribed for the apostolic process. The importance, of the matter in hand warranted such a practice, especially in view of the fact that there was hardly a cause in which it was not necessary to join the proofs that had been offered in the ordinary process with those offered in the apostolic process on an equal plane of proof.<sup>46</sup>

According to the above mentioned letter of the Congregation of Rites, all the questioned witnesses were to testify *explanate et per extensum*; a sealed transcript of the acts was to be sent to the Sacred Congregation while the originals were to be kept in the episcopal archives in a container so constructed that several keys were necessary to open it; the witnesses and the notaries were to take the oath of secrecy.<sup>47</sup> Over and above the witnesses introduced by the postulators, the ordinary had *ex officio* to seek out and examine other witnesses who were well informed *de vita et moribus* of the Servant of God.<sup>48</sup>

Neither the encyclical letter nor the decree of the Congregation

43 S.R.C., litt. encycl. 12 mart. 1631—*Fontes*, n. 5336; Benedictus XIV, *De Beatificatione*, II, 43, 13.

44 S.R.C., deer. 12 mart. 1631—*Fontes*, n. 5336.

45 Benedictus XIV, *De Beatificatione*, II, 43, 21.

40 Benedictus XIV, *De Beatificatione*, loc. cit.

47 S.R.C., littl. encycl. 12 mart. 1631—*Fontes*, n. 5336; Benedictus XIV, *De Beatificatione*, II, 43, 13.

48 S.R.C., deer. 15 oct. 1678—*Fontes*, n. 5626.

of Rites carried an invalidating clause; hence it was generally considered that the regulations contained therein were not enacted as a requirement for the validity of the process.<sup>49</sup> It was likewise held that there was no strict obligation to observe these solemnities in the processes *de non cultu* or *super casu excepto*. In these points the encyclical letter and the decree of the Sacred Congregation were concerned strictly with the process of information *de fama sanctitatis, virtutum et miraculorum*, and not with the other processes drawn up by authority of the ordinary.<sup>50</sup>

Other important decrees touching the ordinary process or those who took part in it were issued by the Holy See.

In the ordinary as well as in the apostolic processes the same person could not hold different offices even successively. Ibis demand stood sanctioned under pain of nullity.<sup>51</sup>

Over and above the autographed copy of the acts, which was sealed and kept in the diocesan archives, only one copy (*transumptum*) was to be made. This was to be written in longhand on linen paper, and then sent to Rome.<sup>52</sup>

The *promotor fiscalis* of the diocesan curia who took part in the ordinary process of information was not to have the title of *promotor fidei*. This practice and demand adhered to the tradition as handed down by Benedict XIV, and was also in accord with the constant practice of the Roman Curia. The *promoter fidei* in Rome alone had that title; those who took part in the ordinary process were to be known as *promotores fiscales*.<sup>53</sup>

In the ordinary and the apostolic processes clerics could not be employed as notaries unless beforehand they had received the privilege of the notarial status in writing from their ordinary. Regulars could perform the duties of a notary only in view of an

49 Benedictus XIV, *De Beatificatione*, II, 43, 15-21: The same is not true concerning the witnesses introduced *ex officio* in the apostolic process, since an invalidating clause was incorporated in the remissorial letters. Cf. copy of remissorials in Benedictus XIV, *De Beatificatione*, II, App. I.

50 Benedictus XIV, *De Beatificatione*, II, 43, 13.

51 S.R.C., deer. gen., 22 dec. 1870—*Fontes*, n. 6034.

52 S.R.C., deer. 8 apr. 1889—*Fontes*, n. 6194.

53 S.R.C., deer. 14 ian. 1893—*Codex pro Postulatoribus*, Appendix, IX. It may be noted here that the Code of Canon Law now uses the title *Promotor fidei* for this official even in the ordinary process. Cf. cans. 2010-2011.

apostolic privilege and with the permission of their own religious superiors, never, however, in those causes which concerned members of their own Order. This latter restriction was sanctioned under pain of nullity in accordance with the decree of Clement XII (1730-1740) on the 12th of August, 1731

No celebrations were to be held on the occasion of the opening of the ordinary processes. Abuses of this kind had been practiced in some places.<sup>54</sup>

Historical documents which concerned the cause, whether written or printed, were to be produced at the informative process. The ordinary could force people to show these documents if they had any.<sup>56</sup>

The ordinary was to examine not only those witnesses who were favorable to the beatification or canonization, but also those who were opposed. Under pain of nullity, no exceptions were to be made. The conscience of the ordinary as well as that of the *promotor fiscalis* was burdened with this obligation.<sup>57</sup> This ruling was not entirely new, for it had been the practice since the fourteenth century that, if anyone was opposed to the canonization, he nevertheless was heard. However, if he had not been heard, these acts of the process were not thereby rendered null.<sup>58</sup>

### Article III. The Apostolic Process

#### a. the *Signatura Commissionis*

The Holy See first put its hand to a cause of beatification or canonization with the *signatura commissionis*. This consisted in an application for the introduction of the cause made by the postulator to the Holy Father, which application was in turn admitted and signed by him. With this act the Congregation of Rites was commissioned to proceed with the cause.<sup>59</sup> The *signatura commissionis*, when it was obtained, did not imply the permission for any public cult or veneration; it meant chiefly that remissorial

<sup>54</sup> S.R.C., deer. 16 iul. 1894—*Fontes*, n. 6238.

<sup>55</sup> S.R.C., deer. 26 aug. 1913—*Fontes*, n. 6393; *AAS*, V (1913), 436-438.

<sup>56</sup> S.R.C., deer. 26 aug. 1913—*Fontes*, n. 6393; *AAS*, V (1913), 436-438; Benedictus XIV, *De Beatificatione*, II, 52, 1-7.

<sup>57</sup> S.R.C., deer. 26 aug. 1913—*Fontes*, n. 6393; *AAS*, V (1913), 436-438.

<sup>58</sup> Benedictus XIV, *De Beatificatione*, I, 18, 7.

<sup>59</sup> Benedictus XIV, *De Beatificatione*, II, 35, 1.

and compulsorial letters could be sent out for the drawing up of the apostolic process.<sup>60</sup>

In causes which proceeded in the ordinary way (*per viam non cultus*) as well as in those which proceeded in the extraordinary way (*per viam cultus*) several requirements had to be fulfilled before the issuance of the *signatura commissionis*.

1. The postulator had to wait at least ten years after the ordinary process had been presented to the Congregation of Rites before he sought the *signatura commissionis*.<sup>61</sup> It was possible, however, to obtain a dispensation from this requirement.<sup>62</sup>

2. The petition for the *signatura commissionis* was not to be proposed in the ordinary meeting (*Congregatio Ordinaria*) of the Sacred Congregation of Rites, but in the general meeting (*Congregatio Generalis*), in the presence of the Supreme Pontiff.<sup>63</sup>

3. Previous to the petition the writings of the Servant of God had to be examined.<sup>64</sup>

4. There were to be in evidence the spontaneous supplications and petitions of kings, of princes and of other authoritative persons.<sup>65</sup> Authoritative persons were understood to be kings, rulers of provinces and states, governors, the members of state and city councils, cardinals, patriarchs, archbishops, bishops, the personnel of cathedral and collegiate chapters, of ecclesiastical academies, of

60 S.R.C., deer. 19 febr. 1658—Benedictus XIV, *De Beatificatione*, II, 35, 11; S.R.C., deer. 26 aug. 1658—*Fontes*, n. 6393; AAS, V (1913), 436-438.

61 S.R.C., deer. 15 oct. 1678, n. 7—*Fontes*, n. 5626. This delay was not necessary in causes that proceeded *per viam cultus*, since there was no fear in such causes that the witnesses would give an exaggerated opinion of the sanctity of one who had just died. Cf. Benedictus XIV, *De Beatificatione*, II, 37, 2.

62 Benedictus XIV, *De Beatificatione*, II, 36, 4. In this passage Benedict XIV listed several examples of dispensations of this kind. Among the dispensations of this kind that were conceded when he himself was *promoter fidei* was that given in the cause of the Servant of God, Vincent de Paul (1576-1660).

63 Benedictus XIV, *De Beatificatione*, II, 36, 5.

64 Benedictus XIV, *De Beatificatione*, II, 36, 6.

65 Benedictus XIV, *De Beatificatione*, II, 36, 7; *Decreta Generalia Urbani VIII*—Benedictus XIV, *De Beatificatione*, II, Appendix I; Angelus Rocca, *De Canonisatione Sanctorum Commentarius* (Romae: 1601), cap. 34, art. 1; Hostiensis, *Commentaria*, ad c. 1, X, *de reliquiis et veneratione sanctorum*, III, 45; *Ordo Romanus XIU* of Cardinal Gaetani—Mabillon, *Museum Italicum*, II, 418.

the chapters of religious Orders, and the superiors general of religious Orders.<sup>66</sup>

5. All the processes conducted by the ordinary had to be opened and shown to the *promotor fidei*.<sup>67</sup>

6. The informative process, in virtue of which the *signatura commissionis* was sought, had to be free from any element that pointed to evident invalidity in the preparation and drawing up of the submitted acts.<sup>68</sup>

7. The reputation of the Servant of God for virtues and miracles was to be fully proved by means of the ordinary process. For obtaining the *signatura commissionis* it was not necessary that these virtues stood proved *in specie*, but it was sufficient to establish their existence *in genere*. The same rule obtained concerning the existence of miracles.<sup>69</sup>

8. There was to be no obstacle to the introduction of the cause.<sup>70</sup> The objections spoken of here corresponded to what are now called peremptory exceptions in the Code of Canon Law.<sup>71</sup>

9. After the above mentioned ten years' time, there were required new letters of the ordinary, which bore witness to the continuation and the increase of the *fama*.<sup>72</sup>

ee Benedictus XIV, *De Beatificatione*, II, 36, 7.

67 S.R.C., decr. 15 oct. 1678, n. 7—*Fontes*, 5626; Benedictus XIV, *De Beatificatione*, II, 36, 11.

68 Benedictus XIV, *De Beatificatione*, II, 36, 12.

89 Benedictus XIV, *De Beatificatione*, II, 36, 13.

70 This requirement was deduced from the directions which, in the decree of Pope Innocent XI. were given to the bishops for conducting the ordinary process. This decree, after stating that the ordinary should examine other witnesses besides those introduced by the postulator added: “. . . si aliquid repperint in contrarium, quod ipsis videatur relevans, supersedeant in ulteriore inquisitione, donec Sac. Congregatio ab eis certiorata per Litteras, mandet, quid agendum sit.”—S.R.C., decr. 15 oct. 1678—*Fontes*, n. 5626. It was thought that there was all the more reason for holding up the cause if the *promotor fidei* brought up any objections while they were treating *de signatura commissionis*. Cf. Benedictus XIV, *De Beatificatione*, II, 36, 14.

77 Canon 1629.

72 S.R.C., decr. 15 oct. 1678, n. 7, “. . . insuper habitis post decennium a die fabricationis illius hoc est processus Ordinarii novis litteris Episcoporum circa percrescendam famae sanctitatis, et miraculorum, ac devotionis Populi enixe pro Beatificatione, et Canonizatione instantis.”

## B. THE PROCESS ITSELF

Among the *Decreta Generalia* of Urban VIII is to be found the *Forma Commissionis Generalis*.<sup>73</sup> By this commission the Sacred Congregation of Rites was given, among other things, the faculty to appoint some bishops to conduct an inquiry *de fama, de devotione populi, de miraculis et aliis denuntiandis Servi Dei S' in genere tantum et non in specie*.<sup>74</sup> The Sacred Congregation was to transmit to the said bishops some points to be proved (*Articuli*). In accord with these and the interrogatories composed by the promoter of the faith, the bishops were in person to examine the witnesses. The delegates were to be given the authority to cite the witnesses, and to do so, if necessary, even under the threat of censure. The sub-promoter of the faith was to be present at the questioning of the witnesses. A sealed copy of the acts was to be sent to the Curia by means of a responsible messenger. The delegates were also to send along letters of their own containing their opinions as to the value of the testimony given by the witnesses.<sup>75</sup> Thus it was that the apostolic process was divided into two parts, first, the examination *in genere*, and secondly, the examination *in specie*.

1. *The Reputation of the Servant of God in General*  
(De fama in Genere)

a. The Object of the Process

The object or purpose of the process *de fama in genere* was to gather information about the Servant of God's general reputation for sanctity, miracles and, in the causes of martyrs, martyrdom. The *fama sanctitatis in genere* was the common opinion of the people concerning the purity and integrity of life, the excellence of virtues and the miracles of the Servant of God. The *fama martyrii* was the common opinion about the death, patiently suffered for the faith or for some virtue pertaining to the faith, and supported with signs and miracles.<sup>76</sup>

<sup>73</sup> *Forma Commissionis Generalis—Urbani Fidei Decreta*, p. 29.

<sup>74</sup> *Loc. cit.*

<sup>75</sup> *Loc. cit.*

<sup>76</sup> Benedictus XIV, *De Beatificatione*, II, 39, 7.

The investigation was conducted with regard to the origin, extent, increase and duration of the *fama*. This is evident from a perusal of the interrogatories as contained in the formula for the remissorial letters which was included in the *Decreta Generalia*."

b. Those Who Took Part in the Process

For the proper conduct of the process several persons over and above the judges delegate and the witnesses were necessary. They were the procurator or postulator, who needed a legitimate mandate, and whose participation in the process was necessary;<sup>75</sup> the promoter of the faith or the sub-promoter, whose participation was necessary for the validity of the process;<sup>76</sup> the protonotary, who took part in those processes which were conducted in Rome; the notary, who ordinarily was to be an apostolic or ecclesiastical notary;<sup>77</sup> a messenger, whose chief duty was to convey the citations to the witnesses and to the promoter of the faith;<sup>78</sup> the special messenger, whose duty it was to convey the scaled copy of the acts to Rome.<sup>79</sup>

77 *Formula Litterarum Remissorialium, et Compulsorialium in genere—Urbani VIII Decreta*, p. 38.

78 The formula for the remissorial letters contains the following: "Quamobrem pro parte Procuratoris in hujusmodi causa deputati, prout de ejus legitimo Mandato docuit; . . . A personis legitima Mandata Procuraee habentibus recipiatis; . . . Propositiones, et Articulos infrascriptos dat, exhibet, et producet Procurator."—*Urbani VIII Decreta*, p. 39; cf. also Benedictus XIV, *De Beatificatione*, II, 47, 6.

79 Urbans VIII, litt. ap. *Cupientes*, 11 ian. 1631—*Urbani VIII Decreta*, p. 34; cf. also Benedictus XIV, *De Beatificatione*, II, 47, 7.

80 The following is contained in the formula of the remissorial letters: "Coram fide digno Notario publico Apostolico, seu Ecclesiastico a vobis similiter deputando."—*Urbani VIII Decreta*, p. 41.

81 "Nuntium, vel nuntios pro citationibus faciendis . . . deputare valeatis."—Formula of Remissorials—*op. cit.*, p. 42.

82 The formula for the remissorials contains the following: "Omniaque clausa, vestrisque Sigillis, aut duorum saltem vestrum munita, praevis prius juramento per fidelem Nuntium, seu Portitorem praestito, ad Nos transmitti curetis."—*Urbani VIII Decreta*, p. 41; cf. also Benedictus XIV, *De Beatificatione*, II, 47, 11.



## c. The Manner of Conducting the Process

The remissorials were usually sent to three bishops. In them was generally contained the faculty whereby any two of the bishops could proceed in the absence of the other?<sup>83</sup> Before the beginning of the process the judges delegate were to take the oath of faithfully fulfilling their duty, and likewise the oath of secrecy under pain of perjury and a *latae sententiae* excommunication reserved to the Supreme Pontiff. The formula for the oath was contained in the Decree of Innocent XI (1676-1689).<sup>84</sup>

The same oath, with the needed adaptations, was to be taken by the subpromoter of the faith, the notary and, in the Curia, the protonotary.<sup>85</sup> It was sufficient for the messengers of the tribunal to take the oath of faithfully fulfilling their duties in connection with the process.<sup>86</sup> The procurator or postulator was to take the oath *de calumnia*, i. e., the oath whereby he protested

<sup>83</sup> Cf. formula for remissorials—*Urbani VIII Decreta*, 40; also Benedictus XIV, *De Beatificatione*, II, 46, 1-2. If the remissorial letters were sent to three residential bishops, they were to be sent to those of neighboring dioceses. The reason for this was the fact that the process often took a long time, and the bishops on receiving the remissorials were not by that very fact excused from the laws of residence. If it was necessary for the bishop to stay out of his diocese longer than the time permitted by law, then with a statement of his reason he was to apply for the necessary permission; otherwise he was subject to the usual penalties.—Benedictus XIV, const. *Ad universae*, 3 sept. 1746—*Fontes*, n. 371.

<sup>84</sup> S.R.C., deer. 15 oct. 1678: "Ego infrascriptus tactis sacrosanctis Evangeliiis coram me positus, iuro, et promitto fideliter adimplere munus mihi commissum circa fabricationem Processus in Causa Beatificationis, et Canonizationis Servi Dei N. iuxta formam Decretorum Sacrae Congregationis Rituum, et praecipue novissimorum, quae confirmata fuerunt a Sanctissimo D. N. Innocentio XI. Necnon iuro, et promitto religiose servare secretum, tam de contentis in Interrogatoriis, quam de Testium depositionibus super iisdem, et super articulis, nec de iis loqui cum aliqua persona, exceptis aliis ludicibus, et Subpromotore, ac Notario pro eodem processu deputatis, et in Curia excepto etiam Protonotario, sub poena periurii, et excommunicationis latae sententiae, a qua non nisi a Summo Pontifice (excluso etiam maiori Poententiario) praeterquam in mortis articulo absolvi possim. Et ita promitto, et iuro: Sic me Deus adiuvet, et haec Sancta Dei Evangelia."—*Fontes*, n. 5626.

<sup>85</sup> S.R.C., decr. 15 oct. 1678—*Fontes*, n. 5626.

<sup>86</sup> Cf. Formula for remissorials,—*Urbani VIII Decreta*, p. 42; cf. also Benedictus XIV, *De Beatificatione*, II, 48, 2.

that he undertook the cause of this Servant of God only for the honor and glory of God, and proposed to use only honest means to promote it.<sup>87</sup> If this oath was omitted by the postulator then the process was not invalid, unless this omission became challenged by the subpromoter of the faith.<sup>88</sup> The formula for the oath of the witnesses was contained in the Decree of Innocent XI?<sup>9</sup>

After all the oaths had been taken, the judges delegate were to proceed to the examinations. They were to examine all the witnesses, letters, writings, documents, monuments or any other kinds of proof legitimately introduced by the postulator.<sup>90\*</sup>

The witnesses were to be questioned in some church, oratory or sacred place, and they were to give detailed and complete testimony *{explanate et per extensum, nec se referant ad attestaciones alias redditas, neque ab eis recitentur, quae alias ipsi deposuerunt}*?<sup>1</sup> The other parts of the process were to be held in the place generally used for audiences.

The witnesses were to be questioned on all the allegations *{articuli}* and according to the interrogatories contained in the remissorial letters. The allegations *{articuli}* were formulated by the postulator. They indicated what he intended to prove. He had to try to prove that the Servant of God, both during life and after death, was venerated by the people and had a reputation for sanctity in those places where he had lived and in the place where

<sup>87</sup> C. 1, par. 2, *de iuramento calumniae*, II, 4, in VI<sup>10</sup>; cf. also Benedictus XIV, *De Beatificatione*, II, 48, 3.

<sup>88</sup> *Loc. cit.*

<sup>89</sup> S.R.C., deer. I oct. 1678 "Ego infrascriptus tactis Sacrosanctis Evangelii coram me positis, iuro dicere veritatem, tam super interrogatoriis, quam super articulis, super quibus examinabor, necnon servare secretum, nec alicui penitus revelare, tam contenta in iisdem interrogatoriis, quam responsiones et depositiones a me factas, sub poena periurii, et excommunicationis latae sententiae, a qua non nisi a Summo Pontifice (excluso etiam maiori Poenitentiario) praeterquam in mortis articulo absolvi possim. Et ita promitto, et iuro: Sic me Deus adiuvet, et haec Sancta Dei Evangelia." —*Fontes*, n. 5626.

<sup>90</sup> Cf. Formula of Remissorial letters—*Urbani DIU Decreta*, p. 40. The judges delegate and the subpromoter of the faith had the obligation *ex officio* of introducing some witnesses into the processes. Concerning this point see the Decree of Pope Innocent XI—S.R.C., deer. 15 oct. 1678—*Fontes*, n. 5626.

<sup>91</sup> Cf. Formula for Remissorial Letters—*Urbani VIII Decreta*, p. 43-44.

he had died and also in other places. He had to prove that many miracles were performed through the intercession of the Servant of God and that his sepulcher was visited for the sake of veneration. Concerning all these things he had to show that there existed and that there continued to exist a public and constant popular favor and good repute (*vox et fama*)<sup>92</sup>

The witness was to be questioned on the interrogatories which had been composed by the promoter of the faith. These interrogatories were always to be kept sealed with the seal of the judges; they were not to be opened except during the actual examination, and they were to be closed at the end of each examination; at the end of each session the depositions of the witnesses were to be closed and sealed with the seal of the judges, and were not to be opened except in the presence of the judges at the beginning of each examination.<sup>93</sup>

The interrogatories contained in the formula for the remissorial letters in the *Decreta Generalia* of Urban VIII were arranged as follows:

1. Each witness was to be admonished concerning the gravity and importance of an oath, and the malice and evil of perjury, especially in causes of canonization.

2. Then each witness was to be asked his name, surname, nationality, age, parentage, work or profession, financial status and other circumstances pertaining to his person or condition.

3. Did he go to confession and communion? When was the last time he received? Who was present? To what priest did he *confess*? In what church did these things take place?

4. Was he ever questioned, accused or tried in connection with any crime? Before whom? For what? Where? When? Did this happen more than once? Was there a conviction?

5. Was the witness ever excommunicated? How often? Was he absolved? Was he still under excommunication?

6. Was he instructed what to say? By whom? Where? When? What was he told to say?

7. Did he know in what province and diocese the city N. is located? Where? Did he ever go there? Why?

<sup>92</sup> Cf. Formula for Remissorial Letters,—*Urbani VIII Decreta*, p. 43.

<sup>93</sup> S.R.C., deer. 15 oct. 1678—*Fontes*, n. 5626.

8. Did he know the Servant of God or did he ever hear his name mentioned? In the event that he knew him, how had he come to know him? On what occasion? Where? When? Did he ever speak to him, and how often? About what? Who was present? If he only heard the name of the Servant of God mentioned, by whom was the mention made? On what occasion? Why was the name mentioned? How often?

9. Did he know in what place the Servant of God lived? What was his reputation for sanctity in that place? Did he have the same reputation in other places? Where? Was it continuous or interrupted? How long did it last? Was it the opinion of all in that place or of some only? Did the witness feel the same about it? Did he or others ever think differently about this? Had he ever heard that others thought differently about it?

10. Did the witness know where, when and from what illness said person died? Did he know where he was buried? Did he ever visit the sepulcher or hear of others visiting it? Did he do this once or twice, or frequently? Was the reputation of the Servant of God such that such visiting was undertaken for the reason that he was considered a saint and could thus intercede for persons? Did he hear whether or not the visits were increasing or diminishing from day to day? From whom did he hear this?

11. Did the witness hear whether or not people had devotion to the Servant of God? What people? All the people or only part of them? A major part? Did this devotion flourish in one place or in many places? In what did the devotion of the people consist? When did it begin? Since that time had he heard whether or not it had diminished or increased?

12. Did he ever hear it said that the Servant of God was one who carefully observed the commandments of God and of the Church? Was he zealous for souls and the glory of God? Was he a lover of virtue? From whom did the witness hear these things? Where and how often?

13. Did the witness know what is meant by a miracle? If he did, he was to furnish an explanation. Did he ever hear that the Servant of God performed miracles during life or after death? Where and from whom did he hear this? Did the Servant of God have a reputation for performing miracles? Was this reputation general? Did some state the contrary by maintaining that

those things which were reputed as miracles were accomplished with the help of medicines or with some other natural means '.

14. Did the witness know what was implied by reputation (*fama*)? Did it exist among some people? Among the greater part of them? Did it arise from probable causes or was it based on vain rumor? Did it have its origin among those who were suspected or from those who were interested, such as relatives, friends, religious of the same Order? Did it have its origin among those who were especially interested in the place where the body rested? Were the persons among whom the reputation (*fama*) had its origin serious persons and worthy of trust, or were they persons of flighty mind and fickle reactions. Was the reputation (*fama*) of this kind constant and abiding? Had it continued to the very present, or did it last for only a short time and then quickly disappear? Was there anything said or done or heard contrary to this reputation (*fama*)? Did it exist in other places besides the place where the Servant of God lived and died? Where? Did it perhaps exist in other places, but not in the place where he lived and died? Was it current only in the place where he lived and died, and not in other places?<sup>94</sup>

The complete interrogatory as contained in the remissorial letters has been reproduced here for the sake of showing how complete and searching the examination was. The thoroughness and the painstaking exactness with which the investigations were conducted in causes of beatification and canonization will become all the more evident when one realizes that the above-mentioned examination touched simply the matter of the reputation in general. But, before a Servant of God could even be beatified, an examination had to be conducted concerning each of the virtues, miracles and martyrdom in particular.

After the examinations on the reputation in general had been completed, a copy of the acts was very carefully to be made. This copy had to correspond exactly to the original. In order to insure this, the remissorials insisted on several precautions.<sup>95\*</sup> This copy was to be closed and sealed with the seals of the judges, and then sent to the Sacred Congregation through a special messenger.<sup>99</sup>

<sup>94</sup> Cf. Formula for Remissorial letters—*Urbani VIII Decreta*, pp. 46-49.

<sup>95</sup> Cf. Formula for Remissorial letters—*Urbani VIII Decreta*, pp. 41-42.

<sup>99</sup> *Loc. cit.*

The judges were also to make known by letter to the Sacred Congregation their own opinions concerning the value that was attached to the testimony given by the witnesses. The judges were to indicate whether, when any of the witnesses was testifying, they noticed anything which pointed to their testimony as suspect. The judges were likewise to indicate whether in their opinion there should be conducted an investigation concerning the virtues, miracles, etc., in particular.<sup>97</sup>

## 2. *The Virtues etc. in Particular*

The remissorial letters through which some bishops were appointed to conduct the process for the examination of the virtues etc. in particular were identical with those which were employed for the appointment of the judges delegate in the process on the reputation in general, except that in the former, in the place of the words "*in genere*", the words "*in specie*" were inserted. Naturally, the allegations (*articuli*) and the interrogatories which were included were different from the ones employed in the process *in genere*, since the specific points to be proved were different. An additional feature of the process *in specie* was the faculty given to the judges delegate of visiting the sepulcher of the Servant of God.<sup>98</sup>

The difference between this visitation of the sepulcher and that conducted in the process for the approval of an already existing cult (*super casu excepto*) was that the latter was ordinarily concerned only with the exterior of the sepulcher. In this visitation the sepulcher was opened, and the body of the Servant of God was identified.<sup>99</sup> This ceremony of the identification of the body of the Servant of God was to be conducted secretly, so that only those who were necessary, such as the witnesses, the sub-promoter of the faith, etc., were to be present.<sup>100</sup>

All those who were present, no matter what their rank or dignity, were forbidden, under the threat of *latae sententiae* ex-

<sup>97</sup> *Loc. cit.*

<sup>98</sup> Cf. Formula for Remissorial letters *in specie*—*Urbani VIII Decreta* p. 51.

<sup>99</sup> Benedictus XIV, *De Beatificatione*, II, 51, 1.

<sup>100</sup> Cf. Formula for Remissorial letters *in specie*—*Urbani VIII Decreta* p. 51.

communication reserved to the Supreme Pontiff, to introduce any foreign element into the tomb, or to extract anything from the tomb, even under the pretext of piety.<sup>101</sup>

<sup>101</sup> *Loc. cit.*

## Part II—Canonical Commentary

### CHAPTER IV

#### BEATIFICATION AND CANONIZATION PROCESSES IN GENERAL

Procedural law is a requirement of any properly integrated and completely balanced legal system for the simple reason that the application of substantive law and the conduct of important affairs touching, as they always do, either the private good or the common weal, and having, time and again, their own peculiar difficulties, cannot be left to caprice and arbitrariness without inviting a gradual weakening and an eventual breakdown of the whole system. The Canon Law is no exception, and thus it is that a rather considerable part of the Code of Canon Law is devoted to procedural law. The norms by which ecclesiastical processes are regulated and governed are to be found, for the most part, in the Fourth Book of the Code of Canon Law.

The Fourth Book is divided into three parts: the first part is devoted to the judicial processes properly so called,<sup>1</sup> those processes which are concerned with contentious matters and have for their purpose the prosecuting or vindicating of the rights of physical or moral persons, or the processes which are concerned with criminal matters and have as their object the inflicting or declaring of a penalty; the second part of Book Four of the Code outlines the procedure to be followed in the Causes of the Beatification of the Servants of God and the Canonization of the Blessed;<sup>2</sup> the third part gives the procedural norms for the conduct of certain special affairs and the application of certain penal sanctions.<sup>3</sup>

This threefold division of processes as found in the Fourth Book of the Code of Canon Law is by no means entirely artificial; rather it is the logical classification of canonical processes based on

<sup>1</sup> Canons 1552-1998.

<sup>2</sup> Canons 1999-2141.

<sup>3</sup> Canons 2142-2194.

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the relationship of species to genus. That is to say, there are three distinct and specific kinds of processes outlined in the Fourth Book of the Code. And although, in line with the traditional teaching, the processes of the first and third sections of the hoiirth Book are easily classified, the question of the nature of die beatification and canonization processes is not without some difficulty.

Article I. Nature of the Beatification and  
Canonization Processes

A basic problem met with in an attempt to classify these processes arises from the fact that canonists generally speak of only two types of processes, namely, the judicial properly so called and the extra-judicial or administrative;<sup>4</sup> yet the beatification and canonization processes do not seem to belong entirely or completely to either one of these categories. One must hesitate to place them among the strictly judicial processes, inasmuch as so many of the important elements of the strict judicial process seem to be missing; yet, at the same time, it is with equal hesitation that one places them among the administrative processes, since they are so overwhelmingly judicial in form.

<sup>4</sup>The nature of the distinction between judicial and administrative procedure is not always clearly indicated by canonists. Some place the difference chiefly in the form in which the jurisdiction is exercised; others emphasize the nature or character of the jurisdiction itself or the object regarding which it is exercised. It seems, therefore, that there is no hard and fast rule for determining whether or not a particular process is judicial or administrative. This is further illustrated by the controversy which at one time raged concerning the nature of the cases handled according to the rulings in canons 1990-1992. There are instances in which the form alone seems to be the deciding factor, e. g., in those cases in which it is left to the superior to decide whether or not to proceed in a judicial or administrative way; if he decides to proceed according to the judicial form the resulting process would be judicial; otherwise it would be administrative. Such possibilities are envisioned in canons 249, § 3; 250, § 5; 251, § 2; 257, § 3; 1131; 1993, § 1 and others. On the other hand there are cases which are highly judicial in form, and yet, because of the nature of the authority exercised, are considered administrative, e. g., *ratum et non consummatum* cases; it is stated very clearly in the Decree *Doctrina Catholica* of the Sacred Congregation of the Sacraments as issued on May 7, 1923 (AAV XV [1923], 389), that these cases are administrative in character, although they do follow a judicial form.



Some canonists, with good reason, have ignored this problem completely; others are content to class these processes among those that are strictly judicial.<sup>56</sup> The latter group holds that these processes are assigned a section in the Code apart from judicial processes, not because they differ essentially from them, but because they treat of a different object and by separate treatment are better explained and clarified.<sup>0</sup>

The distinguished Dominican canonist, Noval (1861-1938), gave the beatification and canonization processes a special name, calling them *ultraiudiciales*; yet he seemed, at least inferentially, to place them among the judicial processes as such.<sup>78</sup> In point of fact his distinction is hardly more than nominal. Roberti, on the other hand, says that these processes differ from other processes "*toto coelo*," and they cannot be called *ultraiudiciales*.\* In fact, he says, the beatification processes are less akin to the properly so called judicial processes than are the administrative processes of the third part of the Fourth Book of the Code.<sup>9</sup> Roberti, however, while definitely indicating that the beatification processes cannot be classed as judicial processes, fails to give them a special name or to indicate their nature other than to say they are different.

A comparison between the beatification processes and the common judicial processes will show that there is indeed a vast and remarkable difference in spite of their apparent similarity. In the first place the contentious or criminal element which seems to be so essential to the notion of common processes<sup>10</sup> is lacking in the beatification processes. It may be true that the struggle be-

<sup>5</sup> Beste, *Introductio In Codicem* (Collegeville, Minn.: Saint John's Abbey Press, 1938), p. 755 (hereafter cited *Introductio*.) With reference to this point see also Roberti, *De Processibus* (2. ed., Romae: Apud Custodiam Librariam Pontificii Instituti Utriusque Iuris, 1941), I, 29-31.

<sup>6</sup> Beste, *Introductio*, p. 755; on the contrary Roberti, *De Processibus*, I, 29-31.

<sup>7</sup> Noval, *Commentarium Codicis Iuris Canonici*, Liber IV, *De Processibus*, Pars I, *De Indiciis* (Augustae Taurinorum: Marietti, 1920), 2.

<sup>8</sup> Roberti, *De Processibus*, p. 31.

<sup>9</sup> *Loc. cit.* In this regard it is interesting to note that in the earlier drafts of the Fourth Book of the Code parts two and three were interchanged, an indication, perhaps, that the codifiers themselves were at first not perfectly clear on the nature of the beatification processes.

<sup>10</sup> Canon 1552.

tween the postulator of the causes and the promoter of the faith has somewhat of a contentious character about it; yet it must be admitted that this is not exactly the same as the contentious element envisioned in the descriptive definition of canon 1552, § 2, n. 1.

Another important difference lies in the fact that in the beatification processes there is no question of the prosecution or vindication of rights or of the declaration of juridical facts concerning a person, as in all common contentious processes; nor is there any question of the infliction or declaration of penalties as is proper to the criminal process. Another important difference between the beatification processes and common processes is that in the former there is no plaintiff in the commonly accepted sense of the term: nor is there a respondent party. An analysis of the intrinsic nature of the final judgment given in beatification and canonization causes by legitimate ecclesiastical authority will show that it is hardly identical with the declaratory or condemnatory sentence which results from the common judicial processes.

Apropos of the final judgment given by the Holy See in causes of beatification and canonization it may be mentioned here that, although not of immediate divine Catholic faith, it is the common and true opinion of theologians and canonists that the Pope enjoys the charisma of infallibility in his decree of canonization.<sup>11</sup> A Catholic would not be considered a formal heretic if he were to reject a decree of canonization, nevertheless, if he did not submit to it with internal assent, he would be acting temerarily. The decree of beatification, on the other hand, is not absolutely definitive or immutable, and consequently it is not an infallible decree nor does it imply the charisma of infallibility on the part of the one issuing it.<sup>12</sup>

There are other lesser points on which the two processes differ. In the beatification processes proofs must be altogether complete (*omnino plena*), and none are to be admitted except those which are established by means of witnesses and documents.<sup>13</sup> In common processes, on the contrary, the proofs need not always be so complete, and other means of proof such as the confession of the

<sup>11</sup> Benedictus XIV, *De Beatificatione*, I, 42-45.

<sup>12</sup> *Ibid.* For a brief but good treatment of this subject of the infallibility of the Pope in canonizing cf. Kieda, "Infallibility of the Pope in His Decree of Canonization"—*The Jurist*, VI (1946), 401-415.

<sup>13</sup> Canon 2019.

parties, presumptions, oaths are admissible.<sup>14</sup> In common processes before the ultimate decision is reached there is admitted a plurality of instances; in the beatification procedure there is not only a plurality of instances before the final decision is reached, but also a multiplicity of processes.

To say that the beatification processes are not judicial processes in the strict and commonly accepted sense of the term is not to overlook the fact that they are clothed in full judicial form; nor is it meant to imply that the acts and solemnities prescribed for the conducting of these processes lack full judicial power. The purpose of these processes is, not to vindicate or protect rights, but rather to compile complete and accurate information concerning a Servant of God; it is an investigation *de veritate* rather than *de iustitia et iure*. The truth is best ascertained by means of conducting the investigations in a judicial form, and consequently the judicial form has been prescribed and is obligatory. Because of the form in which these processes are conducted, they can be referred to as judicial, but only in an analogous sense.

On the other hand, since these processes do not originate from a contentious or criminal action, and since the final judgment of beatification or canonization comes from the benign concession and independent decision of the Supreme Pontiff, they have an administrative content. This administrative character cannot be overlooked when there is question of classifying these processes.<sup>15</sup>

Inasmuch as these processes, from the viewpoint of form, are overwhelmingly judicial and, from the viewpoint of the final decision rendered, are administrative in character, they may properly be referred to as *judicial-administrative processes*. At first this may seem to be a contradiction in terms, especially if undue emphasis is placed on either of its component parts. But if understood as a unit, as an entirely new term complete in itself and designating a new concept, it is not contradictory. It is a term used as signifying that the beatification processes are neither strictly judicial nor entirely administrative, but a specific kind of

<sup>14</sup> Canons 1751; 1827; 1829; 1832; 1834.

<sup>15</sup> It will be recalled here that The Sacred Congregation of the Sacraments has declared that the processes *super matrimonio rato et non consummato*, even though they are judicial in form, are administrative because of the nature of the authority exercised by the Supreme Pontiff in these causes.—Decree *Doctrina Catholica*, May 2/, 1923 AAS, XV (1923), 389.

process combining elements of both the judicial and administrative processes.

The use of the term judicial-administrative is justified and supported also by extrinsic argument. In the first place it is supported by the position given to these processes in the Code of Canon Law, namely, midway between the judicial and administrative procedural norms. As has already been suggested, this choice of position was not accidental. The fact that in the preliminary drafts of the Code the beatification and canonization processes were shifted more than once from one position to another in the Code shows that the codifiers did not place them in their present position with little or no thought. A further justification of the use of the term judicial-administrative is the terminology often used by the Holy See in these causes. In reference to a judgment of beatification the term decretory-sentence is frequently employed.<sup>10</sup> If it is recalled that the administrative process results in a decree and the judicial process results in a sentence, it will be readily seen that the term decretory-sentence harmonizes perfectly with the view that the process is a mixture of both the judicial and the administrative, and hence can be justly called a judicial-administrative process.

The discussion concerning the nature of these processes is not a purely academic one, for there are valuable practical consequences flowing from the conclusions. It follows that, if the processes are fully judicial in form, one can legitimately recur to the norms given in common processes as a source of suppletory law. If any lacunae are found in the norms given for the drawing up of causes of beatification and canonization—and there are some—the gap can be bridged by means of drawing upon the norms which are applicable in common processes. The norms in common processes can thus, in relation to the beatification processes, be considered as the *leges latae in similibus* of canon 20.<sup>11</sup> This principle is frequently applicable.<sup>12</sup>

<sup>10</sup> Cf., e. g., *Acta in Sollemni Canonizatione Beatae Catherinae Labouré, Virginis*—AAS, XXXIX (1947), 377-380.

<sup>11</sup> Indelicato, *Le Basi Giuridiche Del Processo Di Beatificazione* (Romae: Officium Libri Catholici, 1944), p. 74 (hereafter cited as *Le Basi Giuridiche*). The Code itself in the laws on beatification processes frequently refers expressly to the common norms, e. g., canons 2006, § 2; 2010, § 1; 2050, § 3.

<sup>12</sup> E. g., in beatification processes no specific provision is made for taking

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While the judicial form and solemnities prescribed for beatification processes must be minutely observed, the fact that these processes are not judicial in the strict sense but have likewise an administrative character, permits a degree of flexibility in the procedure in certain given instances. Thus no practical means of getting at the truth and of obtaining useful information should be neglected even if in peculiar circumstances the normal and prescribed procedure cannot be used. Any departure from the prescribed procedure made necessary by circumstances should be carefully noted in the acts of the process, and the reasons for it given.

Article II. The Law Governing These Processes

A. THE PRESENT LEGISLATION

The norms governing the construction of beatification and canonization causes which are presently in force are to be found, for the most part, in the Code of Canon Law.<sup>19</sup> This observation, which may appear to be patently obvious to some, is not made without reason. It is made with a view to correcting a fairly general notion that the procedural norms regulating these causes are esoteric and known only to the members of The Sacred Congregation of Rites. These causes are indeed reserved to the Holy See,<sup>20</sup> and specifically to the Sacred Congregation of Rites,<sup>21</sup> but the Sacred Congregation, unlike the Holy Office, is bound to follow the common norms as given in the Code, and does not have a special competency for creating its own procedural norms or changing those that exist.<sup>22</sup>

the testimony of one who resides in a distant part of the diocese and who cannot approach the tribunal or be approached by the tribunal. On the other hand, provision is made for just such a situation in the laws for common processes. If such a problem arises in a beatification process, it seems that the norms specified in canon 1770, § 2, n. 4, for common processes could be followed.

<sup>19</sup> Book IV, Part II, canons 1999-2141.

<sup>20</sup> Canon 1999, § 1.

<sup>21</sup> Canons 1999, § 2; 253, § 3.

<sup>22</sup> Canon 1555, §§ 1, 2. It may be noted in passing that in reference to those things which pertain to rites and ceremonies the Sacred Congregation can issue general decrees which have a legislative force. This is evident from the words *z>idendi et statuendi* in canon 253, § 1.

The position of the Sacred Congregation of Rites relative to the common norms for procedure in these causes is specified in the *Motu Proprio* of Benedict XV.<sup>23</sup> Its function is chiefly to provide efficaciously for the observance of the established norms. Thus the manner and practice of the Sacred Congregation in applying the existing norms can offer implicitly an authentic interpretation or a suppletory source of law,<sup>24</sup> and its instructions and decrees, issued within the ambit of the existing law without derogating from it, can explicitly determine how the law is to be applied.<sup>25</sup> The Sacred Congregation can likewise grant dispensations from any of the common norms in accordance with the faculty received from the Supreme Pontiff.<sup>26</sup> The Sacred Congregation can in beatification and canonization causes decree new procedural laws which are contrary to the Code only with the express consent of the Supreme Pontiff.<sup>27</sup>

Since the promulgation of the Code there has been some new legislation designed to meet a particular difficulty. In 1930 Pius XI instituted a third and entirely new section of the Congregation of Rites.<sup>28</sup> The special province of this Historical Section was to be the handling of certain phases of the historical causes of the Servants of God.<sup>29</sup>

In 1939 the Sacred Congregation, with the approval of Pius XI, specified the norms to be observed in handling historical causes in the ordinary tribunals.<sup>30</sup>

<sup>23</sup> *Cum Iuris Canonici*, 15 sept. 1917—AAS, IX (1917), 483.

<sup>24</sup> Cf. canon 20.

<sup>25</sup> Indelicato, *Le Basi Giuridiche*, p. 75.

<sup>26</sup> *Loc. cit.*

<sup>27</sup> Benedictus XV, *motu propr.*, *Cum Iuris Canonici*, 15 sept. 1917—AAS, IX (1917), 483.

<sup>28</sup> Pius XI, *motu propr.*, "*Già da qualche tempo*," 6 febr. 1930—AAS, XXII (1930), 87.

<sup>29</sup> *Loc. cit.* When manifest necessity or utility requires it, the Historical Section of the Congregation of Rites is also to be consulted for information relative to the amendment and publication of new editions of liturgical texts and books.

<sup>30</sup> S.R.C., *Normae servandae in constituendis processibus ordinariis super causis historicis*, 4 ian. 1939—AAS, XXXI (1939), 174.

## B. THE PAST LEGISLATION

The present law of procedure in beatification and canonization causes draws liberally from the past. These processes did not begin with the Code of Canon Law, but for centuries before were being conducted with enviable precision in accordance with strict and well defined procedural norms. A mere desultory or superficial reading of the monumental work written on this subject in the early half of the eighteenth century by Benedict XIV should be sufficient to convince anyone of this fact.<sup>31</sup>

The legislation regulating the procedure in beatification causes which was in force just prior to the promulgation of the Code of Canon Law was the result of a gradual development. It had not come into being all at once, but was built up by a series of successive legislative acts emanating from the Holy See. Beginning especially with Pope Urban VIII in the early seventeenth century, and continuing right up to the promulgation of the present Code in the twentieth century, these laws were brought into being with consistent frequency and were promulgated in numerous papal constitutions, decrees and letters as well as in decrees and documents of the Sacred Congregation of Rites. All these laws and regulations, taken as a collective whole, formed a large and impressive body of legislation, which cannot readily be put aside without some inquiry into its present status and into the relationship of the old to the new.

Canon 6 determines the status of the pre-Code law and is the connecting link between the past and the present. It was the policy of the codifiers to retain, insofar as was possible, the ancient discipline.<sup>32</sup> Consequently, most of the great mass of procedural law in beatification causes which was in force prior to the Code still remains in full vigor, not indeed in virtue of its ancient promulgation, but in virtue of its implicit or explicit retention in the Code. If any of the former legislation is not contained either implicitly or explicitly it can be said to have lost its binding force.<sup>33</sup>

A peculiar point may be introduced here with reference to the interpretation of canon 6, n. 6. Past disciplinary laws which are

<sup>31</sup> Benedictus XIV (Prosper Lambertini), *De Servorum Dei Beatificatione et Beatorum Canonizatione* (2. ed., Patavii, 1743).

<sup>32</sup> Canon 6.

<sup>33</sup> Canon 6, n. 6.

not contained either explicitly or implicitly in the Code are revoked unless they are divine laws, either positive or natural, or *unless they are laws which are contained in the liturgical books*.<sup>TM</sup> Now, many of the laws regulating procedure in beatification causes emanated from the Sacred Congregation of Rites and are to be found in the official collection of the decrees of this Sacred Congregation,<sup>34</sup> which collection is generally, at least in a wide sense, numbered among the liturgical books.<sup>36</sup> Are then these laws an exception to the general principles of canon 6, n. 6, by which laws not explicitly or implicitly mentioned in the Code are abrogated? Must they be considered as being untouched by the canon in virtue of their position in a liturgical book? The answer to these questions is definitely negative. The clause in canon 6, 6°, on liturgical books must be interpreted conformably to canon 2, and consequently refers only to liturgical laws in the strict sense.<sup>37</sup> Therefore, even though some of the laws governing these processes may be contained in a liturgical book, they remain disciplinary rather than liturgical, and are abrogated if not contained explicitly or implicitly in the Code.

Whatever the present status of the pre-Code laws, the fact remains that they constitute the great font from which the present legislation is derived, and cannot in any event be ignored; a knowledge of them is a necessity for one who wishes properly to understand and judiciously to interpret the present discipline. Another indispensable aid in interpreting the law now in force likewise comes from the past. It is the oft-mentioned work *De Beatificatione of Pope Benedict XIV*. This veritable mine of erudition, containing as it does a vast and profound knowledge of the subject

<sup>34</sup> *Loc. cit.*

<sup>35</sup> *Decreta Authentica Congregationis Sacrorum Rituum, ex Actis eiusdem collecta eiusque auctoritate promulgata sub auspiciis SS. D. N. Leonis Papae XIII* (6 vols., Romae: 1898-1927) (hereafter cited as *Decreta Authentica*).

<sup>36</sup> Coronata, *Institutiones*, I, 4; Vermeersch, *Epitome*, I, 64.

<sup>37</sup> Maroto, *Institutiones Iuris Canonici ad Normam Novi Codicis* (2 vols., Madrid: 1918-1919), I, n. 139, 122, 171-173; Michiels, *Normae Generales Iuris Canonici* (2 vols., Lublin: Universitas Catholica, 1929), I, 50; Ayrinhac, *General Legislation in the New Code of Canon Law* (New York: Blaze Benziger & Co., Inc., 1923), n. 80; Cicognani, *Canon Law*, (2. rev. ed., Authorized English Version by J. M. O'Hara and F. J. Brennan, Philadelphia: The Dolphin Press, 1935), p. 510.



based on years of experience as well as frequent indications as to the mind of the lawgiver and the jurisprudence of the Sacred Congregation, is of inestimable value in comprehending and interpreting the laws now in force.

C. FUTURE LEGISLATION

The effect of any future legislation on the present law and the relationship between the two is determined by canons 22 and 23 of the Code. From the theoretical aspect, the promulgation of new laws would not give rise to any great problem. In practice, however, a new law may in some few instances be the occasion of doubt and difficulty; this is especially true in beatification causes.

It is a well known fact that these causes are not completed in a fortnight; on the contrary, they often extend over a period of years. This is true not only of all the processes taken together as a whole, but even of the processes conducted by the local ordinary. It may very easily happen that, while a process is in the very act of being constructed by the local ordinary, some change is made in the procedural law. This may be the cause of no little annoyance to those who are responsible for handling the process. It is an annoyance, however, that is easily dispelled if it is remembered that those acts which have already been completed under the law that was in force at the time they were done remain integral and valid, and what is more, are acceptable to the Congregation of Rites.

On the other hand, future acts of the process will be governed by the new norms. If in some particular case it is found extremely difficult to apply the new norms to acts which have been started under the former discipline, then a directive should be sought from the Sacred Congregation for the continuation of the process. In any event, whatever is done by a local tribunal along these lines should be brought to the attention of the Congregation of Rites when the acts of the process are sent to Rome.<sup>38</sup>

<sup>38</sup> This discussion is by no means merely theoretical, as an example will show. When in 1939 the norms were issued for the preparation of the so-called historical causes, they called for the appointment of a diocesan historical commission composed of three members. It could well have happened that a cause which was historical in character was begun by a local ordinary just prior to the issuance of these terms. The ordinary would

## D. DIVISION AND TREATMENT OF THESE PROCESSES

The first division and distinction to be made in the treatment of these processes is that which is insinuated in the very title of the second part of the Fourth Book of the Code.<sup>39</sup> Before the beatification takes place, it must be established that the Servant of God possessed all those qualities of virtue, etc., which are required in a canonized saint. As a result, the canonization procedure proper is relatively simple; it suffices to prove that subsequent to the beatification new miracles were wrought through the intercession of the particular Blessed whose canonization is being promoted.<sup>40</sup>

These causes may proceed in one of two ways, namely, the *ordinary* way or the *extraordinary* way.<sup>41</sup> The *ordinary* way is also known as the way of non-cult (*per viam non-cultus*); the *extraordinary* way is also known as the way of the exceptional case

then naturally be faced with the problem whether he is to continue according to the old practice, or whether he is rather to retrace the steps that had been made, and appoint a historical commission as called for in the new norms. Such a problem could best be settled through a temporary suspension of the process, during which time the proper instructions from the Congregation of Rites may then be sought and obtained.

39 *De Causis Beatificationis Servorum Dei et Canonizationis Beatorum*: namely, those processes which have as their immediate object the canonization of an already beatified person, and those which are drawn up with a view to obtaining the beatification of a Servant of God. Under the present ecclesiastical discipline beatification is but a step on the way to ultimate canonization; yet from the viewpoint of procedure the foregoing distinction is a legitimate one. Before a person is canonized, he must first be beatified.

40 Canon 2138, §§ 1, 2. The number of miracles required will depend on whether the previous beatification was formal or equivalent. Two miracles are required if the beatification has been formal; three if it has been only equivalent. The distinction between formal and equivalent beatification will be explained in the treatment of the ways in which beatification causes may proceed. The types of proofs and testimony submitted in the processes also have a bearing on the number of miracles required. This matter will be treated below.

41 Canon 2000, § 1. One must take care here to forestall a possible confusion in terminology. The word "ordinary" is used for the sake of referring to the manner in which a cause proceeds as well as with a view to distinguishing the processes drawn up by the authority of the local ordinary from those which are drawn up by the authority of the Apostolic See. This is accepted terminology, and the use of the word in any particular instance will usually be clear from the context.

or the way of cult (*per viam casus excepti seu cultus*'). If a cause proceeds in the *ordinary* way, it must be proved that no public cult has been given to the Servant of God or, if it has been given through abuse, that it has been removed; if a cause proceeds in the *extraordinary* way, it must be established that the Servant of God is already in possession of public and ecclesiastical cult. A cause proceeding in the *ordinary* way will, if successful, result in formal beatification, whereas one which connotes the use of the *extraordinary* way will lead to equivalent beatification.

In order fully to appreciate the distinction between the two modes of procedure, and to know what is the determining factor in the method or procedure to be followed in a particular cause, it is necessary to make a brief excursus into the history of these processes. It should here be recalled<sup>42</sup> that in the spring of 1625 the Holy Office, desiring to remove many abuses which then were recurring with a disturbing frequency, issued a decree which forbade the public cult and veneration of those who had not as yet been beatified or canonized by the Apostolic See.<sup>43</sup> In the fall of the same year this decree was repeated.<sup>44</sup>

Almost ten years later Pope Urban VIII confirmed these decrees *in forma specifica*.<sup>45</sup> At the same time Pope Urban forbade anyone to begin a process of beatification unless it was first established by means of a distinct process that the above mentioned prohibitive decrees which forbade the giving of a public cult had been duly observed. The process in which this was established was known as the process *de non cultu*. This became the ordinary way of proceeding in a beatification cause. On the other hand, the Pope did not wish to prejudice those Servants of God who already possessed a cult either from the common consent of the Church, from the writings of the Fathers, or as a practice that obtained from time immemorial. Nor did he wish to prejudice those who had possessed a cult for a very long time with the knowledge and tolerance of the Apostolic See or of the ordinary. With reference to all these he made an exception from the general

<sup>42</sup> Cf. *supra*. Chapter III, p. 31.

<sup>43</sup> S.C.S. Off., deer. 13 mart. 1625—*Fontes*, n. 719.

<sup>44</sup> S.C.S. Off., deer. 2 oct. 1625—Lanri-Fornari-Santarelli, *Codex pro Postulatoribus*, Appendix I.

<sup>45</sup> Const. *Coelestis Hierusalem*, 5 iul. 1634—*Fontes*, n. 213.

rule. If it could be established that any of these already possessed a legitimate cult, this cult would be confirmed by the Holy See. These causes became known as the extraordinary ones, which proceeded by the way of cult or by way of exception from the ordinary rule (*per viam casus excepti seu cultus*). In order to establish the existence of a legitimate cult one had to produce an official document that attested the previous concession of the cult, or else draw up a process the object of which was to prove the immemorial existence of the cult.

The Code has preserved this procedure with some modifications. It limits the cases excepted by Urban VIII to the causes of the Servants of God who possessed a centenary or immemorial cult after the pontificate of Alexander III, i. e., after 1181 and before the time fixed by Pope Urban VIII.<sup>46</sup> The Code also requires that the cult be still given to the Servant of God at the time of the drawing up of the process, and likewise that an investigation be made into the reputation for sanctity, virtues or martyrdom and miracles.<sup>47</sup> An investigation of the writings of the Servant of God is also required.<sup>48</sup> Those causes which proceed in the *ordinary* way still require the process on non-cult.

A consideration of the facts here mentioned should make it perfectly obvious that few causes proceed today in the *extraordinary* manner. This procedure could apply to only those causes of the Servants of God who possessed a centenary or immemorial cult at the time of the Urban Constitution in 1634; this would mean, of course, that the Servant of God must have died prior to 1634.<sup>48</sup>

All beatification processes, regardless of whether a cause proceeds in the *ordinary* way or in the *extraordinary* way, are divided into two parts: the ordinary and the apostolic type of process. The former is that which is conducted by the local ordinary in his own right; the latter is that which is conducted in the name of the Apostolic See both in Rome and outside of Rome. There is,

\*6 Canon 2125, § 1.

<sup>47</sup> Canon 2127.

<sup>48</sup> Canon 2127.

<sup>48</sup> The question of the computation of this time, as also of the possibility of obtaining a dispensation from the literal requirements in certain cases, will be discussed when later there will be treated the drawing up of the causes which proceed in the *extraordinary* way.

likewise, in all beatification causes a certain determined procedure to be followed for the introduction of the cause before the Sacred Congregation. This procedure, strictly considered, belongs neither to the ordinary type of process nor to the apostolic type of process, but is, as it were, the connecting link between the two.

Whenever a cause proceeds in the *ordinary* way the ordinary processes are threefold in character: the process concerning the writings of the Servant of God, the so-called *firocessiculus diligentiarum*; the process on the reputation for sanctity, martyrdom and miracles of the Servant of God, the so-called informative process; the process to establish the non-existence of any public cult, the so-called process *de non cultu*. When a cause proceeds in the *extraordinary* way the ordinary processes are twofold in character: the process on the writings of the Servant of God; the process on reputation for sanctity, martyrdom, etc., to which is added an examination on the existing cult. Obviously, in these latter causes there will be no process *de non cultu*; the investigation of the alleged historic cult belongs to the apostolic process.<sup>50</sup> Over and above these divisions of ordinary processes there are some variations of procedure depending on the nature of the cause that is being prepared, e. g., if it is the cause of a confessor, or of a martyr; if it is a historical cause or one in which there is contemporary testimony.

The purpose of the present part of this dissertation is to offer a commentary on the law governing the preparation of the ordinary processes in beatification causes; consequently, reference will be made to the apostolic processes only insofar as that is necessary by way of providing a proper orientation of the subject at hand and of explaining the points that are under discussion. With reference to the rules to be followed for the introduction of a cause before the Sacred Congregation of Rites, which rules, in the strict sense, pertain neither to the ordinary nor to the apostolic processes, consideration will be given only to those canons which are pertinent for the work of the postulator or the local tribunal.

<sup>50</sup> Canon 2129.

## CHAPTER V

### PREPARATION FOR THE ORDINARY PROCESSES

#### Article I. General Notions

Before there be outlined the steps that are to be taken prior to the actual presentation of a beatification cause to the local ecclesiastical authorities who are competent to prepare the ordinary processes, it will not be out of place to discuss the probative value of the ordinary processes in relation to the cause as a whole. In this way one may confidently hope to remove from the minds of those who have undertaken the promotion of a cause, or who have been entrusted with the task of managing or directing a cause, any doubt as to the importance of these processes, and to emphasize the necessity of laying a proper groundwork and of establishing a firm foundation on which to build.

The Code of Canon Law points out the relationship between the ordinary and the apostolic processes. In so doing it indicates what probative force is to be attributed to the ordinary processes. The doctrine contained in the Code is substantially that which was taught by Pope Benedict XIV.

At the time that Benedict composed his great work on this subject in the early eighteenth century there were three principal theories concerning the probative value of the ordinary processes in establishing points necessary for the beatification. The first theory held that the proofs offered in the ordinary processes had only an adminicular value; the second theory taught practically the same, with the exception that it admitted that the proofs for miracles offered in the ordinary processes in the causes of martyrs had full probative value; the third theory held that there was a joining of the proofs submitted in both the ordinary and the apostolic processes, from which there could result proofs that were sufficient to permit the beatification.<sup>1</sup>

<sup>1</sup> Benedictus XIV, *De Beatificatione*, II, 4; Noval, *Commentarĭum Codicis Iuris Canonici*, Lib. IV, *De Processibus*, Pars II, *De Beatificatione Servorum Dei et Canonizatione Beatorum* (Augustae Taurinorum: Mariette, 1932), P. 75 (hereafter cited as *De Processibus*, II) ; Indelicato, *Le Basi Giuridiche*, 25. Noval (*loc. cit.*) seems to misinterpret the second theory.

This third theory, which Benedict himself held and for which he also cited the authority of the Auditors of the Rota,<sup>2</sup> was subject to various interpretations. Some held that the proofs offered in the ordinary processes were fully confirmed by the proofs admitted in the apostolic processes, that is, if the proofs were of the same kind and weight; a second group thought that the proofs concerning virtues and miracles as offered in the ordinary processes were indirectly confirmed in the apostolic processes if these established the continuation of the reputation for virtues and miracles; the third view was that the union of the proofs submitted in the two processes was the factor which gave rise to sufficient proof for the beatification, inasmuch as the things which had been solidly established in the ordinary process were confirmed in the apostolic process by means of proofs of a different kind and of lesser weight, e. g., when a miracle which had been established in the ordinary process by means of the testimony of eyewitnesses was then confirmed in the apostolic processes by means of testimony of hearsay witnesses.<sup>3</sup> The first theory concerning the nature of the relationship between the two processes was apparently too strict; the second, too mild. It was the third theory which Benedict accepted with some explanations and limitations.<sup>4</sup> The views of Benedict XIV became incorporated in a decree which was issued, after he had become Pope, by the Congregation of Rites,<sup>5</sup> and they are in substance the law as found today in the Code of Canon Law.

The Code, while preserving the preliminary character of the informative process conducted by the local ordinary, has established its importance in proving the virtues, the martyrdom and the miracles.<sup>6</sup> In establishing these facts a union is made of the proofs of the two processes, and, depending on the particular circumstances to be considered in each case, the proofs offered in each process will concur either directly (*in linea probationis*) or

<sup>2</sup> Benedictus XIV, *op. cit.*, II, 4, 11.

<sup>3</sup> Benedictus XIV, *op. cit.*, II, 5; Noval, *loc. cit.*; Indelicato, *op. cit.*, pp. 25-26.

<sup>4</sup> *Loc. cit.*

<sup>5</sup> S.R.C., deer. gen. 23 apr. 1741—*Fontes*, n. 5779; Benedictus XIV, *op. cit.*, III, 3, 25; Noval, *De Processibus*, II, 76.

<sup>6</sup> Indelicato, *Le Basi Giuridiche*, pp. 25-26.

indirectly (*in linea adminiculari*) to establish the required certainty.

If in the apostolic process there are witnesses who testify as to what they heard from eyewitnesses, and in the ordinary informative process there are eyewitnesses, then all these testimonies can be combined in the line of proof.<sup>7</sup> If, however, there are eyewitnesses in the ordinary informative process, but in the apostolic process there are only witnesses who testify to what they heard from others who themselves had knowledge from hearsay, their testimony has only a more or less adminicular value, as determined by the discretion of the judges. In such an event the process can proceed to the discussion of the miracles only if from the combined testimony of all the witnesses such proof is obtained as serves to convince a prudent man when he is judging in a weighty matter.<sup>8</sup>

Thus the ordinary process can take on the character of direct proof in two cases, namely, when in both processes there are eyewitnesses, or when in the ordinary process there are eyewitnesses and in the apostolic process there are at least hearsay witnesses who obtained their information from eyewitnesses; also when in the ordinary process there are eyewitnesses and in the apostolic process there are hearsay witnesses who themselves obtained their knowledge from hearsay witnesses. In this latter case, however, the proofs offered in the apostolic process have only an adminicular value in dependence on the discretion of the judges. It may be noted here, in passing, that for proof of miracles eyewitnesses are required in both processes.<sup>9</sup>

When there is question of proving non-cult or the general reputation for virtues, martyrdom or miracles, the ordinary processes have a special value and efficacy. Once the ordinary process on non-cult and its sentence have been approved by the Congregation of Rites, it has full probative value.<sup>10</sup> Once the ordinary process on the reputation for sanctity, martyrdom or miracles has been approved by the Sacred Congregation,<sup>11</sup> it may be omitted

<sup>7</sup> Canon 2020, § 4.

<sup>8</sup> Canon 2020, § 5.

<sup>9</sup> Canon 2020, § 7.

<sup>10</sup> Canon 2085.

<sup>11</sup> Canon 2082.



in the apostolic procedure if the Sacred Congregation so judges;<sup>12</sup> in this case the ordinary process admits of full probative value by itself.

It may finally be noted that great value is given to the ordinary processes inasmuch as they may determine the number of miracles for which proof is required in a cause ; the number that is required will often depend on the type of proof offered in the ordinary informative process on the virtue of the Servant of God.<sup>13</sup>

This digression has been made with the purpose of showing that the ordinary processes are not merely of the nature of a grand jury investigation. Indeed, they connote but preliminary investigations, but they carry with them a true probative value in many instances, and for that reason they must be constructed with great care and painstaking effort. Those who are entrusted with the preparatory work for the ordinary processes must work with the utmost patience and unremitting zeal to prepare the groundwork and to lay a firm foundation on which the processes themselves may be constructed ; otherwise a cause may be practically ruined in its very inception.

All those who are connected with the conducting of the ordinary processes must bear in mind that these processes are an integral and essential part of the beatification procedure. While it is true that the Holy See does not issue any decree of beatification on the strength of the ordinary processes alone, it is equally true that beatification is not granted if only the apostolic processes have been prepared and drawn up. Both processes are necessary, and equal care should be exercised with reference to both in the matter of properly compiling and building up the acts of which the process consists.

## ARTICLE II. PERSONS RESPONSIBLE FOR THE PREPARATION OF THE ORDINARY PROCESSES

### A. THE PETITIONER

Any individual member, or any legitimate body of the faithful, has the right to ask that a cause of some Servant of God be taken up by a competent tribunal. If the request is admitted by

<sup>12</sup> Canon 2087, § 2.

<sup>13</sup> Canon 2117.

the legitimate and competent ecclesiastical authority, the petitioner thereby obtains the right to promote the cause in any legitimate way and to conduct it to the end.<sup>14</sup>

Once the petition has been received by the competent local ordinary, he may, without any further permission from the Holy See, begin the preparation of the cause. Even if a petition has not been received, the local ordinary may on his own initiative and authority undertake to draw up the cause of beatification.<sup>15</sup> Thus, according to law, the initial action for the introduction of a cause of beatification through the ordinary process may be taken either by the local ordinary *ex officio*, or by an individual person, or also by a group of persons.

Before any of these persons can initiate the cause, however, they must be endowed with certain qualifications. The local ordinary who can take action *ex officio* must be one who is competent to draw up the particular process in virtue of the rules of competency for these causes.<sup>16</sup> On the other hand, he need not be a bishop, for he may be any of those designated as *local* ordinaries in canon 198, to the exclusion, however, of the vicar general unless he has a special mandate.<sup>17</sup> Any other ordinary who is not competent to handle the particular cause may, just as any other member of the faithful, direct a petition to the competent ordinary, asking that the cause be drawn up. This, however, would not connote an *ex officio* effected initiation of the cause as envisioned in canon 2003, § 3, but rather the case covered by canon 2003, § 1.

The individual person who has a right to ask that a beatification cause be undertaken by the local ordinary must in the first place be a Catholic, though it makes little difference whether it be a man or a woman, a prelate or a subject. This is clear from the very

<sup>14</sup> Canon 2003, §§ 1, 2.

<sup>15</sup> Canon 2003, § 3.

<sup>16</sup> The rules of competency for causes proceeding in the *ordinary* way are stated in canon 2039; if a cause is to proceed in the *extraordinary* way competency is determined according to the rule contained in canon 2126. Cf. *infra*, p. 238.

<sup>17</sup> Canon 2002 compared with canon 2003, § 3. The position of the vicar general when acting with a special mandate in these causes will be treated when the question of those who take part in the processes will be considered.

wording of canon 2003, § 1.18 If the petitioner is a woman she must act through a proxy.<sup>18</sup>

Noval held that a person who is under an ecclesiastical censure or who is prohibited from performing ecclesiastical acts as authorized for persons in good standing could not be a petitioner in these causes.<sup>20</sup> He based his argument on the analogy between the petitioner in these causes and the plaintiff in common causes. He stated that the reasons why the Church prohibits certain persons from vindicating their own rights before an ecclesiastical tribunal apply *a fortiori* to those who wish to vindicate the rights of others, namely, the Servant of God or the Church. This argument is not convincing; one may with equal force state that the reasons which prohibit a person from vindicating his own rights before an ecclesiastical tribunal *a fortiori* do not apply when there is question of another's rights. The terminology of canon 2003, § 1,21 seems sufficiently extensive to embrace all Catholics so as to abstract from the restrictions suggested by Noval.

In practice this question presents no great problem; it is hardly likely that one who is not in good standing in the Church would petition the beatification of a Servant of God. If it did so happen, the ordinary could well suggest to the person that he first regularize his position in the Church. If the person refused to do so, other Catholics in good standing, who would formulate the petition and present it, could easily be found, for it is assumed that the Servant of God already has a rather general reputation for sanctity or martyrdom. In any event, if the cause is a worthy one and the ordinary does not wish to accept the petition from a Catholic who is not in good standing, he could act *ex officio* in preparing the cause and in drawing up the process.

Not only may an individual Catholic petition the competent local ordinary to start the cause of a Servant of God, but any group

18 Noval, *De Processibiles*, II, 42; Blat, *Commentarium Textus Codicis Iuris Canonici* (5 vols, in 7, Romae: Ex Typographia Pontificia in Instituto Pii IX, 1921-1938), IV, *De Processibus*, p. 544 (hereafter cited as *Commentarium*); Cocchi, *Commentarium in Codicem Iuris Canonici* (8 vols, in 5, Taurinorum Augustae: Marietti, 1920-1930)—Liber IV, *De Processibus*, p. 518 (hereafter cited as *Commentarium*, VII).

i» Canon 2004, § 1.

20 Noval, *loc. cit.*

21 *Quivis fidelis*.....

of Catholics may, as a group, do the same. It suffices that the group or society be a legitimate one, that is, not forbidden by any law. It may be a legitimate civil or ecclesiastical society?<sup>22</sup> and need not be a true moral person in the sense described in canon 100.<sup>23</sup> It would hardly seem reasonable to require that every member of the group be Catholic, but the society as such must be a Catholic one.<sup>24</sup>

Once the petition has been accepted by the competent ordinary, the petitioner has the right to promote the cause up to the actual beatification or canonization as the case may be.<sup>25\*</sup> The petitioner has the right to promote interest in the cause among others, and to press and urge the preparation of the successive acts which lead to the beatification.

The petitioner will be expected to assume the financial obligations connected with the drawing up of a cause. The cost of drawing up a beatification cause is considerable in consequence of the extensively needed research, correspondence, secretarial work, transcription of testimony and documents, collecting of evidence, keeping of the records, and the like. It is only just and equitable that the person or persons who have petitioned this work and are promoting it defray the expense connected with it.

The petitioner in these causes may act either personally or through a proxy legitimately appointed for the purpose.<sup>26</sup> In point of fact a proxy is generally necessary, either in view of the requirements of positive law or as a result of the very nature of the case. If the petitioner is a woman, the law requires that she act through a proxy;<sup>27</sup> if the petition comes from a group of persons or a moral person, a proxy is necessary from the very nature of the case. Likewise, if the ordinary draws up the cause

<sup>22</sup> Blat, *Commentarium*, IV, 544.

<sup>23</sup> Noval, *loc. cit.*

<sup>24</sup> This requirement, that the group which petitions the cause must be a Catholic one, must not be extended to embrace those groups which after the completion of the ordinary processes direct petitioning or postulatory letters to the Holy See in request that the beatification be decreed. As will be seen with reference to these postulatory letters, of which mention is made in canon 2077, they may originate from non-Catholic sources.

<sup>25</sup> Canon 2003, § 2.

<sup>26</sup> Canon 2004, § 1.

<sup>27</sup> Canon 2004, § 1.

*ex officio*, he should appoint a proxy to act for him if only to preserve the necessary distinction of the persons taking part in the cause. In this way the cause will be handled more expeditiously and with a minimum of confusion.

Thus the possibilities that the petitioner act personally are reduced to the sole case in which the petitioner is an individual male person. Even in this event a proxy is generally necessary, since the petitioner usually does not have those special qualities which are required in the one who is to conduct the cause in the competent court.

## B. THE POSTULATOR

The one who conducts the cause before the competent tribunal, whether he be the petitioner himself or the *proxy* of the petitioner, is known as the *postulator*. Canon 2004, § 3, states that the postulator, whether he act in his own name or in the name of another, must be a priest, either secular or religious, and must have a fixed residence at Rome. The requirement of the Roman residence or headquarters does not apply to the postulator in the ordinary processes, but only to the postulator who conducts the cause in the apostolic processes.<sup>28</sup> Although the postulator in the ordinary processes need not live in Rome, it is almost an invariable practice that, before these processes are begun, a qualified priest resident in Rome is chosen as postulator. The cause is then conducted in the local tribunal by a vice-postulator appointed by the principal postulator in Rome.<sup>31</sup>

<sup>28</sup> Coronata, *Institutiones*, III, 87 and 446. Cf. also canon 1655, § 4, which directs that if in common processes the bishop is to be either a plaintiff or a defendant he should appoint a proxy to appear in his name.

<sup>29</sup> Canon 2004, § 2.

<sup>30</sup> Cf. response from the Pontifical Commission for the Authentic Interpretation of the Code, January 16, 1936—AAS, XXVIII (1936), 178.

<sup>31</sup> Most of the religious Orders have an official resident in Rome who is known as the *postulator general*. He is chosen in accordance with the rules specified in the various constitutions, and generally may not be removed from office unless the Sacred Congregation of Rites has been previously notified. The *postulator general* handles all beatification or canonization causes which pertain to the particular religious Order or its affiliates. The actual handling of any of these causes in the ordinary processes is generally done through vice-postulators whom he appoints and directs.

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The postulator, if he be not the petitioner who acts in his own name but rather the proxy of the petitioner, must be appointed with a mandate drawn up in accordance with the regulations specified in canon 1659 for the appointment of proxies in common causes.<sup>32</sup> Thus the mandate must be written; it must be signed by the one giving it, and it must indicate the place where it was given as well as the day, the month and the year.<sup>33</sup>

Moreover, in order that the mandate of the postulator be legitimate, the committing of it must be acknowledged by the Sacred Congregation of Rites and recorded in its acts.<sup>34</sup> In this matter it is by far the safer practice to wait for the confirmation of the mandate from the Sacred Congregation before the postulator appoints any vice-postulators, or before any of the actual official procedure is begun even in the ordinary processes.<sup>35</sup>

The mandate of the postulator who acts in the name of another terminates in the same way and for the same reasons as the mandates of other proxies terminate in law.<sup>36</sup> Thus a postulator may be rejected by a decree of the judge,<sup>37</sup> or his mandate may be revoked by the one who gave it.<sup>38</sup> The mandate of the postulator may cease through the death of the postulator himself, since he is considered as having been chosen *intuitu personae*.<sup>39</sup> It can also cease when a freely submitted resignation has been accepted.<sup>40</sup> Finally, it can lapse through the fact that the mandate has served its full usefulness, i. e., when there has been completed the work for which the mandate was given.<sup>41</sup> It is disputed whether or not the mandate of a proxy expires with the death of the one giving it. Coronata<sup>42</sup> and others<sup>43</sup> hold that it does. Roberti, on the other hand, holds that it does not expire if the mandator's

<sup>32</sup> Canon 2006, § 2.

<sup>33</sup> Canon 1659. Cf. formula for this mandate in Appendix

<sup>34</sup> Canon 2006, § 2.

<sup>35</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus* p. 6

<sup>36</sup> Canon 2008.

<sup>37</sup> Canon 1663.

<sup>38</sup> Canon 1664, § 1.

<sup>39</sup> Coronata, *Institutiones*, III, 95; Cocchi, *Commentarium* VII, 138; Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 26.

<sup>40</sup> Coronata, *loc. cit.*; Cocchi, *loc. cit.*; Roberti, *De Processibus*, I, 597.

<sup>41</sup> Coronata, *loc. cit.*; Cocchi, *loc. cit.*; Roberti, *op. cit.* I, 596\*

<sup>42</sup> *Loc. cit.*

<sup>43</sup> Cocchi, *loc. cit.*; Blat, *Commentarium*, IV, 547.

death takes place between the joining of issues in a cause and the conclusion of the cause.<sup>44</sup> In practice, with reference to the causes of beatification, if the one who appointed the postulator dies, then the postulator should seek a confirmation of his mandate *ad cautelam* from the one who by way of succession has become the petitioner in the cause. Moreover, if the postulator dies or gives up his office for any reason, any vice-postulators whom he may have appointed should obtain a confirmation of their mandates from the new postulator.<sup>45</sup>

Only one postulator may be appointed for each cause;<sup>46</sup> on the other hand, the same postulator may handle several causes, as is done by the *postulators general* in various religious Orders. In order to assist in the work of handling a cause, the principal postulator may appoint one or more substitutes who are known as vice-postulators.<sup>47</sup>

### C. THE VICE-POSTULATOR

The vice-postulator is the proxy of the postulator and is to be appointed by him through a legitimate mandate drawn up in accordance with the regulations of canon 1659.<sup>48</sup> Since the vice-postulator is the proxy of the postulator, the postulator alone to the exclusion of all others can appoint him.<sup>49</sup> It follows also that, since the postulator alone can appoint him, he alone can remove him. The mandate of the vice-postulator terminates in the same way as the mandate of the postulator considered above. If the petitioners in the cause are dissatisfied with the activities of the vice-postulator, they cannot remove him directly, this pertains to the postulator.

The postulator may appoint more than one vice-postulator in the same cause if he feels it is necessary for the proper and expeditious handling of that cause. Generally, only one vice-postulator need be appointed, but if in some particular cause it is necessary that work be done in widely separated areas, and espe-

<sup>44</sup> *De Processibus*, I, 597.

<sup>45</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 26.

<sup>46</sup> Canon 2005.

<sup>47</sup> Canon 2005.

<sup>48</sup> Cf. formula for mandate of the vice-postulator in Appendix.

<sup>49</sup> Canon 2005.

cially before more than one local tribunal, it may be found more convenient to appoint more than one vice-postulator.

The duty of the vice-postulator is to conduct the cause before the local tribunal. This should be done under the general supervision of the principal postulator. It will make for good order and a judicious handling of the cause if the vice-postulator does not make any important moves without first consulting the principal postulator. Prudence will of itself counsel such a procedure, for the postulator generally has a much wider experience in conducting causes of beatification than the vice-postulator has. When the postulator appoints the vice-postulator, he will ordinarily indicate in a separate letter the extent of the latter's duties and what things should be brought to his own attention before the vice-postulator proceeds with them. The individual and special points on which the vice-postulator should consult the postulator will be indicated below in their proper places.

Before the vice-postulator takes up his actual duties before the tribunal which is to draw up the ordinary processes, he must present his mandate to the tribunal;<sup>50</sup> this must be inspected and accepted by that tribunal before the vice-postulator can exercise his office.<sup>51</sup> It may be noted in this connection, however, that before a cause is ready to be presented to the local tribunal, a considerable amount of preparatory work is necessary on the part of the vice-postulator. There seems to be no objection to his doing this groundwork before he presents his mandate to the tribunal; he need only present the mandate for inspection and acceptance at the time when he petitions the tribunal to put its hand to the cause.

For all practical purposes the work of the postulator in the preparation of a beatification cause before a local tribunal is done by the vice-postulator. Since this dissertation is concerned with the handling of these causes before local ecclesiastical authorities, the term "postulator", wherever it be used, will be understood not only to include but, for the most part, to designate specifically the vice-postulator. Whenever the term is meant to refer to the principal postulator alone to the exclusion of the vice-postulator, this will either be clear from the context or it will be expressly indicated.

<sup>50</sup> Canon 2006, § 1.

<sup>51</sup> Canon 2006, § 2.



## *Preparation for the Ordinary Processes*

### Article III. The Work of Preparation

#### A. REMOTE PREPARATION

The person who conducts the cause before the competent tribunal is the postulator.<sup>52</sup> Consequently, it is with him that there rests the obligation of seeing that the cause is advantageously prepared and properly drawn up. The duties of the postulator are summarized in a single canon in the Code/<sup>53</sup> which fact may at first lead one to imagine that these duties are neither numerous nor onerous. The simple statement, namely, that it is the duty of the postulator to conduct the cause before the competent judges, hardly gives a true picture of the situation unless one is familiar with the procedure in these causes and is able to gather the implications contained in such a statement.

The duties of the postulator are: to conduct the cause before the competent tribunal; to make the necessary expenditures; to give to the court the names of the witnesses who are to be questioned, and to produce all the documentary evidence; to draw up and submit to the promoter of the faith, one of the officials on the tribunal, the allegations (*articuli*) or points which he wishes to prove and on which the witnesses in the processes are to be interrogated. It has been rightly said that "the duties of the postulator are indeed serious and require much diligence, care, study and labor; it can be said, and not without reason, that almost the entire direction of the investigations pertains to him. Therefore, he can spare no labor, study or pains in the fulfillment of his duties. If doubts arise, he should turn for their solution to men who are skilled in these matters, or to the Sacred Congregation of Rites, lest perhaps his many labors and expenses be in vain."<sup>54</sup>

When a postulator is selected for a new cause of some Servant of God, he must after due consideration and mature deliberation determine whether or not the cause is worth undertaking. Is there evidence that the Servant of God during life and at death had a reputation for sanctity or miracles? Does this reputation for sanctity and miracles still exist? Does it have a solid foundation,

<sup>52</sup> Canon 2004, § 2.

<sup>53</sup> Canon 2007.

<sup>54</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 27 (translation by the writer). Also quoted in Noval, *De Processibus*, II, 47.

so that proof of it would stand up under the severe examinations to which it will be subjected? Did the Servant of God live not only a good and virtuous life but also a life of heroic virtue, a life which, when compared with the lives of good men, was outstanding? Are the writings of the Servant of God orthodox in faith and morals? Can the life of heroic virtue and the orthodoxy in the writings be juridically established? Are there in the life or writings of the Servant of God any difficulties which cannot be reasonably explained or overcome? Are there any peremptory obstacles to the cause, that is, anything which would prohibit the very introduction of the cause, or which would patently prevent an eventual successful outcome of the cause? Are there enough people interested in the cause to help provide for the expenses involved?

All these questions and many more must be answered by the postulator if he is to handle the cause intelligently and with a reasonable hope for success. Therefore it is in the first place necessary that the postulator be conversant with the whole life of the Servant of God, his virtues, gifts and miracles. He must also familiarize himself with the requirements of the Holy See in these causes of beatification as well as with the intricacies of ecclesiastical procedure.

It is not inapropos to mention here that the postulator, above all, must be interested in the cause himself and be filled with a zeal for promoting it. One frequently hears it said that the Holy See proceeds slowly in these causes, the implication often being that they are handled too slowly, and that there are often unnecessary delays. While it is true that the beatification processes usually extend over a long period of time, a fact which is fully justified because of the gravity and the importance of the question being treated, it cannot be said that the Holy See proceeds too slowly. If some particular cause seems to be unnecessarily delayed, more often than not the blame can be placed on an incompetent or uninterested postulator.

### 1. *Peremptory Obstacles*

Once the postulator has been given the management of a cause, he should first of all consider whether or not there are any peremptory obstacles to its introduction,<sup>55</sup> that is, whether there is any-

<sup>55</sup> Canon 2038, § 1; 2082.

thing that would preclude the eventual successful outcome of the cause. Such an obstacle, explained Benedict XIV, is one that is immediately apparent and of which it is equally clear that it cannot be surmounted in the formal discussion of the cause.<sup>56</sup> One must be careful in this matter not to be misled by superficial impressions; a careful examination of the facts may indicate that a difficulty which at first seemed insurmountable may well yield to eventual clarification.<sup>56</sup>

In the common processes the peremptory obstacles or exceptions are, for the most part, clearly outlined;<sup>58</sup> on beatification processes, in order to determine what constitutes a peremptory obstacle, one must recur rather to jurisprudence than to any explicit or specific regulation in the law. For the most part such insurmountable obstacles fall into two categories: those which stem from procedural difficulties, and those which arise from some objection against the virtue or merit of the proposed Servant of God.<sup>59</sup> To the first category belongs the difficulty which derives from the fact that there may not be a sufficient number of qualified witnesses to prove the allegations of virtue, miracles or martyrdom.<sup>60</sup> This is an extrinsic and procedural difficulty which, as long as it actually exists, cannot be overcome. It may *well be* that the proposed Servant of God suffered martyrdom or practiced heroic virtue and performed miracles during life and after death; nevertheless, if these truths cannot be established in the external forum by the rules of evidence, the cause would be a hopeless one.

More often the apparent obstacle to the introduction of a cause arises from some objection against the virtue or the actual sanctity of the Servant of God.<sup>61</sup> If it is foreseen that there is no satisfactory explanation of what appears to be some moral defect on the part of the Servant of God, or if it is equally clear that the

<sup>56</sup> *De Beatificatione*, II, 30, 15—"... obstaculum sit talis momenti ut uno oculorum coniectu deprehendatur superari non posse in formali causae discussione; et . . . tale, ut assimiletur exceptioni peremptoriae, quae in civilibus causis arcet ab introductione indicii."

<sup>57</sup> Indelicato, *I.e. Basi Giuridiche*, p. 66.

<sup>58</sup> Canons 1736-1739; 1741; 1850.

<sup>59</sup> Indelicato, *loc. cit.*

<sup>60</sup> Indelicato, *loc. cit.*; Benedictus XIV, *De Beatificatione*, II, 36, 17.

<sup>61</sup> Indelicato, *loc. cit.*; Benedictus XIV, *loc. cit.*

difficulty will not be explained either with the passage of time or with a more diligent examination of the facts in the case, it would be futile and useless to undertake the drawing up of the cause. It may be that in some particular instance the objection to the lack of virtue could be satisfactorily explained; yet, if in spite of this, the beatification of the person in question would be a scandal to the faithful; one could hardly be sanguine enough to expect that the Holy See would look favorably upon such a cause. In very many causes the promoters of the faith will find manifold reasons for objecting to the beatification; however, if their objections can be adequately answered by the postulator and the advocates, they do not constitute peremptory obstacles to the initiation or the introduction of the cause. It would be a rare cause indeed in which those who promote it would not have to expect some objections from the promoter of the faith.

A third species of peremptory obstacles is mentioned by Indelicato, namely, that which arises from a complexity of circumstances which are extrinsic to the cause itself.<sup>62</sup> Such could be political, cultural, social or other circumstances which render a particular beatification or canonization inopportune or inexpedient at the present time or under the existing situation. It is clear that an obstacle of this kind is not absolute, for, with the passage of time or the change of circumstances, what was at first inopportune or inexpedient may well become a desideratum. That political situations and the like can prevent the beatification of a Servant of God is as regrettable as it is understandable; certainly one cannot blame the Church or accuse her of following a policy of mere expediency simply because she refrains from a supererogatory act which would only result in grave damage to herself.<sup>63</sup> The Church can well afford to wait.

Finally, in considering these matters the postulator must realize that not every obstacle is a peremptory one. Some, it is true, may be overcome only with difficulty, but the fact remains that they can be overcome. A cause therefore should not be dismissed except upon serious study and concentration regarding all the

<sup>62</sup> *Le Basi Giuridiche*, p. 68.

<sup>63</sup> Moreover, a request for beatification under a difficult political situation could often be suspected by some as coming from political bias or deriving from other ulterior motives.

possibilities. It is not at all impossible that what appears from a human angle to be an insurmountable difficulty may, through the mysterious workings of Divine Providence, be easily surmounted, a consideration which cannot be lightly pushed aside in these causes in which not only human but also divine testimony in the form of miracles is claimed.

## 2. *Life and Virtues of the Servant of God*

In order that the postulator may determine the merits of the cause he is to handle, and ascertain whether or not there are any serious obstacles to its eventual introduction before the Congregation of Rites, he should, either personally or through others, conduct a private and extra-judicial inquiry relative to the life, virtues, gifts and miracles of the Servant of God. This he can do by contacting those who lived with or knew the Servant of God as well as those who have any information pertaining to his life and virtues.

During this preliminary excursus into the life and virtues of the candidate for beatification, the postulator should take copious notes, so that when he is finished he will know not only whether the Servant of God has a reputation for sanctity, but also whether he possessed virtue in a heroic degree, proof of which would stand up under the searching light which will be turned on it by the Congregation of Rites. Moreover, the assembled notes of the postulator will serve as a basis for the formation of the *articuli* and the *interrogatoria* which are necessary for the proper drawing up of the process.

The notes of the postulator should not be overly succinct nor should they be unnecessarily diffuse. Extraneous and non-pertinent information should be excluded, yet there should not be omitted anything that has a bearing on the cause, be it favorable or unfavorable. The following general outline may be used as a basis on which to work. Emphasis should be put on information concerning the virtues. It is not necessary and it is hardly possible that information be obtained on every point mentioned in the outline, but it will be sufficient if one or more important facts are ascertained under each heading. The outline offered is by no means all-embracing, and therefore it may be found necessary to add other headings according as the particular condition or the special state of life of the Servant of God may warrant it.

The postulator may conduct his inquiries.<sup>64</sup> by interviewing the prospective witnesses in the cause personally, or by sending them a written questionnaire. It will help in the selecting of witnesses for the actual process if on the occasion of this preliminary examination each person who gives any information be also asked the source of his knowledge as well as the names of other persons who may have knowledge of the same or additional facts. The inquiries will touch the following points :

I. The spontaneous judgment and opinion of the person questioned concerning the moral excellence of the Servant of God.

II. Birth and Early Years: time and place of birth—names, condition and circumstances of parents—baptism, first Communion, confirmation—physical, intellectual, moral qualities early training and by whom—attitude toward parents, playmates, others—any indications of sanctity in early years—any extraordinary facts worthy of special mention—what is general opinion concerning early years—are there any witnesses, documents, names of witnesses, location of documents.

III. Education : Schools attended, times, places—courses of studies—progress in studies—marks attained in school—any honors—reputation among teachers and instructors—membership in any sodalities, societies—opinion of classmates and fellow students—any special moral, literary, artistic talents manifest—any outstanding virtues—religious duties and exercises—missions, retreats—frequent attendance at Mass, visits to the Blessed Sacrament, first Fridays—reception of the sacraments—influence on companions and others—fulfillment of obligations of state in life

<sup>64</sup> The authors and manuals offering suggestions along these lines furnish of necessity very similar outlines, e. g., Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, pp. 11-18; *Instructiones pro Confectione Processuum In Causis Servorum Dei Ordinis Minorum Sancti Francisci Capuccinorum* (Romae: 1855), pp. 3-12. The same is to be found in many of the privately printed *formulae* which are made for the convenience of the numerous postulators and vice-postulators. For a complete discussion of the virtues required in a candidate for beatification, see Benedictus XIV, *De Beatificatione*, Vol. III; a thorough treatment is also to be found in the recent work of Salvatore Indelicato, *Il Processo Apostolico di Beatificazione* (Romae: "Scientia Catholica", 1945), pp. 58-86 (hereafter cited as *Il Processo Apostolico*).

—theological and cardinal virtues—management of temporal affairs—employment, means of *livelihood*—attitude toward persons of the other sex in early years, in adolescence, in adulthood—any particular indications of sanctity during formative years—any other facts worthy of special mention—names of witnesses, location of documents and writings.

IV. *Vocation*: First signs—how manifest—influence in choosing state in life—constant or vacillating—advice sought, when, from whom—definite decision to follow' certain vocation, when, steps taken—influence of this decision on person before chosen state in life was actually embraced—any special signs of sanctity or virtue manifest at this period—witnesses—documents.

V. *Adult Life*: Chronological account covering every year of life—positions held—duties, authority exercised—influence on others—external activities—witnesses for all periods of adult life—documents, writings.<sup>65</sup>

VI. *Reputation for Sanctity During Life*: Opinion of contemporaries concerning sanctity of Servant of God—did upright and pious men consider him a Saint—was that opinion widespread, constant—what was the basis for that opinion—was the high opinion of others in this regard due merely to the natural talents, dispositions, qualities of the Servant of God, or did it arise from the exercise of supernatural virtues on his part—did those who were suffering or undergoing trials of any kind have frequent recourse to the Servant of God—did his contemporaries honor him and treat him as though he were a Saint—what was his own reaction to this treatment—were there any who thought that he was definitely not a Saint, why did they think this—were many who knew him indifferent towards him—was his reputation for sanctity among his contemporaries spontaneous—did it continue throughout his life—did it increase or decrease as time went on—can these facts be established by witnesses, documents.

<sup>65</sup> No more than a general outline can be given at this point, since the information to be sought and the questions to be asked will differ considerably from case to case depending on the state of life and the individual circumstances in which the Servant of God lived. The important point is that a complete chronological account of the life of the Servant of God and its attendant circumstances be compiled at this time.

VII. *Death of the Servant of God*: Did he predict his death in any way, how—what was the nature of his last illness—was he cheerful in his last illness—was he entirely resigned to the will of God—did he patiently undergo the trials of his sickness—did he obey the doctors and those taking care of him—did he elicit frequent acts of virtue during his illness—were his prayers frequent and fervent—did he frequently ask to receive the sacraments during his illness—did he receive them with a notable piety and devotion—when he knew death was imminent, did he rejoice—did he have a vehement desire to enter into eternal life—did he join in the prayers for the dying—what was his attitude or reaction when the prayers were recited—were his last moments beset with grave temptations—were these successfully overcome—is there external evidence of these things—were there any extraordinary signs or circumstances surrounding his death—who were present during his last moments—year, month, day, hour and place of death—as soon as word of his death was made known to others what was the general reaction—did the people consider that a Saint had died—how did they manifest this—how was the body prepared for burial—did many people flock to see the body—what was their reaction in viewing the mortal remains of the Servant of God—were there any notable happenings in the period between the death and burial—when and where did the burial take place—were there many present at the funeral—did the piety of the people manifest itself during the funeral, in what way—in what respects did the funeral differ from that of any other person in the same state of life—were there any special happenings that may have indicated God's will to make known the sanctity of His Servant—are there witnesses who can testify to these things concerning the death of the Servant of God—documents.

VIII. *Reputation for Sanctity After Death*: Was the Servant of God buried in a regular burial place, or was a distinct place chosen for him—was this special honor accorded because of his reputed sanctity, or for some other reason—was any inscription put on his grave or sepulcher—what was this inscription—did the faithful frequently visit his burial place—did they bring votive offerings—did they think it was necessary to have Masses offered for him, or was it a common belief that he went directly to heaven—did they consider him a Saint—was this view commonly and



frequently expressed—how did the faithful manifest this belief—did they frequently seek his intercession with God—did they believe that prayers addressed to him were efficacious—did they treasure pictures, relics, mementos of the Servant of God—did they frequently recount his deeds with piety—as time went on did the reputation of the Servant of God for sanctity increase or decrease—did visits of the faithful to his sepulcher fall off with the passage of time, or did they become more frequent—did his sepulcher or the place where he had previously lived become a place of pilgrimage—was this devotion of the faithful due to any artificial stimulation—does the reputation for sanctity and the consequent devotion of the faithful still exist—can all the statements made concerning these things be substantiated through reliable witnesses and documents.

IX. *Miracles After Death*: All extraordinary happenings, graces, miracles attributed to the intercession of the Servant of God should be accurately and carefully investigated and carefully noted down with all their accompanying circumstances and all facts that have any bearing on the matter. The same should be done with reference to such wonderful things as pertain to the Servant of God, although not wrought precisely through his intercession, such as the incorruption of his mortal remains, or the special signs made manifest at his tomb.

X. *Virtues in General*: Were the writings, words and actions of the Servant of God, for at least a notable time before his death, free from any morally imputable defects or faults that would militate against his alleged sanctity—was he perfect and constant in the observance of all his duties—was he always and everywhere a good example to those around him and with whom he came in contact—could his practice of virtue and mode of life be proposed as a norm to be imitated by others.

XI. *Faith*: Did the Servant of God often thank God that he was born a Catholic—with what fervor and in what manner did he do this—did he pray that those outside the Church would be led to embrace the true faith—did he believe firmly in all the articles of faith because they have been revealed by God—did he do this without any hesitation or questioning—did he show that he embraced all the mysteries of faith without any doubt—was he

especially fervent with regard to the mysteries of the Holy Trinity, the Incarnation and the Most Holy Sacrament of the Altar—in what external ways did he manifest this fervor—in what way was he devoted to the Blessed Mother—did he make frequent visits to the Most Blessed Sacrament—with what preparation and devotion did he attend or celebrate Mass—were there any external signs of his devotion during Holy Mass—what was the nature of his thanksgiving after Mass and Communion—was he devoted to the Passion of Christ—did he frequently meditate on this great mystery—did he at times seem to suffer with Christ—how did he manifest his devotion to the Passion especially during Holy Week—did he attempt to promote devotion to the Passion among others—did he show particular fervor in the celebration of such feasts as Christmas, Easter, Pentecost—was he devoted to the Saints whom had he chosen as his patrons—why were these particular ones chosen—did he show any special devotion to them—was he zealous for the spread of the faith—did he attempt to instruct children and others in the doctrines of the faith—did he preach frequently—with what fervor and zeal—were his sermons always well prepared—did he show a love for the missions—did he ever desire to go to the missions—did he ever express a willingness to suffer martyrdom for the faith—did he have a reverence for Sacred Scripture—did he frequently read the Scriptures and attempt to get others to read them—did he respect the Church, the Supreme Pontiff and other ecclesiastical superiors as representatives of God—what was his attitude toward purely ecclesiastical law—did he rejoice on hearing of the conversion of someone to the true faith—was he sorrowful on hearing of the persecution of the Church—was he zealous for the care of the altar and the church—did he carefully observe the prescribed rites and ceremonies in the celebration of Holy Mass and the administration of the sacraments—had he a great desire to gain indulgences—did he frequently receive the sacraments of penance—with what preparation and fervor—did he seek to prevent the spread of errors against the faith—did God make manifest the faith of the Servant of God through any special signs or prodigies—can the statements made concerning the heroic faith of the Servant of God be substantiated by witnesses—are there any writings of the Servant of God, or documents of any kind, which serve to illustrate the faith in a heroic degree on his part.

XII. *Hope* : Did the Servant of God show that he firmly hoped to attain eternal salvation through the merits of Jesus Christ—how was this hope made manifest—did he have great trust in God in the performance of good works—did he attempt to arouse a similar hope and trust in others—did he try to arouse hope in sinners both in hearing confessions and in preaching—did he despise the things of this world—in difficulties and trials did he trust all to God—did he have frequent recourse to God in prayer in such circumstances—in adversity was he fully resigned to the will of God—did he freely acquiesce to the decrees of Divine Providence—were all his desires and actions directed to God as his ultimate end—was he cheerful in persecution and trouble—was he patient under such difficulties—did he show his willingness to suffer anything in order to gain eternal salvation—did he practice mortification with the hope of more certainly attaining eternal life—what was his reaction at the death of a friend or a loved one—did God make known the heroic hope of His Servant by any special signs or wonders—can witnesses be found to testify to the existence of the virtue of hope in the Servant of God in a heroic degree—are there any documents or writings which could substantiate the fact that this virtue was practiced in a special way by the Servant of God.

XIII. *Love of God* : Did the Servant of God observe faithfully the laws of God and the Church—was he faithful to all the other obligations peculiar to his state in life—did he hate sin—did he use every means available to avoid mortal and venial sin and any slight imperfection—did he strive by prayer and frequent reception of the sacraments to draw closer and closer to God—did he frequently examine his conscience and try to become more perfect from day to day—was he displeased with his imperfections—with what fervor did he propose to amend them—were his spiritual directors particularly aware of his purity of conscience—was any mention ever made of the fact that he had preserved his baptismal innocence—did his actions show that he was always united to God and that he lived in the Divine presence—did he speak frequently of God and of the Divine attributes—did he spend long periods of time in the presence of the Blessed Sacrament—did he celebrate or attend Mass daily—with what fervor did he do this—how did he act if he heard someone blaspheme—did he try to draw others from sin—was he sorrowful on

learning of the sins of others—did he strive to make reparation for the sins of others—in what ways did he attempt to atone for the sins of others—did he perform penances and mortifications for the love of God—did he meditate often on the Sacred Humanity and the Passion of Christ—by what special acts did he show his love of God—did he show his love for Christ by means of a tender devotion to His Blessed Mother—was he zealous for the salvation of souls—was all his energy directed to the praise of the goodness and the love of God—were there any extraordinary external signs of his love of God such as ecstasies, the gift of tears—are there witnesses who can testify to the intensive love of God which the Servant of God possessed—is this special love of God manifest in any of the writings of the Servant of God.

XIV. *Love of Neighbor*: Did the Servant of God practice the spiritual works of mercy—did he pray for the conversion of sinners—what zeal did he show for the salvation of souls—did he strive to make the reception of the sacraments easy for others—did he forgive his enemies—how did he act towards his enemies—did he return good for evil—did he ever ridicule others—did he always speak kindly and charitably of others—was he ready always to excuse their faults—did he often pray for others, including those who were his enemies—was he devoted to the souls in purgatory—did he pray often for them—during Holy Mass at the mementos for the living and the dead was he particularly fervent while praying for the living and the dead—did he use all his efforts to remove discord among persons when he found it—was he always ready to protect the good name and reputation of others—did he offer penances to God for the sins of others—was he always kind when dealing with others, never giving way to quarrels or becoming irritable—did he practice the corporal works of mercy—did he have a love for the poor—did he try to help them—did he attempt to inspire others to help the poor—did he instruct the ignorant and counsel the doubting—did he give solace to the afflicted and have compassion on them—what was his attitude toward the sick—what efforts did he make to help them both spiritually and corporally—was he ready to suffer great personal hardship to help his neighbor—did he behold in everyone the image of God—was his charity towards others unobtrusive—did he give himself freely to all, whether superiors, equals or sub-

jects—who are the witnesses who can testify to his love of his fellow-men—is his love of neighbor manifest in a special way in any of his writings.

XV. **Prudence:** Was the prudence of the Servant of God truly of God, so that the ultimate object of all his actions was the attainment of eternal salvation—did he make use of the necessary means for obtaining salvation—did he preserve a purity of conscience and have a holy fear of offending God—did he cautiously avoid all occasion of sin—did he observe the laws of God and the obligations of his state of life rigorously—did he perform works of supererogation calculated to help insure his eternal salvation—in the exercise of virtue and the practice of penance did he seek and follow the counsel of a prudent director—did he practice simplicity—was he free of all deceitfulness and duplicity—were all his important actions preceded with earnest prayer—did he often seek the advice and counsel of others—was his own advice and counsel sought by others—did he give it promptly and willingly—was he held in esteem by others as a prudent counselor—did he despise laziness, and did he seek to keep himself occupied—was he inclined to solitude and prayer—did he act without passion—was his prudence supernatural rather than based on human reason alone—was he prudent in speaking—prudent in writing—prudent in commanding—prudent in performing his various duties—prudent in the exercise of virtues—if some of his acts seem imprudent, can this be reasonably explained—who are the witnesses who can testify to the heroic prudence exercised by the Servant of God.

XVI. **Justice:** Did the Servant of God render due honor and worship to God—to the Blessed Mother and the Saints—to his Guardian Angel and patron Saints—in his acts of devotion did he preserve a true hierarchy of values—did he show due and proper reverence to ecclesiastical and civil authority—was he obedient to the mandates of his superiors—did he have due respect for his parents—did he give to everyone his due—was he grateful for the gifts of God—for favors done—did he perform all his duties justly—was he always truthful—affable and liberal—did he temper the severity of strict justice with equity—did he treat all with equal justice—did he despise fraud and deceitfulness in others—did he always act so that none could ever honestly accuse him of being unjust—if there are any seeming injustices on his part can

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they be reasonably explained—are there witnesses who can testify to the heroic justice of the Servant of God.

XVII. *Fortitude*: Was the Servant of God patient in sickness, persecution, calumny, suffering- and trials of all kinds—did he bear all these things with a heroic fortitude and a joyful spirit as an edification to others—was he always constant both in success and in failure, in prosperity and in adversity—was he persevering in his activities—not easily discouraged—was he always content—of even tenor—was he strong in fulfilling his duties—not influenced by human respect—did he adhere to principles rather than expedience—always courageous—especially in promoting the glory of God and the salvation of souls—did he attempt to inspire courage and fortitude in others—did he despise riches and honors for himself—did he bravely defend the rights of the Church—was he fearless in standing up for the right—in the exercise of virtue—was he valiant in struggling with temptation—was he firm and resolute at the approach of death—are there witnesses who can testify to his heroic fortitude—is the virtue of fortitude illustrated in any writings either by or about him.

XVIII. *Temperance*: Did the Servant of God perform many-acts of self-denial and mortification—did he restrain his impulses and his passions—did he check his impulsive nature—was he always meek and patient when others opposed him—did he ever appear greatly perturbed by the opposition of others—was he moderate in the use of food and drink—did he observe the laws of fast and abstinence to which he was bound—did he impose voluntary periods of fast or abstinence on himself—what were his practices as regards eating and drinking—kind of food and drink, how often—did he use tobacco and in what quantity—was he always moderate in the use of wine and other liquors—how many hours a day did he sleep—did he undertake any voluntary mortifications in this regard such as sleeping on a hard bed—was he adverse to enjoying the ordinary comforts of life—how were his living-quarters furnished—did he observe moderation in his dress—did he love simplicity in all things—did he avoid all sloth and laziness—did he subjugate his flesh by means of bodily mortifications—what was the nature of these mortifications—did he observe a custody of the senses—did he avoid all forms of dissipation—did he practice silence and love solitude—did he refrain from idle talk and gossip

—*did* he practice humility—in what ways was his humility manifest—*did* he avoid undue and dangerous curiosity—*did* he avoid immoderate speech, laughter, gaiety—are there witnesses who can testify to his heroic temperance—is his temperance illustrated in any writings.

XIX. **Poverty :** Did the Servant of God observe this vow strictly—*did* he observe the spirit as well as the letter—*did* he make use of only those things that were strictly necessary—were his clothes poor—was his room sparsely furnished—*did* he always seek the express permission of his superior for giving and receiving even small things—*did* he avoid relying on a presumed permission for these things even when an express permission was not strictly necessary—was he content with the restricted use of things—how *did* he use money—in what *did* his library consist—*did* he love poverty, and try to instill this love in his fellow religious—are there witnesses who can testify to his observance of holy poverty—are there any writings which can be offered as proof of his love for and observance of poverty.

XX. **Chastity :** Did the Servant of God practice angelic purity in thought, word and deed—was he given to fasts and other mortifications for the protection of this virtue—was his speech always modest and chaste—what was his reaction to immodest talk and actions on the part of others—*did* others consider him as an angel in the flesh—*did* others seek to avoid all things that had the slightest suggestion of immodesty in his presence—*did* he avoid all suspicious intimacies with other persons—was he always circumspect in dealing with persons of the other sex—*did* he forego their company insofar as possible—*did* he avoid the external manifestation of his affections for other persons—*did* he observe custody of the eyes—what were his reactions when he heard of gross sins of impurity—how *did* he treat with penitents who had such sins to confess—*did* he avoid all effeminacy—*did* he shun everything that could be an occasion of violating the virtue and vow of chastity—*did* he seek to prevent scandals—are there any other things that indicated his love and practice of purity—are

<sup>66</sup> The questions treated under the vows of poverty, chastity and obedience can be classified under the virtues of justice and temperance if the Servant of God was not a religious.

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there witnesses available who can testify to his heroic chastity—are there any writings either by or about him that would support the claim of his chastity.

XXL *Obedience*: Did the Servant of God observe the rule, precepts and constitutions of his institute in all things—did he rely on the will of his superior in all things—did he obey the commands of his superiors promptly—did he do this cheerfully and without quarrel or complaint—did he frequently anticipate the commands of superiors—were all his actions performed out of a spirit of obedience—was he also willing to obey his equals and his inferiors—was he obedient to the directives of his confessor and spiritual guides—did he so give up his own will that he sought the permission of his superiors for almost every action—did he forego making his desires known to the superior—were the decisions of his immediate superiors accepted by him without subsequent recourse to a higher superior—in seeking permissions did he observe the proper hierarchy of authority—did he counsel others in the merit of obedience whenever they found it difficult to obey the command of a superior—are there any particularly noteworthy things that illustrated his heroic obedience—are there witnesses who can offer testimony concerning his obedience—is his obedience illustrated in any writings by or about him.

While the postulator is gathering information concerning the life and virtues of the Servant of God, he should at the same time seek detailed accounts of any alleged miracles or wonderful happenings attributed to the intercession of the Servant of God or relating to him in any way. Likewise, during this preparatory period the postulator ought to assemble, either personally or with the help of others, all the writings of the Servant of God as well as all other writings and documents which are to be presented as evidence in the cause;<sup>67</sup> moreover, the postulator will also give his attention to the judicious selection of the witnesses who are to be called to testify in the processes.<sup>68</sup> Finally the postulator will undertake to gather proofs relative to the process of non-cult.<sup>69</sup>

<sup>67</sup> Concerning the collecting of the writings of and about the Servant of God as well as other documents see *infra*, Chaps. VII, X.

<sup>68</sup> Cf. *infra*, Chap. VII, concerning the number and qualifications of the witnesses to be called in these processes.

<sup>69</sup> Cf. *infra* Chap. IX.



If in the course of these latter investigations he finds evidence that public cult is being shown to the Servant of God, he should immediately petition the ordinary for its removal.

As this preparatory work draws to a close it will become clear to the postulator and others who are desirous of promoting the cause whether or not there are any obstacles to the introduction of the cause; likewise they will be able to form a prudent judgment as to whether or not the canonical processes may be profitably undertaken. The postulator will also have on hand sufficient information to begin the painstaking work of composing the *articuli*.

### 3. *Promoting the Cause*

If the postulator decides that the cause is worth undertaking he may, even before the actual beginning of the canonical processes, undertake to promote among the people the knowledge of and private devotion to the Servant of God. By making widespread the facts pertaining to the life, virtues and miracles of the Servant of God, the postulator can thus bring it about that he is better known, more loved and more frequently and earnestly invoked. For the accomplishment of these ends various means may be employed, such as sermons, lectures, pictures, leaflets, pamphlets, articles, biographies, books. There is no objection to the use of such modern means as the radio and motion pictures, provided that the matter presented be judiciously supervised, and that anything which has a suggestion of sensationalism or high pressure salesmanship be avoided.<sup>70</sup>

Beatification and canonization are graces which ultimately come from God. Consequently the postulator of a cause should see that earnest, zealous and frequent prayers are addressed to God for the achievement of this aim. A prayer such as the following could be employed :

*Most Holy and Adorable Trinity, Father, Son and  
Holy Spirit, zve adore Thee, we praise Thee and we give*

<sup>70</sup> All material which is to be published is subject to the general norms of laws relative to previous censorship, as prescribed in canons 1384-1394. With reference to the interpretation of canon 1387, which states that it is not permitted to publish things pertaining to causes of beatification or canonization without the previous permission of the Sacred Congregation of Rites, cf. *infra*, Chap. IX, Art. III, A.

*Thee thanks for the many graces and favors which Thou zoert pleased to bestow on Thy most faithful servant N. N.: grant, we humbly beseech Thee, to manifest in him the pozuor of Thy love and the greatness op Thy many mercies by conceding io us his beatification (canonisation), which zee so earnestly desire. Our Bather, Hail Mary, Glory be to the Bather.*

The faithful should be instructed to report to the postulator all favors received through the intercession of the Servant of God. The postulator, on his part, should encourage the fjiithful to seek the intercession of the one whose cause he is promoting. A suitable prayer for this would be:

*Most Holy and Adorable Trinity, Bather, Son and Holy Spirit, for Thine. Ozyn glory and the sanctification of souls glorify Thy servant N. N. by granting to us the graces zduich zee humbly ask through his intercession. Our Bather, Hail Mary, Glory be to the Bather.*

Before the publishing of the foregoing or of similar prayers the proper permission should be obtained from the ecclesiastical authorities.<sup>71</sup> The postulator may also ask the bishop of the diocese, or others endowed with the faculty, to attach an indulgence to the recitation of these prayers.<sup>72</sup> An indulgence attached to such a prayer by the local ordinary can be gained not only by his subjects, though they are actually outside his diocese, but also by others while they are actually within the territory of his diocese.<sup>73</sup>

Although no subordinates of the Supreme Pontiff can add on indulgence to an already indulgenced prayer in such a way that the indulgences become cumulative, unless the fulfillment of added conditions be at the same time prescribed, they can indulgence for their own subjects a prayer which has already been indulgenced by someone else for his own subjects.<sup>74</sup>

In promoting the cause of a Servant of God among the faithful, the postulator should keep in mind that everything and any-

<sup>71</sup> Canon 1385.

<sup>72</sup> Cc. 349, § 2, n. 2; 239, § 1, n. 24; 274, n. 2; 294, § 2, 215, § 2.

<sup>73</sup> Canon 927.

<sup>74</sup> Canon 913.

thing that is redolent of public cult towards that person should be shunned.<sup>75</sup> On the other hand, private cult and devotion toward the Servant of God is something to be desired. In this regard the postulator should be well informed as to just what constitute\* public and private cult, lest perhaps he attempt to hinder those acts and devotions which are perfectly legitimate and permissible, and on the contrary permit those things which are forbidden.

Moreover, in the promotion of the cause those methods which are so characteristic of the high pressure promotional schemes common in the business world and the advertising held should be scrupulously shunned; only those methods of promotion should be resorted to which are fully in keeping with the dignity and sacredness of the subject. To do otherwise would be nothing short of scandalous, and would invite the just and well deserved criticism that the interest in the cause was disproportionate to its merits.<sup>76</sup>

Finally, it may be mentioned that the general principle in accordance with which a vice-postulator will not take any major or important steps without first consulting the principal postulator is applicable here. The vice-postulator should not resort to any novel, doubtful or out of the ordinary means for promoting a cause among the faithful without first bringing the matter to the attention of the principal postulator and awaiting his decision.

#### 4. Finances

The postulator will normally find that even in the preparatory work of the process a certain amount of expense is involved, depending on the nature and the quantity of the work that has to be done. The research attendant on the gathering of necessary facts; the collecting, copying and photostating of documents; the publishing and printing of literature connected with the promotion of the cause, the many other items and duties pursuant to the handling of the cause—all these can hardly be accomplished without some financial outlay. This is only the beginning. The postulator

<sup>75</sup> Cf. *infra*, Chap. IX, Art. III, A.

<sup>76</sup> Of interest in this connection are the norms recently issued by the Congregation of Rites relative to a somewhat kindred matter, namely, postulatory letters. Cf. S.R.C., *De Postulatoribus Litteris Conficiendis*, 15 jam 1935—AAS, XXVII (1935), 58; cf. *infra*, p. 218.

is expected to provide not only for these costs but also for all other expenses entailed in the prosecution of the cause from its beginning to its end.<sup>77</sup>

It is understood, of course, that the postulator, unless he is also the petitioner in the cause, is not burdened with these debts personally. He is acting as the proxy of another, namely, of the petitioner or the petitioners; it is on the latter that the prime obligation of financing the cause rests. Therefore, from the very beginning the postulator should come to some agreement with those from whom he received his mandate as to what is to be done regarding this aspect of the cause.<sup>78</sup> Once an arrangement has been made, any moneys that are allocated to the postulator for the cause, whether they come from the largesse of the petitioners themselves or from collections and free-will offerings on the part of the faithful,<sup>79</sup> are to be administered in accordance with the instructions of the Apostolic See.<sup>80</sup>

On September 17, 1885, the Sacred Congregation of Rites issued norms relative to the administration of these funds;<sup>81</sup> these norms were again confirmed on September 1, 1910.<sup>82</sup> These directives, as originally given, were not published in the *Acta Sanctae Sedis* at the time, nor was the confirmation of them in 1910 inserted in the *Acta Apostolicae Sedis*; they were, however, made available to the postulators in Rome. Today the Roman postulators may obtain from the Sacred Congregation instructions concerning the administration of moneys in beatification and canonization causes as well as a list of the expenses involved in the drawing up of the apostolic processes and in the solemn beatification or canonization. In point of fact most of these things are

<sup>77</sup> Canon 2007, n. 2. For an itemized account of the expenses involved in the drawing up of a cause as well as for an interesting explanation as to why the pontifical treasury cannot be burdened with these debts, see Benedictus XIV, *De Beatificatione*, I, 46.

<sup>78</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 25.

<sup>79</sup> The collecting of alms to assist in the promotion of these causes is subject to the prescripts of canon 1503, which states: "Salvis praescriptis can. 621-624, vetantur privati tam clerici quam laici sine Sedis Apostolicae aut proprii Ordinarii et Ordinarii loci licentia, in scriptis data, stipem cogere pro quolibet pio aut ecclesiastico instituto vel fine."

<sup>80</sup> Canon 2007, n. 2.

<sup>81</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 26.

<sup>82</sup> Lauri-Fornari-Santarelli, *loc. cit.*

already well known to the postulators resident in Rome. It remains, however, to point out some salient features concerning the handling of these moneys for the benefit of vice-postulators to whom the direction of the beatification processes which are drawn up outside of Rome is usually entrusted. It is especially to be noted that the vice-postulator is responsible and answerable to the principal postulator in these matters and not to the petitioners in the cause, even though the moneys involved may have come from the petitioners.

In the first place, the authority of the vice-postulator to use and administer the money pertaining to the cause will depend on the terms of the mandate or on the instructions he has received from the principal postulator. If the postulator has given the vice-postulator specific mandates in these matters, they are to be followed. On the other hand, if the vice-postulator has been appointed to his office through a mandate that does not contain any specific restrictions regarding the administration of the funds of the cause, and if no special instructions or limitations have otherwise been indicated by the chief postulator, the former is empowered *ex officio* to make the expenditures needful to his work in connection with the cause. As custodian of the funds the vice-postulator must bear in mind that the money which envisions the promotion of the cause must be kept separate from other funds,<sup>83</sup> and cannot be used for things not in any way pertinent to the cause.<sup>84</sup>

Although the money may be kept in a bank at the customary rates of interest, no loans or investments should be made without a previous consultation with the principal postulator. Even in the absence of any explicit restrictions from the postulator himself, the vice-postulator should not undertake any large or extraordinary expenditures for the promotion of the cause among the faithful, or for things which are only indirectly connected with the preparation of the cause, without obtaining beforehand the authorization of the chief postulator. At least once each year the vice-postulator should send a financial statement to the postulator

<sup>83</sup> S.R.C., deer., 17 sept. 1885, as quoted in *Commentarium pro Religiosis* (after 1935, *Commentarium pro Religiosis et Missionariis*) (Romae, 1920—), IX (1928), 311.

<sup>84</sup> Cf. Benedictus XIV, *De Beatificatione*, I, 47, where many wise norms are given for the administration of these funds.

in Rome. The postulator is accountable to the Sacred Congregation of Rites for the rendering of a report each year on the financial status of the causes entrusted to his care;<sup>s</sup> he can fulfill this obligation adequately only if the vice-postulators whom he has appointed file their own financial reports with him.

In 1928 the General Definitorium of the Order of Friars Minor Capuchin under the presidency of the Most Reverend Minister General, Father Melchior a Benisa, issued norms for the vice-postulators of the Order with reference to the management of funds allocated for beatification and canonization causes. Although these norms as such constitute particular law only for the members of the Capuchin Order, they indicate a most prudent and wise approach to the situation, and are worthy of emulation on the part of all vice-postulators who are faced with the problem of administering funds in connection with beatification and canonization causes. In the prologue to the norms themselves it is expressly stated that they are based on the various instructions and decrees on these matters which have been issued by the Sacred Congregation of Rites. Because of the genuine and intrinsic worth of these norms they are reproduced here in full as a guide to those vice-postulators who, lacking specific directives from their own principal postulator, wish to administer the funds entrusted to their care with a maximum of efficiency and correctness, and a minimum of confusion and error. The norms read as follows :

I. Proventus vel eleemosynae, sive ex collaticia stipe dimanantes sive sponte a fidelibus exhibitae, pro causis beatificationis et canonizationis Servorum Dei, natura sua reputari debent tamquam pertinentes ad causas pias, et omnino distinctae ac separatae a quavis consideratione oeconomica et administrativa provinciae seu conventus, sed immediate subiectae Apostolicae Sedi et Sacrae Rituum Congregationi.

II. Eleemosynae oblatae in honorem cuiuslibet Beati vel Dei Famuli, adhibendae sunt exclusive ad usus ; qui directe vel indirecte tractationem causarum respiciant : excepto casu, quod oblato speciale eleemosynae scopum determinaverit.

III. Vice-postulatores caveant ne recipiant legata, fundationes aut quaevis onera perpetua, a seraphica Regula nobis prohibita, etsi eorundem fructus in utilitatem alicuius causae exclusive cedere debeant.

IV. Omnino vetitum est, quominus proventus vel eleemosynae pro dictis causis cedant in utilitatem conventus vel provinciae. Neque adhiberi debent pro celebrandis extraordinariis festivitatibus, pro reparandis vel exornandis ecclesiis et sacellis; nisi agatur de altari seu sepulcro, ubi corpus Beati Famuli Dei asservatur.

V. Pariter Vice-postulatoribus prohibetur, quominus absque explicita Postulatoris generalis licentia procedant ad designationem, motum ac dispositionem cuiuslibet summae capitalis, ad collocandas cum foenere in arca nummaria pecunias collectas, vel earundem fructus.

VI. Vice-postulatores facultatem habent ex officio expensas omnes faciendi, quae constructioni processuum, vel acta analogae procedurae causae, omnino respiciant.

VII. Pro expensis directe erogandis ad cultum seu devotionem Beati vel Servi Dei, aut ad eandem propagandam, vel etiam ad ornatum altaris Beati seu sepulcri Servi Dei, necessaria erit Postulatoris generalis licentia, si summa biscentum libellas aureas superabit. Vice-postulator pariter consensum generalis Postulatoris exquiret, quando agitur de extraordinaria summa acceptanda ad determinatum finem in honorem Beati vel Famuli Dei.

VIII. Vice-postulator, singulis annis mense ianuario, per documentum scripto traditum, testimonium accepti et expensi pro causis exhibebit Superiori provinciali, qui etiam iustis de causis eandem rationem exigere potest aliis temporibus: et praefato statuto tempore, testimonium antedictum transmittendum curabit Postulatori generali, quod tamen approbatione et subscriptione Superioris provincialis munitum inveniatur.<sup>86</sup>

<sup>86</sup> Curia Generalis Ordinis Fratrum Minorum Cappuccinorum, *Normae servandae a vice-postulatoribus in administratione eleemosynarum pro causis beatificationis et canonizationis Servorum Dei*—*Commentarium pro Religiosis*, IX (1928), 311-312.

**B. PROXIMATE PREPARATION****1. *The Order of the Processes***

In a beatification cause which is proceeding in the *ordinary* way three formally distinct processes fall within the ambit of the local ordinary's jurisdictional authority. They are: 1) the search for and the formal recognition of the writings of the Servant of God; 2) the informative process on the reputation for sanctity, virtues in general or martyrdom, the cause of martyrdom and miracles; and 3) the process to determine whether or not public cult has been given to the Servant of God.<sup>87</sup>

Although the Code of Canon Law treats of these three processes in the indicated order, it is not essential that that order be followed in the preparing of the processes; any order may be followed in the drawing up of the processes, and they may be drawn up even simultaneously.<sup>88\*</sup> In the event that two or more of the required processes are being drawn up at the same time, they should be kept formally and materially distinct. The order in which the ordinary processes are conducted makes little difference; the important point to be remembered is that it will be practically impossible to obtain the formal introduction of a cause before the Holy See until all the required ordinary processes have been completed.<sup>89</sup>

In the causes of martyrs, however, the process on the writings of the Servant of God may be delayed until after the formal introduction of the cause before the Holy See.<sup>90</sup> If this happens, the process on the writings is then constructed on apostolic authority<sup>91</sup> in accordance with the instructions of the promoter general of the faith.<sup>92</sup> This special provision, whereby the cause of a martyr may be introduced before the ordinary process on the writings has been completed, has obviously been made in order

<sup>87</sup> Canon 2038. If a cause is proceeding in the *extraordinary* way the processes constructed by the local ordinary are not the same as those prescribed for a cause proceeding in the ordinary way.

<sup>88</sup> In this connection see the comments of Jaros on the norms issued by the Holy See in connection with historical causes of beatification—*Apolinaris* (Romae, 1928-), XII (1939), 458; Noval, *De Processibus* II 154

<sup>88</sup> Canon 2038, § 1.

<sup>90</sup> Canon 2048.

<sup>91</sup> Canon 2048.

<sup>92</sup> Canon 2048.



that the testimony of contemporary witnesses regarding the fact and the cause of the martyrdom may be obtained without detrimental delay.

After the postulator has completed his preliminary investigations, he is not ready to petition the competent local ordinary to begin any of the processes until he has assembled the evidence which is to be produced in the particular process in question.<sup>93</sup> In order that the postulator may apply himself intelligently to the collecting of evidence, he should keep in mind particularly the following: the nature of the proofs required in these processes;<sup>94</sup> the use of the proofs in general;<sup>95</sup> the qualities of the witnesses;<sup>96</sup> the calling in of the witnesses who are deemed necessary;<sup>97</sup> the number of the witnesses;<sup>98</sup> the qualities of the depositions of the witnesses;<sup>99</sup> the nature of the documentary evidence;<sup>100</sup> the qualities of the documents;<sup>101</sup> the judicial inspection of the writings and the documents;<sup>102</sup> and the probative value of the documents.<sup>103</sup>

After the writings of the Servant of God have been collected and arranged and any witnesses who are to testify concerning them have been selected, the postulator is ready to petition the ordinary to begin the process on the writings. However, before beginning the informative process or the process on non-cult, the postulator should turn his attention to the composition of the *articuli*.<sup>104</sup>

<sup>83</sup> In historical causes of beatification, before the processes are actually begun the postulator should direct to the ordinary a formal petition in which he requests there be appointed a commission of experts whose duty it shall be to gather all the written sources on the life, virtues or martyrdom, ancient reputation of virtues or martyrdom, or ancient cult of the Servant of God. For an explanation of the appointment and the functioning of the Historical Commission, see treatment of Historical Causes given below, Chap. X, Art. I.

<sup>84</sup> Canon 2019.

<sup>95</sup> Canons 2020-2022.

<sup>86</sup> Canon 2027.

<sup>97</sup> Canons 2024, 2028, 1756.

<sup>83</sup> Canons 2020, 2030.

<sup>88</sup> Canon 2029.

Canons 1813, §§ 1, 2, 2033, 2035.

<sup>101</sup> Canons 1814, 2034.

<sup>102</sup> Canon 1815.

<sup>103</sup> Canons 1816, 1818.

<sup>104</sup> In some instances *articuli* may be necessary even in the process on the ■ writings.

## 2. *The Articuli*

The *articuli* are brief statements of the points which the postulator intends to prove concerning the Servant of God. They are simple affirmations, assertions, allegations in which a truth is stated with brevity and exactness. They must not contain rhetorical declamations, comments, subjective views or anything extraneous to a plain declarative statement of the truth. Consequently such expressions as "I believe", "I think", "it would seem", will find no place in the composition of the *articuli*. The witnesses who are to give testimony in these processes will have as their duty to affirm, to deny, to modify or to question the points proposed in the *articuli*; the witnesses will likewise be questioned in detail on all the matters suggested by the *articuli*. Because of this it can be said that the *articuli* form the very foundation or basis on which the process is constructed.

Since the *articuli* form the foundation and framework of the process, they must be formulated most carefully and with the utmost sense of responsibility on the part of the postulator. The postulator may compose the *articuli* personally, or he may assign this work to other capable and responsible persons. However, when the *articuli* are presented to the tribunal they are presented in the name of the postulator or vice-postulator as the case may be, regardless of who actually composed them. In the ordinary processes, if the vice-postulator, either personally or through another, has composed the *articuli*, it is customary that he submit them to the principal postulator in Rome for his recommendations and approval before submitting them to the tribunal.<sup>105</sup>

In some cases this act of submitting the *articuli* reflect more than just a customary usage. It may connote the fulfillment of a strict requirement as set by the principal postulator. In any event, a vice-postulator should not present to the tribunal the *articuli* which he has composed, unless he has first inquired whether or not the principal postulator wishes to inspect them before-hand. When a vice-postulator is handling a cause before the local authorities, the ultimate decision in these matters rests with the principal postulator, and thus it is the duty of the vice-postulator to seek directives from him.

The *articuli* should be made to embrace every phase of the life

<sup>105</sup> Coronata, *Institutiones*, III, 461.

of the Servant of God. Thus, they will cover all those points which the postulator has investigated privately concerning the Servant of God; his life; education; upbringing; martyrdom and cause of martyrdom, if in the case there is question of a martyr; acts of heroic virtue; the theological virtues; the cardinal virtues; all other virtues; his death; the facts preceding, accompanying and following his death; miracles after his death; his reputation for sanctity in life, after death, at the present time; his reputation for miracles, and so on. There must be added other titles if they are pertinent to the particular Servant of God in question, e. g., the special duties which he performed; the institutions which he founded; the positions which he held. Moreover, if there are any special difficulties or questions concerning the exercise of heroic virtue or other things, the *articuli* should be composed with a view to covering also these points, so that they may become clarified and explained.<sup>106</sup>

It is important to note here that, although according to the letter of the law it is sufficient in the ordinary informative process to establish the reputation for sanctity etc. in general,<sup>107</sup> the *articuli* should be composed in such a manner that they will also relate to the heroic virtue and miracles *in specie* even in the ordinary process.<sup>108</sup> One reason for this is that valuable witnesses may die, and thus important information may perish with them, before the apostolic processes are begun. Experience testifies that this possibility is not a remote one, and consequently the wise postulator will see to it that as much testimony as possible is obtained concerning the miracles and virtues *in specie* at the time that the ordinary process is drawn up. He will formidate his *articuli* with this end in view.

It may happen that the *articuli* will have to be written in more than one language, or at least will have to be translated into a language other than that in which they were originally composed.

<sup>100</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 20; Noval, *De Processibus*, II, 52.

<sup>107</sup> Canon 2050, § 2.

<sup>108</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 78; Coronata, *Institutiones*, III, 461; Muniz, *Procedimientos Eclesiásticos* (2 ed., 3 vols., Seville, 1926), III, 620 (hereafter cited as *Procedimientos*). Muniz (*op. cit.*, p. 620, note 1), however, expresses the view that the special proofs on miracles and virtues *in specie* are, as such, reserved to the apostolic process.

Obviously they will have to appear in a language that is known to the witnesses, preferably the vernacular of the witnesses; this fact alone may necessitate the use of more than one language. Moreover, if the witnesses are not familiar with Latin, French or Italian, the *articuli* will eventually have to be put into one of these languages for the convenience of the Sacred Congregation of Rites. It seems advisable for the vice-postulator to have the *articuli* initially formulated in the language or the languages of the witnesses; at a later time, then, they can be translated into either Latin, French or Italian. In making translations the juridical safeguards for a faithful translation must not be overlooked.

The postulator will see to it that the *articuli* are arranged in a logical order, and that each one is distinct from any other. They will be numbered in a single series beginning with the number one and continuing unbroken to the end. In the informative process they should be grouped under such headings as: The Life; The X<sup>a</sup> virtues; The Reputation (*Fama*); The Miracles. If any of the statements made in the *articuli* are to be proved by means of documents, especially in Historical Causes, it will be of great assistance to the Sacred Congregation if the postulator will indicate at the end of each of the *articuli* the particular document and the place in the document that is pertinent. After the *articuli* have been completed and arranged, they should be found to offer a complete and orderly picture of the whole life of the Servant of God as touching upon all those things which in any way pertain to his life, virtues and miracles. If on reading them over the vice-postulator finds any lacunae or gaps, or if there be any phase of the life of the Servant of God that is not clearly covered, it can be reasonably concluded that the *articuli* are not yet complete.

As soon as all this work has been completed, the postulator should for the sake of convenience have the *articuli* printed in booklet form. This booklet will on its title page bear the title of the cause; this will be followed with the statement of the postulator which is to accompany the *articuli*.<sup>\*10</sup> The booklet may likewise profitably contain a brief sketch of the life of the Servant of God as well as a complete and numbered list of the documents which are to be presented in the process. For the benefit of the

109 Cf. canon 2074; Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 156.

110 Cf. *infra*, Appendix I, 14.

witnesses who are to testify, a short excursus into the nature and duties of the office of witness is advisable; this could touch on such things as the requisite oaths, the obligation of indicating the source of one's knowledge when testifying, the obligation of secrecy, and so on. Finally, the booklet should contain all the above-mentioned *articuli* and other information, not only in the language or languages of the witnesses, but also in one of the languages which is acceptable to the Sacred Congregation.

After the ordinary process has begun, but in sufficient time before the sessions are held for the taking of the testimony of the witnesses, a copy of the booklet containing the *articuli* is to be given to the promoter of the faith, so that he may prepare the interrogatories; a copy is likewise to be given to each of the witnesses, so that each may refresh his memory concerning the testimony he is to give. The fact that the witnesses are given the *articuli* to read will not prohibit them from informing the tribunal, when they are asked, that they have not been instructed what to say, for they do not gather their knowledge from the *articuli*, but by reading them they recall to mind knowledge which they have gained from other sources.<sup>111</sup>

In the ordinary informative process and in the process on non-cult it is customary to write the *articuli* in the following form :

The Rev. N. N., Postulator (Vice-postulator), duly designated in the above named cause, submits the following propositions and articles to demonstrate the reputation for the sanctity, the virtues and the miracles of the said Servant of God (*or*, to show that public worship has not been offered to the same Servant of God and that the decrees of Urban VIII of holy memory have been observed), requesting earnestly that they be accepted and admitted for proof, and that witnesses may be summoned to be examined on them, without however assuming the task of superfluous proof, and reserving the right to submit other propositions and articles in the measure in which they may become necessary and as he may please.<sup>112</sup> Therefore, he proposes and wishes and intends to prove as follows :

<sup>111</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 22; Noval, *De Processibus*, II, 51.

<sup>112</sup> For the Latin form generally used see Appendix.

1. That it was and is true that the Servant of God, N. N., was born on such and such a day and in such and such a place. His parents were N. N., N. N., and they had him baptized in the Church of N. N. The date of his baptism was .... and at that time he was given the name of N. N. All of which will be proved by well informed witnesses, who will give the source of their information of what they have seen or heard; it is also a public and well known tradition. The pertinent references in the documents presented are .....  
2. That it was and is true that at an early age the Servant of God was carefully instructed in the rudiments of the Catholic faith by his parents. At the age of \_\_\_\_\_ he received the sacraments of penance and Holy Communion for the first time. These sacraments were received in the Church of ..... - on (date). All of which will be proved etc. etc.

3, 4, 5, 6, etc.<sup>113</sup>

After the last of the *articuli* the postulator will add the following :

The Rev. N. N., Postulator (Vice-postulator) of the cause, submits the indicated propositions and articles as sufficient for the present. He states, once again, that he does not assume the task of superfluous proof, and that he reserves to himself the right to submit other propositions and articles in the measure in which they may become necessary and as he may please.

-.....-....., Postulator.

*Place, date, seal.*

### 3. *Names of Witnesses*

When the postulator submits the *articuli* to the tribunal he will also present a list of the names and addresses of the witnesses whom he wishes to have called.<sup>114</sup> It is not necessary that each witness be able to testify to all of the *articuli*; however, if any of

Numbers follow consecutively and *articuli* will cover all possible points in order.

<sup>114</sup> For the formula to be used in introducing the witnesses cf. Appendix.

the witnesses are to give testimony on only some of the (*irtii uli*, there should be clearly indicated after the name of each witness the *articuli* on which he is to be questioned.<sup>115</sup>

#### 4. *Petition to the Ordinary*

The postulator, when he has the *articuli*, the witnesses and the documents in readiness, will direct to the ordinary a formal petition in which he requests the ordinary to undertake the compiling and the drawing up of the process. A distinct petition should be formulated for each of the ordinary processes.<sup>116</sup> As soon as the postulator feels that it is opportune to begin any particular process, he will direct the respective petition to the ordinary. A copy of the mandate of the postulator or the vice-postulator, as the case may be, must accompany the petition to the ordinary. Both of these documents are to be preserved among the acts of the case.

Finally, in connection with the preparatory work it should be mentioned that, when any of the processes is about to get under way, the postulator should not neglect to provide *for the* incidentals connected with the preparing of the process. He should be ready to provide transportation for those who need it; likewise, he should be prepared to provide lodging and food for the witnesses and others, if and when it is necessary. He should supply the accouterments of the process such as the paper, pens, ink, sealing wax, and so on; he may procure these things himself or, if he so desires, arrange with the notaries or others to obtain them.<sup>117</sup> The paper used should be strong linen paper,<sup>118</sup> preferably in folio;<sup>119</sup> long-lasting and durable ink should be used in writing the acts of the process.

<sup>115</sup> Coronata, *Institutiones*, III, p. 461; Muniz, *Procedimientos*, III, 620.

<sup>116</sup> For formulae cf. Appendix.

<sup>117</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 24.

<sup>118</sup> S.R.C., deer. 8 apr. 1889—*Pontes*, n. 6194.

<sup>119</sup> Vice-postulators may procure suitable paper from the postulators general in Rome. If the principal postulator in Rome *docs not* have a sufficient supply, he will be able to indicate where it is obtainable. This paper is desirable, since it generally has already printed on it the chief headings and the other set formulae used in the process. Thereupon it is only necessary to fill in the blank spaces *with the information* that pertains to the particular cause that is being drawn up. Printed formulae for oaths, citations, etc., are likewise obtainable from the same sources.

## CHAPTER VI

### THE TRIBUNAL

#### Article I. The Local Ordinary

##### A. HIS AUTHORITY

All causes pertaining to the beatification of the Servants of God or to the canonization of the Blessed are reserved solely to the judgment of the Holy See.<sup>1</sup> The agency of the Holy See to whom these matters are committed is the Sacred Congregation of Rites.<sup>2</sup> Although these causes are outstanding among the major causes which are reserved to the Holy See,<sup>3</sup> certain phases of them have been committed by law to the local ordinaries.<sup>4</sup>

The ambit of the local ordinary's jurisdiction is clearly defined by the law. It is limited insofar as he can do only those things which the law expressly defines;<sup>5</sup> yet the authority which he does exercise by law is both proper and ordinary.<sup>6</sup> The authority which the local ordinary possesses in causes of beatification remains intact from the very beginning of the cause until the Supreme Pontiff has signed the Commission for the Introduction of the Cause.<sup>7</sup> Once the decree permitting the introduction of the cause before the Sacred Congregation of Rites has been signed by the Supreme Pontiff, the local ordinary and others can act in the same cause only in virtue of delegated authority.<sup>8</sup>

It is worthy of note in this regard that even though the acts of the ordinary processes have been forwarded to the Holy See, and even though the Sacred Congregation has already recommended to the Holy Father the signing of the Commission for

<sup>1</sup> Canon 1999, § 1.

<sup>2</sup> Canons 253, § 3; 1999, § 2.

<sup>3</sup> S.R.C., instr. a. 1878—*Fontes*, n. 6104.

<sup>\*</sup> Canons 1999, § 3; 2038.

<sup>5</sup> Canon 1999, § 3.

<sup>6</sup> Canon 1999, § 3; S.R.C., instr. a. 1878—*Fontes*, n. 6164.

<sup>7</sup> Canons 2082-2084; 2086; 2048.

<sup>8</sup> Canon 2084.



the Introduction of the Cause, the jurisdiction and authority of the local ordinary does not cease until the Commission has actually been signed.<sup>9</sup>

The local ordinaries mentioned in canon 1999, § 3, as having jurisdiction in causes of beatification are all those who are mentioned in canon 198, § 1,<sup>10</sup> except religious superiors<sup>11</sup> and the vicars general.<sup>12</sup> On the other hand, the vicar general who acts in these causes with a special mandate is included among those whom the canons which govern the procedure in these causes designate as "ordinaries". This is a valid conclusion from the very wording of canon 2002, which states: "In canonibus qui sequuntur, nomine Ordinarii non intelligitur Vicarius Generalis, nisi habuerit mandatum speciale."<sup>13</sup> If the vicar general were to draw up any of the beatification processes on his own authority and without a special mandate from the ordinary whose vicar he is, his acts would not only be illicit but also null and void.<sup>14</sup>

The local ordinary can, at the request of others or also *ex officio*, draw up the cause of beatification.<sup>15</sup> In causes which are to proceed in the *ordinary way (per viam non cultus)* the act of

<sup>9</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 28.

<sup>10</sup> "In iure nomine *Ordinarii* intelliguntur, nisi quis expresse excipiat, praeter Romanum Pontificem, pro suo quisque territorio Episcopus residentialis, Abbas vel Praelatus *nullius* eorumque Vicarius Generalis, Administrator, Vicarius et Praefectus Apostolicus, itemque ii qui praedictis deficientibus interim ex iuris praescripto aut ex probatis constitutionibus succedunt in regimine, pro suis vero subditis Superiores maiores in religionibus clericalibus exemptis."

<sup>11</sup> Canon 198, § 2.

<sup>12</sup> Canon 2002.

<sup>13</sup> This is not to enter into the much disputed problem whether a vicar general who acts in virtue of a special mandate acts with ordinary or with delegated power. Many of those canonists who hold that the vicar general acts with ordinary power when he is given a special mandate cite canon 2002 in support of their views. The important point in beatification causes is that the vicar general with a special mandate is included under the term "ordinary" as used in these canons; with a special mandate he can do the things in these causes that the ordinary can do. Whether he be exercising ordinary or delegated authority when he does these things is another question.

<sup>14</sup> Indelicato, *Le Basi Giuridiche*, p. 90; canons 2002; 11.

is Canon 2003, § 3.

drawing up and perfecting the process consists chiefly in attending to the following:

- 1) the judicial recognition and examination of the writings of the Servant of God ;
- 2) the informative process regarding the reputation for sanctity, virtues in general or martyrdom, the cause of martyrdom and miracles ;
- 3) the process to prove non-cult.<sup>10</sup>

In causes which are to proceed in the *extraordinary* way (*per viam cultus seu casus excepti*) the rights of the ordinary are:

- 1) to draw up the process for the judicial recognition and examination of the writings of the Servant of God ;
- 2) to compile the process on the reputation for sanctity of life, virtues or martyrdom and miracles, whereby answers shall be given to these questions: Whether in that place there is a constant and common repute and conviction of the holiness of life of the Servant of God or of his martyrdom and its cause, and also of miracles wrought at his intercession; and whether the cult of the Servant of God flourishes there at present, and by what marks of veneration he is honored.<sup>17</sup>

#### B. COMPETENCY OF THE ORDINARY

Not every local ordinary can undertake to draw up the beatification cause of any Servant of God any more than he can exercise his jurisdiction over those who are in no way subject to him. Before a local ordinary may validly undertake to draw up one of these causes he must possess the necessary competency in accordance with the prescribed norms. In those causes which are to proceed in the *ordinary* way (*per viam cultus*) the competency is vested in the ordinary of the place in which the Servant of God died, or where the miracles took place.<sup>18</sup>

<sup>10</sup> Canon 2038.

<sup>17</sup> Canon 2127.

<sup>18</sup> Canon 2039. For a discussion regarding competency for those causes which proceed in the *extraordinary* way (*per viam cultus seu casus excepti*) cf. *infra*, Chap. X, Art. III.

If the informative process was completed thirty years previously, but the cause was interrupted for any reason before its legitimate introduction before the Holy Sec, the same ordinaries or their successors have the right to institute the informative process regarding the continuation of the reputation for sanctity or martyrdom.<sup>19</sup> The ordinaries therefore who are competent *to* resume such interrupted causes are the ones who originally conducted the cause, or their successors, to the exclusion of all others, even though under the present legislation they may not possess competency by reason of the place of death or the place of miracles.<sup>20</sup>

With reference to the present determining factors of competency, that is, the place of death or of the miracles, it is to be noted, first of all, that the two sources from which competency may spring are indicated all-inclusively (*laxative'*), in the sense that ordinary competency in these causes cannot arise from any other source. Prior to the present Code of Canon Law other fonts of competency were recognized in these causes; under the earlier law competency was enjoyed by the ordinary of the place where the body of the Servant of God rested, as well as by the ordinary of the place in which most of the witnesses to be examined lived.<sup>21</sup>

After the promulgation of the Code some authors, envisioning the possible emergence of grave difficulties in some particular cases as a result of the narrowing down of the sources of competency, held and taught that the former rules of competency could still be followed, at least in a modified form.<sup>22</sup> Others held that the two sources of competency as mentioned in canon 2039, § 1, were indeed indicated all-inclusively (*laxative*), but that the place of death was to be understood in a moral rather than in a material way. According to their viewpoint the place of death was to

<sup>19</sup> Canon 2039, § 2.

<sup>20</sup> Noval, *De Processibus*, II, 157; Blat, *Commentarium*, IV, 588. The foregoing brief comment relative to these delayed causes seemed necessary for the reason that just such a situation is possible in consequence of the fact that prior to the promulgation of the present Code of Canon Law the rules governing competency in beatification causes were not the same as they are now.

<sup>21</sup> Benedictus XIV, *De Beatificatione*, II, 2, 1.

<sup>22</sup> Lauri-Fornari-Santarelli, *Coder pro Postulatoribus*, p. 28.

be understood as that place where the Servant of God spent the latter part of his life, and not necessarily the place where he perished happened to be on the very day that he passed away.<sup>23</sup>

In view of a reply as issued in 1931 by the Pontifical Commission for the Authentic Interpretation of the Code it seems that the two sources of competency as mentioned in canon 2039, § 1, namely, the place of death and the place of miracles, are all-inclusive, and that consequently there are no other titles of competency.<sup>24</sup>

The question whether or not the place of death as mentioned in canon 2039, § 1, is to be interpreted in the strict material sense or in a wider moral sense has not been officially settled although the above mentioned reply of the Commission for Interpretation inclines one toward the stricter view especially if one realizes that the very *reason* that the moral interpretation was invoked at all was to permit the processes to be held in that place where the witnesses would be readily available rather than in the place where there were few or no witnesses available.<sup>25</sup>

In point of fact, however, the practical solution of the problem is not difficult. If it so happens that it is not convenient to draw up the ordinary processes in the place where the Servant of God actually passed away, either because all the witnesses are in another place or because some other legitimate reason exists, the postulator should direct to the Congregation of Rites a petition in which he requests that for its proper handling the cause be transferred from the one place to the other.

If the petition is accompanied with a statement from both

<sup>23</sup> Noval, *De Processibus*, II, 154-155.

<sup>24</sup> Pontifical Commission for the Authentic Interpretation of the Code, July 25, 1931. The Commission was asked: Whether canon 2039, § 1 is to be understood in the sense that the ordinary of the place also where the witnesses can conveniently be examined is competent to institute the informative process in cases relating to the Servants of God. Reply. The prescription of the aforesaid canon 2039, § 1, is to be observed; that is, the reply is in the negative.—*AAS*, XXIII (1931), 388; reported in Bouscaren, *The Canon Law Digest* (2 vols., Milwaukee: Bruce, 1934-1943), I, 835. Cf. also comments of Vermeersch on this reply—*Periodica de Re Morali, Canonica, Liturgie* (Brugis et Romae, Vols. I-VIII, 1905-1919; Vols. IX-XV, 1920-1927; Vol. XVI [1927]—, XXI (1932), 42; Indelicato, *Le Basi Giuridiche*, pp. 90-92.

<sup>25</sup> Noval, *De Processibus*, II, 155.

ordinaries in signification of their agreement to such an arrangement, and if the reasons alleged for the change of venue are sufficient, the request will readily be granted by the Sacred Congregation. As a matter of fact, it will generally happen that no matter where a cause is being drawn up there are witnesses who live outside the territory who cannot conveniently come to the place where the tribunal which is conducting the process is holding its sessions; in such an event the testimony of these witnesses should be obtained by means of rogatorial commissions, as is specified in canon 1570, § 2.26

As regards the forum of miracles, it seems that it is not necessary to have a fully proved miracle if the place of its occurrence is rightfully to serve as a factor that suffices to determine competency in the case. After all, the actual proof of a miracle or of miracles *in specie* is left to a much later stage in the processes, and the ultimate decision as to the authenticity of the miracle rests with the Holy See, and not with the local ordinary. Consequently, alleged miracles, the facts concerning which are solid enough to warrant a prudent probability, are sufficient to establish the competency of the ordinary within whose territory they took place. Any other interpretation of canon 2039, § 1, with reference to the forum of miracles would not be practicable, for it would all but nullify the place of miracles as a basis for competency.

If any of the ordinaries who are otherwise competent to draw up the cause of a Servant of God are related to that Servant of God, they must not personally draw up the process.<sup>27</sup> This restriction does not take away the fundamental competence of the ordinary, but rules that he is not to preside personally at the sessions. Any ordinary who comes under this restrictive clause of canon 2039, § 1, should, therefore, appoint a delegate to act in his name in the preparing of the processes.<sup>28</sup> The appointment of a delegate for drawing up the beatification processes in the name of the ordinary is specifically provided for in law.<sup>29</sup> The relationship, as here mentioned, between the ordinary and the

26 Cf. *infra*, p. 199; Indelicato, *Le Basi Giuridiche*, p. 92; Vermeersch in *Periodica*, XXI (1932), 42.

27 Canon 2039, § 1.

28 Vermeersch, *Epitome*, III, 173; Coronata, *Institutiones*, III, 456.

29 Canon 2040.

Servant of God is one of consanguinity, and it extends to all degrees both in the direct and in the indirect line.<sup>30</sup>

The fact that canon 2039, § 1, designates in an all-inclusive way (*taxative*) the ordinaries who are competent in these causes means that all others are incompetent. The incompetency of others is absolute, and the acts which they place are invalid. This absolute incompetence of all others, whatever may be their dignity or position, follows from the fact that beatification causes are reserved to the Holy See.<sup>31</sup> Causes which are reserved to the Holy See may be drawn up only by those whom the Holy See designates, and not by any others.<sup>32</sup> Moreover, all others are absolutely incompetent,<sup>33</sup> so that any of the prohibited acts which they perform are invalid.<sup>34</sup>

In a particular case of beatification it may happen that more than one ordinary is competent to undertake the handling of the cause. Is the competency which these ordinaries possess by law cumulative, or is it exclusive in the sense that once one of the competent ordinaries takes the matter in hand the competency of the others ceases? There can be no doubt that, once a cause has been undertaken by one of the competent ordinaries, those who were theretofore competent are thereby excluded (*fins praeventionis*).

This view is based on the general principles of jurisprudence, which have found expression in canon 1568;<sup>35</sup> moreover, it is supported by the ruling of canon 2126, which may be considered as parallel to canon 2039, where the competency of ordinaries in these processes is determined.<sup>36</sup> This opinion is held by Coronata,<sup>37</sup>

<sup>30</sup> Noval, *De Processibus*, II, 156; Blat, *Commentarium*, IV, 588.

<sup>31</sup> Canon 1999, § 1.

<sup>32</sup> Canon 1557, § 3.

<sup>33</sup> Canon 1558.

<sup>34</sup> Canon 1892.

<sup>35</sup> Ratione praeventionis, cum duo vel plures iudices aequae competentes sunt, ei ius est causam cognoscendi qui prius citatione reum legitime convenit.

<sup>36</sup> Canon 2039 which treats the question of competency in those causes which are to proceed in the *extraordinary* way (*per viam cultus seu casus excepti*) states: Ordinarius competens ad hunc processum instruendum est Ordinarius loci ubi cultus praestatur vel documenta cultus reperiuntur, salvo iure praeventionis si istiusmodi Ordinarii plures sint.

<sup>37</sup> *Institutiones*, III, 456, note 3.

Noval<sup>38</sup> and Indelicato.<sup>39</sup> Jaros, on the contrary, holds that the jurisdiction of the various ordinaries in question is cumulative; he bases his opinion on what he contends to be the practice of the Sacred Congregation of Rites.<sup>40</sup>

#### C. THE APPOINTMENT OF THE TRIBUNAL

Having decided to handle the cause, either *ex officio* or at the request of the postulator, the competent local ordinary shall appoint the tribunal. The tribunal consists of the president, who is the ordinary himself, or a priest delegated for this purpose. If the ordinary delegates a priest to preside, he must also appoint two other judges from among the synodal judges who will act as assistants to the presiding judge.<sup>41</sup> Whether the ordinary presides personally or through a delegate, he must himself constitute the tribunal by means of a formal decree;<sup>42</sup> in the same decree he should name the promoter of the faith and the notary.<sup>43</sup>

To aid in considering the special problems connected with the appointment of the tribunal, a few general observations must first be made. As has previously been noted, there are several distinct processes which are to be prepared by the ordinary in these causes. It is to be noted here that a tribunal must be formally appointed

<sup>38</sup> *De Processibus*, II, 155-156.

<sup>39</sup> *Le Basi Giuridiche*, p. 93.

<sup>40</sup> In *Apollinaris*, XII (1929), 455. *Indelicato* (*ibid.*, note) states that Jaros is wrong in saying that the practice of the Sacred Congregation is to consider this jurisdiction as cumulative; on the contrary, says Indelicato, the practice is quite the opposite. The truth of the matter is that both Indelicato and Jaros are correct in so far as they go. This can be explained by the fact that under the earlier law the cumulation of jurisdiction in these causes was recognized in practice by the Sacred Congregation; many of the causes which are being handled at the present time by the Congregation of Rites were drawn up in the ordinary processes under the former legislation, and as such are acceptable to the Sacred Congregation. In that sense Jaros is correct in saying that the practice of the Sacred Congregation recognizes this cumulation. On the other hand, the practice of the Sacred Congregation is opposed to this cumulation of jurisdiction when there is a question of causes that have been initiated and prepared under the present law. It seems that it is only in this sense that the two apparently contradictory statements of Jaros and Indelicato may be reconciled.

<sup>41</sup> Canon 2040, § 1.

<sup>42</sup> For formula of this decree cf. Appendix I, 4.

<sup>43</sup> Canon 2040, § 1.

for each process, and not just for the cause in general.<sup>44</sup> The same tribunal, however, may be appointed for all the processes, and this may be done by means of a single decree at the very beginning.<sup>45</sup> If this is done, mention of each distinct process for which the tribunal is appointed should be made in the decree, and a copy of the decree should be included among the separate acts of each process, especially in view of the fact that the acts of each process are to be kept in separate dossiers, even if they be sent to Rome at the same time.

Even though the ordinary does not intend to preside personally as judge, he is required by law to take the oath of secrecy;<sup>46</sup> if he is to act as judge he must also take an oath that he will discharge his office faithfully and not accept donations of any kind.<sup>47</sup> This is required by law; in practice, however, it is advisable that the ordinary at the very beginning take all the required oaths, even if he does not intend to act the part of judge.<sup>48</sup> In this way the requirements of the law will be safeguarded in the event that the ordinary subsequently intervenes personally in any of the sessions. In delegating a tribunal for the preparing of the processes, the ordinary does not thereby surrender his right to intervene in the processes at any time; moreover, he may conduct any of the sessions personally and independently of the delegated judges. In order more surely to protect this right the ordinary should in the decree whereby he appoints the tribunal indicate that he is reserving to himself *in solidum* the right to intervene and to conduct sessions independently of the delegated judges.<sup>49</sup>

The ordinary, even though he is not to fulfill the office of judge personally, ought to be present at the first session of each process for receiving the oaths of the other officials of the tribunal; he should likewise assist personally at the final session of each process in which it is officially closed. If he cannot, for some valid reason, be present at the first session personally, he

44 Coronata, *Institutiones*, III, 456.

45 Coronata, *loc. cit.*; Muniz, *Procedimientos*, III, 588-590.

46 Canon 2037, § 2.

47 Canon 2037, § 1.

48 Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 29; Coronata *Institutiones*, III, 457; Muniz, *Procedimientos*, III, 666-667.

49 Coronata, *Institutiones*, III, 457; Muniz, *Procedimientos*, III, 666-667.



should delegate the presiding judge to receive the oaths of the other members of the tribunal. In this event he will have to make some provision for the receiving of the oath from the presiding judge, and for taking the oath himself beforehand.<sup>50</sup>

When the ordinary does not draw up the process or handle the cause personally, but instead delegates a priest as judge, he must also appoint two assistant judges.<sup>51</sup> These latter must be chosen from among the synodal judges;<sup>52</sup> if there are no synodal judges from which to choose them, the selection may be made from the pro-synodal judges, since these latter are equivalent to the former in law.<sup>53</sup> In the event that the one appointed by the ordinary to be the presiding judge is a bishop, it will not be necessary to appoint two assistant judges; the delegated bishop presides alone.<sup>54</sup>

It is a well known fact that the ordinary processes in causes of beatification require a considerable amount of time for their completion. The sessions for the taking of the testimony, especially in the informative process, may continue for many months and even years. Consequently, it almost never happens that the local ordinary prepares the cause personally; the reason is that there are few local ordinaries who can find the time in the midst of their many duties and cares to give to such a painstaking and time-consuming occupation.

When the local ordinary delegates a priest to act as presiding judge in these processes, it is customary to appoint one who already possesses some ecclesiastical dignity; the two assistant judges are by law to be chosen from among the synodal judges or, if these are lacking, from the pro-synodal judges. The qualities required in the promoter of the faith and in the notaries will be enumerated below; suffice it to say here that, since the work they are to do is highly specialized, and since only those who are well equipped for it should be chosen, the ordinary in filling these positions should

<sup>50</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 29.

<sup>51</sup> Canon 2040, § 1.

<sup>52</sup> Canon 2040, § 1. Care should be taken to see that the synodal or pro-synodal judges have been validly appointed and that their terms have not expired; cf. canons 1574, 385-388.

<sup>53</sup> Canon 1574, § 3; Blat, *Commentarium*, IV, 588.

<sup>54</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 29; Coronata, *Institutiones*, III, 456; Vermeersch, *Epitome*, III, 174. Custom is the basis for this practice which is admitted by the Congregation of Rites.

*not hesitate to go beyond the confines* of his own territory in search of competent men. Such a practice will be almost a necessity in small dioceses and territories where there is anything but an abundance of priests, and where the few that are found are busy with the care of souls or other priestly work.

In choosing someone who is already in possession of some ecclesiastical dignity to act as the presiding judge on the tribunal, the bishop will often consider his vicar general as a logical choice. This gives rise to the question whether the vicar general is to preside alone in such a case, or whether the two assistant judges mentioned in canon 2040, § 1, must be appointed to assist him.

For an answer to this question a distinction must be made. If the vicar general is acting as delegate judge in the same sense and in the same way as any other priest, if the same work had been committed to him, would be understood to be acting', then two assistant judges must be appointed. This follows from the fact that the vicar general in this case is a delegated priest, who according to law must be assisted by two other judges;<sup>55</sup> that he at the same time happens to be vicar general is, at least in this connection, purely incidental. The situation is not the same, however, if the vicar general has received a special mandate as vicar general for the handling of the cause. In these circumstances he may conduct the processes alone, as the ordinary himself would do if he were to preside. Moreover, in these circumstances he could appoint the other members of the tribunal himself, and perform all the acts which belong by law to the local ordinary' in these causes.

The reason for this conclusion is not hard to find, for if one considers canon 2040, § 1, which permits the ordinary to preside alone in these causes, then in the light of canon 2002, this conclusion becomes inescapable.<sup>56</sup> Few authors treat of this question. Of those who do, Noval may be cited as being in full accord with the view that permits the vicar general to preside alone in these causes if he is acting in virtue of a special mandate.<sup>57</sup> Vermeersch-

<sup>55</sup> Canon 2040, § 1.

Canon 2002 reads: "In canonibus qui sequuntur, nomine Ordinarii non intelligitur Vicarius Generalis, *nisi* habuerit mandatum speciale." [Italics added]. Cf. also S.R.C., litt. encycl., 12 mart. 1631—*Fontes*, n. 5336.

<sup>57</sup> Noval, *De Processibus*, II, 158.

Creusen hold the opposite view, but give no intrinsic reason for their position.<sup>8</sup> Finally, in regard to this question it may be cautioned that whenever the vicar general draws up a beatification cause in virtue of a special mandate, mention of this must be made in the acts of the process, and a copy of the special mandate should be attached.

A further point in reference to the appointment of the tribunal pertains specifically to the two judges who are to assist the presiding priest delegate in the preparing of the processes. Whenever a priest delegate takes the place of the ordinary as the presiding other of the tribunal, are the two assistant judges necessary for the validity of the acts?

Indelicato holds that the appointment of the two assistant judges is not necessary for the validity of the acts.<sup>9</sup> This is the more acceptable opinion, as an examination of the arguments on which it rests will show. The compelling reasons supporting this view are: 1) Canon 2040, § 1, which calls for the appointment of two assistant judges, contains no sanction or invalidating clause; 2) the encyclical letter of 1631,<sup>10</sup> from which the present law is taken, likewise gave no indication that a contravention of its prescripts in this matter resulted in invalidity; and 3) Benedict XIV in his comments on this encyclical letter held that the process on the reputation for sanctity, etc., was valid even if the prescriptions contained in the letter for the preparing of the process were not all observed.<sup>11</sup>

The authority of Benedict XIV in these matters is a consideration which cannot be easily brushed aside; moreover, he quoted several other authors as favoring the opinion which he held.<sup>12</sup> A further observation is made by Indelicato in support of the opinion which holds that the two assistant judges are not necessary for the validity of the acts. He points out that in the informative process the presence of the three judges is prescribed, not for the rendering of a decision, but rather for the assembling of information.<sup>13</sup>

<sup>8</sup>*Epitome*, III, 174.

<sup>9</sup> Indelicato, *Lc Basi Giuridiche*, pp. 91-92.

<sup>10</sup> S.R.C., *Ut. encycl.*, 12 mart. 1631—*Tontes*, n. 5336.

<sup>11</sup> Benedictus XIV, *De Beatificatione*, II, 43, 15-22.

<sup>12</sup> *Loc. cit.*

<sup>13</sup> Indelicato, *loc. cit.*

Thus canon 1892, η. 1, cannot be alleged against the view which holds that the acts of the process are valid even though the three judges as prescribed by law do not concur in the task of preparing it.<sup>64</sup> Neither can this same canon be invoked in defense of the view that a sentence issued in the ordinary process of non-cult by a single delegated judge would be invalid. The reason for the inapplicability of canon 1892, η. 1, is the fact that, although in the ordinary process on non-cult a true sentence is given by the tribunal, the part of the canon under consideration refers exclusively (*taxative*) to the causes which receive mention in canon 1576, § 1.<sup>65</sup> Moreover, the Sacred Congregation has considered valid a sentence issued by one delegated judge in an ordinary process on non-cult.<sup>66</sup>

Finally, it must be noted that the assertion that the omission of the assistant judges in the processes does not result in the invalidity of the acts performed by the delegated judge alone is not the same as saying that such an action would be licit; quite the contrary is true. In point of practice no session of the processes in which the presence of the three judges is required should be held unless the three are actually present. If at any time one of the judges must of necessity be absent, a substitute should be appointed to take his place. The substitute must have the qualifications required in the one whose place he is taking, and he must be appointed by the ordinary, and not by the presiding judge delegate.

The prime value of the opinion which holds for the validity of the acts performed by a delegate judge alone can best be estimated from the viewpoint of the accomplished fact. If without

<sup>64</sup> Canon 1892, η. 1, reads: *Sententia vitio insanabilis nullitatis laborat, quando:*

*Lata est a iudice absolute incompetente vel in tribunali collegiali a non legitimo iudicum numero contra praescriptum can. 1576, § 1.*

<sup>65</sup> Indelicato, *loc. cit.* Canon 1576, § 1, enumerates the following causes: those contentious causes which are concerned with the bond of sacred ordination or of matrimony; contentious causes which concern the rights or the temporal goods of the cathedral church; criminal causes in which there is question of an irremovable incumbent's deprivation of his benefice, or which are concerned with the infliction or declaration of excommunication; causes which treat of crimes the penalty of which is deposition, perpetual deprivation of the ecclesiastical garb or degradation.

<sup>66</sup> Indelicato, *loc. cit.*

fault the processes or any part of them have been prepared by a delegate judge alone, one can rest assured that the acts, at least from that point of view, are valid, and that it is not necessary to repeat them. However, knowingly and deliberately to undertake the preparing of a process apart from the fulfillment of the requirements of law with regard to the assistant judges would not only be illicit, but also, from another standpoint, extremely indiscreet. Considering the discretionary authority of the Congregation of Rites in accepting or rejecting a cause, and looking at the matter from a purely prudential aspect, one must admit that those who are handling a beatification cause can by no means well afford to limit their considerations merely to questions of validity and invalidity.

Since the ordinary processes in causes of beatification often extend over a long period of time, it may not infrequently happen that the ordinary who appointed the members of the tribunal either dies or is transferred to another territory. Moreover, it may likewise happen that vacancies occur in the tribunal itself in consequence of the death of some of its members or for other reasons.

If the former situation is verified, there can be little doubt that the promotor of the faith and the notaries do not lose their offices unless, of course, some contrary indication is to be found in their letters of appointment.<sup>67</sup> Can the same be said with regard to the delegated judge and his assistants? It seems so, for canon 207 states that delegated power does not cease "*... resolutio hire delegantis, nisi in duobus casibus de quibus in can. 61.*" The two cases which receive mention in canon 61 are not applicable to the situation at present under discussion. It is advisable, nevertheless, when the ordinary who appointed the judges goes out of office for any reason, that the postulator seek from his interim and permanent successors a confirmation of the jurisdiction of the judges *ad cautelam*.<sup>68</sup>

If any of the officials of the tribunal cease to hold office for any reason, the postulator should petition the ordinary to fill the vacancy; in the meantime the conduct of the process is suspended.

<sup>67</sup> Canon 183, § 2. This canon states: *Resolutio quovis modo iure Superioris a quo fuerat concessum, officium ecclesiasticum non amittitur, nisi lex aliud caveat aut nisi in concessione habeatur clausula: ad beneplacitum nostrum, vel alia aequipollens.*

<sup>68</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 50.

The appointment of the new officer is effected in the same way as the initial appointment was made.<sup>69</sup>

On December 22, 1870, Pope Pius IX (1846-1878) ratified and confirmed a decree of the Sacred Congregation of Rites which forbade under pain of nullity one and the same person to hold different offices in beatification processes even successively.<sup>70</sup> This decree was interpreted as referring to offices which were mutually incompatible. Thus one who had at any time during a cause been judge, a promoter of the faith, or a notary, could not at the same time nor subsequently be postulator or witness, and vice versa. The postulator could not be a witness, nor could the witness be postulator. On the other hand, those offices which pertained to the tribunal as such could be interchanged; thus he who was at one time judge could later be appointed as promoter of the faith or employed as notary, and vice versa.<sup>71</sup>

Although this decree with its invalidating clause is no longer in force,<sup>72</sup> it remains a good directive norm for postulators and others who have the care of these causes. In the present law he who at any time held the office of judge in these causes cannot act as a witness in the same cause.<sup>73</sup> A postulator who has given up his office may subsequently act indeed as a witness, but his testimony has only administrative value;<sup>74</sup> he cannot act as witness while he still holds the office of postulator.<sup>75</sup>

## ARTICLE II. THOSE WHO ASSIST THE TRIBUNAL

Sometimes the word *tribunal* is used as referring to the entire court, thereby including not only the judge or judges, but also all the other officers whose ministrations are necessary for the carrying out of court procedure; at other times the word *tribunal* is employed strictly as signifying only the judge or panel of judges

<sup>69</sup> *Loc. cit.*

<sup>70</sup> S.R.C., decr. 22 dec. 1870: "Ne deinceps in condendis quibusvis processibus tam Ordinariis, quam Apostolicis ad eiusdem Servi Dei causam pertinentibus, eadem persona diversis officiis, ne successive quidem, utcumque priori expleto et dimisso fungi possit sub poena nullitatis."—*Fontes*, n. 6034.

<sup>71</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 51.

<sup>72</sup> Cf. *supra*, p. 61; also Indelicato, *Le Basi Giuridiche*, pp. 93-94.

<sup>73</sup> Canon 2027, § 2, n. 3.

<sup>74</sup> Canon 2027, § 2, n. 2.

<sup>75</sup> *Loc. cit.*

who review or hear the case. It is in this latter sense that the word is used here, a use which is fully justified by the wording of canon 2040, § 1.<sup>76</sup> Consequently, one may rightfully refer to those who have official duties in preparing a cause as those who assist the tribunal. It must not be concluded from this that the work of these other court officials is non-essential or non-important, for in point of fact the contrary is true. So necessary and essential is the participation of some of these officers in the preparing of a beatification cause, that if a cause were drawn up without their intervention it would be drawn up invalidly.<sup>77</sup>

Among those who assist the tribunal in the drawing up of beatification causes in the ordinary process are the notaries, the promoter of the faith, the messengers, the copyists, the revisers, the translators, the interpreters. In addition, as will be shown below, it is advisable that the tribunal in addition seek the aid of one who is well versed in the canonical procedure that is to be followed in the drawing up of these causes, whose duty it then will be to advise the court in all things pertaining to the solemnities and details of procedure.

#### A. THE NOTARY

##### 1. *Necessity of Notary*

In all processes, whether conducted by the Apostolic See or by the local ordinary in his own right, a notary or actuary must be present.<sup>78</sup> In processes conducted by the local ordinary outside the *City of Rome*, the notary of the curia may discharge the office of notary in causes of beatification.<sup>79</sup> So essential is the presence of a notary in these processes that the acts would be invalid if he did not participate. This is evident from canon 1585 which, although found under the rubric *De iudiciis* in the Code

<sup>76</sup> Tribunal constare debet praeside, qui est ipsemet Ordinarius per se vel per sacerdotem ad hoc delegatum, et in hoc altero casu duobus aliis iudicibus ab eodem Ordinario eligendis inter iudices synodales.

<sup>77</sup> Cf., e. g., canons 1585, § 1; 1587.

<sup>78</sup> Canon 2013, § 1.

<sup>79</sup> Canon 2015. In ordinary processes which are conducted in the City of Rome the Protonotary of the Sacred Congregation exercises the office of notary; in his absence this office is fulfilled by the Notary of the Vicariate of the City.

of Canon Law, refers indiscriminately to processes in general.<sup>80</sup> Moreover, this fact is evident not only from the practice of the Congregation of Rites,<sup>81</sup> but also from the very nature of the situation. If in common causes a notary is required for the validity of the acts, all the more so is he required in these causes, which deal with matters concerning which "*in tota Ecclesiae gubernatione nihil maius, aut gravius sit.*"<sup>82</sup>

## 2. *Kinds of Notaries*

According to the strict letter of the law two kinds of notaries are employed in these processes:<sup>83</sup> the notary who is known as the actuary (*notarius actuarius*),<sup>84</sup> whose duty it is to write and authenticate the acts of the process, and the assistant notary (*notarius adiunctus*),<sup>85</sup> whose specific duty it is to assist in comparing copies with the original acts, and transcripts with the autographic documents preserved in libraries, archives, etc.<sup>86</sup>

Since some doubt can be raised on the point whether or not a notary can officially testify to his own appointment, it has long since been the custom to employ a third notary in these processes. He is the already constituted notary, who assists at the first session of the process (*notarius de primordialibus rogatus*)

Strictly taken, this third notary is not absolutely necessary; he is neither mentioned in the law of the Code nor does the situation

*Cuilibet processui interesse oportet notarium, qui actuarii officio fungatur; adeo ut nulla habeantur acta si actuarii manu non fuerint exarata, vel saltem ab eo subscripta.*"

<sup>81</sup> On more than one occasion the Sacred Congregation has seen fit to point out to a postulator the necessity of seeking a sanction for acts which were invalid not because of the absence of a notary, but because of the fact that the notary who did assist had not been properly constituted or lacked one of the essential qualities of a notary. It is inconceivable that the Sacred Congregation would even consider a case that had been prepared in the ordinary processes without a notary.

<sup>82</sup> S.R.C., deer., 15 oct. 1678—*Fontes*, n. 5626.

<sup>83</sup> Compare canons 2013, § 1; 2015; 2016; 2055.

<sup>84</sup> Canon 2013, § 1.

<sup>85</sup> Canon 2016.

<sup>86</sup> Canon 2016.

<sup>87</sup> Benedictus XIV, *De Beatificatione*, II, 47, 8; Noval, *De Processibus*, II, 63-65; Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 42; Coronata, *Institutiones*, III, 448; Indelicato, *Le Basi Giuridiche*, 97-98.



itself demand his presence.<sup>88</sup> Xcjal<sup>88</sup> and Indelicate,<sup>90</sup> following Benedict XIV,<sup>91</sup> hold that the appointment of the notary of the process (*notarius actarius*) and of the assistant notary (*notarius adiunctus*) would be sufficiently attested, even apart from the presence of the additional notary, by the very fact that they are accepted by the tribunal. AVhatever the answer to this problem may be in theory, all authors agree that in practice a special notary (*notarius de primordialibus rogatus*) should be called officially for the purpose of assisting at and of authenticating the acts of the first session of the process.

Before consideration be given to the points which pertain to the notaries as required by law in these processes, it will be worthwhile to explain the matters which refer to the notary (*de primordialibus rogatus*) who assists at the first session for the appointment of the tribunal.

This notary must be one who has already been appointed as a notary by ecclesiastical authority.<sup>92</sup> Generally, the one called upon to act as notary for the first session of the process will be the chancellor of the episcopal curia, who is by his very office a notary,<sup>93</sup> or it will be one of the regular notaries of the curia. If neither the chancellor nor one of the other regular notaries is available, there would be no objection if the ordinary were to appoint a special notary.

It will not be necessary for the notary (*de primordialibus rogatus*) to take any oaths during the first session of the process

<sup>88</sup> Benedictus XIV, *loc. cit.*; Noval, *loc. cit.*; Indelicate, *loc. cit.*

<sup>89</sup> *Loc. cit.*

<sup>90</sup> *Loc. cit.*

<sup>91</sup> *Loc. cit.*

<sup>92</sup> The distinction between an ecclesiastical notary and a lay notary is determined by the source from which their appointments are derived. A notary appointed by ecclesiastical authority is an ecclesiastical notary, be he a cleric or a layman; the one appointed by civil or lay authority is a civil or lay notary. In past ages lay notaries, appointed by imperial authority, were commonly used in ecclesiastical courts; today this is not so, although there are many ecclesiastical notaries who are laymen. Canon 373, § 3, permits the appointment of laymen as ecclesiastical notaries in the absence of a sufficient number of clerics; the same canon, however, prohibits laymen from acting as notaries in criminal trials of clerics by restricting this particular function to priests.

<sup>93</sup> Canon 372, § 3.

at which he assists. He must, however, insert in the acts of that session an authentic copy of his own appointment as chancellor or notary, as the case may be. It should be noted here that, since he is not obliged to take the oath of secrecy demanded of the others *in the* process, it is *not allowed* to reveal to him any of those things which fall under that oath. As soon as the first session of the process for the setting up of the tribunal is finished, and the acts of that session have been handed over to the notary of the process (*notarius actarius*), the duties of this notary (*de primordialibus rogatus*) cease. At that time or at some later date he may himself, at the discretion of the ordinary, be appointed either actuary or assistant notary in the process, for the fact that he served as notary for the constituting of the tribunal does not offer any obstacle.

The duty of the notary who assists at the first session for the constituting of the tribunal is to describe in writing all those things that take place during that session. Moreover, after these acts have been signed by all those whose signature is required, the notary will add mention of the date and place along with his own signature and seal in the manner which will be described below. It will likewise be his duty to arrange in order all the documents which pertain to or are presented in the session. Each document will bear his own signature and seal preceded with the words *Ita est*. The documents will then be attached to the acts of the process. The acts will be written in the Latin language, and the events will be described in narrative form in the order in which they take place.

Since the order and the nature of the acts of the session are known to all ahead of time, there would be no room for objection if the notary, as far as it is possible to do so, wrote them all out ahead of time before his attendance at the session. He could leave blank spaces for the later insertion of names, dates and such other information as will not be definitely known until the session is actually in progress.<sup>94</sup> This is not only permissible, but even advisable. Through this procedure time will be saved, the acts will be neater, and, what is most important, the danger of omitting any important or essential steps in the session will be reduced to a minimum.

<sup>94</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 43.

Before a sample of the acts as they would appear at the completion of the first session of a process is given, it seems necessary to call attention to the things which precede the actual session. When the postulator is ready to begin any of the ordinary processes, he will direct a petition to the ordinary in that regard.<sup>95</sup> With this petition he will include a copy of his mandate. He may likewise at that time enclose a copy of the *articuli* as well as the list of witnesses to be called. The ordinary will then issue a rescript in which he constitutes the tribunal and appoints the promoter of the faith and the notaries of the process."

In this same rescript the ordinary shall name the time and the place for the first session of the process; moreover, he shall order that the promoter of the faith be cited, and that the other persons concerned be notified and told to appear at the proper time and place. The rescript shall be signed by the ordinary and authenticated by an ecclesiastical notary.<sup>96</sup> The notary will then prepare the citation for the promoter of the faith,<sup>97</sup> and likewise send the necessary notifications to those who are to be present at the session.

The following is an example of the acts of the first session

(TITULUS CAUSAE)<sup>100</sup>  
 BEATIFICATIONIS ET CANONIZATIONIS  
 SERV..... DEI  
 N. N.....  
 Sessio I  
*IN DEI NOMINE. AMEN.*  
 Anno a salutifera Domini Nostri Iesu Christi Nativitate MCM .....  
 Indictione Romana.....

<sup>95</sup> Cf. Appendix I, 3 for formula.

<sup>96</sup> Canon 2040, § 2. Cf. Appendix I, 4 for formula.

<sup>97</sup> Cf. Appendix I, 4 for formula of the rescript of the ordinary.

<sup>98</sup> Cf. Appendix I, 11 for formula.

<sup>99</sup> The example here given refers to the first session of the ordinary informative process on the reputation for sanctity, etc. It is moreover composed on the supposition that the cause is being prepared by a delegated judge and two assistants. The specimen given is only a norm to be followed; it is, however, flexible enough that, with a few changes, it could be used for any of the three processes, and adapted to any particular situation.

<sup>100</sup> Cf. *infra*, p. 187.

Pontificatus autem SSini Dni Nostri.....  
 Divina Providentia PP..... anno \_\_\_\_  
 feria vero ..... quae est dies.....  
 mensis \_\_\_\_ hora \_\_\_\_\_ l,n.

Coram Excmo ac Rmo Dno N. N.....  
 Episcopo N— ..... pro tribunali  
 sedente in ..... praesentibus  
 et assistantibus  
 N. N. .... Iudice Delegato necnon  
 N. N. .... et N. N. ....  
 Indicibus Adiunctis,<sup>101</sup> per me Notarium praece-  
 lenter monitis, R. D. N. N.....  
 Fidei Promptore, rite citato, Dno N. N.....  
 in Notarium Actuarium et Dno. N. N.....  
 in Notarium Adiunctum electis ac Dno N. N.....  
 in cursorem deputato, comparuit N. N.....  
 Postulator specialiter constitutus per Mandatum Pro-  
 curationis in suam personam factum; atque exhibens  
 Rescriptum praefatae Dominationis Suae in calce sup-  
 plicis sui libelli exaratum, petiit et instituit ad illius  
 formam et tenorem legitime inchoari Processum Ordi-  
 narium sive Informativum super fama sanctitatis, vir-  
 tutum et miraculorum Serv..... Dei N. N.  
 ..... omniaque fieri necessaria et op-  
 portuna.

Tunc Dominatio Sua Procurationis Mandatum in-  
 spexit, et supplicem libellum N. N-----Pos-  
 tulatoris admisit; eaque inspicienda tradidit Promotori.  
 Contra quae cum Promoter nihil opponendum haberet,  
 Dominatio Sua ea uti legitima et authentica declaravit et  
 admisit, ac mihi Notario de primordialibus rogato tradi-  
 dit in calce huius Sessionis registranda. Confirmavit  
 insuper Delegatos in Rescripto a se electos pro con-  
 structione huius Processus; qui omnes munus accepta-  
 runt, et promptos se obtulerunt ad praedictum Processum  
 rite instituendum et absolvendum. Exinde Dnus Epis-  
 copus praestitit iuramentum de fideliter adimplendo  
 munere, de secreto servando, de muneribus cuiusvis gen-

<sup>101</sup> The acts of subsequent sessions of the process may, after the invocation of the Divine Name begin thus: Anno Domini 19\_\_ Die\_\_ mense\_\_  
 \_\_\_\_\_ hora \_\_\_\_\_

<sup>102</sup> When the names of the judge delegate and his assistants are given, it is customary also to indicate their titles, e. g., J.C.D.; S.T.D.; etc.

eris non accipiendis, stans et tacto pectore, prout sequitur :

*Ego, N. N. ....} tacto pectore,  
iuro et promitto fideliter et diligenter adimplere munus  
mihi commissum circa constructionem Processus in-  
formativi in Causa Beatificationis et Canonizationis Serv  
..... Dei A\ N. ...., ad  
formam Sacrorum Canonum et Decretorum S. Rituum  
Congregationis. Iuro pariter et promitto religiose serv-  
are secretum tam de contentis in Interrogatoriis, quam  
de testium depositionibus, neque de iis loqui cum aliqua  
persona, exceptis Dominis Officialibus Tribunalis pro  
eodem Processu deputatis, sub poena periurii et excom-  
municationis latae sententiae, a qua nonnisi a Summo  
Pontifice, excluso etiam maiori Poenilentiario, praeter-  
quam in mortis articulo, absolvi possim. Iuro insuper et  
promitto me dona cuiusvis generis, occasione Processus,  
non accepturum. Et ita promitto et iuro: sic me Deus  
adiuvet.*

N. N. ....Episcopus.....  
Iudex Ordinarius.

Idem iuramentum detulerunt Rmi Indices Delegati,  
Promoter Fidei, Notarius Actuarius et Adiunctus, ut  
supra, et sese subscripsere :

N. N.....	Iudex Delegatus, iuravi ut supra.
N. N.....	Index Adiunctus, iuravi ut supra.
N. N_____	Index Adiunctus, iuravi ut supra.
N. N.....	Promoter Fidei, iuravi ut supra.
N. N.....	Notarius Actuarius, iur- avi ut supra.
N. N.....	Notarius Adiunctus, iur- avi ut supra. <sup>103</sup>

Immediate Dnus N. N..... in  
Cursorem deputatus suum praestitit iuramentum genu-  
flexus, ad contactum Evangelicorum proferens sequentia  
verba :

*Ego, N. N.....Cursor  
infrascriptus, tactis hisce Sacrosanctis Dei Evangeliiis*

<sup>103</sup> For form of oath, used by S.R.C., cf. S.R.C., deer., 15 oct. 1678—  
*Fontes*, n. 5626.

*coram me positis, iuro et promitto fideliter adimplere munus mihi commissum circa constructionem Processus Ordinarii in Causa Beatificationis et Canonizationis Seri*  
*..... Dei N. N. .... sub poena*  
*periurii: et ita promitto et iuro: sic me Deus adiireet, et*  
*haec Sancta eius Evangelia.*

N. N..... Cursor deputatas.

Huiusmodi iuramentis expletis, Causae N. N.....

Postulator produxit *Positiones* seu *Articulos* et *Notulum testium*, quos pro nunc inducit, salvo iure et reservata sibi facultate in iisdem expressa alios *Articulos* et alios testes producendi, et inducendi, non se tamen adstringens ad omnes testes inductos, aut dentio inducendos, examinandum, de quo expresse et solemniter protestatur, non solum praemisso, sed et omni meliori modo.

Fidei vero Promoter dixit et protestatus est *Positiones* seu *Articulos* non admitti, nisi praestito per Causae Postulatorem iuramento de Calumnia, neque super illis testes examinari nisi prius examinati fuerint super Interrogatoriis, quae omnino dare intendit. Sin minus protestatus est de nullitate, etc.

Pix tunc Episcopus ac Indices, auditis Postulatoris instantiis et admissis Fidei Promotoris protestationibus, Postulatori iuramentum de calumnia detulerunt; quod ipse praestitit ut sequitur:

*Ego, N. N..... Postulator in*  
*Causa Beatificationis et Canonizationis Serv..... Dei*  
*N. N....., tacto pectore, testor,*  
*declaro et iuro:*<sup>104</sup>

Quo iuramento praestito, Excemus Episcopus ac Delegati Indices productos *Articulos* et testes inductos admiserunt si et in quantum, et deinde deputarunt pro loco Audientiarum et Actorum publicorum praesentis Causae (*heic describitur locus*)..... ac pro loco iuramentorum et examenum testium (*locus describitur*). Pro diebus et horis destinarunt omnes dies, exceptis festis de praecepto et tribus postremis diebus hebdomadae sanctae, de mane ab hora ..... usque ad horam opportunam, et vespere a meridie usque ad solis occasum, reservata sibi facultate praedicta loca, dies et horas variandi pro opportunitate; item decreverunt futurum sessionem habendam die ..... hora ..... et ideo relaxarunt citationes contra D. N. N..... Promotorem Fidei

<sup>104</sup> For formula for the oath *de calumnia*, cf. Appendix I, 8.

ad comparandum die dicta in ..... ut exhibeat interrogatoria et assistat examini testium, et contra testem (vel testes) N. N..... ad iuramentum praestandum et ad examen subeundum ; mandantes Notario ut illas extendat et exsequendas tradat Cursori; mihi autem injunxerunt ut postquam in fine praesentis Sessionis una cum iuribus productis registrarim tenorem privilegii Notariatus Actuarii deputati ad hunc Processum, Notarii Adiuncti. ac etiam mei ipsius de primordialibus rogati, omnia acta originalia huc usque gesta tradam Notario Actuario. Tandem mihi commiserunt ut de omnibus in praesenti Sessione gestis publicum Instrumentum conficerem, et sese una cum Promotore Fidei, Notario Actuario et Adiuncto subscripserunt, ut sequitur :

N. N.....	Episcopus .....	Index ordinarius
N. N. ....		Index delegatus
N. N.....	-.....	Index adiunctus
N. N. ....		Index adiunctus
N. N.....		Promoter Fidei
N. N.....		Notarius Actuarius
N. N. ....		Notarius adiunctus

Super quibus omnibus et singulis ut supra gestis ego infrascriptus de primordialibus rogatus, hoc publicum Instrumentum confeci in forma : me subscripsi requisitus in fidem, atque meo Tabellionatus signo subscriptionem meam communivi.

Actum ..... die, mense, anno, loco, quibus supra.

Ita est.

*Sigillum*

N. N.....Notarius de praemissis rogatus.

#### TENOR IURIUM DE OUIBUS MENTIO FACTA FUIT SEQUENS EST, VIDELICET :

1. Supplex libellus N. N..... Postulatoris et rescriptum Episcopi.
2. Exemplar Mandati Procurationis N. N.....  
—..... Postulatoris Causae.
3. Exemplar citationis contra Promotorem Fidei.
4. Exemplar Privilegii Notariatus per Actuarium exhibitum.

5. Exemplar Privilegii N'otariatus per Adiunctum exhibitum.
6. Litterae Patentes Notarii de primordialibus rogati.
7. *Tenor* Articulorum quos exhibuit Postulator.
8. Notula testium a Postulatore inductorum.

Ego, N. N..... infrascriptus Notarius Deputatus accepi a Dno N. N..... Notario de primordialibus rogato omnia et singula praesentis Processus Acta primordialia ac iura in suprascripto Instrumento contenta. In quorum fidem hanc ei dedi apocham mea subscriptione meoque signo munitam.

Datum ..... die, etc.

*Sigillum* N. N..... Notarius deputatus

### 3. *The Notary IVho Is Actuary (Notarius Actuarius)*

Canon 2040, § 2, requires that in the decree which connotes the appointment of the tribunal in these causes the ordinary should also appoint a notary for the processes. The notary appointed should be one who is already an ecclesiastical notary;<sup>105</sup> consequently if none of the already existing notaries is available for any reason, and the ordinary finds it *necessary to appoint* another person to act as notary in these processes, he should first by a formal and distinct act appoint him an ecclesiastical notary; he will then subsequently depute him for these processes. Although the notary is always appointed in the decree in which the tribunal is named, the ordinary may at any time during the processes by means of a decree appoint a substitute notary.

The notary appointed in these processes must possess at least the qualifications that are required in ecclesiastical notaries in general. He must be a person of unblemished reputation and one whose integrity of character rises above all suspicion.<sup>106</sup> Moreover, in these processes care must be taken to select only those who are qualified intellectually and in other ways to fulfill the most exacting duties which are their lot.<sup>109</sup>

<sup>109</sup> S.R.C., deer. 16 iul. 1894—*Fontes*, n. 6238. Prior to the Code it was strictly required that the one who was appointed notary in these processes should be chosen from among the already existing notaries. At the present time the Code itself seems to insinuate as much when in canon 2015 it states: "... notarii munere fungi potest ipsemet Curiae notarius

Canon 373, § 4.



In the processes of beatification and canonization religious cannot validly be employed as notaries, except in a case of necessity; in causes which pertain to their own religious institute they are *always* excluded.<sup>107</sup> In the former law, regulars could act as notaries in these causes only in virtue of an apostolic privilege.<sup>108</sup> Under the present law a religious may, in a case of necessity, act as notary in these causes, provided that the cause is not one that pertains to his own religious institute. The ordinary who undertakes the preparing of the cause will be the one who is to judge whether or not in any particular case such a necessity exists. The licitness and the validity of the appointment will depend on the objective existence of a real necessity.

Those instances in which a religious may be appointed as a notary will be few in number, and will generally be reducible to those situations in which no other suitable or capable person is available. A religious may under no condition be employed as notary in those causes which pertain to his own institute. That this prohibition carries with it the sanction of nullity is evident from the text and context of canon 2014; under the old legislation this same prohibition, with regard to regulars, also carried with it the threat of invalidity as a sanction.<sup>109</sup>

The condition of belonging to the same religious institute exists whenever there is question of an institute which is ruled by the same Superior General.<sup>110</sup> Thus the above mentioned absolute prohibition does not apply when there is question of religious institutes that are independent or autonomous, although they pertain to the same general family, e. g., the Friars Minor, the Friars Minor Capuchin, and the Friars Minor Conventual.<sup>111</sup> The prohibition, however, applies even in cases wherein the Servant of God was a woman religious; thus, e. g., a Friar Minor is absolutely forbidden to act as notary in a cause which pertains to the Order of Poor Clares.

<sup>107</sup> Canon 2014.

<sup>108</sup> s.R.C., deer. 16 iul. 1894—*Fontes*, n. 6238.

<sup>109</sup> S.R.C., deer. 16 iul. 1894—*Fontes*, n. 6238. Cf. also Indelicato, *De Basi Giuridiche*, p. 97.

<sup>n°</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 42; Noval, *De Processibus*, II, 71.

<sup>111</sup> Lauri-Fornari-Santarelli, *loc. cit.*

Does canon 2014 prohibit a religious from being a notary in the first session of a process for the constituting of the tribunal? It seems that according to the strict letter of the law the answer must be in the negative. The law, which in canon 2014 prohibits religious from acting as notaries, knows of only two kinds of notaries in these processes: the actuary<sup>112</sup> and the assistant;<sup>113</sup> how then could it be said to apply to this third type of notary (*de primordialibus rogatus*)?

Obviously canon 2014, in which the prohibition is contained, refers to the notaries mentioned in canons 2013 and 2016, namely, the actuary of the process and the assistant. This argument becomes all the more cogent if it is realized that the notary who is employed at the first session does not actually participate in the cause as such. In this connection it will be recalled that for that very reason he is not obliged to take the oath of secrecy which is mandatory for all those who take part in the cause. Although there is not strictly any prohibition that forbids the employment of a religious as a notary in the first session of a process, the advisability of such a procedure is open to question. If at any time such a procedure were followed, a clear explanation of the reasons for such an action should be included among the acts of the process.

According to canon 374, § 1, the duty of a notary is: 1) to write the acts and transactions in judicial proceedings; 2) to consign faithfully to writing the proceedings, with added mention of the place, the day, the month and the year, and his own signature; and 3) to show to those who have a right to see them the acts and documents on file, and to attest that the copies agree with the original. In connection with these duties it is to be noted that the notary cannot write acts outside the territory of the ordinary who appointed him.<sup>114</sup>

The specific duties of the notary who is actuary in the causes of beatification and canonization will be pointed out in their proper place; suffice it to insert here a few general observations. In the first place, the notary should take care to put in the acts in narrative form everything that takes place during the sessions

<sup>112</sup> Canon 2013.

<sup>113</sup> Canon 2016.

<sup>114</sup> Canon 374, § 2.

of the process and which has an)' bearing on the process. He should not neglect to make mention of the substitutions among the members of the tribunal whenever they take place during any of the sessions; he must take the same care in noting any substitutions among those who assist the tribunal; the acts of each session should contain information concerning the time and the place of the session, and mention of all those who are present; the departure of any who were present during the session should be noted in the acts; the acts would describe not only the general place where the session is held, but also the specific place, the so-called *locus loci*, the formulae used for the oaths along with the pertinent signatures must likewise be included among the acts; the opening and closing of the interrogatories and of the testimony of the witnesses which has been consigned to writing should similarly be noted; in short, the actuary must not neglect to note anything which pertains to the process. Great care must be exercised by the notary in seeing that all oaths, documents, and instruments bear the required signature, for it is thus that they are made authentic.

The procedure followed in the individual sessions in these processes as well as the various formulae employed therein have long since assumed a definite and fixed form. Information concerning this crystallized procedure is available to all who desire it. The notary will know ahead of time just what is to take place at any particular session; he will not only know the general facts, but he will also know the specific form that the procedure will follow. Since he is fully cognizant of these matters, it would be expedient if he prepared the acts of each session beforehand; spaces should be left for the filling in of names and of other facts which he will learn only during the actual session.

Such pre-preparation for each session is not only permissible,<sup>115</sup> but even advisable, as has previously been mentioned in connection with the description of the duties which pertain to the notary who assists at the first session of the process. It is not necessary that the acts which are prepared by the notary before the session be written in longhand;<sup>116</sup> in point of fact, printed formulae for these acts are obtainable through the postulatores in Rome. If the

<sup>115</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 44.

<sup>116</sup> Cf. *infra*, p. 215.

acts are prepared by the notary before each session, it will be found that most of the writing that has to be done during a session will be in connection with the taking of the depositions of the witnesses. Even then, as will be pointed out below, the actual writing may be done by scribes or secretaries under the notaries' supervision.

#### 4. *The Assistant Notary (Notarius Adiutetus)*

The qualifications necessary in the assistant notary are the same as those required in the chief notary of the process. The assistant notary is appointed by means of a decree of the ordinary. This need not strictly be done at the beginning of the process, but it seems advisable that the appointment be made at that time.

The specific duty of the assistant notary is to help in comparing copies with the original acts, and transcripts with the autographic documents preserved in libraries, archives, etc.<sup>117</sup> However, he is not limited to these activities alone; he may, and this is an important point, substitute for the chief notary as actuary during the process.<sup>118</sup> That, in fact, is the reason why it is advisable that he be appointed at the very beginning of the process. Finally, it may be said that more than one assistant notary may be appointed if circumstances so demand, or if the amount of work make it expedient.

### B. THE PROMOTER OF THE FAITH

#### 1. *Necessity, Qualifications, Appointment*

The promoter of the faith must take part in every process in causes of beatification and canonization.<sup>119</sup> This is true not only with respect to the apostolic processes, but also with reference to the ordinary processes.<sup>120</sup> The promoter of the faith is to be

<sup>117</sup> Canon 2016.

<sup>118</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 46; Coronata, *Institutiones*, III, 448; Muniz, *Procedimientos*, III, 681; 587, note 1.

<sup>119</sup> Canon 2010, § 1. "Ad ius tuendum in quolibet processu partem habere debet *promotor fidei*, . . ."

<sup>120</sup> In the pre-Code law the title *Promotor Fidei* was reserved to the *Promotor* of the Sacred Congregation; the *Promotor* in the ordinary processes was to be referred to as the *Promotor Fiscalis*. Cf. S.R.C., deer. 14

cited in accordance with the norms prescribed for the citing of the promoter of justice and the defender of the bond in canon 1587.<sup>121</sup> Consequently, the acts are null and void if the promoter is not summoned, unless he was present even without having being summoned.<sup>122</sup> If he has been legitimately summoned, but was absent during some sessions, the acts are valid, but they must be submitted to him afterwards, in order that he may either orally or in writing offer his objections, and propose whatever he believes to be necessary or useful in the case.<sup>123</sup>

In the causes of beatification and canonization the obligation of the promoter of the faith to be present at all the sessions in which he is required looms greater than the obligation of the promoter of justice or the defender of the bond to be present at all sessions in common processes. The reason for this greater obligation in these causes is not far to seek; in common causes the acts of one session may be inspected by the promoter or the defender before the next session without much trouble or inconvenience; in beatification causes, however, the acts must be sealed at the close of one session and cannot be opened until the next session. Thus the acts can not conveniently be inspected by the promoter of the faith whenever he has been absent from a session.<sup>124</sup>

In such an event the tribunal will either have to call a special session for the inspection of the acts by the promoter of the faith, or it will have to call a delay while he inspects the acts at the beginning of the next regular session. To forestall any such difficulties as could arise from the absence of the promoter of the faith from any of the sessions, it is suggested that at the very beginning of the process the ordinary appoint more than one promoter.<sup>125</sup> Experience also bears witness to the fact that when the promoter is absent from a session, he frequently is not satis-

ian. 1893—Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, Appendix, IX, B. The Code in canons 2010-2011 changed this; the diocesan *Promotor* in these causes is now called the *Promoter Fidei*, whereas the *Promotor* in the Sacred Congregation bears the title *Promotor Generalis Fidei*.

<sup>121</sup> Canon 2010, § 1.

<sup>122</sup> Canon 1587, § 1.

<sup>123</sup> Canon 1587, § 2.

fled with the acts the way they stand and demands that they be repeated in his presence. The appointment of an alternate promoter can give a reasonable assurance that no session which calls for the services of the promoter will be held without the presence of the promoter or his substitute. In point of fact the very act of substitution may take place during the course of a *single* session without affecting the validity of the acts.<sup>126</sup>

The promoter of the faith who is to assist in the ordinary processes is to be appointed by the ordinary; he may be appointed for all causes or for a particular one only.<sup>127</sup> In the latter case he should *be* appointed before the issuance of the decree spoken of in canon 2043 in connection with the writings of the Servant of God.<sup>128</sup> Moreover, he is to be named in each particular process in the decree issued by the ordinary for the setting up of the tribunal.<sup>129</sup>

The one chosen as promoter of the faith should have at least the qualities required in the curial promoter of justice or in the diocesan defender of the bond; he must be a priest of unblemished reputation, a doctor in Canon Law or, at least, well versed in it, a man of tried prudence and zeal.<sup>130</sup> Practical considerations dictate that he be especially familiar with procedural practice, and that he be free to devote considerable time and energy to the many duties connected with the handling and preparing of the particular beatification cause in which he is to participate. As has been previously mentioned, the ordinary may find it necessary to go beyond the confines of his own territory to find one who is adequately qualified to act as promoter of the faith in these causes.

## 2. *Duties*

The duty of the promoter of the faith in general will be to safeguard the interests of the Church and of the faithful.<sup>131</sup> In causes of beatification and canonization his specific duties will be :

- 1) to draw up the interrogatories for the questioning of the wit-

<sup>126</sup> (*Ip. cit.*, p. 41.

<sup>127</sup> Canon 2011, §§ 1, 2.

<sup>128</sup> Canon 2011, § 2.

<sup>129</sup> Canon 2040, § 2.

<sup>130</sup> Canon 1589.

<sup>131</sup> Canon 2010, § 1.

nesses ; 2) to insist that witnesses be summoned *ex officio*; 3) to offer proper objections to the testimony of the witnesses ;1]- 4) to safeguard procedural law; and 5) to inform the Sacred Congregation, at the completion of the ordinary informative process, concerning the credence to be attached to the witnesses, and concerning the legitimate execution of all the procedural acts.1"3

Questions pertaining to the witnesses who are to be summoned *ex officio*, as well as those questions which relate to the objections which the promoter of the faith may have to offer regarding the testimony of the witnesses, will be treated of below in the section devoted to the witnesses. It will suffice here to say something about the safeguarding of the procedural law and the interrogatories which are to be composed by the promoter of the faith.

### 3. *Safeguarding Procedural Law*

One of the most sacred duties and rights of the promoter of the faith in these causes is to see that the laws of procedure are meticulously and conscientiously observed. In processes such as these, which are highly specialized, this is no mean task. The promoter will find that often he will be called upon to devote considerable time to the study of procedural questions, if he is not already well versed in them ; he should not hesitate, if necessary, to seek the aid of others who are familiar with the procedural law to be followed in these causes; he likewise should feel free to propose doubts in these matters to the Sacred Congregation for settlement.

Whenever what appear to him to be violations of the procedural law occur during the processes, he has the right and duty to insist that the law be strictly adhered to. If his objections are overruled by the tribunal, he should, when the acts of the process are sent to Rome, call the attention of the Sacred Congregation to these matters in a special letter which will accompany the acts. Although the promoter should be conscientious and exact in the fulfillment of his obligations, it must be remembered that the\*

132 Canon 2012. In this regard the promoter of the faith is often obliged to take a position which seems adverse or opposed to the beatification or canonization ; because of this official "opposition" to the cause he is frequently referred to in common parlance as the "Devil's Advocate."

Canon 2063, § 2.

objections which he has to offer, whether they relate to the procedure, to the testimony or to anything else in the process, must not be *picayune* or without foundation.<sup>134</sup>

#### 4. *The Interrogatories*

It is the *duty of the promoter* of the faith to prepare the interrogatories or questions which are to be put to the witnesses in these processes.<sup>135</sup> The promoter must prepare the questions under strict secrecy; they are to be submitted to the judges under the obligation of secrecy.<sup>136</sup> Since neither the promoter nor the tribunal is free to reveal the questions to anyone, it follows that the promoter cannot commit the work of composing and preparing the questions to another person. To do so would be to reveal the secret.<sup>137</sup>

If he is inexperienced in these matters, the promoter could consult in a general way with one who has had experience, in order that he may in his own mind determine the nature and the type of the questions that are to be asked. He would have an excellent guide to assist him in drawing up the questions if he obtained a copy of the interrogatories which were used in some previous cause that has already been completed; in this respect the questions used in an Apostolic process would be preferable.

In the event that he uses some previously prepared outline or set of questions as a guide, he should be careful not to indicate to others that he is following any particular list or schedule, for by so doing he would come perilously close to violating the secret to which he is bound. After the questions have been prepared they are to be kept sealed; they may be opened only in the very act of examining the witnesses.

The questions must be plain, factual and framed in such a way that they do not elicit a definitely predetermined answer from the witnesses; they are to be composed in such a manner that the truth may be ascertained concerning the points proposed by the postulator in the *articuliez*. Moreover, the questions must be

<sup>134</sup> Cf. Noval, *De Processibus*, II, 59.

<sup>135</sup> Canon 2012, § 1.

<sup>136</sup> Canon 2012, § 1.

<sup>137</sup> Noval, *De Processibus*, II, 61.

<sup>133</sup> Canon 2012, § 1.



brief and simple, not complicated, nor captious, nor cunning', nor suggestive of the answer, nor in any manner offensive, nor irrelevant to the cause in question.<sup>139</sup>

Particular care must be taken to abstain from the use of so-called leading questions. For example, if in the *articuli* the postulator alleges that the Servant of God fasted three days of every week, the witness should not be asked, "Is it true that the Servant of God fasted three days of every week?" Rather, he should be asked, "Did the Servant of God ever observe any fasts? When? How often? Under what circumstances? etc."

The first question concerning some particular point should be general. From a study of the *articuli* submitted by the postulator, however, the promoter of the faith will be able to foresee what the answer to the question is likely to be. On that basis he can ahead of time form specific questions which will be designed to bring out the complete truth relative to the point in question. Thus each series of questions on any particular item will descend from the general to the specific, from the universal to the particular.

Suppose, for example, that the promoter knows from the *articuli* or from other sources that the Servant of God took a private vow of perpetual virginity. He may then ask: "Did the Servant of God ever bind himself by any vow? What was the nature of this vow? Do you know personally or have you heard from others when he took this vow? Did he take this vow of virginity of his own accord or on the advice of others? On whose advice was the vow taken? How do you know this? Where did you learn this? When did you learn this? Did the Servant of God observe this vow of virginity which he had taken? How do you know that he observed this vow? Could you offer any proof for this? Do you have any other information to give relative to this point?"

Quite obviously the promotor will not be able to foresee the answers that will be given by the witnesses in every case. Accordingly, at any point during the questioning the judges have the right and the obligation, either *ex officio* or at the urging of the promoter, to interpose and interject other questions, in order to seek clarification for some specific points, or to elicit a more complete and detailed explanation from the witness.

The questions to be put to the witnesses, both as regards mate-

<sup>139</sup> Canon 1775.

rial and form, come under three general headings:<sup>140</sup> 1) those that relate to the person of the witness;<sup>141</sup> 2) general questions that relate to the Servant of God and to the witnesses' sources of knowledge concerning him; and 3) the special and particular questions relative to the Servant of God.

The formula for the introduction of the interrogatories may be as follows :

(Titulus Causae)

BEATIFICATIONIS ET CANONIZATIONIS  
SERV .... DEI N.N...

Interrogatoria infrascripta dat, facit, exhibet, atque producit N.N..... ab Ulmo ac Rcvnio ..... Episcopo ..... Promotor Fidei specialiter deputatus in processu Auctoritate Ordinaria conficiendo in Civitate N.N..... super.....<sup>142</sup> praefat .... Serv .... Dei. Petit et instat ut testes omnes in dicto Processu a Causae N. N.....Postulatore inducti vel inducendi, vel ex officio vocandi, priusquam interrogentur super Articulis a praefato Causae Postulatore datis, seiunctim ac diligenter subiiciantur examini super Interrogatoriis infrascriptis, seipso semper praesente et assistente in quolibet actu, et non alias, aliter, neque alio modo.

Item petit et instat, ut, praeter testes a Causae N.N..... Postulatore inductos vel inducendos, Revihi Indices ex officio accersent ac subiiciant examini alios probos et graves testes, rei, de quo agitur, apprime conscios, qui, uti ceteri, interrogandi erunt tam iuxta *Interrogatoria* quam super *Articulis*.

Petit et instat, ut testes omnes a N. N..... Postulatore inducti, vel ex officio vocati, antequam testimonium proferant, iuramenti religione obligentur, tactis sanctis Dei Evangeliiis, ad veritatem dicendam ac secretum servandum iuxta formam Decretorum S. Rituum Congregationis, et non alias, aliter, neque alio modo : et post depositionem de veritate dicta.

<sup>140</sup> Canon 2050, § 3.

<sup>141</sup> in Canon 1774.

<sup>142</sup> Fama sanctitatis, virtutum, et miraculorum, *vel* super fama martyrii eiusque causae, *aut* super cultu Serv . . . Dei numquam praestito.

Petit quoque et instat ut eadem Interrogatoria infra-scripta, qualibet sessione absoluta, claudantur cum re-ceptis testificationibus et obsignentur, nec aperiantur nisi in actu sequentis examinis; iterum, eo absoluto aut sus-penso, claudenda et obsignanda, uti supra: alias de nul-litate protestatur, non solum isto, sed et omni meliori modo.

Denique petit et instat ut Revtni Indices curent quam-maxime, ne in exscribendis testium verbis aliquid adiciatur vel omittatur, quod genuinum ac naturalem eorum sensum immutet vel pervertat, sed omnino studeant, ut ipsissima eorundem verba, quo fieri possit, iuridicis tabulis tradantur et semper in prima persona.

Moneant vero testes omnes, ne in suis responsionibus generice sese expediant, aiendo vera esse, quae in inter-rogatoriis vel articulis sibi factis continentur. Ifos quoque moneant, ut, tam iuxta Interrogatoria quam super Artic-ulis, ingenue, clare et distincte respondeant, indicando etiam contestes, si qui sint, qui, nisi fuerint a N. N. .... Postulatore inducti, ex officio vocentur et subiiciantur examini.

Quod si contestes obierint, aut legitima ex causa praesto esse non possint, Rfhi ludices a N. N. .... Postulatore authenticum documentum exquirent, quo comprobetur vel eorum obitus, vel ratio, qua praepe-diantur, ne examen subeant. Quod si circa aliquod factum particulare Serv..... Dei aliquid dubii in responsionibus testium vel contradictio aliqua inter ipsos testes appareat, illud testes ipsi, rursus ad hunc finem Rmis ludicibus determinate interrogati, melius explicant atque declarent.

*Heic sequuntur Interrogatoria; generalia circa testes et Dei Servum, deinde specialia. Post ulti-mum Interrogatorium addetur:*

In reliquis suppleat integritas et diligentia Re-vôrum ludicum, quibus cum infrascripto Promotore Fidei salva sit facultas addendi, dicendi, variandi, prout in Domino videbitur.

N. N. .... Fidei Promotor  
Deputatus.

The questions which are to be put to the witnesses will be more or less as follows :

A. General questions concerning the person of the wit-ness.

1. The judge will first admonish the witness concerning the nature and the gravity of an oath; the obligation of speaking the truth and nothing but the truth; the duty of revealing all pertinent information and concealing nothing; the seriousness of the sin of perjury; the punishment for the violation of the oath in these causes, especially the excommunication which is automatically incurred and which is reserved to the Holy Father for absolution; etc. The witness will then be asked: Do you believe in the sanctity of an oath? Do you understand the seriousness of the oath which you have taken? Do you understand fully the penalty attached to its violation? Do you realize that you must tell the whole truth in answer to the questions that are put to you? Has it been made sufficiently clear to you that you may not conceal anything pertinent to the cause of the Servant of God without violating the oath that you have taken? etc.
2. What is your full name? What are your parents' names? Are you married or single? What is your present address?
3. How old are you? What is the date of your birth? Where were you born?
4. What is your religion? Do you practice your religion? What is your state in life? What is your financial condition? Are you employed? What is the nature of your employment?
5. Are you related to the Servant of God in any way? Have you been closely connected with the Servant of God in any way? In what way, etc.? Do you have devotion toward the Servant of God? Do you wish to see him beatified? Why?
6. Are you moved by any human respect in giving testimony? Do you have anything to gain or lose by giving testimony in this cause? Are you testifying in this cause because of fear, love, hatred, hope or any other human reason? Has anyone in any way at all, orally or in writing, told you what to say? Who told you what to say; what were you told to say; when;

why; etc.? Were you instructed by anyone in any way to conceal anything? By whom; what; when; etc.?

B. General questions concerning the Servant of God.

7. Did you know the Servant of God personally? Did you ever see or hear him? When? How often? On what occasion? Did you ever have written correspondence with him? When, etc.? Have you heard others talk about him? Who? Where? How often? What was said? What do you know about his reputation for sanctity? What do other people think about this? Is this reputation general? Have you ever read a biography or any other book about the Servant of God or his works? What are the titles of the books or manuscripts that you read? Who were the authors? Where can this written material now be found?

C. Special questions pertaining to the Servant of God.<sup>143</sup>

8. Do you know personally or from others when and where the Servant of God was born? Do you know who his parents were? Do you know how the family was situated financially, socially, etc.? What do you know about the religion of the parents? What about their faith? Their morals? Reputation? Was the Servant of God under their care during his early years, or was he put under the care of another? Was the Servant of God baptized as an infant? Where? When? Did he receive the sacraments of confirmation, of penance and of the Holy Eucharist as a child? When? Where? Under what circumstances? Did he show any particular signs of piety as a child? When? What were these signs? After the Servant of God first received the sacraments of penance and of the Holy Eucharist did he then continue to receive them frequently? How often?

<sup>143</sup> These questions will ordinarily be based on and follow the order of the *articuli* presented by the postulator. After the subject matter of the *articuli* has all been covered, the promoter shall not hesitate to introduce other titles, particularly with reference to those things which may appear to be obstacles to the beatification.

The judges must see to it that the witness in connection with each reply explains all circumstances of time, persons, places and things. Above all, the witness must in every instance give the source of his knowledge. In this way and under separate headings the promoter will cover all the matter that is to be covered, whether it refers to the sanctity, the virtues, the martyrdom, or the cause of martyrdom, or whether the question relates to the absence of public cult.

The last interrogatory will always be directed toward obtaining any additional information which the witnesses may have. In the final group of questions in the series the witness will be asked whether or not he has anything to add to what has already been said; is there anything he knows concerning the cause or the Servant of God which he has not been asked; does he wish to change anything that he has already said; has he told everything, even those things that would be hurtful to the cause; has he only told part of the facts; has he concealed anything; does he feel that he has fulfilled his most serious obligation to tell the truth, the whole truth and nothing but the truth; after the testimony has been read back to him, will he then be prepared to sign it and to take an oath to the effect that everything he has said is true and that he has concealed nothing?

### C. MESSENGERS

In these processes, as in common processes, messengers are sometimes employed in assistance of the tribunal.<sup>144</sup> These messengers are appointed by the ordinary. They are generally lay persons.<sup>145</sup> Even though they hold no ecclesiastical office, they are public persons, *and in these* causes they must take an oath that they will fulfill their duties faithfully.<sup>146</sup>

Their chief duty is to give notice of the judicial acts to the parties concerned. In the causes of beatification and canonization it consists mainly in relaying the citations of the tribunal to the promoter, to the witnesses, and to other persons who are called. In serving a citation they should sign it and note carefully the

<sup>144</sup> Canons 2037, § 3; 1591.

<sup>145</sup> Canon 1592.

<sup>146</sup> Canon 2037, § 3.

fact of service, as well as the date, time and place.<sup>147</sup> This information should then be returned to the tribunal by the messenger and be kept in the acts of the process.

At the present time the services of the messenger are frequently dispensed with; a legitimate custom which has been approved by the law itself permits the use of other means for serving citations and making judicial acts known. A less expensive and more convenient method for serving citations and notices to persons is the use of the public mails. When a citation is sent through the mails it should be forwarded by registered mail and a return receipt requested.<sup>148</sup>

For the payment of a small additional sum one may arrange for personal service, i. e., the letter will be delivered only to the person addressed, and none other. When the receipt of delivery has been returned, the notary should preserve it with envelopes, if there are any, in the acts of the process along with a copy of the original citation or notice and the receipt received at the time the letter was registered.<sup>149</sup>

An alternative method of serving citations and notices would be to send them to the pastor of the place where the person in question lives, with the request or instruction that the pastor deliver them personally. If this method is followed, the pastor should inform the tribunal of the fact of delivery as well as of the date, the time and the place.

Both of these methods for serving citations and notices have much to recommend them, especially in regions where the delivery of mail is practically assured. They have become the common practice of ecclesiastical tribunals almost everywhere.

#### D. SCRIBES AND COPYISTS

Scribes or copyists may be employed for the preparation of the copy of the acts which is to be sent to Rome. This work is usually done after the completion of the process, and consequently the acts of the process are no longer secret. It is not necessary that the copying be done at the place where the sessions have been held. The copyists are to be chosen by the tribunal.

<sup>147</sup> Canon 1721.

<sup>148</sup> Canon 1719.

<sup>149</sup> Canon 1722, § 2.

Before commencing their work they shall take an oath faithfully to fulfill their duty; after their work is complete, they shall again swear that they have performed their duty faithfully.<sup>151</sup>

#### E. INTERPRETERS AND TRANSLATORS

If a person who is ignorant of the vernacular appears before the tribunal, and if the tribunal does not understand the language spoken by the person, then an interpreter, appointed by the tribunal, shall be employed.<sup>152</sup> Since in common processes the parties in the cause have the right to take legitimate exception to the person of the interpreter employed,<sup>153</sup> it seems that both the promoter of the faith and the postulator in causes of beatification and canonization may make use of this same right. Moreover, the tribunal must not fail to give reasonable consideration to any objections that the witness may have to the person employed as interpreter. It goes almost without saying that the interpreter selected to assist the tribunal should have a mastery of the languages involved. In most of the large cities competent and professional court interpreters are available. Interpreters such as these should then be employed by the tribunal.

Before he assumes his office, the interpreter must take an oath to perform his duty faithfully and to observe secrecy; after his work is finished he will take an oath to the effect that he has performed his duty faithfully.<sup>153</sup>

When a witness whose language is unknown to the tribunal is to testify, the interpreter will first translate the oath form for the witness. The witness will then take the oath according to the wording of this translated form. The interpreter will then assure the judges that the witness has followed the translation faithfully in speaking the oath, and then, to verify this for the acts of the process, the interpreter will append his own signature to the oath along with the signature of the witness. During the actual questioning of the witness the interpreter will relay the questions of the tribunal to the witness, and the replies of the

<sup>151</sup> Canon 2037, § 3; Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 48.

<sup>152</sup> Canon 1641; 2037, §3.

<sup>153</sup> Canon 1641.

<sup>154</sup> Canon 2037, § 3.



witness to the tribunal. After the deposition is completed, the interpreter will add his signature to the testimony along with that of the witness and the notary.

If the tribunal does not see fit to employ an interpreter external to the tribunal, it may resort to an alternative. It may in this event ask the ordinary to appoint a substitute tribunal and notary to whom the language of the witness is known. Thus the testimony of the witness would be taken down by the notary in the original language. Moreover, in this respect it would be sufficient that one of the judges and the notary know the language of the witness; it is not strictly necessary that the language of the witness be known to the promoter of the faith,<sup>154</sup> however much this may be desirable.

Finally, if a witness is deaf or dumb, it will be necessary to employ an interpreter to whom the sign language is known. The rules mentioned above with regard to language interpreters are likewise applicable in these cases.

The acts of the processes must be written in the Latin language; the testimony of the witnesses is to be in the vernacular.<sup>155</sup> Over and above Latin, the languages acceptable to the Sacred Congregation of Rites are French and Italian. If the testimony of the witnesses is in none of these languages, a translation will be necessary; writings and documents will also frequently require translation. The present law seems to indicate that any necessary translations be made in Rome under the auspices of the Sacred Congregation, for it states that the Cardinal *Ponens* of the Sacred Congregation shall have any necessary translations made *by approved* translators in Rome, and then he shall submit the translation to an examiner.<sup>156</sup>

Be that as it may, the fact is that it would sometimes be advisable that translations be made by the local tribunal. While it is true that the law does not expressly forbid this, the local tribunal should not, in view of the implications of canon 2074 mentioned above, undertake this task without proper authorization from the

<sup>154</sup> Cf. Doheny, *Canonical Procedure in Matrimonial Cases, Formal Judicial Procedure* (Milwaukee: Bruce, 1938), p. 203, note in reference to the *Defensor Tinctili* in matrimonial causes.

<sup>155</sup> Canon 1642, § 2.

<sup>156</sup> Canon 2074.

Sacred Congregation. Therefore, if there are reasons why translations should be made by the local tribunal, the postulator should seek from the Sacred Congregation the faculty which will permit this to be done.<sup>157</sup> After the faculty has been obtained, the translators will be chosen by the tribunal. They will take the same oaths as interpreters, to the abstraction however of the oath of secrecy, if the process has already been completed.<sup>158</sup>

#### F. EXPERTS

In causes of beatification and canonization it is frequently necessary to employ the services of experts, that is, of persons whose knowledge and experience make them authoritative specialists in some field. Experts in various fields may be asked to assist in these processes.

Such experts may be: calligraphers, who will offer opinions concerning the authenticity of signatures and handwritings; physicians and surgeons, who will render professional opinions relative to miracles, and who likewise will assist in questioning the doctors who took care of the person allegedly cured by a miracle; paleographers, whose opinions relative to ancient writings will prove valuable; architects, who will help determine whether altars, shrines, chapels or oratories furnish authentic indications of an ancient cult; archeologists, painters, sculptors, who will be appointed to determine whether certain images or statues are truly those of the Servant of God, and whether the rays or aureola which are attached to them are contemporary or merely later accretions; numismatists, who will be asked to study and report their views on inscriptions and images on medals, plaques, etc.; physical anthropologists, whose opinions concerning the mortal remains of a Servant of God may be of great value; psychologists and psychiatrists, who will offer their recommendations relative to visions, ecstasies, etc.; historians, who will aid the tribunal in the so-called historical causes.

When the testimony of experts is needed in these causes, the following rules shall be observed:

- 1) there shall be at least two experts, who shall be unknown to each other;

<sup>157</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 58.

<sup>158</sup> Canon 2037, § 3.

- 2) they shall be appointed by the tribunal through a plurality of votes after consultation with the promoter of the faith, which consultation is not required for validity;<sup>159</sup>
- 3) those who have been witnesses in the cause must always be excluded from acting as experts;
- 4) the postulator shall not be informed of the persons chosen as experts, and the experts shall keep their appointments secret;
- 5) the experts shall make their investigations individually and separately, unless the judge for a good reason, and with the assent of the promoter of the faith, allows them to investigate the facts jointly;
- 6) each expert shall submit a written report of his individual investigation; then they shall be separately questioned, even though they conducted the investigations jointly.<sup>160</sup>

The experts, both before and after their work, must take oaths relative to the faithful fulfillment of their duties.<sup>161</sup> If they are employed at any time during the process they must also take the oath of secrecy.

In remembering these rules, which are pertinent in causes of beatification and canonization, one can easily adapt to these causes the regulations prescribed with reference to experts in common processes.<sup>162</sup> Most of the standard commentaries on the Code will be found adequate in this respect.<sup>163</sup>

#### G. CONSULTANT

Causes of beatification and canonization are not of frequent occurrence in diocesan tribunals; many local ordinaries will never be called upon to prepare such a cause, and the number of priests in a diocese who will have the opportunity of participating in such

<sup>159</sup> Canon 105, n. 1.

<sup>160</sup> Canon 2031.

<sup>161</sup> Canon 2037, § 3.

<sup>162</sup> Canons 1792-1805.

<sup>163</sup> Cf., e. g., Coronata, *Institutiones*, III, 228-239; Vermeersch-Creusen, *Epitome*, III, 87-89; Blat, *Commentarium*, IV, 315-324; Lega-Bartocchetti, *Commentarius in Iudicia Ecclesiastica* (3 vols., Romae: Anonima Libreria Cattolica Italiana, 1938-1941), II.

work is, when taken in relation to the whole, quite negligible. The result is that few have ever had or will ever have any practical experience in these matters ; even those diocesan officials who have, at some time or other, come in intimate contact with the labyrinthine procedure called for in these causes, can with reason hardly be expected to remember, or even to know all the myriad details and technicalities encountered.

A further result of the rare incidence of these causes is that commentators of the law of the Code have seen fit, for the most part, to omit from their commentaries that section of the procedural law of the Code which deals with beatification and canonization causes. This omission is justified by them on the ground that such a treatment in the ordinary general commentary on the Code would be superfluous, inasmuch as so few would ever have any use for it. As a consequence, a situation has arisen which is little less than lamentable; in precisely the circumstances wherein help is most needed it is least to be found.

Because of the lack of practical experience in these causes, and because of the further lack of suitable commentaries on the law to which they may turn, local ordinaries and others who are called upon to devote themselves to the preparing of a beatification cause will, through sheer necessity, be forced to seek out for advice and consultation one who is familiar with the procedural aspects and the things required in these causes.

From the practical viewpoint, the one who is to serve as consultant should be one who is readily available to the tribunal. The result of long-distance consultation is often far from satisfying, and constantly leaves much to be desired. It is difficult to know ahead of time the various procedural and other problems which may arise during the handling and preparing of the ordinary processes. It is desirable, therefore, that the consultant be on hand to assist in the solution of the difficulties and problems as they emerge.

Would the one who is to act as adviser or consultant in these causes be permitted to attend the sessions of the processes? The answer to this question is to be found in canon 1640, § 1. This canon states that, while an ecclesiastical court is in session, outsiders shall be excluded from the court-room, and only those shall be present *whom the judge thinks necessary for the conduct of the trial*.

A realistic view of the situation as it exists and as described above leads one to believe that the necessity of having present at the sessions of these processes a qualified consultant almost always exists. The presence of such a person, who would act much as a master of ceremonies at each session, would not militate against either the spirit or the letter of the law, but would, on the contrary, insure a more exact fulfillment of the law and the attainment of its ends. Moreover, it may be pointed out in support of this view that it is the practice in canonical procedure to employ the services of medical experts and others to assist the tribunal whenever necessary during the actual sessions of the court.<sup>164</sup>

The determination of whether or not the consultant is to be present at the sessions of the process rests with the tribunal, after having consulted with the promoter of the faith. Moreover, the consultant, if he is to attend the sessions, must take an oath of secrecy, and likewise an oath that he will faithfully fulfill his duties.

<sup>164</sup> Cf., e. g., canon 2088, § 3.

## CHAPTER VII

### THE PROOFS USED IN THESE PROCESSES

#### Article I. The Proofs in General

In causes of beatification and canonization the proofs must be altogether complete (*omnino plena*).<sup>1</sup> This by no means signifies that every proof offered in the ordinary processes must of and by itself be one that produces perfect moral certitude; it merely means that, in the over-all picture, no definitive decision concerning beatification or canonization itself, or relative to those sentences of the Congregation of Rites which immediately precede the actual beatification or canonization, will be given unless the proofs, taken as a whole, are entirely full (*omnino plena*) and beget perfect moral certitude.<sup>23</sup> As regards the proofs taken singly, the words of Benedict XIV are applicable: "*. . . plena quidem probatio in his causis est necessaria, sed plenissima non requiritur, . . .*"

In these processes only those proofs which derive from the testimony of witnesses and documents are admissible,<sup>4</sup> whereas in common processes proofs which rest on legal presumptions,<sup>5</sup> on judicial confessions<sup>6</sup> and on oaths<sup>7</sup> are likewise allowed.

To prove that public cult was never offered to a Servant of God there are necessary at least six witnesses, two of whom must be introduced by the tribunal *ex officio*. One reaches this conclusion by collating canon 2020, § I,<sup>8</sup> with canon 2057.<sup>9</sup>

<sup>1</sup> Canon 2019.

<sup>2</sup> Noval, *De Processibus*, II, 77.

<sup>3</sup> *De Bcatificatione*, III, 1, 6.

<sup>4</sup> Canon 2019.

<sup>5</sup> Canon 1827.

<sup>6</sup> Canon 1750.

<sup>7</sup> Canons 1829; 1832; 1834.

<sup>8</sup> "Ad probandum numquam Servo Dei cultum fuisse praestitum, quatuor saltem testes sunt necessarii."

<sup>9</sup> "Tribunal praeter testes inductos a postulatore, duos alios ex officio inducat omnesque interroget num Servo Dei cultus publicus fuerit unquam praestitus."

There has been raised among' canonists the question whether the two witnesses required by canon 2057 are included among the four mentioned in canon 2020, § 1. or whether they are required in addition to these four. Vermeersch-Creusen<sup>10</sup> and Blat<sup>11</sup> hold that the two are included among the four, and consequently a total of four witnesses w'ould be sufficient to prove the non-existence of public cult. Cocchi<sup>12</sup> and Indelicato,<sup>13</sup> on the contrary, hold that the two witnesses to be called *ex officio* are required in addition to the four mentioned in canon 2020, § 1. Consequently they require six witnesses as a minimum. The opinion of Lauri-Fornari-Santarelli is not clear.<sup>14</sup> A study of the text of the canons in question, as also the comparison of them with other canons in the Code, leads one to believe that the opinion which requires at least six witnesses to prove non-cult is the correct one.

Canon 2007, n. 3, states that it is the duty of the postulator to present the names of the witnesses to the tribunal. Canon 2020, § 1, indicates without further qualification that there must be four witnesses to prove non-cult. Canon 2057 states that two witnesses must be introduced *ex officio* over and above *those introduced by the postulator*. In reference to the question of non-cult, where is one to find mention of the *witnesses to be introduced by the postulator* except in canon 2020, § 1, where four are mentioned? Moreover, to hold that the four mentioned in canon 2020, § 1, are to be introduced by the postulator is quite in accord with canon 2007, n. 3, and the general principle stated in canon 1759, § 1.<sup>15</sup>\* If the four witnesses required by canon 2020, § 1, are to be introduced by the postulator, then the two which must be called *ex officio* are additional, and consequently six witnesses are required as a minimum. This opinion is supported by the custom and constant practice of the tribunals.<sup>18</sup>

In practice this problem usually is not of great moment,

<sup>10</sup> *Epitome*, III, 176.

<sup>11</sup> *Commentarium*, IV, 601.

<sup>12</sup> *Commentarium*, VII, 547.

<sup>13</sup> *ZZ Processo Apostolico*, p. 16.

<sup>14</sup> Cf. *Codex pro Postulatoribus*, p. 134.

<sup>15</sup> "Testes a partibus inducuntur."

<sup>18</sup> Indelicato, *ZZ Processo Apostolico*, p. 17.

because postulators always, almost without exception, call more than four witnesses to testify in the process on non-cult. The tribunal will satisfy its obligation by always calling two witnesses *ex officio*.

Finally, it is to be noted that the witnesses cited *ex officio* are chosen by the tribunal, not by the promoter, as is done in other instances.<sup>17</sup> Benedict XIV<sup>18</sup> stated that even in these cases it is customary for the promoter to select these witnesses notwithstanding the fact that the law states they are to be chosen by the tribunal.<sup>19</sup> Noval thinks that such a custom, if it exists, may be tolerated, but should be removed as soon as possible.<sup>20</sup> In point of fact the tribunal will usually consult with the promoter with regard to the witnesses that are to be called *ex officio* in this process. After the tribunal has introduced the two witnesses *ex officio*, the promoter of the faith may, if he deems it necessary, insist that others be called.<sup>21</sup>

To prove the reputation (*fama*) for virtues, martyrdom and miracles at least eight witnesses must be introduced by the postulator, and at least two additional witnesses must be called *ex officio*,<sup>22</sup> making a total of ten in all.<sup>23</sup> The tribunal may cite the two witnesses who are to be called *ex officio* either on its own initiative or at the insistence of the promoter;<sup>24</sup> the Code does not specify. If the Servant of God was a member of some religious community, at least half of the witnesses must be non-members of that community.<sup>25</sup>

It is to be noted that this ruling of canon 2030 refers to the witnesses introduced for the purpose of establishing proof of the reputation for sanctity, martyrdom or miracles (*fama sanctitatis etc.*), and not to those who are called for the purpose of establishing facts concerning the actual sanctity.

<sup>17</sup> Cf., e. g., canon 2024.

<sup>18</sup> *De Beatificatione*, II, 48, 27.

<sup>19</sup> *De Processibus*, IV, 179.

<sup>20</sup> Canons 2012, § 2; 2024.

<sup>21</sup> Canon 2020, § 2.

<sup>22</sup> Vermeersch-Creusen, *Epitome*, III, 170; Indelicato, *Le Basi Giuridiche* p. 101; Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 79, 107

<sup>23</sup> Indelicato, *loc. cit.*; cf. Lauri-Fornari-Santarelli, *op cit.* n 107,

<sup>24</sup> Canon 2030.



martyrdom or miracles.<sup>25</sup> Moreover, it refers to the total number of witnesses, and not merely to the minimum number that must be introduced.<sup>26</sup> Consequently, if fifty witnesses are called to testify relative to the reputation for sanctity, at least twenty-five of them must not be members of the same religious community to which the Servant of God belonged.

The witnesses whose testimony is required with a view to establishing the reputation for sanctity, martyrdom or miracles may be singular in the sense of the so-called cumulative or adminicular singularity.<sup>27</sup>

To prove the virtues or martyrdom in non-historical causes which proceed in the ordinary way (*per viam non cultus*) eyewitnesses and simultaneous witnesses (*contestes*) are required; documents and historical material can at most strengthen the evidence.<sup>28</sup> It is not necessary for proving the virtues or martyrdom that eyewitnesses testify in both the ordinary and the apostolic processes; if in one of the processes eyewitnesses testify and in the other process witnesses who have obtained their information

<sup>25</sup> Canon 2030; Noval, *De Processibus*, II, 126.

<sup>26</sup> Indelicato, *Le Basi Giuridiche*, p. 102.

<sup>27</sup> Canon 2020, § 2. Witnesses may be singular (*singulares*) or simultaneous (*contestes*). Simultaneous witnesses (*contestes*) are those whose testimony agrees concerning one and the same fact, e. g., two or more witnesses testify that the Servant of God died at ten o'clock the morning of February 25th. Singular witnesses (*testes singulares*) are those who testify to different facts; the singular testimony which they give may be contradictory, diverse or cumulative. It is contradictory if the statements of one witness are adverse to those of another, e. g., one witness states that the Servant of God died at such and such a time and place, another witness states that the Servant of God died at a different time and place; the testimony is diverse if it concerns facts which are in no way connected with each other, e. g., one witness testifies that the Servant of God was a member of a certain Religious Order, another witness testifies that the Servant of God was born on such and such a date; the testimony of singular witnesses is cumulative or adminicular if two or more witnesses testify to different acts which are so related that taken together they help to prove the point in question, e. g., one witness testifies that he saw the Servant of God beginning the celebration of Mass at nine o'clock on a certain day, another witness testifies that he saw the Servant of God finishing the celebration of Mass about nine-thirty on the same day. It is this singular cumulative testimony that is admissible in establishing the reputation (*fama*) for the sanctity, martyrdom or miracles in the cause of a Servant of God.

<sup>28</sup> Canon 2020, § 3.

from eyewitnesses testify, the testimony can be combined in line of proof (*in linea probationis*).<sup>29</sup>

If, however, there are eyewitnesses in the ordinary process, and in the apostolic only hearsay witnesses who testify to what they heard from others who themselves had knowledge from hearsay, the testimony of the latter has only adminicular value, the degree of which is to be determined by the judges. In such, a case the cause can proceed to the next step, that is, to the discussion of the miracles, only if from the combined testimony of all the witnesses such proof is derived as to convince a prudent man of the truth of the facts when he is judging a grave affair.<sup>30</sup> For proving the miracles eyewitnesses and simultaneous witnesses (*con- testes*) are always required in both processes.<sup>31</sup>

The type of witnesses employed for establishing the practice of heroic virtue in the cause of a Confessor has a bearing on the number of miracles required for the beatification. If eyewitnesses are used to prove the existence of heroic virtue in both the ordinary and apostolic processes, two miracles are required for the beatification; if in one of the processes eyewitnesses are used, and in the other hearsay witnesses who obtained their information from eyewitnesses, then two miracles will likewise suffice; if eyewitnesses are used for establishing the practice of heroic virtue in the ordinary process, and in the apostolic process there are only hearsay witnesses who obtained their information from other hearsay witnesses, then three miracles are necessary for the beatification; if in each process on the virtues proof is obtained from documents and witnesses who obtained their knowledge from tradition, as happens in the historical causes, then four miracles are necessary.<sup>32</sup>

Finally, in historical causes, i. e., in the causes of Servants of God who have been so long dead that there are no contemporary witnesses, and likewise no documents containing judicial depositions of contemporary witnesses taken at a previous time, as well as in the causes which proceed in the extraordinary way (*per viam cultus seu casus excepti*), the virtues and martyrdom can be proved

<sup>29</sup> Canon 2020, § 4; Noval, *De Processibus*, II, 85-86.

<sup>30</sup> Canon 2020, § 5.

<sup>31</sup> Canon 2020, § 7.

<sup>32</sup> Canon 2117.

by hearsay witnesses and from public reputation which constitutes an unbroken tradition from hearsay plus contemporary documents or monuments which are recognized as authentic.<sup>33</sup>

Although the law specifies the minimum number of witnesses required for establishing the facts of non-cult and the reputation (*fama*) for virtue, martyrdom and miracles, it states nothing about the number of witnesses necessary for proving the practice of a particular virtue in a heroic degree, nor does it specify the number of witnesses needed for proving the fact of martyrdom or the existence of a particular miracle.

In order to prove some particular act of virtue or some particular miracle as well as the fact of martyrdom two or three simultaneous (*contestes*) eyewitnesses will suffice.<sup>34</sup> The greater the number of eyewitnesses, as a general rule, the stronger will be the proof. The two or three witnesses must testify to the same things, and not merely to various aspects of the fact that is to be proved.<sup>35</sup>

If, for example, there is question of a person who was allegedly cured from a disease through the intercession of the Servant of God, the alleged miracle would not be sufficiently established if one person testified to the existence of the disease before the cure, another testified to the fact that the person invoked the intercession of the Servant of God, and a third testified to the subsequent absence of the disease. If, on the other hand, two or three eyewitnesses testified to each of these facts, the proof would be sufficient.<sup>36</sup>

In any event, whenever only two or three simultaneous eyewitnesses are called to testify to the existence of some miracle or to martyrdom, an effort should be made to obtain the testimony of additional hearsay witnesses who obtained their knowledge from eyewitnesses.<sup>37\*</sup> This effort is called for not because the testimony of the two or three witnesses is, by strict requirement, insufficient, but rather because it is sought to preclude any objections

<sup>33</sup> Canon 2020, § 6.

<sup>34</sup> Benedictus XIV, *De Beatificatione*, III, 5; Lauri-Fornari-Santarelli, *Coder pro Postulatoribus*, p. 54; Noval, *De Processibus*, II, 82-84.

<sup>35</sup> Benedictus XIV, *loc. cit.*; Lauri-Fornari-Santarelli, *loc. cit.*; Noval, *loc. cit.*

<sup>36</sup> Benedictus XIV, *loc. cit.*

<sup>37</sup> Benedictus XIV, *loc. cit.*; Lauri-Fornari-Santarelli, *loc. cit.*; Noval, *loc. cit.*

on the part of the promoter of the faith on the ground that it is difficult to assent to a miracle or martyrdom which is known to so few persons. Miracles and martyrdom are not common everyday occurrences, and for that reason it seems hard to believe that a miracle could happen or that a person could suffer martyrdom for the faith apart from the accompanying fact of its being broadcast among the people.

To say that two or three witnesses are sufficient to establish a miracle, or the practice of a particular virtue in a heroic degree, or also martyrdom, is not to imply that only a few witnesses are needed in causes of beatification or canonization. The miracle, the martyrdom or the particular virtue is only one small aspect of the whole; in the over-all picture many witnesses are required before a Servant of God is beatified. As to the number of witnesses to be introduced by the postulator in these causes, much will depend on the particular cause in question. It is reasonable to believe that to prove the reputation for sanctity, etc., of a Servant of God who lived in a large city, more witnesses should be called than in the case of a Servant of God who spent his whole life in a small town. Moreover, if the Servant of God lived an eremetical life, one would expect fewer witnesses for his practice of heroic virtue than if he had been a public official.<sup>38</sup>

A general principle by which postulators should be guided is that the number of witnesses should be neither sparingly small nor lavishly great. Although the postulator should always take care that enough witnesses are introduced for proving the point in question, he should not attempt to establish overwhelming evidence through the sheer force of a multitude of witnesses. There is an important distinction between "*testes ad ornatum*" and "*testes ad probationem*", and it is an established principle of jurisprudence that "*testes non numerandi sed ponderandi sunt*".<sup>39</sup>

Having considered the probative force that is to be attached to testimonial evidence in these causes, one must now consider the witnesses and documents in particular.

<sup>38</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 79.

<sup>39</sup> Indelicato, *Le Basi Giuridiche*, p. 101.

## ARTICLE II. THE WITNESSES

### A. THOSE WHO MUST BE CALLED TO TESTIFY

All those who lived with or who were habitually associated with the Servant of God must be introduced as witnesses in these processes by the promoter of faith, even though not proposed as witnesses by the postulator.<sup>40</sup> Moreover, all the faithful, except the confessor of the Servant of God with respect to information he received in confession or on the occasion of confession, are bound, even though not summoned as witnesses, to bring to the notice of the Church those things which in their opinion disprove the virtue, or the miracles, or the martyrdom of the Servant of God.<sup>41</sup> The obligation of reporting to the proper ecclesiastical authorities those things which are opposed to the beatification or canonization is in the nature of a denunciation. Consequently the law implements a full liberty of conscience by stating that the persons mentioned in the canon are to report those things which seem to them ("*quae . . . ipsis videantur*") to militate against the asserted practice of the virtues, the alleged working of miracles, or the reported suffering of martyrdom on the part of the Servant of God.

All the above mentioned necessary witnesses as well as those who have any information which seems to stand contrary to the cause, unless they know they are to be called as witnesses, must inform their own proper ordinary by letter whether they have been associated with the Servant of God, and briefly explain whether they know of some peculiar fact which should be revealed, and what it is; the ordinary shall in turn forward these letters to the promoter of the faith in the process.<sup>42</sup> It seems clear from the wording of the law that the persons concerned are to send this information to their own proper ordinaries, and not to the ordinary who is conducting the process. Thus a person will inform the one who is his own ordinary in view of his place of domicile or quasi-domicile;<sup>43</sup> if the person has no domicile or quasi-domicile, he shall inform the ordinary of the place where he is actually stay-

<sup>40</sup> Canon 2024.

<sup>41</sup> Canon 2023.

<sup>42</sup> Canon 2025, § 1.

<sup>43</sup> Canon 94, § 1.

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ing.<sup>44</sup> Whenever the promoter of the faith receives any such letters from any ordinary, he is to determine whether or not the person is to be called as a witness.<sup>45</sup>

If any religious, men or women, are among those who are obliged to send letters of the kind mentioned above, they should send them directly to the ordinary who is conducting the process, or to the promoter of the faith; if they desire to do so, they may instead hand such letters to the confessor, who will then forward them immediately to the ordinary or to the promoter of the faith. In any event the letters are to be sealed.<sup>46</sup> From this it follows that they are not subject to the inspection of either the religious superior<sup>47</sup> or the confessor.

If a person cannot write, he should make known the possessed information to his own pastor, who will then inform the ordinary or the promoter of the faith;<sup>48</sup> a religious who cannot write may inform the confessor instead of the pastor.<sup>49</sup>

Religious superiors are under grave obligation to see that all their subjects who are obliged to testify do so, but shall beware of urging them either directly or indirectly to testify in one manner rather than in another.<sup>50</sup> Religious superiors could fulfill this obligation either by exhorting or instructing the religious in question relative to the obligation of testifying, or they could contact the ordinary who is conducting the process, or also the promoter of the faith, with the purpose in mind of having the tribunal send a legitimate summons or citation to the particular religious. A religious superior should avoid resorting to commands or threats in order to get a religious subject to testify;<sup>51</sup> other means are just as effective and much more becoming, as seems indicated through the use of the word "*curandi*" in the canon.<sup>52</sup>

Whenever the question of miracles is treated in any process there is a third class of witnesses who must be cited; these are

<sup>44</sup> Canon 94, § 2.

<sup>45</sup> Noval, *De Processibus*, II, 114-115.

<sup>46</sup> Canon 2025, § 2.

<sup>47</sup> Cf. canon 611 for the law on a somewhat related question.

<sup>48</sup> Canon 2025, § 3.

<sup>49</sup> Noval, *De Processibus*, II, 115.

<sup>50</sup> Canon 2026.

<sup>51</sup> Noval, *De Processibus*, II, 116.

<sup>52</sup> Canon 2026.

the physicians who gave medical care to the person on whom a miracle is said to have been performed.\*<sup>3</sup> This includes not only those physicians and surgeons who ordinarily took care of the patient, but also all those who were at any time called in to examine the person;<sup>55</sup> does not necessarily include those who were merely consulted if they had not seen the patient personally.<sup>60</sup>

The only qualification required to put a person in this class of necessary witnesses is that he gave medical or surgical care to the patient in question; it is irrelevant whether the doctor is Catholic or non-Catholic, in favor of or opposed to the beatification or canonization. Care must be taken not to confuse these witnesses with the medical experts whose professional opinions are sought relative to miracles; the former, that is, the doctors who took care of the patient and who are necessary witnesses, cannot be employed as experts in the same cause relative to the same miracle or cure.<sup>50</sup>

So necessary is the testimony of the doctors who bestowed medical care on the person that its omission may result ultimately in the rejection of the alleged miracle by the Sacred Congregation.<sup>57</sup> In some particular case it may happen that a doctor will refuse to testify before the tribunal. In that event the tribunal shall procure at least a written and sworn statement about the illness and its course which is to be inserted in the acts of the cause, or the tribunal shall have the opinion of the doctor taken by a person appointed for that purpose, and that person shall afterwards be examined.<sup>58</sup>

Finally, among the necessary witnesses who are to be cited by the tribunal are those who are named by other witnesses as being able to support their testimony. It will frequently happen that a witness in his deposition will make mention of some other person

<sup>53</sup> Canon 2028, § 1.

<sup>54</sup> Benedictus XIV, *De Bcatificatione*, III, 7, 8; Noval, *De Processibus*, II, 123.

<sup>55</sup> Noval, *loc. cit.*

<sup>56</sup> Canon 2031, n. 2.

<sup>57</sup> Noval, *op. cit.*, II, 123-124. In this regard note the words of Benedict XIV, . . . dum fungebar munere Fidei Promotoris, inulta vidi miracula reiecta ex defectu dicti examinis, licet de obitu Medicorum ante processum confectionem Postulatores docuissent."—*De Bcatificatione*, III, 7, 8.

<sup>58</sup> Canon 2028, § 2.

who can testify to the same facts from his own personal knowledge; these persons should be cited by the tribunal at the instance of the promoter of the faith.<sup>39</sup> Although the witnesses who have been named in the testimony of other witnesses may be called at any time during the process, it will be more prudent to examine them after all the other witnesses have been heard; in this way the order of the process will not be disturbed and the obligation of secrecy will be more securely observed.<sup>40</sup>

In order that the promoter of the faith will have the names of these witnesses when the time comes to cite them, he could, whenever the name of a possible witness is mentioned by another witness, write the name on a separate sheet of paper. Although this list will be kept separate from the acts of the process as such, it should be sealed in with the interrogatories and the depositions of the witnesses at the close of each session with a view to avoiding any and all danger of the violation of the secret.<sup>61</sup> When these witnesses are called, they shall first be questioned on the general interrogatories;<sup>62</sup> they shall then be asked to answer those interrogatories which pertain to the points concerning which they are alleged to have information. If necessary, the promoter will compose new interrogatories *ex officio*. The witnesses will also be questioned on any other points concerning which they have knowledge. Care must be taken, however, that these witnesses are not informed as to who mentioned their name in previous sessions, nor must they be told what the other witnesses testified.<sup>63</sup>

#### B. THOSE WHO MAY BE CALLED TO TESTIFY

In common judicial processes certain persons are not acceptable as witnesses.<sup>64</sup> In beatification and canonization processes the greatest latitude is allowed in choosing witnesses, which fact is consonant with the demand in these causes that the proofs be absolutely full *{omnino plena}*.

Blood-relations, relations by marriage, servants, heretics and

<sup>39</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, pp. 33, 52, 107, 109.

Lauri-Fornari-Santarelli, *op. cit.*, p. 109.

(*il Ibid.*, p. 110, note.

<sup>62</sup> Cf. *supra*, p. 146.

<sup>63</sup> Lauri-Fornari-Santarelli, *op. cit.*, pp. III, 112.

<sup>64</sup> Cf. canons 1756-1758.

infidels may be admitted as witnesses in these processes."<sup>65</sup> Canon 2027, § 1, merely mentions these lest there be any doubt as to whether or not such ones should be repelled from testifying, as would be done sometimes in common processes. It can be said that in these processes all persons can testify except those few who are prohibited by the natural law or by the positive law.

The fact that almost anyone is acceptable as a witness in these causes does not mean that equal value is given to the testimony of all, nor can the same questions be proposed indiscriminately to all. It is because of the different weight that is to be attached to the depositions of various persons that among the general interrogatories there are to be found questions referring to a person's state, condition, etc. It is only with such information that those whose duty it is to pass judgment will be able fairly to evaluate the testimony.

Except in the process on non-cult, the judges in the ordinary processes will not be called upon to weigh testimony, since it belongs to the Congregation of Rites to make the decisions in these causes. The postulator, however, as well as the tribunal and the promoter of faith, will keep in mind in selecting witnesses that the testimony of some is better than that of others. No one can doubt that the testimony of the young and of the old, of men and of women, of Catholics and of non-Catholics, of excommunicated persons and of those who are in good standing in the Church, of those of high moral character and of those of low moral character, of the literate and of the illiterate, of the learned and of the unlearned, of bishops and of lay-brothers, of public officials and of private persons, is not all of equal value.<sup>66</sup>

### C. THOSE WHO MAY NOT BE CALLED TO TESTIFY

By natural law some persons, such as infants and the insane, are incapable of giving testimony; it is perfectly obvious that such persons cannot be called as witnesses.

There are others who, in a greater or lesser degree, lack the power of discretion; such are weak-minded persons and those who<sup>66</sup>

<sup>65</sup> Canon 2027, § 1.

<sup>66</sup> Cf. Benedictus XIV, *De Beatificatione*, III, 6; Indelicato, *Le Basi Giuridiche*, pp. 104-108.



have not yet reached the age of puberty.<sup>67</sup> Such persons are generally considered as unsuitable witnesses,<sup>68</sup> although they may be admitted to testify at the discretion of the judge; but even when the judge admits their testimony it has only an adminicular force.<sup>69</sup>

In beatification and canonization causes weak-minded persons should be excluded as witnesses, if only on the basis that their testimony is not necessary and that it contributes little to the cause. With reference to those who have not yet reached the age of puberty, it may be said that their testimony does not have strict probative value whether they testify when they are still below the age of puberty, or whether they testify as adults to those things which they saw or heard before they reached the age of puberty.<sup>70</sup>

Nevertheless, those who have reached the age of puberty must not always and arbitrarily be rejected as witnesses when they testify to things that happened before they reached the age of puberty. Adminicular testimony is sometimes very valuable; in fact, it may at times be a moral necessity that such persons testify. Surely their testimony must be taken when they themselves, before they reached the age of puberty, were the object of divine grace in the nature of a miracle worked through the intercession of the Servant of God. In such a case, even those who are *still below* the age of puberty, should be called as witnesses provided they are capable of testifying.<sup>71</sup>

By both divine and positive law the confessor of the Servant of God is prohibited from testifying in these causes relative to the things he has learned from sacramental confession or on the oc-

<sup>67</sup> Cf. canon 88, § 2.

<sup>68</sup> Canon 1757, § 1.

<sup>69</sup> Canon 1758.

<sup>70</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 53. It is true that adults who testify to those things which they learned before they reached the age of puberty are not to be classed among unsuitable witnesses as if they were still under the age of puberty (cf. Coronata, *Institutiones*, III, 193). The more fundamental question, however, as to the value to be put on testimony of this kind need not be treated here, for the practice of the Sacred Congregation relative to such testimony in these causes is well known. Benedict XIV (*De Beatificatione*, III, 6, 3) bears testimony to the fact that such testimony is generally considered to be of only supporting or adminicular value; he quotes as an example the decision of the Auditors of the Rota in the cause of Saint Raymond of Peñafort.

<sup>71</sup> Lauri-Fornari-Santarelli, *loc. cit.*

casation of confession.<sup>72</sup> The exclusion of the confessor of a Servant of God as a witness extends not only to the régulari-confessor but also to those who heard his confession only once or occasionally.<sup>73</sup> The confessor cannot testify to things he heard in confession even if the Servant of God before he died released him from the obligation of the seal of confession.<sup>74</sup>

One who was a confessor of the Servant of God can testify in these causes relative to those things which have no connection with confession. This is only reasonable, for it certainly is not the intention of the law to exclude as witnesses persons who were habitually associated with the Servant of God, or who knew him well, merely for the reason that on one or several occasions he heard his sacramental confession. The authors agree with this opinion.<sup>75</sup> Caution must be urged in this regard that the confessor take care not to testify to anything that may even seem to be connected with sacramental confession, lest, by so doing, he give occasion of offense to the faithful.

Positive law also excludes as witnesses the postulator, attorney or procurator in the cause during their time of office; if they have already and altogether withdrawn from their office, they may be admitted as witnesses, but their testimony has merely corroborative force.<sup>76</sup> Although the law does not in this connection make explicit mention of the vice-postulator, there can be no doubt that he also is excluded for the same reason as the postulator himself is eliminated as a witness. What if the postulator or the vice-postulator is in possession of information which is harmful to the cause?

If this information is not known to the promoter of the faith and if it is a matter of sufficient importance, the postulator should

<sup>72</sup> Canons 2027, § 2, n. 1; 1757, § 3, n. 2. Under the earlier law the regulation of the positive law concerning confessors was less strict; a confessor, however, was never allowed under any circumstances to testify concerning those things which fell under the sacramental seal. Cf. Benedictus XIV, *op. cit.*, HI, 7, 1-6.

<sup>73</sup> Noval, *De Processibus*, II, 118; Blat, *Commentarium*, IV, 570.

<sup>74</sup> Canon 1757, § 3, n. 2.

<sup>75</sup> Benedictus XIV, *De Beatificatione*, III, 7; Blat, *Commentarium*, IV, 570-571; Noval, *De Processibus*, II, 119; Indelicato, *Le Basi Giuridiche*, p. 102.

<sup>76</sup> Canon 2027, § 2, n. 2.

make it known to him. It will be recalled in this connection that at the beginning of the processes the postulator is required to take the oath *de calumnia*, by which he swears that he will use no fraud or deceit in the promotion of the cause before the competent ecclesiastical authorities. One must note in passing that the oath *de calumnia* is to prevent the use of fraudulent and deceitful practices by the postulator, and to guarantee his honest}· in promoting only a worthy cause. Yet, although a postulator must strictly abide by this oath, he must remember that it is not meant to be a source of scrupulosity and needless anxiety.

Finally, he who has at any time or in any process acted as a judge in a cause of beatification or canonization cannot under any circumstances testify as a witness in the same cause.<sup>77</sup> If any judge in the ordinary processes has any information concerning a cause, be it harmful or otherwise, he has ample opportunity to make it known in a letter to the Sacred Congregation.<sup>78</sup>

May the promoter of faith, notaries and the like act as witnesses in the cause in which they exercised their office? Although the present law nowhere excludes them, the jurisprudence and the practice of the Sacred Congregation indicates that the answer is in the negative. Under the pre-Code law this was strictly forbidden under pain of nullity.<sup>79</sup> Under the present discipline the Sacred Congregation has noted the irregularity of such a practice.<sup>80</sup>

Problems of this kind would be held to a minimum, if, at the time a tribunal was being constituted, anyone who had valuable information for or against the cause would graciously decline any appointment in connection with the tribunal and at the same time request instead that he be called as a witness.

#### D. INTRODUCTION AND DEPOSITION OF WITNESSES

All witnesses, be they proposed by the postulator, or be they called for *ex officio* by the promoter of the faith or the tribunal, are to be cited by the tribunal.<sup>81</sup> During the processes the pro-

<sup>77</sup> Canon 2027, § 2, n. 3.

<sup>78</sup> Cf., e. g., canon 2063, § 2.

<sup>79</sup> S.R.C., dccr., 16 dec. 1870—*Fontes*, n. 6034.

<sup>80</sup> Indelicato, *Le Basi Giuridiche*, pp. 93-94.

Canons 1765; 1715-1723. Cf. Appendix for formula for citation of witnesses.

moter of the faith will signify to the tribunal the names and addresses of those witnesses whom he wishes to call *ex officio*. At the beginning of each process the postulator will submit to the tribunal, along with the *articuli*, the names and addresses of those whom he wishes to have called as witnesses. It is not necessary that each witness be questioned on every one of the *articuli* or on all the interrogatories,<sup>82</sup> but even if the witnesses are not to be questioned on all, the postulator must indicate at the time that he submits the names of such witnesses the *articuli* on which they could be questioned.

If in the course of the process the postulator finds other witnesses whose testimony he judges to be useful for the cause, he may submit the names and addresses of the new witnesses to the tribunal with the request that they be cited. Under normal circumstances it is advisable that the new witnesses be questioned only after all the other witnesses originally proposed by the postulator have been questioned.<sup>83</sup> Nevertheless, if reason prompts, there will be no objection to hearing such a witness before the completion of the examinations of all those whose names were submitted at the beginning of the process.<sup>84</sup>

In point of fact the testimony of one witness could, in a case of necessity, be taken before another witness has finished giving his testimony.<sup>85\*</sup> In this case the questioning of the first witness is suspended; the new witness is questioned; then the questioning of the previous witness is resumed immediately or at a later date. All of this is to be duly noted in *the acts of* the process.<sup>86</sup>

The postulator may not only introduce new witnesses in the course of the process, but he may also recall the name of any witness which he had previously submitted.<sup>87</sup> It stands to reason of course that the request, namely, that a witness whose name has already been submitted be not questioned, must come before the witness has actually deposed testimony. In order that the postulator recall a witness in this way he should have at least the tacit consent of the promoter of the faith, and the latter can

<sup>82</sup> Coronata, *Institutiones*. III, 462; Muniz, *Procedimientos*, III, 621-623.

<sup>83</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, pp. 98-99.

*Ibid.*, pp. 100; 95.

<sup>85</sup> *Loc. cit.*

<sup>88</sup> *Loc. cit.*

<sup>87</sup> Canon 1759, § 4.

insist that such a witness be questioned notwithstanding the renunciation of the postulator?<sup>88</sup> The renunciation of witnesses by the postulator is, at its best, a questionable practice, and should be resorted to rarely; it must be done only when the reason for it is clear to all, and when the reason is such that no suspicion may arise that the renunciation was made for the purpose of hiding facts that could possibly be detrimental to the cause.

Finally, it remains the right of the postulator to present new *articuli* at any time during the process. Witnesses who have already testified may be called back again to depose relative to the new interrogatories and *articuli* if necessary. Whenever a witness for any reason is called back to testify a second time, the general interrogatories which he has already answered may be omitted. New *articuli* which have been interjected during the process will, when the final copy of the acts is being made, be attached by the notary to those originally submitted, with the notation that they were introduced at such and such a time during the course of the process.

It is customary that the witnesses who are called *ex officio* be questioned after all the witnesses introduced by the postulator have been questioned. This custom is reasonable, since from the very nature of the situation it will frequently happen that the names of those who are to be cited *ex officio* will become known to the tribunal or to the promoter of the faith only from the testimony of the other witnesses.

Before a witness deposes testimony he must take an oath to tell the truth, the whole truth, and nothing but the truth, and likewise he must swear that he will observe secrecy relative to the questions he was asked and the testimony that he gave; moreover, after he has finished testifying he must swear that he has told the truth?<sup>89</sup> Each witness must take the oath at the beginning of his deposition. If the tribunal so desires, all the witnesses may be called together for the second session of the process to take the oath jointly, provided that care will be taken to see that each one again repeats the oath at the beginning of his own deposition.<sup>89</sup>

<sup>88</sup> *Loc. cit.*

<sup>89</sup> Canon 2037, § 3; cf. Appendix for formulae of oaths.

<sup>90</sup> Coronata, *Institutiones*, III, 460-461; Muniz, *Procedimientos*, III, 621-622; Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 55.

In the actual questioning of the witness, he will first be asked those general questions that pertain to himself.<sup>91</sup> these questions will then be followed by the general questions that pertain to the Servant of God. These in turn will be followed by the particular interrogatories which have been composed by the promoter of the faith. After all these questions have been answered, *then and only then* will the witness be asked to oiler his observations on the *articuli* composed by the postulator.<sup>92</sup>

It is a principle of ecclesiastical jurisprudence that the testimony of witnesses should be oral.<sup>93</sup> consequently, a witness cannot read prepared testimony to the tribunal. Lauri-Fornari-Santarelli state that the witnesses may read from notes;<sup>94</sup> Coronata takes issue with them on this point.<sup>95</sup> It seems that the solution of this question is to be found in canon 1777." If testimony is to be given on figures or accounts or other matters which are as equally difficult to retain in the memory, it appears permissible for the witness to refer to notes. The determination of whether or not the subject matter justifies the use of notes will pertain to the tribunal; if the promoter of faith did not agree with the decision of the tribunal he could object; he should insist, moreover, that the facts surrounding the use of notes by the witness in doubtful cases be noted in the acts of the process.

Witnesses must be questioned separately and one at a time,<sup>97</sup> and all outsiders must be excluded from the hearing; those only shall be present who in the judgment of the tribunal are necessary for conducting the session.<sup>98</sup> The postulator must never be present when the witnesses are being heard,<sup>99</sup> although he may be present when the oath is administered to a witness.

In their testimony, the witnesses must state the reasons for<sup>88</sup>

<sup>91</sup> Canon 1774.

<sup>92</sup> Canon 2050, § 3; cf. Benedictus XIV, *De Beatificatione*, II, 49, 7 relative to the importance of observing the proper order here.

<sup>93</sup> Canon 1777.

<sup>94</sup> *Op. cit.*, p. 57.

<sup>95</sup> *Institutiones*, III, 451, note 4.

<sup>98</sup> "Testes oretenus testimonium dicant, et scriptum ne legant, nisi de calculo et rationibus agatur: tunc enim adnotationes, quas secum attulerunt, poterunt consulere."

<sup>97</sup> Canon 1772, § 1.

<sup>88</sup> Cf. canon 1640, § 1.

<sup>88</sup> Canon 1771.

their personal knowledge of the things they assert; otherwise their testimony shall not be considered of any value.<sup>100</sup> It is the duty of the tribunal to indicate this obligation to the witness at the beginning of the session during which he is questioned; if in the course of the examination the witness fails to state the reasons for and the sources of his knowledge, the judge must elicit this information from him relative to each question. It is only in this way that the testimony of the witness can be properly evaluated, for this information will indicate whether the one deposing is an eyewitness, a hearsay witness, and so on.<sup>101</sup>

The witnesses should testify in plain, clear and suitable terms, and none of the statements made should be ambiguous, obscure or in any way doubtful. Not only should the chief points be narrated by the witness, but they should be accompanied with an explanation of all the surrounding circumstances. Finally, the statements of the witnesses in answer to the questions, as well as the statements relative to the *articuli*, should be complete in themselves; the answers should be so stated by the witness and so written down by the notary, that in themselves they can be fully understood by another even if the questions themselves are not known to him.<sup>102</sup>

Monosyllabic answers, mere affirmations or denials, and incomplete answers are valueless. In answer to a question it is not, however, required that a witness repeat in its entirety a statement which was made in answer to a previous question. If the answer to both questions is the same, it is sufficient that the witness refer back to the answer already given. The same principle is applicable with reference to the animadversions of the witness on the *articuli*; if all the information that the witness possesses has already been given in answer to the interrogatories, it will suffice if the witness indicate this with reference to some or all the *articuli* without repeating the facts which have already been made known. All these things will be noted in the acts by the notary.

After all the requisite testimony has been given by a witness, the notary at the direction of the judge will read the testimony

<sup>100</sup> Canon 2029.

<sup>101</sup> Cf. Benedictus XIV, *op. cit.*, II, 49, 10.

<sup>102</sup> Vermeersch-Creusen, *Epitome*, III, 171; Lauri-Fornari-Santarelli, *op. cit.*, p. 56.

back to the deponent, who will thus be given the opportunity of making any additions, subtractions or changes. If the witness is satisfied with the testimony as read, and has nothing further to say, he will then swear that he has told the truth and sign the testimony, after which he is dismissed.<sup>103</sup>

If more than one session of the tribunal is needed for the questioning of a single witness, the testimony is read, sworn to, signed and sealed at the close of each hearing. It will not be necessary to issue a new citation for the witness or the promoter, since the next hearing is merely a continuation of the same session; the judges will merely indicate to those concerned the time and the place of the next meeting. In the acts of the next meeting the notary will indicate the logical connection of what is to follow with what has gone before.<sup>104</sup>

It pertains to the tribunal to determine the time and the place for the administering of oaths to the witnesses and the taking of testimony. In designating the time and the place for such sessions the tribunal is bound by certain determinate norms.<sup>105</sup> The witnesses must come to the place designated by the tribunal.<sup>106</sup> Cardinals, bishops and other illustrious persons who are by canon or civil law exempt from testifying in open court may themselves choose the place where they are to give testimony, and they shall so inform the tribunal of the place chosen.<sup>107</sup> It seems, however, that even these persons should insofar as possible, conform to the requirements of time and place by making their selection as is prescribed in canon 2041, § 1, for beatification and canonization processes.<sup>108</sup>

Other persons such as the sick, the aged, or cloistered nuns should be questioned where they are,<sup>109</sup> with the due observance, insofar as that is possible, of the requirements of canon 2041, § 1.

<sup>103</sup> Canon 1780.

<sup>104</sup> Lauri-Fornari-Santarelli, *op. cit.*, pp. 93-94.

<sup>105</sup> Canon 2041, § 1. Cf. *infra*, p. 188.

<sup>106</sup> canon 1770, § 1.

<sup>107</sup> Canon 1770, § 2, n. 1.

<sup>108</sup> Canon 2041, § 1 reads: "Sessiones tribunalis pro excipiendo iureiurando et examine testium habeantur diurno, quoad fieri potest, tempore et in loco sacro." In this regard, cf. also Coronata, *Institutiones*, III, 462; Noval, *De Processibus*, II, 160-161; Lauri-Fornari-Santarelli, *Codex pro Postulatoribus* p. 31.

<sup>109</sup> Canon 1770, § 2, n. 2.



The mere *fact* that in accordance with canon 1770, § 2, n. 2, *cloistered nuns* are to be questioned in the place where they are does not carry with it the permission to enter the enclosure when this is forbidden. If such a nun is sick, the permission to enter the enclosure must be sought from the proper authorities; otherwise she should *be* questioned in the place appointed for confessions or in the place where *Holy Communion* is received.<sup>110</sup> It is desirable that the judges be able to see the person who is being questioned; if there is a curtain or veil in front of the grille where a cloistered nun is being questioned, permission should be sought for its removal.<sup>111</sup>

If any persons who are to be interrogated are outside the territory of the ordinary who is preparing the process, and cannot come to the tribunal without grave inconvenience, provision must be made to take the testimony of such persons by means of rogatorial commissions directed to the tribunal of the place where they are. They will then be questioned in that place in accordance with the interrogatories, instructions and *articuli* forwarded by the tribunal which is actually preparing the process.<sup>112 113</sup>

Finally, if a person who is to be interrogated is indeed within the territory of the ordinary who is drawing up the process but on account of the distance cannot without great expense approach the place where the session is being held or on account of the inaccessibility of his residence cannot be approached by the ordinary or his delegate, the judge will appoint some nearby worthy and qualified priest who shall with the assistance of another person in the capacity of a notary hold the examination of that person according to the interrogatories, the *articuli* and the pertinent instructions which will be sent by the tribunal.<sup>114</sup>

#### E. IDENTIFICATION OF THE WITNESSES

On more than one occasion the Holy See has deemed it expedient to call to the attention of those who are responsible for

no Benedictus XIV, *De Beatificatione*, II, 49, 22; Noval, *De Processibus*, II, 161; Lauri-Fornari-Santarelli, *op. cit.*, p. 96.

<sup>111</sup> Benedictus XIV, *loc. cit.*; Noval, *loc. cit.*; Lauri-Fornari-Santarelli *loc. cit.*

<sup>112</sup> Canons 1770, § 2, n. 3; 1570, § 2; cf. *infra*, p. 199.

<sup>113</sup> Canon 1770, § 2, n. 4; Lauri-Fornari-Santarelli, *op. cit.*, p. 97.

the proper conduct of ecclesiastical trials the necessity of ascertaining the identity of witnesses and others who take part in the trial, lest perhaps by the fraudulent substitution of persons justice be hindered and truth be obscured.<sup>114</sup> Although the Holy See was particularly concerned with marriage cases and more specifically cases of ratified and nonconsummated marriages, nevertheless the principles enunciated find a much wider application. It is no doubt true that one is much more liable to encounter attempts at fraud and deceit in marriage cases, in which so many human emotions and passions are involved, than in cases concerned with the beatification or canonization of a Servant of God; yet this fact alone should not lead those who are responsible for the proper conduct of these latter processes to relax their vigilance, nor should it induce them to be less exact in employing the juridical safeguards against fraud and deceit which have been so wisely established.

It is almost unbelievable that anyone would attempt to promote a beatification or canonization cause by fraudulent or deceitful means; yet in spite of this the tribunal must use the ordinary means to identify those who give testimony and to prevent the fraudulent substitution of persons, especially when it is a question of those to be examined by the experts or specialists in processes on miracles. The following suggestions based on the norms given by the Holy See for marriage cases may serve as a guide for tribunals in causes of beatification and canonization.

1. Those whose obligation it is to draw up these causes of beatification and canonization must diligently inquire into the identification of the persons who appear before the tribunal; for this purpose they must require a suitable document properly drawn up by ecclesiastical or civil authority, which document is to be inserted among the acts of the cause, either in the original or in certified copy.

2. In the event that the certified copy is not able to report all the marks of personal identification which are usually reported

<sup>114</sup> Cf. S. C. Sac., *Normae Observandae in Processibus super Matrimonio Rato et Non Consummato ad Praecavendam Dolosam Personarum Substitu-*

in such documents, as, for example, a photograph of the person, it must, nevertheless, contain such marks of identification as will definitely and clearly distinguish one person from another.

3. In case such a document is not available, the identity of persons must be insured by other equivalent documents, or by the testimony of witnesses; such documents or testimony must be made a part of the acts of the process.

4. If any person appearing before the tribunal is well known to any of the officials of the tribunal, a document of identity need not be sought; the official, however, to whom the person is known shall certify in the record to his certain personal knowledge of the party or parties.

5. These precautions must likewise be carefully applied, whenever persons are to be examined before another tribunal by special commission.

6. Whenever, as in the case of miracles, a person has to undergo a physical examination, copies of the documents which are already in the acts of the process regarding the person's identity should be supplied to the experts or specialists, so that they make no mistake about the identity of the person to be examined.

7.If the person or persons to be examined are already well known to the experts or specialists let this fact be noted in the record.

8.When the experts or specialists are examined by the tribunal they should be asked appropriate questions concerning the identity of the person who has undergone the physical examination. If possible the person who underwent the physical examination should be made to appear before the tribunal at the same time for purposes of identification.

9.The same precautions must be observed if the examination is held before another tribunal by special commission.

#### **F. INDEMNITY OF THE WITNESSES**

Although a witness is not entitled to any remuneration for giving testimony, he does have the right to compensation for the expenses incurred in travelling and during his stay at the place

where court was held, and also for the losses sustained by the interruption of his business and work.<sup>115</sup> Such expenses should be provided for by the postulator. If there is any dispute about the amount of the indemnity to be paid, the question may be settled by the tribunal.<sup>116</sup>

The amount to be paid to the witness to cover his expenses must not be out of all proportion to the expenses actually incurred, so that it would take on the character of an outright gift. To avoid any appearance of bribery or undue influence on either side, the definite arrangement relative to the amount of money due the witness should advisably be made by the tribunal after the manner stipulated in canon 1787, § 2. The postulator could deposit in advance with the tribunal sufficient funds to take care of the reimbursement of the witnesses, and the witness, after he had testified and before the publication of the process, could be compensated for his expenses through the agency of the tribunal. If this procedure or something similar is followed, the witness in giving testimony would not be influenced by the amount of money received, nor would the postulator be influenced to offer a determined sum in view of the given testimony of the witness.

### ARTICLE III. DOCUMENTS

#### A. GENERAL OBSERVATIONS

##### 1. *Classification of Documents*

There is considerable confusion and lack of clarity among the authors relative to documents and documentary evidence in causes of beatification and canonization. This, so it seems, has resulted in no small part from the failure to distinguish clearly between the various types of documents which are pertinent to these causes.

The law distinguishes two general species of documents: public and private.<sup>117</sup> The principal public ecclesiastical documents are:

1) the acts of the Supreme Pontiff of the Roman Curia, and of ordinaries, if the acts were issued by them in the exercise of their office and in authentic form; also the authentic attestations con-

<sup>115</sup> Canon 1787, § 1.

<sup>116</sup> Canon 1787, § 2.

<sup>117</sup> Canon 1812.

cerning these acts when made by the aforesaid persons or their notaries ;

2) the legal instruments drawn up by ecclesiastical notaries;

3) the judicial ecclesiastical records;

4) the records of baptism, confirmation, ordination, religious profession, marriage and death which are preserved in the curia, or the parish, or the religious institute ; also the written attestations taken from the said records when made by pastors, by ordinaries, or by ecclesiastical notaries, and the authentic prepared copies of these recorded attestations.<sup>118</sup>

Public civil documents are those which according to the enactments of each locality are considered as such by the law.<sup>119</sup>

Classified as private documents are the letters, the contracts, the last wills, and any other writings composed, drawn up or executed by private persons.<sup>120</sup>

With this distinction in mind one may proceed to a consideration of the various categories into which the documents in beatification and canonization causes fall. They are as follows:

1) *the acts of the processes*: these are public ecclesiastical documents and, if executed in due form and signed by the notary, are presumed genuine;<sup>121</sup>

2) *the documents pertaining to the status of the Servant of God*: these are generally public documents, either ecclesiastical or civil, and relate to such things as baptism, confirmation, religious profession, ordination, marriage, death, etc. ;

3) *the writings of the Servant of God*: these are generally private documents, unless the Servant of God held an office and in virtue thereof drew up the public documents which he was authorized to issue; and

4) *the documents which pertain to the merits of the cause*: these are documents which are employed as an aid for proving the virtues, martyrdom, the miracles, the presence, or the absence of public cult, or also those which are adduced as a means in helping to establish the reputation for virtues, or the repute of miracles

<sup>118</sup> Canon 1813, § 1.

<sup>119</sup> Canon 1813, § 2.

<sup>120</sup> Canon 1813, § 3.

<sup>121</sup> Canon 1814.

or of martyrdom. Such documents may be either public or private in character.

## 2. Originals and Copies

Before treating of the various classes of documents in detail, one should note that a document may be an original or it may be merely a copy of the original. Before any document which is a copy is acceptable, it must be authenticated, that is, it must be established that the copy is a faithful reproduction of the original. How is this authentication to be made? Normally the notary of the tribunal will compare the copy with the original, and then indicate the conformity which exists between the two by writing on the copy the words "*concordat cum originali*" along with his signature and seal.<sup>122</sup>

It will often happen that the original documents are widely dispersed and scattered throughout various libraries and archives, or that they have fallen into the possession of divers private persons. In such cases the personal inspection of the original on the part of the notary of the tribunal becomes quite impossible. Lauri-Fornari-Santarelli suggest that it is an acceptable practice to have the concordance between the copies and the originals of such documents attested by the librarian or the custodian of the documents, by the chancellor of the local curia, by a notary public, by the parish priest or the superior of the religious house where the original is found, or by some other trustworthy person.<sup>123</sup>

Coronata, on the other hand, rejects this view of Lauri-Fornari-Santarelli on the ground that the Code expressly states in canon 2036, § 2, that the authenticity of such documents is to be attested to by the notary of the tribunal.<sup>124</sup> He is, however, content to reject the more liberal view without offering any solution for the problem as it exists in reality. One must admit that frequently there can occur instances in which the notary of the tribunal will be unable personally to inspect the original of a document.

The solution for the problem seems to lie in the fact that the notary of the *tribunal need not attest* directly to the conformity of the copy with the original inasmuch as he may do this also in-

<sup>122</sup> Cf. canon 2036, § 2.

<sup>123</sup> CocC.r. *pro Postulatoribus*, p. 61.

<sup>124</sup> *Institutiones*, III, 452, note 5.

directly. If any of the notaries of the tribunal are unable personally to compare the copy with the original, then it seems to suffice if the conformity between the copy and the original is attested by some other person, such as one of those named by Lauri-Fornari-Santarelli.

The notary of the tribunal could then sign the copy of the document by indicating, not directly indeed that the copy is in concordance with the original, but rather that the signature which the copy bears and which attests the conformity with the original is the signature of a person who is the custodian of the original, a public official or some trustworthy person as the case may be. If he has any doubt whether or not the person who signed the copy was qualified to do so, he could usually obtain sufficient information for settling the doubt by prudently inquiring through the diocesan curia of the place where the original document is kept. Thus the notary of the tribunal could indirectly attest the agreement between the copy of a document and the original from which the copy was made.

The writings of the Servant of God as well as the documents which pertain to the merits of the cause should be produced in their originals if possible. Even if the original is inserted in the acts of the cause, several copies will have to be made by the vice-postulator. If the original is sent to Rome one or more copies of each document should be sent to the Congregation of Rites for the convenience of those whose duty it is to inspect them. Likewise a copy of each document should be sent to the principal postulator in Rome. Furthermore a copy of each document should be preserved with the acts of the process which are kept in the diocesan archives. The copies will have to be doubled in number if some passage from the writings of the Servant of God is to be used as a means in helping to prove the sanctity, etc.: the one set will pertain to the process on the writings; the other set will pertain to the informative process on the reputation for sanctity, etc.

Copies of documents may be made by hand. But if the documents are many, this will prove tedious. Therefore the photostating of documents is preferable, not only because a considerable amount of labor is saved, but because a more faithful adherence to the original is guaranteed.

## B. PROBATIVE VALUE OF DOCUMENTS

Although proof by documents is admitted in these causes,<sup>125</sup> no equal probative value is attached to all documents. In causes which proceed in the *ordinary* way (*per viam non-cultus*) and which are not historical causes, historical documents have only an adminicular value in proving the virtues or martyrdom.<sup>126</sup> On the other hand, in causes which proceed in the *extraordinary* way (*per viam cultus sen casus excepti*) and in historical causes in which witnesses capable of supplying necessary first-hand information are not available, everything must of necessity be substantially based on written sources, which, if they be of sufficient number and quality, may lead to absolutely safe conclusions.<sup>127</sup>

Extrajudicial testimonies compiled in writing, whether by persons whom the postulator had presented to the court for the purpose of testifying on the virtues or the martyrdom of a Servant of God, or by other persons whom the postulator proposed as witnesses, may not, even though presented in the processes, be counted among the documents which in the judgment regarding the sanctity or the martyrdom of a Servant of God have the force of proof.<sup>128</sup> Nor do eulogies at the funeral and laudatory necrologies written or printed immediately after the death of the Servant of God constitute legitimate proof.<sup>129</sup>

Much less do the testimonies of men, no matter how illustrious such men may be, prove anything regarding the virtues and works of a Servant of God if they were written, not spontaneously, but at the request of friends during the lifetime of the Servant of God.<sup>130</sup> Histories do not have the value of documents, unless they are based on documents which have been presented in the process.<sup>131</sup> If some men of great authority have made use of documents exhibited in the cause and have approved of them, their testimony can be adduced merely in confirmation of the authenticity and authority of the documents.<sup>132</sup>

<sup>125</sup> Canon 2019.

<sup>126</sup> Canon 2020, § 3.

<sup>127</sup> Canons 2020, § 6; 2021; 2036.

<sup>128</sup> Canon 2033, § 1.

<sup>129</sup> Canon 2033, § 2.

<sup>130</sup> Canon 2033, § 3.

<sup>131</sup> Canon 2035, § 1.

<sup>132</sup> Canon 2035, § 2.

## C. INTRODUCTION OF DOCUMENTS INTO THE CAUSE

It is the duty of the postulator to present the documents to the tribunal.<sup>133</sup> Documents may also be introduced into the cause by the promoter of the faith. The tribunal then has the right to insist that the postulator produce additional documents which in its judgment may serve to reveal the truth.<sup>134</sup>

The documents which are submitted to the tribunal must be in complete form.<sup>135</sup> This means that the document as a unit must be presented to the tribunal in its entirety, even if parts of the document do not directly pertain to the point in question. It does not mean that, if the document is to be found in some book or *collection of documents*, then the whole book or collection has to be presented even though the other parts of it are in no way pertinent to the cause. Moreover, there must be no erasures, abrasions, additions or changes of any kind on a document. Whoever presents a document to the tribunal for insertion in the cause, be it the postulator or the promoter of the faith, must declare its origin and authenticity in the sense of its genuinity. This is best done if each document is prefaced with a critical introduction.<sup>136</sup>

If there is any question about the genuinity or authenticity of a document which has been presented, the tribunal may and should elicit the aid of experts. The experts may, if necessary, be permitted to take the documents with them, away from the place of the tribunal, in order to make the required inspection. They will then submit their separate views in writing. Subsequently they will moreover be asked to furnish oral testimony. This deposition will likewise be made by them singly, and will be based on questions as submitted by the promoter of the faith.<sup>137</sup>

As has been previously mentioned, the documents should be presented to the tribunal in the original. If this cannot be done, then copies shall be made.<sup>138</sup> If this likewise cannot be done, then the matter shall be referred to the Sacred Congregation, which

<sup>133</sup> Cf. canon 2032, § 1.

<sup>134</sup> Canon 2032, § 2.

<sup>135</sup> Canon 2032, § 1.

<sup>136</sup> With reference to the part played by the Diocesan Historical Commission in authenticating documents in historical causes, cf. *infra*, p. 232.

<sup>137</sup> Cf. Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, pp. 60-61.

<sup>138</sup> Canon 2036, § 2.



will appoint experts to examine the documents in the place where they are preserved.<sup>139</sup>

Whenever documents relating to the merits of the cause are found after the ordinary informative process has been completed and sent to Rome, the postulator must seek a special faculty from the Congregation of Rites in order to have them inserted among the acts.<sup>140</sup>

If, on the other hand, the question is that of writings of the Servant of God which are found after the process on the writings has been completed and sent to Rome, they should be immediately sent to the Sacred Congregation.<sup>141</sup> They may be addressed to the Cardinal Prefect of the Congregation or to the Promoter General of the Faith. The normal procedure for a vice-postulator in such instances is to handle the matter through the principal postulator of the cause.

After the witnesses have been questioned, the postulator will present to the tribunal those public documents which refer to the status of the Servant of God, such as certificates of baptism, confirmation, ordination, marriage, death, etc. Since these are public documents, they are, if executed in proper form, presumed genuine,<sup>142</sup> and they prove those things which they directly and principally affirm.<sup>143</sup>

After the judges and the promoter of the faith have inspected them, the notary will write on them "Ita est" with his signature and seal. They will then, if it has not already been done, be arranged in proper chronological order, numbered, bound and prefaced with an index. No further formalities are required. As regards documents which pertain to the merits of the cause, a more careful inspection is required on the part of the tribunal and the promoter of the faith before they are to be accepted and handed over to the notary for signing and inclusion among the acts.

As has been mentioned above, the opinions of experts or the testimony of witnesses must sometimes be sought relative to these documents. If these documents are accepted, they shall be nuni-

139) Canon 2036, § 2.

140) Lauri-Fornari-Santarelli. *op. cit.*, p. 59: Coronata, *Institutiones*, III, 452, note 2.

141) Canon 2062.

142) Canon 1814.

143) Canon 1816.

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## CHAPTER VIII

### SOME RULES OF PROCEDURE AND PRACTICE

#### Article I. The Title of the Cause

It is the practice that each cause of beatification and canonization be given a title. This title appears on the heading of all the official acts which in any way pertain to the cause. The title is taken from the name of the diocese where the process is being drawn up. However, if the diocese where the process is being drawn up is not the same as the diocese in which the Servant of God died, the names of both places will appear in the title, and the name of the place where the Servant of God died will always precede.

If, for example, the Servant of God died in Boston and the cause is being drawn up there, it will be entitled BOSTONIENSIS, and following this will be the inscription: IN CAUSA BEATIFICATIONIS ET CANONIZATIONIS SERV..... DEI N. N..... If the Servant of God died in Boston and the process is being drawn up in New York inasmuch as that is the place where the miracles happened, the cause will be entitled BOSTONIENSIS SEU NEO-EBORACENSIS. The one exception to this rule appears whenever the cause is being drawn up in Rome, for the name of Rome always precedes, regardless of whether or not the Servant of God died there. Thus, if the Servant of God died in Boston and the process is being drawn up in Rome instead of in Boston, the title will read ROMANA SEU BOSTONIENSIS.

Once the title is assigned at the beginning of the cause, it remains thus until the very end. Care must be taken that in the course of a cause the title be not changed, for to do so would sometimes cause confusion and make it difficult later on to locate the previous acts of the cause in the files of the Sacred Congregation or in other places.<sup>1</sup>

<sup>1</sup> Lauri-Fornari-Santarelli, *CoJf.r pro Postulatoribus*, p. 25.

Article II. Time and Place for the Sessions of  
the Tribunal

It is the right of the tribunal to appoint the time and the place for each session of the process. Ordinarily, this will be done at the close of the preceding session, and will be noted in the acts by the notary. At the beginning of each session the notary will write in the acts the date, the hour and the place of the session. He must note the particular place, and not just the general location. If, for example, a session for the questioning of some witnesses is held in the chapel of the episcopal residence, it is not sufficient merely to indicate that the acts are being held in the Bishop's residence; the chapel in the house should be specified.

Unless necessity, Christian charity or the public welfare demand it, it is not permitted to hold sessions or to perform other acts of judicial procedure on holydays of obligation and on the last three days of Holy Week.<sup>2</sup> To do so without a sufficient reason would be illicit, but it would not render the acts invalid, as was the case under the earlier law.<sup>3</sup>

The sessions for the administration of the oaths and for the questioning of the witnesses shall, insofar as is possible, be held during the daytime and in a sacred place.<sup>4</sup> Although these requirements regarding the factors of time and place constitute serious obligations,<sup>5</sup> their contravention would not affect the validity of the acts as it did under the past law.<sup>6</sup>

A sacred place, in the sense employed here, is a church, the sacristy of a church, a public or a semi-public oratory, and even a private oratory if Holy Mass is or at least can be celebrated there daily.<sup>7</sup> The canonical enclosure of a religious house may likewise be considered as a sacred place in the meaning of canon 2041. § 1.<sup>8</sup> In any event, if witnesses cannot be interrogated in a sacred place, they must be questioned behind closed doors, and the place must

<sup>2</sup> Canon 1639, § 1.

<sup>3</sup> Coronata, *Institutiones*, III, 70.

<sup>4</sup> Canon 2041, § 1.

<sup>5</sup> Noval, *De Processibus*, II, 159.

Benedictus XIV, *De Beatificatione*, II, 49, 22; Noval, *loc. cit.*

<sup>7</sup> Canon 1154; Benedictus XIV, *loc. cit.*; Noval, *De Processibus*, II, 159-160; Coronata, *Institutiones*, III, 457; Lauri-Fornari-Santarelli, *op. cit.*, p. 31.

<sup>8</sup> Noval, *loc. cit.*; Coronata, *loc. cit.*; Lauri-Fornari-Santarelli, *loc. cit.*

be so situated that there is no danger of the witnesses being overheard by other persons?

What has been said relative to the time and place for the taking of the testimony of witnesses and the administering of oaths in these processes need not be applied to other acts of the process. The Code expressly states when and where the testimony of the witnesses is to be taken, and when and where the oaths are to be administered, but states nothing about the other sessions of the processes, and thus by its silence indicates that they may be held in any decent place. The sessions, therefore, for the inspection of the documents, for the comparing of the copies of the acts, for the issuing of the citations, for the closing of the process, and so on, may be held in any place determined by the tribunal. None of these acts, however, should be performed on the prohibited days in the absence of a sufficient cause.<sup>10</sup>

Article III. Oaths<sup>11</sup>

A. those required to take oaths in these processes

The judges, the promoter of the faith and the notaries must, at the beginning of every process, swear according to the formula prescribed by the Sacred Congregation that they will discharge their office faithfully, that they will keep the secret until the publication of the process, and that they will not accept donations of any kind.<sup>12</sup> The ordinary, even though not acting as judge, is bound to take the oath of secrecy.<sup>13</sup>

Besides taking the oath of secrecy, the witnesses must, before the examination, take the oath to tell the truth, and they likewise must, after they have given testimony, take the oath as to the truth of the statements made. No witness is excepted or dispensed from the taking of these oaths. Experts, interpreters, revisers, translators and copyists must, before they enter on their duties, take the oath to discharge their office well, and, after they have done their work, they must affirm under oath that they have faith-

<sup>9</sup> Lauri-Fornari-Santarelli, *loc. cit.*

<sup>10</sup> Canon 1639, § 1.

<sup>11</sup> For formulae of oaths cf. Appendix I.

<sup>12</sup> Canon 2037, § 1.

<sup>13</sup> Canon 2037, § 2.

fully done their duty. The messenger also shall take the oath that he will perform his work faithfully.<sup>14</sup>

The postulators and vice-postulators must take the oath against calumny (*de calumnia vitanda*), that is, they must swear that they will speak the truth throughout the entire process, and that they will not employ any deceitful measures or deceptive means.<sup>15</sup>

## B. VARIOUS KINDS OF OATHS

### 1. *The Oath of Secrecy* (de secreto servando)

This is a promissory oath. In a process conducted by the local ordinary it binds from the moment it is taken until the publication of the process by the ordinary. This point should be made clear to all persons who take the oath, lest perhaps some of them have the mistaken notion that the oath is to bind for life. It is advisable that when the process is published a notification of this fact be sent to each witness with the information that the oath of secrecy which they had taken no longer binds.

The material object of this secret is whatever is learned directly or indirectly from the acts of the process; it pertains in a most special way to the questions asked of the witnesses and to the answers given by them. The ordinary, the judges, the promoter of the faith and the notary are permitted to speak with one another concerning the matters which come under the secret. They may likewise speak to a witness concerning the testimony which he gave, but not concerning the testimony given by any other witness.<sup>16</sup>

A witness may likewise speak with any of these officials concerning his testimony. However, one witness may not make known to another witness the questions he was asked or the answers he gave. Likewise the witnesses are not free to discuss with one another those things which are the object of the secret. On the other hand, a person, although he take part in the process as a witness or in any other way, is free to discuss with anyone all those things which he knows about the Servant of God or about the cause, as long as this information has not been borrowed from the

<sup>14</sup> Canon 2037, § 3.

<sup>15</sup> Canon 2037, § 4.

<sup>16</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, pp. 55-56.

process.<sup>17</sup> He can do this even though the discussion concerns things about which he testified, but in discussing these things he must not indicate that he testified regarding them in the same manner, nor must he reveal the nature of the questions that were asked of him.<sup>18</sup>

This oath of secrecy must be taken by all in accordance with the formula prescribed by the Sacred Congregation.<sup>19</sup> Those who violate this oath incur automatically an excommunication. Outside of the danger of death the absolution from this excommunication is reserved to the Supreme Pontiff himself to the exclusion of all others.<sup>20</sup> Since the Code nowhere makes mention of this excommunication, Coronata raises the question whether or not, in view of canon 6, n. 5,<sup>21</sup> this penalty is still in force.<sup>22</sup> It seems that this penalty is still in force and those who violate this oath will still contract the penalty of excommunication. Canon 2037, § 1, states that the oath taken by the tribunal and those who assist the tribunal is to be taken according to the formula prescribed by the Sacred Congregation. Moreover, it always has been and still is the custom that the witnesses use this same formula for the oath of secrecy. The formula referred to is the one given in the decree of October 15, 1678,<sup>23</sup> this formula contains express mention of the excommunication. It is still being used by the Sacred Congregation, as Coronata himself admits;<sup>24</sup> no attempt has been made to withdraw it and to substitute another, nor has any indication been given by the Sacred Congregation that the excommunication no longer binds.

17 Lauri-Fornari-Santarelli, *loc. cit.*; Vermeersch-Creusen, *Epitome*, III, 172.

18 Lauri-Fornari-Santarelli, *loc. cit.*; Vermeersch-Creusen, *loc. cit.*

19 S.R.C., deer., 15 oct. 1678—*Fontes*, n. 5626.

20 It seems that absolution from this excommunication could be granted in virtue of the extraordinary faculties mentioned in canon 2254, if all the requisite conditions are present. Cf. Moriarty, *The Extraordinary Absolution From Censures*, *The Catholic University of American Canon Law Studies*, n. 113 (Washington, D. C.: The Catholic University of America, 1938), pp. 180-184.

21 Quod ad poenas attinet, quarum in Codice nulla fit mentio . . . eae

Since the Sacred Congregation originally prescribed this formula of the oath along with the threatened excommunication for all those who took part in the processes, including the witnesses, and since this formula has not been revoked or modified, it appears reasonable to conclude that it is the desire of the Sacred Congregation that this same formula be continued in use without any change. This is especially true in virtue of the fact that the formula is expressly referred to in canon 2037, § 1.

The argument resolves itself into the question whether or not the Sacred Congregation has the authority to inflict a penalty. This question is answered by canon 2220, which states that those who have legislative or preceptive authority can attach penalties to the violation of their laws or precepts. In conclusion, therefore, it can be said that the penalty of excommunication reserved to the Supreme Pontiff is still contracted by those who violate the secret in these causes. Moreover, there seems to be no valid reason for excepting the ordinary from this penalty, as some have done with reference to the instances wherein he does not preside personally at the processes.<sup>25</sup> One need but to recall that even in these cases the ordinary is obliged to take the oath of secrecy.<sup>20</sup>

In closing, one may note that, when non-Catholics take the oath of secrecy in these processes, then the part of the formula in which the excommunication is threatened may be deleted for obvious reasons.

## 2. *The Oath of Not Accepting Gifts (de donis non accipiendis)*

This is a promissory oath. Those who take it become bound by it not to accept any gifts, pecuniary or otherwise, from those who are interested in promoting the cause. In the common processes the judges are also forbidden to accept gifts.<sup>27</sup> Some hold that the prohibition against accepting gifts in causes of beatification and canonization is even more grave than that in the common processes.<sup>28</sup> There is something to be said in favor of this opinion

<sup>25</sup> Cf. Muniz, *Procedimientos*, III, 594 ; Coronata, *Institutiones*, III, 454.

<sup>26</sup> Canon 2037, § 2.

<sup>27</sup> Canon 1624.

<sup>28</sup> Noval, *Be Processibus*, II, 135.

in view of the gravity of the cause and the seriously binding oath by which the obligation is fortified.

3. *The Oath of Faithfully Fulfilling One's Duties* (de munere fideliter adimplendo)

This is likewise a promissory oath. It is the oath of office, and it obliges one to fulfill one's duties faithfully, that is, honestly, truthfully, completely and to the best of one's ability.

4. *The Oath of Duty Faithfully Performed* (de munere adimpleto)

This is an assertory oath. With this oath the person swears that he has faithfully performed the duties which were incumbent upon him by reason of his office. It is a correlative of the preceding oath, insofar as it states that the duties which were undertaken under the previous promissory oath have been performed honestly, faithfully, completely and to the best of the person's ability.

5. *The Oath of Speaking the Truth* (de veritate dicenda)

This is a promissory oath. By this oath one promises to tell the truth, the whole truth and nothing but the truth. He who takes this oath may not with safe conscience resort to mental reservations, ambiguous statements or any other means with a view to hiding the real truth.<sup>29</sup> Moreover, in these causes no witness may be excused from taking this oath, regardless of his state, dignity or position.<sup>30</sup>

If a witness were to refuse absolutely to take the oath, the tribunal could still take his testimony. It will remain for the Sacred Congregation to evaluate this testimony, and therefore all the reasons and circumstances surrounding the refusal to take the oath should be clearly noted in the acts. The judges and the promoter of the faith shall also make a special note of this in the letters which they write to the Sacred Congregation relative to the credence to be given to the various witnesses.<sup>31</sup>

<sup>29</sup> Cf. canon 1321.

so Canon 2037, § 3.

<sup>31</sup> Cf. canon 2063, § 2.

6. *The Oath Regarding the Truth of the Statements Made* (de veritate dictorum)

This is an assertory oath. It must be taken by all the witnesses when their recorded testimony has been read back to them. By this oath they assert that they have told the truth, the whole truth and nothing but the truth. This oath is a correlative of the oath of speaking the truth, and it furnishes an additional assurance that the previous oath of speaking the truth has been duly fulfilled by the witness in his given testimony.

7. *The Oath of Precluding Calumny* (de calumnia vitanda)

This oath, which is taken by the postulator and the vice-postulator in a cause, is a promissory oath. With this oath these officials promise that they will speak the truth throughout the process, and that in promoting the cause before the tribunal they will not use fraud or deception of any kind. This oath may be called an oath of good faith. By it the postulator and the vice-postulators swear that they sincerely believe that the cause which they are promoting is a just and a meritorious one, which they have undertaken for the honor and the glory of God, and not for human motives.

C. THE ADMINISTRATION OF THE OATHS

Mention has already been made of the administration of the oaths which are taken in the first session of a process.<sup>32</sup> During the course of the process the oaths are administered by the tribunal. Each person who is obliged to take an oath in these processes must do so personally; an oath which is taken by proxy is invalid.<sup>33</sup>

It is customary at the second session of a process to assemble all the witnesses for the purpose of their taking the oath together.<sup>34</sup> The customary special session for the administering of the oath to the witnesses does not seem to be essential; but it does add dignity and solemnity to the procedure; the essence and the

<sup>32</sup> cf. *supra*, Chap. VI.

<sup>33</sup> Canon 1316, § 2.

<sup>34</sup> Coronata, *Institutiones*, III, 461; Muniz, *Procedimientos*, III, 621; Lauri-Fornari-Santarelli, *op. cit.*, p. 55.



validity of the process will be sufficiently insured if each witness takes the oath individually before testifying. Even if the witnesses all take the oath together, they are held to repeat it individually before giving testimony.<sup>35</sup>

If several persons take an oath together, it will be licit for one to read the formula in an audible and clear voice, and for each person then to recite individually the concluding part of the formula.<sup>36</sup> Each person will then attach his signature to the formula of the oath which he has taken. It is not required that a separate formula be signed by each person whenever several take the oath together; all may write their name on the same one. The notary will attest the taking of the oath by writing in the date and mention of the place, and then will affix his signature and seal on the formula of the oath.

It is an almost universal custom in canonical procedure that the one who takes an oath does so on bended knee while touching the book of the Holy Gospels with his hand. A variation of this procedure, or at least an alternative, is offered in the case of a cardinal, a bishop or a priest, who may sometimes take an oath while standing and touching his breast. Authors are not in agreement on this latter point. Some indicate that priests are to take the oath while kneeling and touching the book of the Holy Gospels;<sup>37</sup> others indicate that they are to take the oath while standing and touching their breast.<sup>38</sup>

In point of fact, the practice followed by the Holy See in this matter does not seem to be always uniform. Canon 1622, § 1, states that in taking an oath priests are to touch their breast,<sup>39</sup> whereas the Instruction of the Holy Office *contra sollicitantes* directs that a priest in taking the oath must touch the Holy Gospels.<sup>40</sup> In the process for proving the non-consummation of

35 Coronata, *loc. cit.*, Muniz, *loc. cit.*; Lauri-Fornari-Santarelli, *loc. cit.*

36 Coronata, *loc. cit.*; Mufiiz, *loc. cit.*; Lauri-Fornari-Santarelli, *loc. cit.*

37 Mufiiz, *Procédimientos*, III, 594.

38 Cf. Lauri-Fornari-Santarelli, *op. cit.*, p. 55; Coronata, *Institutiones*, III, 454.

39 *a . . . a sacerdotibus quidem tacto pectore, a ceteris fidelibus, tacto Evangeliorum libro, . . .*

40 S.C.S. Off., instr., 6 aug. 1897: Quoties autem iuramentum de secreto servando et, pro diversis casibus, de veritate dicenda . . . deferendum sit, iuramentum ipsum semper et ab omnibus, etiam sacerdotibus, *tactis Ss. Dei Evangelii et non aliter*, praestandum erit.—*Fontes*, n. 1190.

marriage, priests when taking an oath should touch the Gospels, as is indicated in the forms of the oaths contained in the Appendix, nn. VII-IX, of the rules issued on May 7, 1923, by the Congregation of the Sacraments.<sup>41</sup>

It seems that the manner in which a priest takes an oath is more or less optional. Unless in some particular instance a definite manner is prescribed, one may safely follow the custom of the place. In any event the oath is valid and is fully binding in conscience.

#### Article IV. The Acts of the Process

##### A. IN GENERAL

The acts of each session are to be written in the Latin language with the exception of the oaths, the questions put to the witnesses, the answers of the witnesses, and other such things; all these may be written in the vernacular.<sup>42</sup> Each page of the acts is to be numbered and must likewise bear the seal and the signature of the notary.<sup>43</sup> At the close of each session in these processes the acts are to be signed by all the judges and the promoter of the faith; the acts will then be authenticated by the notary. In this manner all sign at the close of a session even in those cases wherein the completion of some act has been postponed for another session.<sup>44</sup> If the acts of some particular session require additional signatures, such as those of the witnesses or that of the postulator, the notary must not neglect to obtain them.

In these processes after every session the acts must be closed and sealed with the seal of the judge or the tribunal and may not be opened again until the judge has in the next session examined the seal and found it entire and intact. If it is evident that the seal has been tampered with, the judge shall refer the matter to the Sacred Congregation.<sup>45</sup> Between sessions the acts are in the care of the notary, who must keep them in some safe place, usually in the diocesan archives.

<sup>41</sup> AAS, XV (1923), 418.

<sup>42</sup> Canon 1642, § 2.

<sup>43</sup> Canon 1643.

<sup>44</sup> Cf. canon 1643, § 2.

<sup>45</sup> Canon 2041, § 2.

The composition of the acts is the duty of the notary.<sup>46</sup> As mentioned above,<sup>47</sup> he may prepare the acts at home before each session. Of necessity, however, there are certain things that can be written only during the session itself, and chief among these things is the testimony of the witnesses.

##### B. COURT REPORTING

The transcribing of the testimony for the acts is an art in itself. In these causes it offers particular difficulties because of the number of witnesses to be questioned, and also because of the precision and the detail that is called for. A few observations concerning the taking of the testimony will be pertinent here.

In the first place it is to be mentioned that, after the interrogatories have been opened and the witness has taken the oath, the questions are to be put to the witness by the judge. If during the questioning the promoter of the faith wishes to interpose any additional questions, he must do this through the judge, and not directly to the witness on his own authority.<sup>48</sup>

Muniz<sup>49</sup> and Coronata<sup>50</sup> suggest that in these causes it is customary that all the questions, including the original interrogatories submitted by the promoter of the faith, be put to the witness by the promoter in place of the judge. This, in the light of canon 1773, § 2, is a questionable practice. Since, however, canon 1773, §§ 1, 2, does permit the judge to act through a delegate, one cannot insist that it is entirely forbidden. If such a practice is followed, it can only be by direct and express concession of the judge; the promoter of the faith will then be acting merely as the judge's delegate.

The notary will write the replies of the witnesses exactly as they are spoken, that is, word for word in the first person. If the witness says, "I knew the Servant of God for ten years", the notary will not write: "The witness said that he knew the Servant of God for ten years"; rather, he will write the words of the witness exactly as they were spoken. In taking the testimony

<sup>46</sup> Cf. canon 1585, § 1.

<sup>47</sup> Pages 137-138.

<sup>48</sup> Canon 1773, § 2.

<sup>49</sup> *Procedimientos*, III, 622.

<sup>50</sup> *Institutiones*, III, 462; 214.

it is not necessary that the question be written down; it will suffice if the notary write in such fashion:

*luxta primum Interrogatorium testis respondit* .....  
*luxta secundum interrogatorium testis respondit* .....  
*luxta tertium etc.*.....  
*Ad 1. Articulum respondit*.....  
*Ad 2. Art. respondit*.....  
*Ad 3. Art. etc.* .....

If any additional questions are introduced *ex officio* by the judges or by the promoter of the faith, the question must be written by the notary in detail, for such a question would not already be contained among the numbered interrogatories. When a question of this kind is asked, the notary will indicate in the acts that it was asked by the tribunal or by the promoter *ex officio*, in the event that a witness has nothing to say concerning some particular interrogatory, the notary may write: *luxta Interrogatorium (num.) respondit testis se nihil scire*; or a *decimo Interrogatorio ad vigesimum respondit testis se nihil scire*. The same may be said with respect to the examination on the *Articuli*.

Canon law does not designate any special system for court reporting. The traditional method is to write the testimony in longhand as it is spoken by the witness or dictated word for word by the judge or the notary. The chief notary of the process does not have to write the testimony personally, but may employ assistant notaries who may work in relays to do this; the assistant notaries employed may be professional court reporters. There would be no objection to taking the testimony in shorthand or in some other convenient way; such as with a wire recorder; the testimony could then be fully transcribed and ready for the reading and the signature of the witness before he leaves the tribunal. This method would be most convenient if several of the notaries or stenographers worked in relays.<sup>51</sup> Because of the secrecy which surrounds these processes, all notes of any kind from which the official copy of the acts is made should be destroyed before the close of the session. Any transcribing of shorthand notes or wire recordings should be done behind the closed doors of the hall where the witness is being questioned.

<sup>51</sup> With reference to the longhand copy of the acts which is to be sent to Rome, cf. *infra*, p. 215.

## ARTICLE IV. ROGATORY COMMISSIONS

If witnesses live in a diocese other than the one where the principal process is being held and cannot appear before the tribunal, they may be examined by the tribunal of the place where they are.<sup>52</sup> In such an event the judges of the principal tribunal will direct rogatorial letters to the ordinary of the place where the witness is, and ask that this ordinary proceed to the examination of the witness in accordance with the enclosed instructions, interrogatories and *articuli*. It is advisable that the principal tribunal send complete instructions to the ordinary of the other place relative to the manner of procedure.

The ordinary who is to question the witness in accordance with the request of the principal tribunal will constitute a tribunal in the same manner as was done in the principal process. As in the chief process, he may personally preside at the tribunal, or he may appoint a delegated tribunal.<sup>53</sup>

The procedure in these cases is as follows :

1. The postulator requests that rogatory letters be sent to another ordinary for the questioning of a witness.
2. The judges prepare these letters which are then officially authorized by the ordinary.<sup>54</sup>
3. The letters with the *articuli* and the sealed interrogatories are given to the postulator to *be delivered to the ordinary* addressed.
4. The ordinary on receiving these letters constitutes a tribunal in the same manner as is done in the principal process.
5. The witness or witnesses are questioned in the accustomed way.
6. After the close of the last session for the hearing of the witnesses a copy is made of the acts.<sup>55</sup>
7. A session is held for comparing the copy of the acts with the original.<sup>56</sup>

<sup>52</sup> Canons 1770, § 2, n. 3; 1570, § 2.

<sup>53</sup> Muniz, *Procedimientos*, III, 623; Coronata, *Institutiones*, III, 462.

<sup>54</sup> For formula, cf. Appendix I.

<sup>55</sup> The original of the acts is kept in the archives of the curia where the rogatorial process was conducted. Cf. Lauri-Fornari-Santarelli, *op. cit.*, p. 105.

<sup>56</sup> Cf. *infra*, p. 216.

8. The copy of the acts is sealed and addressed as follows:

TRANSUMPTUM PUBLICUM ET AUTHENTICUM  
PROCESSUS ROGATORIALIS IN CURIA N.....  
.....CONSTRUCTI SUPER PAMA SANCTI-  
TATIS, VIRTUTUM ET MIRACULORUM SERV  
..... DEI N. N..... - PRÆSTANDUM  
ET EXHIBENDUM REÇUMES DD. N. N.....  
IUDICIBUS AB ORDINARIO DIOECESIS N.....  
DELEGATIS, ET NONNISI DE HORUM MANDA-  
TUM APERIENDUM.

N. N..... Notarius  
(*sigillum*) N. N..... Episcopus N.....

9. The sealed copy of the acts is presented to the postulator with a letter from the ordinary who conducted the rogatory process addressed to the judges of the principal tribunal.<sup>67</sup>
10. The postulator presents these to the principal tribunal.
11. After the postulator has been dismissed the acts are opened and read aloud by the notary in the presence of the tribunal and the promoter of the faith.
12. The acceptance of the acts of the rogatorial process is noted in the acts of the session.
13. The acts of the rogatorial process are closed and sealed and preserved with other acts of the principal process.

<sup>67</sup> For form of this letter, cf. Appendix I.

## CHAPTER IX

### THE PROCESSES CONDUCTED BY THE LOCAL ORDINARY IN HIS OWN RIGHT

#### Article I. The Process on the Writings of a Servant of God

##### A. ITS PURPOSE AND OBJECT

The first of the ordinary processes mentioned in the Code of Canon Law is the judicial inquiry into the writings of the Servant of God. This process has for its object the gathering of the writings of the Servant of God, and the clarification of any questions pertaining to their integrity and genuinity. Ultimately the writings will be examined by the Sacred Congregation for their orthodoxy and purity of doctrine, as well as for a general view of the characteristics, virtuous habits or defects of the Servant of God as these may lie suggested by his writings.<sup>1</sup>

It is not within the province of the local ordinary in this process to pass judgment on the orthodoxy or the intrinsic worth of the writings of the Servant of God; this judgment belongs to the Sacred Congregation. Consequently it will not be necessary that the local authorities read the writings. The scope of the local ordinary's activity is to collect the writings, or to see that they are collected, and to recognize their genuinity. Because of the diligence which is used, or should be used, in the collecting of the writings of the Servant of God, this process is often referred to as the *processiculus diligentiarum*.<sup>2</sup>

While it is true that a complete picture of the life and virtues of a Servant of God may often be culled from his writings, this is not the chief purpose of this process. Consequently, if those who are promoting the cause wish to allege passages from the writings of the Servant of God in proof of sanctity or virtue, the pertinent passages must be included among the probative documents inserted in the informative process. The

<sup>1</sup> Canon 2068, § 1.

<sup>2</sup> Cf. canons 2044; 2046; 2061.

Holy See will examine the writings of the Servant of God with an eye chiefly to their orthodoxy and purity of doctrine; yet a favorable decision on the part of the Holy See is negative in the sense that it does not imply an approbation of the writings, and it does not prevent the promoter general of the faith and the consultors from proposing objections from the writings in the discussion of the virtues of the Servant of God.<sup>3</sup>

Under the term "writings" are included not only unpublished works of the Servant of God, but also those which have already been printed; also sermons, letters, diaries, autobiographies, and anything that he wrote personally or through another.<sup>4</sup> Under those things which were written through another are included the actual compositions of the Servant of God which were dictated to another, or the things which others, worthy of credence, personally heard the Servant of God speak or say and which they then wrote down.

Everything written by the Servant of God, either directly or through others, is the object of the search for the writings; nothing is too great or too small. The writings embrace published and unpublished works, books, pamphlets, sermons, notes, meditations, examinations of conscience, private memoranda, diaries, letters, written correspondence of any kind.<sup>5</sup> On the other hand, it is not necessary to collect those writings of a Servant of God which are mere acts of official ritualism, that is, those things which he wrote by reason of some public office which he held during his life.<sup>6</sup> Thus it would not be necessary to include all the entries made in parish books by a Servant of God who was a pastor; nor need one bring forth the judicial acts of a diocesan curia which the Servant of God wrote as a notary.

Requests for and grants of faculties and dispensations by the Servant of God as well as other routine acts of office would generally all come under the heading of acts of official

<sup>3</sup> Canon 2072.

<sup>4</sup> Canon 2042.

<sup>5</sup> Benedictus XIV, *De Beatificationes*, II, 26.

<sup>6</sup> Coronata, *Institutiones*, III, 458; Muniz, *Procedimientos*, III, 598. Such writings however may be introduced in the informative process to show that the Servant of God faithfully fulfilled his duties as a public official.

ritualism. There are, however, official acts into which one may inject his own personality; such would be the synodal constitutions of ordinaries, the pastoral letters of bishops, and the like. If any such writings exist, they are among that class of writings which are the object of this process. Although it is permitted to omit from the process on the writings those written acts of office which have an entirely 'impersonal' character, they must not be passed over in absolute silence. The postulator, or in historical causes the members of the Diocesan Historical Commission, should make mention of these omissions when their depositions are taken by the tribunal.

Published and edited works of the Servant of God must be presented for examination, even though they have already<sup>6</sup> been passed on or approved by ecclesiastical authority' at the time of publication or subsequently. This is true even with regard to those works which have been declared free of error by the highest ecclesiastical authority. If several editions of a work were published by the Servant of God during his lifetime, the last edition will suffice.<sup>7</sup> If a work was published posthumously, or if new' editions of an already published Work were brought out after the death of the Servant of God, it will be necessary to present, whenever possible, the original manuscript or the last edition published under the supervision of the Servant of God.<sup>8</sup>

Unpublished works and writings should, if possible, be presented in the original. If this is impossible, either because those who possess such writings desire to keep them, or because such writings are preserved in libraries and archives and cannot be obtained in the original, authentic copies should be made.<sup>9</sup>

<sup>7</sup> *Benedictus XIV, De Beatificatione*, II, 26.

<sup>8</sup> *Benedictus XIV, loc. cit.* If a Servant of God erred against faith or morals in his writings, a subsequent correction or retraction by him would remove the obstacle to his beatification which the errors may have presented. On the other hand, errors not actually corrected by the Servant of God may present an obstacle to his beatification, even though at the time he wrote he made a protestation that all his views were subject to higher ecclesiastical authority. Cf. *Benedictus XIV, op. cit.*, II, 28.

<sup>9</sup> Cf. canon 2045; cf. also *supra*, p. 181.

Translations of works or writings by the Servant of God need not be presented to the tribunal unless the translation was made personally by the Servant of God himself, or the work in the original language has perished. Whenever some of the writings of the Servant of God cannot be found, the tribunal will describe what efforts have been made to find them, and this information will be forwarded to the Sacred Congregation of Rites with the acts of the process.<sup>11</sup>

Finally the postulator need present only those writings which certainly are of the Servant of God. Although it is advisable to present even those writings which are doubtfully attributed to the Servant of God, there is no obligation to do so.<sup>12</sup> If a writing very probably belongs to the Servant of God, or if it is one concerning which the doubt can be settled by means of the questioning of witnesses or with the aid of experts, it should be presented to the tribunal, and the latter should proceed with appropriate means to settle the doubt concerning the authenticity.

#### B. COLLECTING THE WRITINGS

The process for the collecting and examining of the writings of the Servant of God is to be undertaken by the ordinary either *ex officio* or at the request of the postulator.<sup>13</sup> In historical causes, before the process is instituted, the ordinary will appoint a Diocesan Historical Commission, whose duty it will be to gather all the written sources on the Servant of God, including his writings.<sup>14</sup> In non-historical causes it is customary that the postulator undertake to collect the writings of the Servant of God before petitioning the ordinary to begin the process.<sup>15</sup>

At the proper time the postulator will petition the ordinary to appoint the tribunal;<sup>16</sup> this the latter will do by rescript in the

<sup>10</sup> Benedictus XIV, *op. cit.*, II, 34, 1-2; Indélicat»; *Le Basi Ciuridiche* η 77.

<sup>11</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 63

<sup>12</sup> Canon 2044, § 1.

<sup>13</sup> S.R.C., deer., 4 jan. 1939—AAS, XXXI (1939), 134; cf. *infra*, p. 228.

<sup>14</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, pp. 63; 65.

<sup>15</sup> For formula of petition, cf. Appendix I, 3.



usual way.<sup>10</sup> At the first session of the process the appointments will be confirmed by the ordinary, and all will take the required oaths.<sup>11</sup>

It is not clearly evident that all the writings have already been collected, the postulator shall at the first session take an oath that he will use every diligence in searching out the writings of the Servant of God.<sup>12</sup> Moreover, the ordinary will issue an edict ordering that all those who have or know of the existence of the writings of the Servant of God shall inform the tribunal within a certain specified time.<sup>13</sup> The ordinary will likewise determine how this edict is to be published and brought to the attention of the faithful.<sup>14</sup> If the Servant of God was a member of some religious community, the religious superiors of that community have the grave obligation of seeing that this edict is brought to the attention of their subjects. In this case special mention must be made of the obligation of reporting anything that is contrary to the cause.<sup>15</sup>

If it is necessary to publish the edict in other dioceses, the ordinary will arrange for its publication with the ordinaries of those dioceses. The promoter of the faith has the right and the duty to insist that the edict be published in any place where there is chance that some of the writings of the Servant of God may be found.<sup>16</sup>

If it is patent that there are no writings of the Servant of God, or that those which exist have all been collected by the postulator or the members of the Diocesan Historical Commission, the aforesaid mentioned edict will be superfluous, and hence need not be issued.<sup>17</sup>

In collecting the writings the postulator or the members of the Historical Commission will keep in mind what has already been

<sup>10</sup> Cf. *supra*, p. 117.

<sup>11</sup> If no witnesses are to be questioned in this process, the oath of secrecy hardly seems strictly necessary; it is advisable however that it be taken. The same can be said with reference to the oath *de calumnia* of the postulator or vice-postulator. Cf. the formulae for this process in the *Codex pro Postulatoribus*, pp. 66-77, where these oaths are omitted.

<sup>12</sup> For formula of this oath, cf. Appendix I, 7.

<sup>13</sup> For formula for this edict, cf. Appendix I, 5.

<sup>14</sup> Canon 2043, § 1.

<sup>15</sup> Canon 2043, § 2.

<sup>16</sup> Canon 2043, § 3.

<sup>17</sup> Lauri-Fornari-Santarelli, *op. cit.*, p. 75.

said relative to the collecting of documents.<sup>24</sup> The writings will be arranged in order, and to each will be attached a critical introduction.

After all the documents have been collected, the second and subsequent sessions of the tribunal will be held. The documents will then be presented. The postulator will take an oath that he has diligently sought out the documents, and that he will speak the truth in answer to the questions put to him. He will then be questioned by the tribunal on the interrogatories prepared by the promoter of the faith. These questions will pertain to the number, the quality, the character, etc., of the writings submitted. He will also be asked concerning the method of collecting the writings, whether there are any other writings anywhere, whether all writings have been submitted, and if not, why not. If there is any doubt about the authenticity of any of the writings, or if concerning them there is any other question that must be settled, witnesses or experts will be questioned in the usual way.<sup>25</sup>

If the Servant of God is a woman who belonged to some religious community, then the supreme head of the institute or the abbess of the monastery must take an oath that she has diligently sought out the writings, that she has presented to the tribunal all the writings in her possession, and that she does not know of any other writings of the Servant of God that are possessed by any one of her subjects or any other person.<sup>26</sup> This oath may be taken in the presence of the tribunal or privately before the ordinary or his delegate.<sup>27</sup>

After all these things have been done and the writings have been found acceptable, the notary will arrange them in order, and number each of them separately.<sup>28</sup> He will likewise insert in the acts a complete description of each writing, if this has not already been done. The signature of the notary and the seal of the ordinary will be put on each writing.<sup>29</sup> Attached to each writing will be the acts of the tribunal relative to that particular writing,

<sup>24</sup> *Supra*, p. 181.

<sup>25</sup> In historical causes the members of the Commission must be called *ex officio* to testify in this process. Cf. *infra* p. 232

<sup>26</sup> Canon 2047, § 2.

<sup>27</sup> Coronata, *Institutiones*, III, 459.

<sup>28</sup> Canon 2046.

<sup>29</sup> Lauri-Fornari-Santarelli, *op. cit.*, p. 66.

and these acts shall be signed by the ordinary, or his delegate, and the promoter of the faith; they will also bear the seal of the ordinary.<sup>30</sup>

It is not clear from the Code whether the original acts of this process are to be forwarded to the Sacred Congregation along with the writings, or whether a copy of the acts is to be sent, as is done in the informative process.<sup>31</sup> Coronata<sup>32</sup> and Muniz<sup>33</sup> suggest three ways in which the acts may be sent to Rome: 1) the original acts may be sent with the collected writings; 2) a copy of the acts may be sent with the collected writings; or 3) the writings may be sent along with a declaration of the ordinary relative to the steps taken to collect them. In practice there can be no doubt that the second method is preferable and more in keeping with the law.<sup>34</sup>

If witnesses have been questioned in this process, then before the acts are prepared for forwarding to the Holy See the tribunal should publish the process, that is, the postulator, the promoter and any others concerned should be given an opportunity to read the testimony of the witnesses.<sup>35</sup>

After all these things have been done, the notary will prepare, or have prepared, a copy of the acts; he will do this *in the manner* prescribed for the informative process.<sup>36</sup> The copy of the acts which is to be sent to the Sacred Congregation will bear the same signatures as the original, namely, the signatures of the members of the tribunal, of the promoter of the faith, and of the notary.

The notary will then add the following:

Ego infrascriptus Notarius fidem facio ac testor,  
praesens Transumptum seu exemplum foliorum.....  
cum omni diligentia et fidelitate collatum fuisse cum  
Processiculo diligentiarum foliorum..... quae..... ex  
auctoritate Revmi Ordinarii institutae fuerunt pro per-

<sup>30</sup> Canon 2046; Noval, *De Processibus*, II, 167.

<sup>31</sup> Canon 2063, § 1.

<sup>32</sup> *Institutiones*, III, 460.

<sup>33</sup> *Procedimientos*, III, 604.

<sup>34</sup> Cf. canon 2063, § 1. This canon refers to the copy of the acts which is to be made in the informative process. One should recall that under the past law the process on the writings was part of the informative process.

<sup>35</sup> Cf. canons 2053; 1859.

<sup>36</sup> Cf. canons 2053-2056; *infra*, p. 215; Coronata, *op. cit.*, III, 459.

quisitione scriptorum, quae tribuuntur Servo Dei.....  
 ....., et ab initio ad finem usque cum ipso Processu  
 et actis originalibus adamussim concordare, eique  
 in omnibus et per omnia, ac si esset idem originalis  
 Processus, plenam ac indubiam fidem adhibendam fore  
 et esse.

Et in fidem..... die..... anno..... etc.

(*sigilhini*) ..... Notarius.

The ordinary will then add :

Nos, N. N..... Episcopus N.....  
 notum facimus atque testamur supradictum Dnum N. N.  
 ..... esse Notarium huius Nostrae Epis-  
 copalis Curiae in praefato Processu per Nos in Actuar-  
 ium deputatum, eiusque testificationibus, scriptui is et  
 instrumentis plenam in indicio et extra adhibitum tem-  
 per fuisse et adhuc adhiberi fidem ab omnibus. Et ita  
 dicimus et testamur.

Datum..... die..... mense..... anno Dni.....

(*sigillum*) N. N..... Episcopus N.....

Along with the acts of the process the ordinary shall send a letter addressed to the Cardinal Prefect of the Sacred Congregation. In this letter he will report concerning the ways and means used in the examination of the writings of the Servant of God.<sup>37</sup>

All will be enclosed in one package and sealed with the seal of the ordinary. It will be addressed to the Cardinal Prefect of the Sacred Congregation, and forwarded in the same way as the acts of the informative process.<sup>38</sup>

## Article II. The Informative Process

### A. OBJECT OF THE PROCESS

If the ordinary informative process is not begun within thirty years after the death of the Servant of God, no proceeding may be instituted before it is proved that there has been no fraud or malice or culpable negligence in the delay.<sup>39</sup> One could use

<sup>37</sup> Canon 2061. For formula for this letter, cf. Appendix I.

<sup>38</sup> Cf. *infra*, p. 217.

<sup>39</sup> Canon 2049.

fraudulent or malicious means to delay the introduction of a cause in the ordinary processes for various motives. Such, for example, would be to retard the introduction of the cause until all those who have any objections to it by way of adverse testimony are dead. On the other hand, the initial steps in a cause may be legitimately impeded for a variety of reasons which will differ from cause to cause. Since the decision whether or not a cause is to be drawn up rests with the competent local ordinary, the judgment regarding the presence or absence of fraud, of deceit or of culpable negligence obviously rests with him. Mention of the decision reached by the ordinary, and of the reason that prompted it, should be made in the acts.<sup>40</sup>

In this process it is not necessary that the virtues, the martyrdom, and the miracles be specifically established; it suffices that the general reputation or fame of the Servant of God relative to these things be established. This reputation must be proved to have been spontaneous, not artificial or created by human endeavor, but coming from upright and serious-minded persons, and to have been continuous, increased in the course of time, and still in existence among the greater part of the people.<sup>41</sup>

The true notion of the reputation (*fama*) for sanctity or martyrdom was given by Benedict XIV when he stated:

Fama autem sanctitatis in genere nihil aliud est, quam existimatio, seu communis opinio de puritate et integritate vitae, et de virtutibus non utcumque, sed per continuatos actus, data occasione, exercitos supra communem operandi modum aliorum proborum virorum, aut mulierum ab aliquo Servo, vel Serva Dei iam defunctis, necnon de miraculis eorum intercessione a Deo patratís; ita ut, concepta in uno, vel pluribus locis erga eos devotione, a plerisque in suis necessitatibus invocentur, et plurium graviorum virorum indicio digni existimentur, ut per Sedem Apostolicam referantur in album Beatorum, vel Sanctorum. Pariter fama martyrii in genere nihil aliud est, quam existimatio, et communis opinio, quod aliquis, vel aliqua pro Fide Christi, vel pro virtute, quae ad Fidem Christi deducatur, illatam sibi mortem patienter tulerint, et quod signa, seu miracula eorum intercessione, vel patefaciendam eorum pretiosam nior-

<sup>40</sup> Coronata, *Institutiones*, III, 461.

<sup>41</sup> Canon 2050, § 2.

tern secuta sint; ita ut, apud plerosque concepta devotione, in suis necessitatibus invocentur, et graviorum virorum existimatione digni indicentur, ut in Catalogum Beatorum, et Sanctorum a Summo Pontifice referantur.<sup>42</sup>

A study of the definition of Benedict XIV and of the wording of canon 2050, § 2, will convince one that the reputation (*fama*) referred to is a juridical notion, and is not to be confused with mere rumor, simple conjecture, or just any public opinion whatsoever. One cannot prescind from the intrinsic and extrinsic elements of this reputation (fzmtz) as defined by Benedict and the Code without destroying the juridical concept fixed by the law and jurisprudence.<sup>43</sup>

This reputation (*fama*) must be the *common* opinion, for otherwise it is mere report or rumor; it must be reasonable, that is, it must arise from causes that are at least probable; its causal object must be the sanctity, martyrdom and miracles of the Servant of God;<sup>44</sup> it must be spontaneous; it must be continuous; it must increase; it must exist in the present; in order to be genuine it must produce in serious-minded persons veneration and invocation of the Servant of God and the conviction that the latter is worthy of beatification or canonization. On the contrary a reputation (*fama'*) that is not common, that is based on false virtues, miracles or martyrdom, that is artificially aroused, that does not produce the effects mentioned above, is not genuine.<sup>45\*</sup> When the postulator is composing the *articuli* for this process he should lie careful not to omit points which will bring out all the information relative to the existence, cause, origin, nature and effects of the reputation (*fama*) for the sanctity, the martyrdom and the miracles of the Servant of God.

Although, as canon 2050, § 2, indicates, it is sufficient for the introduction of a cause before the Holy See that the general reputation (*fama in genere*) be established, it is the practice to investigate, even in the ordinary process, the specific virtues of the

<sup>42</sup> *De Beatificatione*, II, 39, 7.

<sup>43</sup> Indelicato, *Lc Basi Giuridiche*, p. 38.

<sup>44</sup> Benedictus XIV, *op. cit.*, II, 39.

<sup>45</sup> Benedictus XIV, *loc. cit.*; Noval, *De Processibus*, II, 146-148; Indelicato, *Lc Basi Giuridiche*, pp. 37-60; Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 78.

Servant of God.<sup>46</sup> This practice arises from the fact that it would be quite impossible to treat of the basis for the reputation for sanctity without inquiring into at least some of the virtues *in specie*. Moreover, this practice seems to be suggested by canon 2020, which speaks in part of the connection between the proofs used in the ordinary and in the apostolic processes.

Although authors are a little more hesitant in applying the same practice to the investigation of miracles *in specie* in the ordinary process, it appears that the ordinary may also do this without exceeding his authority.<sup>47</sup> The same reasons which may be alleged for this practice relative to the virtues are also applicable in the case of miracles; moreover there is the additional reason that, if the miracle is a recent one, it is extremely important that the testimony of eyewitnesses be obtained before such evidence becomes unobtainable. It is to be strongly urged in all causes that as much information as possible be gathered concerning the virtues, martyrdom and miracles *in specie*; such information is very valuable, even though it does not with strict absoluteness seem necessary for the introduction of the cause before the Sacred Congregation.

Enough has already been said relative to the investigations of the postulator in respect to the virtues of the Servant of God.<sup>48</sup> It remains to say something at this point concerning the examination on the miracles. In the first place, if any questioning concerning miracles *in specie* is to be done, one must keep in mind the regulations of canon 2118 and canon 2119 relative to the employment of experts who must be introduced *ex officio*.

Miracles will, in these processes, frequently concern those who have been cured from some illness or disease. When the postulator is making his preliminary investigations and

<sup>46</sup> Lauri-Fornari-Santarelli, *loc. cit.*; Coronata, *Institutiones*, III, 461; Muniz, *Procedimientos*, III, 620; Noval, *De Processibus*, II, 169; Indelicato *Le Basi Giuridiche*, p. 45; Berutti, "Valore del Processo sui Miracoli in Specie Fatto d'Autorità Propria dell' Ordinario",—*Ephemerides Iuris Canonici* (Romae, 1945-), III (1947), 318 (hereafter cited as "Valore del Processo").

<sup>47</sup> Lauri-Fornari-Santarelli, *op. cit.*, p. 78; Berutti, "Valore del Processo", pp. 317-325.

<sup>48</sup> Cf. *supra*, p. 83.

<sup>49</sup> Cf. Berutti, "Valore del Processo", pp. 322-325.

preparing to compose the *articuli*, he should keep in mind the following points:

1. THE CONDITION OF THE CURED PERSON BEFORE THE MIRACLE: General points concerning identification, age, state in life, etc.—notes concerning general physical condition of the person, background with reference particularly to parents—medical history, its relation to disease from which he was allegedly cured—general state of health up to time of sickness—nature and extent of the disease, its cause, from the beginning throughout—particular symptoms, local, general—did the sickness gradually become better or worse, when was the sickness at its worst, what was the condition of the patient at that time—was the patient treated by a physician or surgeon, when, how often, what was the diagnosis, prognosis—what remedies were prescribed, were these used, what was the result—other circumstances of time, persons, places, things.

2. CONDITION OF THE CURED PERSON AT THE TIME OF THE MIRACLE: What was the state of the sickness at the time when the person was cured—was it serious, had hope for a natural cure been abandoned, was it dangerous to life—how long had this serious condition existed—on what day, hour and place did the cure take place—what did the person experience at the time the miracle happened—was the cure instantaneous, without any medicines or surgery of any kind—if the cure was not immediate, how long did it take from the beginning of the cure until it was complete—could the disease have been cured in this way by nature, or by medication or surgery.

3. CONDITION OF THE CURED PERSON AFTER THE MIRACLE: What changes were wrought in the person by the miracle—was the cure complete and perfect, were there any vestiges of the previous illness—did the cure remain, is there any indication that the illness is returning or will return—is the person now in perfect health, does he have any other disease or illness, nature of this—have any physicians examined the person after the cure, what are their opinions.

4. INVOCATION OF THE SERVANT OF GOD: Is it certain that the cure was the result of having invoked the intercession of the Servant of God—by whom was the Servant of God invoked—in what way was he invoked, was it by mental prayer or oral prayer, novena, triduum, was a relic or an image of the Servant of God applied to the person—did the sick person know of the application of the relic—when was the invocation first made, was it continued, when did it cease—did the cure result at the time the invocation was being made or later, how much later—was the intercession of other Saints or Blessed sought, if so, why is the miracle attributed to the intercession of the Servant of God and not to the intercession of these others.

B. THE PROCESS ITSELF

Explanation has already been given of the manner in which the tribunal is to be established by the ordinary in the first session of this process,<sup>50</sup> and the introduction of documentary proof has also been explained.<sup>51</sup> Consideration must now be given to the closing sessions of the process and the forwarding of the acts to the Holy See.

The informative process cannot be closed until after the promoter of the faith has examined all the letters sent to him in accordance with canon 2025, and has made certain that the persons spoken of in canons 2023-2025 have been examined.<sup>52</sup> When the tribunal is of the opinion that all proofs, both from the examination of the witnesses and the exhibition of documents, have been collected, and that all the writings of the Servant of God which could be procured have now been joined with the acts of the cause, it shall after consultation with the promoter of the faith warn the postulator that, if he has anything else to present, he must do so within a fixed period of time. After the lapse of that period the process is closed.<sup>53</sup> After this the notary, at the command of the judge, provided that the promoter of the faith does not object, shall

<sup>50</sup> Cf. *supra*, p. 117.

<sup>51</sup> Cf. *supra*, p. 179.

<sup>52</sup> Canon 2051.

<sup>53</sup> Canon 2052.



publish the process, which shall be given to a scribe or secretary appointed by the tribunal to make a copy of the same.<sup>54</sup>

It is to be noted that in these causes the process is closed before it is published; this is the reverse of what is done in the process on non-cult and in common causes.<sup>55\*</sup> The reason for this difference is that in causes of beatification and canonization there is no discussion of the cause after the proofs are published, as there is in forensic causes.<sup>56</sup> The discussion of the proofs offered in causes of beatification and canonization is reserved to the Sacred Congregation.<sup>57</sup> The above mentioned conclusion of the cause is in these causes, as in others, made by a decree of the judge.<sup>58</sup>

The fact that canon 2053 states that the tribunal is to order the notary to publish the process, "provided the promoter of the faith does not object", is not to be understood in the sense that the promoter can permanently impede the publication of the process. It means that after the conclusion of the process it is not to be published until the tribunal has heard any objections which the promoter of the faith may wish to make.<sup>59</sup> This is the only possible and reasonable interpretation of canon 2053.

The publication of the process consists in the opening of the interrogatories and the testimony of the witnesses in the presence of the parties in the cause who are given an opportunity to read and inspect the testimony.<sup>60</sup> In causes of beatification and canonization the right of inspecting the interrogatories and the testimony of the witnesses will be of chief interest to the postulator, since the information contained in them is already known to the promoter of the faith. The publication of the process is made at a special session; at the same session one or several scribes or secretaries shall be appointed to copy the acts of the process. These persons will

<sup>54</sup> Canon 2053.

<sup>55</sup> Cf. canons 1858-1860.

<sup>56</sup> Cf. canons 1858-1862.

<sup>57</sup> Cf. canons 2073-2084.

<sup>58</sup> Cf. canon 1860, § 3.

<sup>59</sup> Noval, *De Processibus*, If, 174.

<sup>60</sup> Cf. canon 1859; Coronata, *Institutiones*, III, 463; Muniz, *Procedimientos*, III, 625; Blat, *Commentarium*, IV, 597.

take the oath of faithfully fulfilling their duties. They will not be obliged to take the oath of secrecy, since the secrecy which prevailed at the time when the process was being prepared is no longer obligatory. As has previously been mentioned, the tribunal should, at the time of the publication of the process, inform the witnesses in some convenient way that the oath of secrecy which they took is no longer binding. This should be done as a matter of courtesy, lest perhaps some persons erroneously believe that they are still bound by the secret when actually they are not.

The tribunal is free to choose anyone to act as a copyist in the transcribing of the acts. It may choose religious who belong to the same religious community as the Servant of God, or it may even choose the postulator for this work, although it is advisable that he be not chosen unless others are unavailable.

The copy, or the *transumptum* as it is called, shall be written in longhand.<sup>61</sup> This regulation has often been the *beta noire* of those who have worked with these processes. To some it seems in this modern age that the insistence on handwritten copies is a step backward in scientific and technical progress. A mere statement of the reason why the copy of the acts must be made in longhand will be sufficient to convince one that this is not true. It is, it seems, the desire of the Holy See that only two sets of the acts of the process exist, the original in the archives of the diocesan curia, and the copy in the archives of the Sacred Congregation. The chief purpose of the regulation which orders that the copy of the acts be made by hand is to minimize the possibility of a multiplication of copies.<sup>62</sup>

The copying of the acts in longhand refers principally to the copying of the testimony of the witnesses. If printed formularies were used for some of the acts of the process, as was suggested above, similar formularies may be used for the copy of the acts. Finally, the copy of the acts, like the origi-

<sup>61</sup> Canon 2054.

<sup>62</sup> Cf. S.R.C., decr., 8 apr. 1889—*Fontes*, n. 6194; Noval, *De Processibus*, II, 176.

nal, should be written on durable linen paper with ink which will withstand the ravages of time.<sup>63</sup>

After the copy of the acts has been prepared, it will be compared with the original by the notary and his assistant in the presence of one of the judges and the promoter of the faith. After the collating of the copy, the notary, judge and promoter of the faith shall sign and seal it in proof of its authenticity.<sup>64</sup> Prior to this act the copyists shall take the oath that they have faithfully fulfilled their duty. In collating the copy and the original, one of the notaries will hold the original and the other will hold the copy; one will read the script aloud and the other Avili compare the text which he holds with that which is being read. If any mistakes are found, the necessary corrections will be written in the margin by the notary, and they will be signed *by the judge*, the promoter of the faith and the notary.<sup>65</sup>

### C. THE FINAL SESSION

The ordinary himself should preside at the final session of the process. At this session the notary will present the original and the copy of the acts ready for packing. After consulting the promoter of the faith, the ordinary will order that the two sets of the acts be sealed up and the copy be given to the postulator for transmission to the Holy See.<sup>66</sup> The postulator will then take an oath that he will faithfully fulfill his duty in this regard. After this, all present will sign the acts of this final session; they will also affix their individual seals, if they possess them. The notary will attest the signatures and add a description of each seal. After this has been done, the ordinary will attest to the legality of the notary's authority.<sup>67</sup> These final acts will be made in duplicate; one copy will be enclosed with the original acts, the other with the copy of the acts which is being sent to the Sacred Congregation.

<sup>63</sup> S.R.C., deer., 8 apr. 1889—*Fontes*, n. 6194.

<sup>64</sup> Canon 2055.

<sup>65</sup> Benedictus XIV, *De Beatificatione*, II, 50, 2.

<sup>66</sup> Canons 2056, § 2; 2063, § 1.

<sup>67</sup> For formula, cf. *supra*, p. 208.

The acts of the process and the copy are then carefully packed. The packages are sealed in several places with sealing wax and the ordinary's seal. The copy that is going to Rome is inscribed as follows:

### SACRAE RITUUM CONGREGATIONI

#### ROMAM

EXEMPLUM SIVE TRANSUMPTUM PUBLICUM ET AUTHENTICUM INTEGRI PROCESSUS AUCTORITATE ORDINARIA IN CIVITATE N. CONSTRUCTI A REVMIS D.D. N.N. JUDICE ET N.N. ATQUE N.N. ADJUNCTIS A REVMO DNO EPISCOPO N. DELEGATIS IN CAUSA BEATIFICATIONIS ET CANONIZATIONIS SERVI DEI N.N. SUPER FAMA SANCTITATIS VIRTUTUM ET MIRACULORUM EIUSDEM SERVI DEI. PRAESTANDUM ET EXHIBENDUM S. RITUUM CONGREGATIONI, VEL EIUS R.P.D. SECRETARIO, ET NONNISI DE MANDATO EIUSDEM S.R. CONGREGATIONIS APERIENDUM. ITA EST.

N.N. .... NOTARIUS DEPUTATUS.

(*sigillum'*)

This inscription is then followed with the attestation of the ordinary as to the legality of the acts performed by the notary.<sup>68</sup>

Finally, a document testifying to these acts shall be prepared in duplicate by the notary; one copy will be sent to Rome, and the other shall be preserved in the archives of the local curia.<sup>69</sup> The copy that is to be sent to Rome should be enclosed in a sealed envelope and forwarded at the same time as the copy of the acts of the process. In this same envelope will be enclosed a letter from the ordinary addressed to the Prefect of the Sacred Congregation of Rites. This letter will contain information relative to the credence to be given to the testimony of the witnesses, and it will also contain a state-

<sup>68</sup> For formula, cf. *supra*, p. 208.

<sup>69</sup> Canon 2056, § 2.

ment regarding the legitimate execution of all the acts of the process; the ordinary will also describe Ins seal or enclose a copy of it.<sup>70</sup> There will also be a joint letter from the judges to the *Cardinal* Prefect of the Sacred Congregation, as well as a letter from the promoter of the faith addressed to the promoter general of the faith?<sup>72</sup>

All these things are then given to the postulator for transmission to the Holy See. The postulator need not go to Rome personally, but he can transmit the acts through the Apostolic Delegate or by some other safe means. The original of the acts is placed in the diocesan archives., and it cannot in the future be opened without the permission of the Holy

#### D. POSTULATORY LETTERS

After all the ordinary processes have been forwarded to the Holy See, letters from persons occupying distinguished ecclesiastical or civil offices or from organizations, in which the Supreme Pontiff is petitioned to take up the cause of beatification of a Servant of God, may be usefully presented, provided that they have been written spontaneously and are based on personal knowledge.<sup>73</sup> These letters are addressed to the Holy Father, although they may be sent through the Congregation of Rites. They request the Holy Father to undertake the cause of the Servant of God; they do not directly petition for the beatification.<sup>74</sup>

Since there was apparently some abuse in these matters, particularly with reference to the spontaneity required in these letters, the Sacred Congregation in 1935 issued a special directive relative to postulatory letters, as they are called. Circular letters composed by those who are desirous of promoting the cause are forbidden and useless, as is a mere collection of signatures. The postulators and those promoting the cause may request these letters from distinguished persons. In order

<sup>70</sup> Canon 2063, § 3.

<sup>71</sup> For formulae, cf. Appendix I, 20, 21, 22, 23.

<sup>72</sup> Canon 2056, § 1.

<sup>73</sup> Canon 2077.

<sup>74</sup> Blat, *Commentarium*, IV, 613.

that the person who is requested to write such a letter may be properly informed concerning the Servant of God, those who have made the request may send along an approved life of the Servant of God to be read by the person who is asked to write the letter. The letters, however, which are written should be spontaneous, and, as far as possible, they should contain the person's own words and sentiments.<sup>70</sup>

### Article III. The Process on Ngn-Cult

#### a. object of the process

It is a good and useful practice to invoke in a suppliant manner the Servants of God who reign with Christ.<sup>75</sup> However, only those Servants of God may be honored with a public cult who have been inserted by the authority of the Church in the list of the Saints and Blessed.<sup>76</sup> So important is this latter point that the Church will not ordinarily undertake a cause for the beatification or canonization of any individual unless it is first proved that no public cult or worship has been shown to that person in contravention of the law of the Church. If such cult had been given by way of abuse, it must be proved that it has been stopped.<sup>77</sup> The object of this process is to show that public cult has not been given to the Servant of God, or to show that it has been removed if it had been given illicitly.<sup>79</sup>

Among the various processes conducted by the local ordinaries in causes of beatification and canonization, this is the only one in which the ordinary or the judge delegate is to issue a sentence.<sup>80</sup> It is important, therefore, that the members of the tribunal as well as those who assist the tribunal, particularly the promoter of the faith, have a true notion of the meaning of public cult. This knowledge is also of great

<sup>75</sup> S.R.C., *de Postulatoriis Litteris Conficiendis*, 15 ian. 1935—AAS XXVII (1935), 58.

<sup>76</sup> Canon 1276.

<sup>77</sup> Canon 1277, § 1.

<sup>78</sup> Urbanus VIII, const. *Coelestis Hierusalem*, 5 iul. 1634—*Pontes* n 213; canons 2000, § 2; 2038, § 1; 2057-2060.

<sup>79</sup> Canon 2000, § 2.

<sup>80</sup> Cf. canon 2060.

moment for the postulator, lest perhaps in promoting the cause among the faithful he,, because of ignorance of the true meaning of public cult, permit those things which are forbidden, and forbid those things which are permitted.

The Code of Canon Law in canon 1256 defines public cult as that which is given to God, the Saints or the blessed in the name of the Church by persons legitimately appointed for this purpose and by acts (forms of worship) instituted by the Church.<sup>81</sup> According to the literal text, this canon seems to specify three conditions which must be verified together in order that the cult be public; 1) it must be given in the name of the Church; 2) it must be given by a person legitimately appointed for such purpose; and 3) the acts of worship must be such as are instituted by the Church for public worship.

In spite of the clear wording of canon 1256, some commentators on the Code find difficulty in determining what constitutes public cult.<sup>82</sup> The difficulty arises from an attempt to reconcile this canon with canon 2057, which concerns the investigations to be made in causes of beatification relative to non-cult; moreover, one must consider the statement made by Pope Benedict XIV in the Constitution *Quamvis iusto*.<sup>83</sup> In order to solve this difficulty these authors hold that public cult has two forms: 1) that which is offered in the name of the Church by persons lawfully deputed for that function, and 2) that which is offered by anyone, even private persons, through acts which, by the institution of the Church, are to be offered only *to God, or to the Saints and the Blessed*.<sup>84</sup>

<sup>81</sup> Canon 1256. "Cultus, si deferatur nomine Ecclesiae a personis legitime ad hoc deputatis et per actus ex Ecclesiae institutione Deo, Sanctis ac Beatis tantum exhibendos, dicitur *publicus*; sin minus, *privatus*."

<sup>82</sup> Cf. Vermeersch-Creusen, *Epitome*, II, 402-403; De Meester, *Juris Canonici et Juris Canonico-Civildis Compendium* (nova editio, 3 vols, in 4, Brugis, 1921-1928), Tom. III, Pars I, 147; Bouscaren-Ellis, *Canon Law, A Text and Commentary* (Milwaukee: Bruce, 1946), p. 637.

<sup>83</sup> Die 30 apr. 1749—"Nec dubitari potest, quin publici cultus rationem habeant illi quoque actus, qui privatim exercentur, ubi sunt ex eorum genere, qui ab Ecclesia instituti sunt ad solemnem Beatis, aut Sanctis venerationem exhibendam . . ."—*Fontes*, n. 398.

<sup>84</sup> Vermeersch-Creusen, *loc. cit.*; De Meester, *loc. cit.*; Bouscaren-Ellis *loc. cit.*

The view of these authors does not seem correct. In the first place, it does violence to the text of canon 1256; for those holding this opinion must understand the word "*et*" in that canon to mean "*vel*". The arbitrary interchange of conjunctive and disjunctive words in the text of a law hardly seems to be the proper approach to a correct interpretation. In the second place, one need not necessarily assume, as some do, that there is a discrepancy between canons 1256 and 2057; such an assumption is entirely gratuitous. It seems far more logical to hold that the public cult mentioned in canon 2057 is that public cult which is clearly described in the unmutated text of canon 1256, and which, according to canon 1277, is to be offered only to God, or to the Saints and the Blessed.

Moreover, from this apparently specious interpretation of canon 1256 held by some, it would logically follow that any act of worship or cult performed in the name of the Church by a person legitimately deputed for offering acts of cult would be a public cult, even though the act itself was not one of those which are recognized by the Church as an act of public cult. This conclusion cannot be readily admitted. Finally, the above-mentioned statement of Benedict XIV does not necessitate a departure from the strict literal interpretation of canon 1256. Either canon 1256 modifies the notion of public cult as given in this instance by Benedict XIV, or the statement of Benedict XIV must be understood in the sense of this canon. The teaching of Benedict XIV can easily be accommodated to the strict literal interpretation of canon 1256; it may simply indicate that whenever any of the faithful, even privately, *with the knowledge and consent of ecclesiastical authority*, offer those acts which are reserved for public cult, those acts can be said to be offered by persons legitimately deputed and in the name of the Church, and hence cannot be given to those who have not been enrolled among the Saints or the Blessed.<sup>85</sup>

Other authors hold that the strict interpretation of canon 1256 must be adhered to, and consequently they teach that the three elements mentioned in that canon must be simul-

<sup>85</sup> Coronata, *Institutiones*, II, 180.

taneously present before a cult can be considered public.<sup>80</sup> This view seems to be the better one, since it does not require a modification of the text of canon 1256, and at the same time it is entirely reconcilable with the teaching of Benedict XIV and other canons of the Code.

It would follow from this opinion taken in conjunction with the above-mentioned statement of Benedict XIV that the constituent elements of public cult as described in canon 1256 are present in two cases: 1) when a cult is offered in the name of the Church by one legitimately deputed and with acts that are ordained by the Church for public cult, and 2) when these same acts are offered by a private person openly and publicly with the knowledge of and at least tacit approval of ecclesiastical authority.<sup>87</sup> If acts ordained for public worship are performed by private persons in places which are not public in such a way that the ecclesiastical authority can in no way be held responsible for them, they are not acts of public worship.<sup>88</sup> Even if these acts are performed in public places by private persons, they are not themselves acts of public cult unless they are done with the knowledge and at least tacit consent of ecclesiastical authorities.

It is important that those who are conducting the process of non-cult in a beatification cause keep these distinctions in mind. If in the course of a process it is found that some private persons have performed these acts publicly, the promoter of the faith should offer objections on the basis that these acts are indices of public cult. It would then be the duty of the postulator to show that these things were done unknown to and without any consent, even tacit, of ecclesiastical authority. If it is shown conclusively that these acts were merely the excesses of private individuals for which the Church was in no way responsible, the judges need not hesitate to issue a sentence of non-cult.

<sup>80</sup> Coronata, *op. cit.*, II, 149-150; Augustine, *A Commentary on the New Code of Canon Law* (8 vols., St. Louis: Herder, 1931-1938), 189-190; Santamaria, *Comentarios al Cudiclo Canonico* (6 vols., Madrid, 1919-1922), IV, 108.

<sup>87</sup> Coronata, *Institutiones*, III, 464.

<sup>88</sup> *Ibid.*, p. 465.



On the other hand, postulatores and others interested in promoting a cause must make every effort to have such excesses of piety removed whenever they are found. Failure to do so may result in great harm to the cause, since it may be impossible subsequently to establish that these things were merely indiscretions on the part of private individuals.

If a Servant of God has not yet beatified or canonized, it is forbidden: 1) to pray to him publicly in church; 2) to preserve his relics together with the relics of the Saints and the Blessed; 3) to celebrate his anniversary in a festive way;<sup>8</sup> 4) to give him the title of Saint or Blessed;<sup>9</sup> 5) to invoke his name in approved litanies; 6) to picture him with rays or an aureola around his head; 7) to place his statue or relics on an altar; 8) to erect an altar in his honor; 9) to celebrate the divine offices in his honor; 10) to place votive offerings at his sepulcher;<sup>10</sup> 11) to burn lights at his sepulcher.<sup>11</sup>

Some acts of cult are of their very nature private. Such are the private veneration of relics and the private recitation of prayers. Other acts may or may not be public, depending on the circumstances surrounding their performance. Such, for example, are the pilgrimages to the sepulcher of the Servant of God.

Although a Servant of God may be given a special sepulcher

8» This is to be understood in an ecclesiastical or liturgical sense; civil celebrations are permitted in the event that the Servant of God is a national hero or one who merits such civil recognition.

9» The title of Venerable may be given only to those whose heroic virtues or martyrdom have been approved by the Holy See. This title does not carry with it the permission for any public cult. Cf. canons 2115; 2084, § 2.

10 If such votive offerings are left at the sepulcher, they should be removed and preserved in some secret place separated from the church. Cf. S.C.S. Off., deer., 2 oct. 1625—Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, Appendix I.

11 Benedictus XIV, *De Beatificatione*, II, 9. It is permitted to place pictures and images of Servants of God not yet beatified or canonized on the walls of churches, on stained-glass windows, etc., provided that the signs of cult such as the aureola, rays, etc., are absent. Cf. S.R.C., deer., 14 aug. 1894—*Decreta Authentica* (III, 274), n. 3835. In connection with the burning of lights at the sepulcher, it is to be noted that in some places it is customary to burn lights at the grave or sepulcher of all persons; in such circumstances the burning of lights at the sepulcher of a Servant of God would not necessarily indicate a public cult.

separate from that of others, to place his remains above ground in a church will frequently indicate a public cult.<sup>93</sup> To bury a Servant of God underground in a church, even if there is a monument of some kind placed over the spot, or to place the remains of a Servant of God in a tomb or vault above ground outside a church does not necessarily imply a public cult.<sup>94</sup><sup>95</sup>

Finally, a word must be said about the publication of works which have some bearing on a Servant of God or his cause of beatification or canonization. Canon 1387 states that it is forbidden without the permission of the Congregation of Rites to publish anything which pertains to causes of beatification or canonization. This merely means that it is not permitted without the permission of the Sacred Congregation to publish the acts of a beatification or canonization cause while the cause is pending in Rome. A cause which has been introduced in Rome is said to be pending until actual canonization takes place. Moreover, the prohibition probably extends only to the *acta causae* and not to the *acta processus*.<sup>TM</sup>

If a cause is in the ordinary processes, the acts could not be published because of the obligation of secrecy from which the ordinary could not dispense.<sup>96</sup> Sonntag correctly notes that

“ . . . the publication of biographies, books, pamphlets, brochures, articles, leaflets, or any other writings concerning the life, deeds, miracles, revelations, virtues, martyrdom, etc., of the saintly person is allowed . . . . Authors may not only publish these works, but they may also maintain that the *life* and virtues of the person were heroic; that the miracles were genuine; they may even call the person a saint, provided that in so doing they advance their opinions as based on criteria of human judgments.”<sup>97</sup>

<sup>93</sup> The Sacred Congregation has tolerated this at times if all other signs of cult are absent. Cf. Benedictus XIV, *op. cit.*, II, 12, 14.

<sup>94</sup> Benedictus XIV, *loc. cit.*

<sup>95</sup> Sonntag, *Censorship of Special Classes of Books*, The Catholic University of America Canon Law Studies, n. 262 (Washington, D. C.: The Catholic University of America Press, 1947), pp. 1-29. The conclusions mentioned here are taken from this work by Sonntag; this work offers a complete study of the question in point. The present writer subscribes fully to the conclusions offered by Sonntag relative to canon 1387.

*Ibid.*, p. 23.

<sup>97</sup> Sonntag, *op. cit.*, p. 17.

Such works are subject, only to the ordinary rules of censorship.<sup>98</sup> Moreover, the protestations usually placed at the beginning and end of such works, which were originally prescribed by Pope Urban VIII for the purpose of indicating the author's obedience to the papal decrees on cult, are no longer obligatory, and are superfluous.<sup>99</sup>

#### B. THE PROCESS ITSELF

The regulations for the setting up of the tribunal and the sessions for the questioning of the witnesses are the same for this process as for the informative process. The question of the number of witnesses has likewise already been dealt with.<sup>100</sup> The *articuli* and the interrogatories will be composed in the usual way; in this process they will usually be fewer than in the ordinary informative process. Since the fact which is to be proved, i. e., the absence of cult, is a negative one, the postulator should take special care to choose well informed witnesses, who will be able to give positive reasons for their statements. Mere negation of cult on the part of a witness is useless.

After the witnesses have been questioned, the tribunal must go to the place where the Servant of God is buried and there inspect the sepulcher. They must also inspect the room in which he died, the place where he lived, and any other place where it is suspected that there may be signs of cult.<sup>101</sup> If the room of the Servant of God is in a private home and is not the object of special honor and care, it need not be visited.<sup>102\*</sup>

Upon arrival at the place of burial, it is customary to question some witnesses concerning the location of the body, and whether or not there have been any signs of public cult. If the proper number of witnesses has already been heard, this is not necessary; however, it is usually customary to question such persons as the custodian of the cemetery, the sacristan of the church, etc. If the Servant of God is buried outside in a cemetery and there is a

<sup>98</sup> Sonntag, *op. cit.*, p. 28.

<sup>99</sup> Sonntag, *loc. cit.*

<sup>100</sup> Cf. *supra*, p. 156.

<sup>101</sup> Canon 2058.

<sup>102</sup> Coronata, *Institutiones*, III, 465; Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 145.

church or chapel nearby, this should also be visited for signs of public cult. At the dictation of the tribunal, the notary must describe *in detail* in the acts everything pertaining to these places. The size of the tomb, the location, the surroundings, the monuments must all be completely noted. It will be of great assistance to the Sacred Congregation if photographs are taken of all these places and inserted in the acts.

If the sepulcher or any other places to be visited are outside the territory of the ordinary who is drawing up the process, the assistance of the ordinary of the place where they are situated will be sought. This will be done by means of rogatorial letters.<sup>107</sup> The ordinary who is asked to assist in this matter will conduct the investigations in the way prescribed for the principal tribunal.

It is to be noted here that the visitation to the place of burial is to search for evidence of public cult, and not to examine the body for identification of the remains. The exhumation of the body is to be done during the apostolic process.<sup>108</sup>

The promoter of the faith, if in the course of the process there appear indications that public cult has been given at some time to the Servant of God, shall insist that further investigations be made. These investigations ordered by the promoter need not be made by the whole tribunal unless he so directs. Their nature and the manner in which they are to be conducted are to lie prescribed by the promoter.<sup>109</sup>

After all the aforementioned acts have been completed, the process will be published in the same manner as the informative process, but before the conclusion of the cause.<sup>110</sup> At this point the postulator and the promoter of the faith are given sufficient time to produce arguments by which the testimony of the witnesses may be corroborated, explained, and completed. They may, if necessary, call new witnesses, but only when all precautions have been taken for the forestalling of all fraud or deceit. When the

<sup>103</sup> Cf. *supra*, p. 199.

<sup>104</sup> Canon 2096. If for any reason it is necessary to exhume the body of the Servant of God before the beginning of the apostolic process, this may be done on the authority of the local ordinary. Cf. Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, pp. 320-329. In this place are to be found formulae and instructions for the process of exhumation.

<sup>105</sup> Noval, *De Processibus*, II, 187.

<sup>106</sup> Cf. canons 1858-1859; *supra*, p. 214.

postulator and the promoter of the faith declare that they have nothing further to say, or when the time fixed by the tribunal for the submission of proofs has expired, or when the tribunal declares that it is sufficiently informed in the case, the cause will be concluded by means of a judicial decree.<sup>111</sup>

When the cause has been concluded, the postulator and the promoter are given sufficient time to present to the court their written briefs or defenses, as is done in the common processes.<sup>112</sup> The judges will then meet to discuss the case and formulate the sentence; it is not necessary in these causes to appoint a *foncns*, since all the judges have been present at all the sessions of the process.<sup>113</sup> Each one of the judges will submit his opinion in writing. These opinions will afterwards be placed in separate sealed envelopes and added to the acts of the process.<sup>114</sup> One of the judges will be appointed to draw up the sentence which all will sign. The sentence will then be published in one of the usual ways.<sup>115</sup>

Because of the wording of canon 2064 some doubt has been expressed among the authors on the point whether the original acts of the process on non-cult are to be forwarded to the Holy See, or only a copy.<sup>116</sup> A comparison with canon 2064 seems to indicate that a copy of the acts be sent to the Sacred Congregation, and that the original be preserved in the archives of the local curia. Moreover, this is the customary practice which is accepted by the Sacred Congregation.<sup>117</sup> The copy of the acts is prepared and forwarded to the Sacred Congregation in the same manner as in the informative process.<sup>118</sup>

<sup>107</sup> Cf. canon 1860.

<sup>108</sup> Cf. canons 1862-1867; Muniz, *Procedimientos*, III, 652.

<sup>109</sup> Muniz, *loc. cit.*

<sup>110</sup> Muniz, *loc. cit.*

<sup>111</sup> In general, all these things will follow the rules prescribed for common processes, the necessary changes and adaptations being made where they are called for. Cf. canons 1858-1877.

<sup>112</sup> Canon 2064 reads: "Item Ordinarius expletum processum de non cultu ad Sacram Congregationem per postulatorem transmittat."

<sup>113</sup> Coronata, *Institutiones*, III, 466-467; Muñiz, *Procedimientos*, III, 652; Lauri-Fornari-Santarelli, *op. cit.* p. 151; Indelicato, *Il Processo Apostolico*, p. 20.

<sup>114</sup> Cf. *supra*, p. 215.

## CHAPTER X

### SOME SPECIAL CAUSES

#### Article I. Historical Causes

Although causes of beatification and canonization of both martyrs and confessors which proceed in the *ordinary* way should begin within at least thirty years after the death of the Servant of God,<sup>1</sup> the fact remains that for various reasons the initial steps in many of these causes are legitimately delayed long beyond that time. In many instances the cause is started so long after the death of the Servant of God that eyewitnesses are no longer available; as a result all the proofs must of necessity be based on written sources. This latter fact is also true of causes which proceed in the *extraordinary* way. Even though canon 2020, § 6, does make provision relative to the documentary proof to be used in such causes, it can be said that the whole structure of the procedure to be followed in causes of beatification and canonization is based, more or less, on the supposition that eyewitnesses, or at least such as have obtained their knowledge from eyewitnesses, are available.

Pope Pius XI (1922-1939) had long been persuaded that some changes should be made in the way these causes were handled; he wished to adapt the procedure to the recent advancements in historical methods and research. Consequently on February 6, 1930, he established an entirely new section of the Congregation of Rites for the handling of historical causes, as they were called. This new section was to be known as the Historical Section; its prime task was to deal with historical causes of beatification and canonization.<sup>2</sup> The work of the Historical Section of the Sacred Congregation is principally to examine in every instance whether the collection of the sources is complete, whether the alleged sources are sound and trustworthy, and whether their content is such that it can serve as a basis for the Most Reverend Theological

<sup>1</sup> Canon 2049.

<sup>2</sup> Pius XI, *motu propr.* "*Già da qualche tempo*", 6 febr. 1930—AAS, XXII (1930), 87-88.

Consultors on which to form an exact idea of the Servant of God, and to formulate a secure judgment on the heroic degree of virtue.<sup>3</sup> When manifest utility requires it, the Historical Section is also to be consulted regarding the reformation, amendment, and publication of new editions of liturgical texts and books.<sup>4</sup>

The Holy Father defined historical causes of the Servants of God as those (whether they concern the life, virtues, the martyrdom, or the immemorial cult) in which there is neither contemporary testimony for the facts in question nor any certain proof through depositions of contemporary witnesses properly taken at a time when contemporary witnesses were available. The essence of a historical cause does not lie in the antiquity of the facts to be proved, but rather in the absence of contemporary witnesses or depositions properly taken at a time when there were contemporary witnesses.<sup>5</sup> Under the present law governing beatification and canonization causes contemporary testimony is that which is obtainable from eyewitnesses or from hearsay witnesses who obtained their information from eyewitnesses.<sup>6</sup> No matter how ancient the facts in a cause may be, the cause is not a historical one if there exist sufficient depositions of contemporary witnesses properly taken at a time when such testimony was available. The knowledge of what properly constitutes a historical cause is important; it is the duty of the local ordinary before undertaking a cause to determine by means of preliminary investigations and

<sup>3</sup> *Loc. cit.* Cf. Observations of the Relator General of the Historical Section of the Congregation of Rites in the cause of the Servant of God Katharine Tekakwitha—*The Positio of the Historical Section of the Sacred Congregation of Rites on the Introduction of the Cause for Beatification and Canonization and on the Virtues of the Servant of God Katharine Tekakzeitha* (New York: Fordham University Press, 1940), Appendix III, p. 457.

<sup>4</sup> Pius XI, motu propr. "*Già da qualche tempo*", 6 febr. 1930—AAS, XXII (1930), 88.

<sup>5</sup> According to an opinion of the Rota, which was subsequently approved by the Congregation of Rites in 1630, an ancient or historical cause was one in which the proofs concerned facts which were more than sixty years old.—S.R.C., deer., 19 ian. 1630—Benedictus XIV, *De Beatificatione*, III, 1, 7. This opinion must be considered as modified by the definition of historical causes as given by Pope Pius XI.

« Canon 2020, § 6.

legitimate presumptions whether or not a cause is truly a historical one.<sup>7</sup>

The establishment of the Historical Section of the Congregation of Kites facilitated and expedited the handling of historical causes in the apostolic processes; it did not immediately effect any change in the procedure followed in the ordinary processes.

It was soon apparent to the Sacred Congregation that it would be helpful to align the procedure followed in the ordinary processes with the new procedure followed by the Congregation in the apostolic processes in historical causes. Consequently as a natural complement to the changes made in *the apostolic processes* by Pope Pius XI, the Sacred Congregation issued norms for the handling of historical causes in the ordinary processes. These norms as established for the drawing up of the ordinary processes in historical causes did not abolish the already existing laws of the Code; they were norms which were added to the laws of the Code by way of supplement.<sup>8</sup>

Moreover, the norms pertain to the questions concerning the life, the virtues or the martyrdom, the ancient reputation (*fame*) for sanctity or the ancient cult of the Servant of God. They likewise pertain to the writings of the Servant of God. They do not, on the other hand, touch the question of miracles, for in proof of these it is eyewitnesses that are always required,<sup>9</sup> nor do they make any changes or additions relative to the proofs required for establishing the present reputation (*fania*) of the Servant of God.<sup>10</sup>

In historical causes, before the ordinary processes begin, the competent ordinary shall appoint a commission of three members, whose *ability in* regard to historical methods and research is guaranteed. Before appointing this commission the ordinary should consult with the promoter of the faith or, in his absence, with the promoter of justice of the diocesan curia.<sup>11</sup> Although academic degrees are not required in order that a person be appointed to this commission, the ones appointed should possess a thorough knowledge of the historical sciences, especially with regard to those things which pertain to hagiography, biography, archeology, pale-

7 f. Indelicato, *Lc Basi Giuridiche*, p. 120.

8 S.R.C. deer., 4 ian. 1939—AAS, XXXI (1939), 174.

9 Canon 2020, § 7.

10 Cf. canon 2020, § 2; Indelicato, *Le Basi Giuridiche*, p. 121.

11 S.R.C., deer., 4 ian. 1939—AAS, XXXI (1939), 174.

ography and liturgy.<sup>12</sup> Since the members of the commission are considered as expert witnesses, the ordinary in selecting them should be governed by the norms relative to experts and witnesses in these causes.<sup>13</sup>

If the Servant of God was a member of some religious community, two of the members of the commission should be non-members of that community.<sup>14</sup> If there is a member of the same religious community who is otherwise qualified, it will be advisable that he be chosen as the third member of the commission; a familiarity with and easy access to the archives of the community will be of tremendous assistance in the conducting of the requisite research.<sup>15</sup><sup>16</sup>

The commission is to be appointed by means of a formal decree of the ordinary, a copy of which should be preserved in the acts of the cause. If the ordinary who appointed the commission ceases to hold office for any reason, the members of the commission need not be reappointed by his successor, although they may be confirmed in their position *ad cautelam*. If any member of the commission dies or resigns, the ordinary shall by decree appoint a substitute after consulting with the promoter of the faith.

Since the duties of the members of the commission do not imply ecclesiastical jurisdiction of any kind, they may exercise them outside the territory of the ordinary who appointed them. Moreover, the permission of the ordinary in whose territory they exercise them is not necessary. If the members of the commission are unable to take long and expensive trips into other regions for the purpose of research, the ordinary should appoint substitutes who are already in the place where the research is to be made, or who will be able to go there. When the time comes for obtaining the depositions of these substitutes, they will either testify before the tribunal which is drawing up the cause, or the ordinary will arrange to have their testimony taken where they are by means of rogatorial letters addressed to the ordinary of that place.<sup>10</sup>

<sup>12</sup> Cf. comments on the decree of the Sacred Congregation by Jaros—*Apollinaris*, XII (1939), 453.

<sup>13</sup> Cf. *supra*, p. 152.

S.R.C., deer., 4 ian. 1939—*AAS*, XXXI (1939), 174.

<sup>14</sup> Cf. annotations on Decree of the Sacred Congregation by De Guibert—*Periodica*, XXIX (1940), 139.

<sup>15</sup> Jaros, "Annotationes"—*Apollinaris*, XII (1939), 457; Indelicato, *Le Basi Giuridiche*, p. 121.

It will be the duty of the commission to collect and present to the tribunal all historical source material which pertains to the life, the virtues or the martyrdom, the ancient reputation of virtue or of martyrdom, or the ancient cult of the Servant of God.<sup>17</sup> The writings by the Servant of God will be presented to the tribunal in the process on the writings of the Servant of God; the other material will be presented in the informative process. Passages from the writings by the Servant of God will also be presented in the informative process, if they are alleged as proof of virtue, etc. The documents and written testimonials shall be presented to the tribunal, either in the original or in a properly authenticated photostatic copy thereof, or in a duly certified copy.<sup>18</sup> As has been indicated elsewhere, the original is preferable to copies of any kind; photostatic copies, if they are properly authenticated, are preferable to certified copies.

The commission should possess and use its own proper seal. Each document presented to the tribunal should bear this seal as well as the signature of each member of the commission. Attached to each document should be a critical introduction signed by the members of the commission. If any member of the commission disagrees with the others concerning the facts related in the critical introduction to a document, or concerning any other point pertaining to a document, he should file a separate report. Finally, each member of the commission should present to the tribunal a written report of the work done. This report should be made by the individuals separately, and not jointly.

Both in the process on the writings of a Servant of God, and in the informative process, each member of the commission must be cited as an *ex officio* witness.<sup>19</sup> In the process on the writings they shall, in answer to the questions prepared by the promoter of the faith, testify singly on the writings of the Servant of God which they have discovered in their investigations.<sup>20</sup> In the informative process they shall be ques-

S.R.C., deer., 4 ian. 1939—*AAI*, XXXI (1939), 174.

JSS.R.C., deer., 4 ian. 1939—*loc. cit.*

if *Loc. cit.*

20 *Loc. cit.*



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tioned on the authenticity and the value of each of the documents or texts which they have presented.'

The questions to be asked will be prepared by the promoter of the faith. Obviously, if a text or document is patently authentic, the questioning of the members of the Diocesan Historical Commission will not be as extensive as it would be in the case of a document which is of questionable value or doubtful authenticity. The members of the commission must take the oaths ordinarily required of witnesses and experts. Moreover, they must declare under oath: 1) that they have made all the investigations and collected all the documents which in any way pertain to the Servant of (Sod. and 2) that they have not altered, mutilated, or changed in any way any document or text.<sup>21</sup>

It will be recalled that according to canon 2020, § 2, the promoter or the tribunal must call at least two witnesses *ex officio* in the ordinary informative process on the reputation (*fame*) of the Servant of God for the virtues, martyrdom and miracles. It is to be noted that the calling of the members of the Historical Commission to testify *ex officio* does not fulfill the obligation imposed in canon 2020, § 2; the citing of the members of the commission to testify in this process must be considered as an additional duty.<sup>23</sup> Consequently in the informative process in historical causes there will be at least five witnesses who have been cited *ex officio*.

Throughout the process the judges, the promoter of the faith and the postulator may consult the members of the commission *concerning- any historical questions that may arise*. This consulting they may do extrajudicially and privately; in doing this, however, the promoter of the faith should be careful not to reveal directly or indirectly the substance and the nature of his interrogatories.<sup>24</sup>

Finally, all other witnesses in the process, in their replies to the questions and to the *articuli* relating to the life, the virtues,

<sup>21</sup> *Loc. cit.*

<sup>22</sup> *Loc. cit.*

<sup>23</sup> *Le Byl CMia.*, p. 121. Jaros. *naris*, XII (1939), 456.

<sup>24</sup> Jaros, *loc. cit.*

the ancient reputation (*fama*) for sanctity or martyrdom, or the ancient cult of the Servant of God, shall omit all information which they have obtained solely through the reading of the written testimonials.<sup>25</sup> The purpose of this is to preclude all useless repetition. These witnesses, however, can and ought to offer any information which has a bearing on the value or the authenticity of any of the documents which have been presented. They should also testify concerning those things which are contained in the documents, provided that their information comes from a source independent of the document in question.<sup>26</sup>

#### Article II. The Causes of Martyrs

Although the procedure to be followed in the ordinary processes in the causes of martyrs which proceed in the *ordinary* way (*per viam non cultus*) is fundamentally the same as that prescribed for the causes of non-martyrs, there are a few notable differences.

In the first place, the object of the informative process is not the reputation (*fama*) of the sanctity or the virtue, but rather the reputation (*fama*) relative to the martyrdom, to the cause of martyrdom, and to the signs and miracles.<sup>27</sup> The reputation (*fama*) relative to martyrdom is defined by Benedict XIV as follows:

“Fama martyrii in genere nihil aliud est, quam existimatio, et communis opinio, quod aliquis, vel aliqua pro fide Christi, vel pro virtute quae ad fidem Christi deducatur, illatam sibi mortem patienter tulerit, et quod signa, seu miracula eorum intercessione, vel ad patefaciendam eorum pretiosam mortem secuta sunt; ita ut, apud plerosque concepta devotione, in suis necessitatibus invocentur, et graviorum virorum existimatione digni indicentur, ut in Catalogum Beatorum, et Sanctorum a Summo Pontifice referantur.”<sup>28</sup>

25 S.R.C., decr. 4 ian. 1939—AAS, XXXI (1939), 174.

26 De Guibert, “Annotationes”—*Periodica*, XXIX (1940), 140.

27 Cf. canons 2038, § 2, n. 2; 2104.

28 *De Beatificatione*, II, 39, 7.

Martyrdom is the voluntary acceptance of death for the Christian faith, or for some Christian virtue.<sup>29\*</sup> It is almost axiomatic that it is not death alone that constitutes martyrdom, but rather the cause of the death.<sup>20</sup> It is for this reason that in the cause for the beatification and canonization of a martyr the investigations must concern not only the fact of death but also its cause. The cause of martyrdom has a twofold aspect: one is on the part of the person or persons who inflicted the death; the other is on the part of him who suffered death. Both of these aspects must be investigated. For true martyrdom the person who inflicted death must have done so out of hatred for the Christian faith or some of its teachings, or out of hatred for some Christian virtue: moreover, in order that a person be a true martyr he must have suffered death willingly, at least with habitual intent, and for a supernatural motive.

While it is true that it is not necessary in these causes to make any investigation concerning the virtues of the Servant of God who is a martyr, such an inquiry will be most useful, for it will often give a true picture of the interior dispositions of the person, and thus more clearly establish the reason why he willingly accepted the violent death that was thrust upon him.

By "signs" are to be understood those unusual or supernatural events which may have accompanied or followed the actual martyrdom. Of such a nature is the brilliant light that surrounds the body of the martyr, the supernatural odor emanating from his wounds, etc. These things are distinct from miracles in the sense that they do not always correspond to the notion of miracles as understood in the strict sense of the term; they are, as it were, minor miracles or marvelous happenings, which do not satisfy all the conditions of a clear and evident miracle. Also included among "signs" are the miraculous gifts of the Servant of God, such as the gift of prophecy, the knowledge of secret and hidden things, the gift of tongues, etc. In the causes of martyrs miracles are not necessary for beatification. If the martyrdom and its

<sup>29</sup> Cf. Benedictus XIV, *De Beatificatione*, III, 11, 1.  
*Ibid.*, 13, 1.

cause have *been clearly* established as regards both its formal and its material aspect, it is then the office of the Sacred Congregation of Rites to *decide* whether or not the signs in the case suffice. If there are no signs, the Sacred Congregation is to *decide whether or not the Holy Father* is to be petitioned for a dispensation from the signs in the particular cause which is being discussed.<sup>31</sup>

*In the causes of martyrs the process on the writings of the* Servant of God *may be postponed* until after the cause has been *introduced* before the Sacred Congregation. If the process on the *writings* is thus delayed, it is *conducted* subsequently by apostolic authority, and not on the authority of the local *ordinary*.<sup>32</sup> *Under normal circumstances* (the local ordinary ought to draw up the process on *non-cult* in the usual way, even in these causes. If, however, the cause is introduced with the Holy See before the process on *non-cult* has been drawn up, then the subsequent drawing up of the process will be handled under apostolic authority.<sup>33</sup> *In the causes of martyrs the Holy See, if requested,* will frequently dispense from the *apostolic* process on the reputation (*fama*) in general on the martyrdom, etc., and proceed immediately to the investigations on *the martyrdom in specie, the cause of martyrdom, the signs and the miracles*.<sup>34</sup>

In these causes the Sacred Congregation, if circumstances warrant it, will *sometimes* mitigate the usually severe *procedural* norms. At times the *extra-judicial* testimonies of outstanding and trustworthy persons which have been taken by the ordinaries, along with the testimony of the ordinaries themselves, have been judged as sufficient for introducing the cause before the Sacred Congregation. Even processes which have been prepared by ordinaries *ex-officio* and not in accordance with the strict norms of law may sometimes be found acceptable.<sup>35</sup> The flexibility of adaptation on the part

<sup>31</sup> Canon 2116, § 2.

<sup>32</sup> Canon 2048.

<sup>33</sup> Canon 2086, § 3.

<sup>34</sup> Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 232; cf. canon 2086, § 3.

<sup>35</sup> Lauri-Fornari-Santarelli, *op. cit.*, p. 233.

of the Sacred Congregation in such matters seems to be prompted by the fact that martyrdom frequently takes place in missionary territories where the carrying out of the full procedural norms would often be a practical impossibility. In each particular case the postulator or other interested persons should recur to the Sacred Congregation for explicit instructions.<sup>36</sup>

The causes of martyrs, like other causes, must, not be presented jointly, but each cause must proceed separately. The lone exception to this rule is the case of those martyrs who suffered in the same persecution and in the same place.<sup>37</sup> It is a well known fact however that the Holy See has in the past, by way of special concession, permitted the cumulation of the causes of martyrs who did not die in the same persecution or in the same place.<sup>38</sup> In any event, whenever the causes of several martyrs are presented in a cumulative way, it may happen that the Holy See will find it advisable to remove from the list the names of some of those who have been proposed as candidates for beatification and canonization.

#### ARTICLE III. Causes Which Proceed by Way of Cult

For the Servants of God who, after the pontificate of Alexander III (1159-1181) and before the time set by the Constitution of Pope Urban VIII,<sup>39</sup> had been honored with public cult by tolerance, the positive approval of the cult can be asked from the Roman pontiff.<sup>40</sup> When Pope Urban VIII issued his Constitution in 1634, he indicated in it that an immemorial cult which could be tolerated was one that had existed for a hundred years or more. Consequently it follows that a Servant of God for whom an immemorial cult was claimed must have of necessity possessed it before the year 1534. The approval of a presently existing cult can be sought

<sup>36</sup> Lauri-Fornari-Santarelli, *loc. cit.*

<sup>37</sup> Cf. canon 2001, § 1.

<sup>38</sup> E. g., the English martyrs who were beatified by Pope Pius XI on December 15, 1929. These martyrs died for the faith during the years from 1541 to 1680.

<sup>39</sup> Const. *Coelestis Hierusalem*, 5 iul. 1634—*Fontes*, n. 213.

<sup>40</sup> Canon 2125, § 1.

from the Holy See provided that the cult has existed from at least 1534. In this connection, however, it can be said that the Holy See has frequently dispensed from this requirement, and has approved, on more than one occasion, of a cult of a Servant of God which did not begin until after the year 1534.<sup>41</sup>

The rigid procedure originally followed in these processes soon fell into desuetude,<sup>42</sup> The ancient discipline was restored in 1868 by Pope Pius IX,<sup>43</sup> and made even more rigorous in 1912.<sup>44</sup> The modifications introduced in 1912 have been incorporated into the Code of Canon Law. To obtain the approval of an immemorial cult the process outlined in the Code must now be followed.<sup>45\*</sup>

The ordinary competent to institute this process is the ordinary of the place where the cult is given to the Servant of God, or where the documents of such a cult are to be found. If more than one ordinary is competent, the one who first undertakes the cause is competent to the exclusion of the others.<sup>46</sup> The ordinary must conduct the process on the writings of the Servant of God,<sup>47</sup> and he must also institute a process on the reputation (*fanca*) for the sanctity, the virtues, or the martyrdom and the miracles, in which process answers shall be given to these questions: Whether in that place there is a constant and common reputation and conviction of the holiness of the Servant of God or his martyrdom and its cause, and also of miracles wrought at his intercession; whether the cult of the Servant of God flourishes there at present and by what marks of veneration he is honored.<sup>48</sup>

The ordinary processes in these causes are drawn up in the same way as in causes proceeding by way of non-cult. The

41 Cf. Vermeersch-Creusen, *Epitome*, III, 184; Lauri-Fornari-Santarelli, *Codex pro Postulatoribus*, p. 243; Coronata, *Institutiones*, III, 486.

42 Cf. Benedictus XIV, *De Beatificatione*, II, 17.

43 S.R.C., deer., 10 dec. 1868—Lauri-Fornari-Santarelli, *op. cit.*, Appendix VIII, p. 310.

44 S.R.C., deer., 11 nov. 1912—AAS, IX (1912), 795.

45 Canon 2125, § 1.

46 Canon 2126.

47 Canon 2127, n. 1.

48 Canon 2127, n. 2.

necessary adaptations, however, will have to be made particularly with regard to the object of the investigations. Obviously the process on non-cult will be omitted. The process to establish the beginning and the continuation of the ancient cult is to be drawn up by apostolic authority.<sup>49</sup>

In composing the *articuli* for the ordinary process, the postulator should keep in mind what points have to be established. He should moreover remember that it will be necessary subsequently to establish the martyrdom or the heroic virtue of the Servant of God, as well as the beginning of the cult and its uninterrupted continuation. Although the proving of all these latter points pertains to the apostolic processes, the postulator should attempt to bring out as much information as possible concerning them in the ordinal's informative process.

After the Holy See has issued the decree on the fact of immemorial cult and on the martyrdom or heroicity of virtue, the Servant of God is to be considered equivalently beatified, if confirmation of his cult is contained in the decree of the Roman Pontiff.<sup>50</sup> These Servants of God who have been given this equivalent beatification may be honored with the same marks of public cult by which formally beatified persons are usually honored.<sup>51</sup>

<sup>49</sup> Canons 2129; 2130.

<sup>50</sup> Canon 2134.

<sup>51</sup> Canon 2135.

## CONCLUSIONS

1. During the period of episcopal canonizations there were no general laws governing the procedure in beatification of canonization causes.

2. The canonization of Ulrich by Pope John XV in 943 established a norm of procedure for those who sought to obtain papal canonizations for the Servants of God.

3. The first extra-synodal papal canonization after 993 was not that which has been attributed to Pope Eugene III (1145-1153) according to the contentions of some authors; cf., e. g., the canonization of Saint Theobald by Pope Alexander III sometime between 1066 and 1073.

4. The necessity of employing eyewitnesses to give testimony in these causes began to be emphasized around the end of the eleventh century under Pope Urban II (1088-1099).

5. There is only one piece of legislation on procedure in the Decretal law which can be said to deal *ex professo* and directly with canonization processes. It is contained in c. 52, X, *de testibus et attestationibus*, II, 20.

6. The canonization processes which were judicial in form arose in the thirteenth century, and were perfected in the fourteenth and subsequent centuries.

7. The first indication of a careful search for and examination of the writings of a Servant of God (*proccssiculus diligentiarum*) is to be found in 1233 in the cause of Saint Hildegard (1098-1179) of the Order of Saint Benedict.

8. In the thirteenth century laws governing the common procedure applied also to the canonization procedure.

9. The first recorded instance of a vice-postulator taking part in a process is in the cause of Thomas of Hereford (ca. 1218-1282) in 1320.

10. The procedure as found today in the Code of Canon Law is substantially the same as it was in the seventeenth century.

11. The causes of beatification and canonization are in form judicial, but in essence administrative; the processes may therefore be referred to as judicial-administrative processes.

12. The norms governing common processes may be used as a source of suppletory law in these processes.

13. The pre-Code law on beatification, and canonization processes is no longer landing in virtue of its former promulgation; if any of the old laws are contained in the Code either implicitly or explicitly, they continue to bind in virtue of this new promulgation.

14. Canon 2039, § 1, which determines who is competent to prepare the ordinary processes in these causes must be interpreted strictly; the incompetence of all others is absolute. If more than one ordinary is competent, he who first undertakes the cause firmly establishes his competency, and thereby excludes all otherwise competent ordinaries (*ins firaeventionis*).

15. The vicar general acting with a special mandate can do all those things which the ordinary himself can do in these causes, and in the same manner.

16. The two judges who are to assist the delegated judge in these processes are not necessary for the validity thereof.

17. Because of external circumstances, the obligation of the promoter of the faith to be present at all sessions in these processes is greater than the similar obligation of the promoter of justice or of the defender of the bond in the common processes; because of this exigency it will sometimes be advisable for the ordinary to appoint more than one promoter of the faith.

18. A canonical consultant may and should be employed in these processes; he may be admitted to the sessions.

19. At least six witnesses must be questioned in the process on non-cult.

20. The essence of a historical cause does not lie in the antiquity of the facts to be proved, but rather in the absence of contemporary testimony or depositions properly taken at a time when contemporary testimony was available.

21. Canon 1256, in which public cult is defined, must be interpreted strictly.



## Appendix I

### SOME USEFUL FORMULAE

#### 1. *Mandate for appointment of postulator in a particular cause.*

Xos AL N. dilecto nobis in Christo N. X. salutein in Domino.

Dum de idoneo viro providere cupiamus, qui Postulatoris munus in Causa Beatificationis et Canonizationis Servi Dei X. X. specialiter exerceat, erga personam Tuam mentem nostram direximus, cuius vitae honestas, morum probitas, aliaque virtutum merita apud Nos multiplici commendantur testimonio. Quapropter, praesentium vigore, Te in Postulatorem seu Procuratorem in (ausa praedicta constituimus ac deputamus, cum facultatibus omnibus de ime necessariis et opportunis disponendi et rite pertractandi nomine nostro ea omnia quae ad felicem eius executionem expedire cognoveris, sive apud Sedem Apostolicam vel SS. Kituum Congregationem, sive penes quoscumque Indices vel Ordinarios vel ab Apostolica Sede delegatos. Pariter facultatem Tibi committimus unum vel plures Vice-Postulatores, si oportuerit, substituendi ad praemissa omnia peragenda, ea potestatis extensione quam statuere indicaveris, necnon omnem pecuniam administrandi Tibi traditam vel a Te comparatam ad Causae impensas sustinendas; promittentes Nos habituros gratum, ratum, validum atque firmum quicquid a Te agi, fieri, geri contigerit in toto decursu Causae praedicti Servi Dei usque ad eius complementum.

Datum..... die..... mense..... anno.....

N. N.....

#### 2. *Mandate for appointment of vice-postulator.*

Nos N. N. Postulator in Causa etc..... dilecto in Christo  
N. N. etc.....

Cum in Curia..... pertractanda sit Causa Beatificationis et Canonizationis Servi Dei N. N., cumque Nos, aliis curis in l'rbere retenti, munus Postulatoris Nobis commissum illic exercere personaliter haud valeamus, vigore Mandati a..... Nobis concessi

die..... et in Actis Cancellariae Sacrae Rituum Congregationis rite inserti. Te, de cuius doctrina, idoneitate atque integritate Nobis per certa testimonia constat, per praesentes litteras in legitimum Vice-Postulatorem in praefata Curia et alibi, si opus sit, sed extra Urbem, constituimus ac deputamus, tribuentes Tibi omnes et singulas facultates necessarias et opportunas, ut hoc munus Vice-Postulatoris in praedicta Causa rite exercere valeas; pariter facultatem subdelegandi Tibi committimus, si opus sit, pro processibus rogatorialibus. Mandamus interim omnibus ad quos spectat ut Te talem habeant et recognoscant.

Datum Romae..... die\_\_\_ mense..... anno.....

N. N.....

Causae Postulator.

3. *Petition for the drawing up of the cause addressed to the ordinary by the postulator or vice-postulator.*

Reverendissime Domine :

N. N. pro causa Beatificationis et Canonizationis Servi Dei N. N. in Postulatorem (vel Vice-Postulatorem) legitime constitutus, prout constat ex tenore mandati, quod reverenter exhibet, humillime exponit Dominationi Tuae praefatum Dei Famulum post exactam vitam in heroica exercitatione omnium Christianarum virtutum, adeo universalem post obitum, qui accidit in\_\_\_ die\_\_\_, et constantem sanctitatis famam reliquisse, ut plures pii devotique fideles ad eius implorandum patrocinium accurrentes, insignes gratias et prodigia a Deo obtinuerint. Idcirco, ut ipsius Causa Beatificationis ad Apostolicam Sedem deferri et supremo Romani Pontificis indicio submitti possit, infrascriptus Causae Postulator (vel Vice-Postulator), tam proprio quam sui mandantis nomine, ad maiorem Dei gloriam, qui se mirabilem in servis suis ostendere non desinit. Dominationem Tuam enixe adprecatur, ut constructionem processus, tam informativi, quam super non cultu, necnon perquisitionem scriptorum Servi Dei N. N. de quibus in can. 2038 et seq., decernere dignetur, ne, si ulterior fiat mora, ob testium obitum probationes pereant.

Ft de gratia etc.

die..... mense..... anno.....

N. N.....

Causae Postulator  
(Vice-Postulator)

4. *Rescript of ordinary appointing the tribunal.*

*Nisc* hoc *supplici libello et Mandato* Procuracionis Nobis porrecto a *Postulatore* (Vice-Postulatore) praedictae Causae, eiusque precibus obsecundare volentes, cumque *ob* gravia et legitima quibus detinemur impedimenta *constructioni Processuum de* quibus agitur personaliter praeesse non valeamus, ad normam canonis 2040 deputamus ad hunc effectum in Indicem delegatum N. N. et in *Adiunctos* N. N. et N. N., qui ad constructionem deveniant totius processus ordinarii Beatificationis Servi Dei N. N., prout Nos possumus ac *debemus devenire vi canonis* 2038. Insuper N. N. constituimus in fidei Promotorem, et eo absente aut quacumque ratione impedito N. N. qui vices *Promotoris gerat cum omnibus iuribus et obligationibus*. In notarium actuarium assumimus N. N., alias notarium huius Curiae Episcopalis, et in eius adiutorem seu *adiunctum ad* normam canonis 2016 N. N., cui etiam demandamus officium actuarii in hoc processu quoties, priore impedito vel alia de causa, a iudice praeside requiratur; ac demum in Cursorem seu Nuncium N. N. Praeterea mandamus eosdem per infrascriptum nostrum Cancellarium de eiusdem deputatione moneri ac Promotorem *Fidei* eiusque Substitutum citari, ut comparcant coram Nobis die..... hora..... in....., pro acceptatione muneris ipsis collati aliisque Actis *Primordialibus* peragendis.<sup>1</sup>

(*Sigillum Episeopi*).

N. N. -.....Episcopus N. N.

N. N..... Cancellarius Curiae Episc.

(*Sigillum Cancellari*).

<sup>1</sup> The petition of the Postulator and the rescript of the ordinary may be made to refer to a *single* process rather than to all the ordinary processes taken as a whole as is done here. The various formulae given here will have to be changed and adapted to fit particular circumstances.

5. *Edict of the ordinary relative to the writings of the Servant of God.*<sup>2</sup>

CLERO AC OMNIBUS FIDELIBUS DIOECESIS

N. N.....

Quum colligenda sint scripta omnia quae Servo Dei N. N. tribuuntur, praecipimus omnibus Nostrae iurisdictionis subiectis, qui retinent scripta praefati Servi Dei, sive inedita sive typis impressa, sermones, epistolas, diaria, authobiographias, quidquid denique vel ipse per se vel aliena manu exaraverit, ut intra spatium (v. g. unius mensis) a die..... computandum, sub debitis poenis et etiam comminatione censurarum Nobis ea tradere teneantur. Qui vero sciverit ea ipsa scripta ab aliis retineri, eos penes Episcopalem Curiam denunciet, ut opportuno tempore deponant in forma iuris quidquid de re sciant. Qui vero, pietatis gratia erga Dei Servum, autographa per se retinere cupiunt, horum exemplaria authentica poterunt exhibere.<sup>3</sup>

Datum..... die..... mense..... anno.....

N. N.....Episcopus N. N.

6. *Form of oath to be taken by members of tribunal and by those who assist the tribunal.*

*Ci. supra*, p. 131.

7. *Oaths taken by postulator in reference to the collecting of the writings of the Servant of God.*

A. *Before collecting the writings.*

Ego N. N. Postulator (Vice-Postulator) in Causa Beatificationis et Canonizationis Servi Dei N. N., tacto pectore, iuro et promitto me fideliter adimpleturum munus mihi commissum de perquisitione diligenter facienda super scriptis quae praefato Servo Dei tribuuntur, sub poena periurii: sic me Deus adiuvet.

N. N.....Causae Postulator (Vice-Postulator).

<sup>2</sup> Cf. can. 2043.

<sup>3</sup> This edict will, of course, normally be published in the vernacular. Mention of any penalty or censure may be omitted, and any additional information which the Ordinary thinks useful or necessary may be included.

## B. After collecting the writings.

Ego N. N., Causae Postulator (Vice-Postulator), tacto pectore, iuro me omnem diligentiam *adhibuisse* in perquirendis scriptis Servi Dei N. N.: item iuro ac promitto dicere veritatem super iis, quibus relate ad haec scripta a Revmis indicibus interrogabor: sic me Deus adiuvet.

N. N. .... Causae Postulator (Vice-Postulator).

## 8. Oath de calumnia.

Ego N. N. Postulator (Vice-Postulator) in Causa Beatificationis et Canonizationis Servi Dei N. N., tacto pectore, testor, declaro et iuro: quod credo habere iustam causam, quod non utar talis probationibus; quod si interrogatus tuerer respondebo veritatem de iis quae scio; quod non corrum/am Indices neque alios quoscumque qui ad hunc Processum conficiendum incumbere debent, nec corrumpam testes, nec petam frustratoriam aut malitiosam dilationem, nec aliud quidquam geram, quod purae et simplici veritati quomodolibet refragetur, seu *directe aut indirecte eidem* contrarium sit. Et propterea iuro et promitto me non accessisse, non accedere et non accessurum ad hanc *Causam* et constructionem huius Processus, neque ad aliquem illius actum, odio, amore, timore, spe lucri aut alio quovis respectu aut fine humano; sed *solum zelo honoris et gloriae Dei*. Et hanc intentionem habuisse et habere etiam qui me constituit Causae\_\_\_ Postulatorem et mihi *tribuit facultates* necessarias et opportunas, in cuius animam sicut in animam meam iuro sub omnibus clausulis in *simili calumniae iuramento* latius contentis et expressis; sic me et dictum Constituentem meum Deus adiuvet.

N. N. .... Causae Postulator (Vice-Postulator).

9. Oath of witnesses.<sup>4</sup>

## A. Before giving testimony.

Ego infrascriptus tactis his Sacrosanctis Dei Evangeliiis coram me positis, iuro et promitto dicere veritatem, tam super

<sup>4</sup> If the Latin language is *not* known to the witness, the oaths *will* be administered in the vernacular.

Interrogatoriis, quam super Articulis super quibus examinabor in Causa Beatificationis et Canonizationis Servi Dei N. N. Iuro insuper et promitto religiose servare secretum, nec alicui penitus revelare tam contenta in Interrogatoriis, quam responsiones et depositiones a me faciendas super iisdem et super Articulis, nec de iis loqui cum aliqua persona, exceptis Excmo ac Rfio Episcopo, Iodicibus deputatis, R. D. Promotore et Notario ad Causam deputato, sub poena periurii et excommunicationis latae sententiae, a quo non nisi a Summo Pontifice (excluso etiam Maiore Poenitentiario), praeterquam in mortis articulo, absolvi possim. Et ita promitto et iuro: sic me Deus adiuvet et haec Sancta eius Evangelia.<sup>5</sup>

N. N. .... iuravi ut supra.

## B. After giving testimony.

Iuro me veritatem in tota mea depositione dixisse, et confirmo omnia quae superius deposui.

N. N. .... testis deposui ut supra.

## 10. Oath to fulfill one's duty.

Ego infrascriptus, tactis hisce Sacrosanctis Dei Evangeliiis coram me positis iuro et promitto fideliter adimplere munus mihi commissum circa constructionem Processus Ordinarii in Causa Beatificationis Servi Dei N. N. sub poena periurii; et ita promitto et iuro: sic me Deus adiuvet, et haec Sancta eius Evangelia.

N. N. ....

## 11. Citation of Promoter of the faith.

De mandato Indicis Delegatorum ad construendum Processum Ordinarium super fama sanctitatis, virtutum et miraculorum Servi Dei N. N. citetur R. D. *Fidei Promoter*, N. N., ut die..... hora\_\_\_ compareat in..... ad assistendum iuramenti et examini testis N. N. inducti, et ad videndum et opponendum quicquid in Domino expedire indicaverit contra

<sup>5</sup> In the event that the witness is a non-catholic, mention of the excommunication may be omitted from this oath.

depositionem ipsius testis, aliaque videndum fieri et interponi necessaria et opportuna circa acta eiusdem processus.

Instante N. N. Causae Postulatore (Vice-Postulatore).

{*Sigillum Notarii*') N. N.....—..... Notarius Deputatus.

Ego testor me citasse Dniim. N. N. Fidei Promotorem ad contenta in praedicta citatione modo et forma a iure requisita, hac die..... In fidem me subscripsi.

N. N..... Cursor.

12. *Citation of witness.*

De mandato Indicum Delegatorum ad construendum Processum Informativum in Causa Beatificationis Servi Dei N. N., citetur N. N. Testis a Postulatore inductus ad comparendum coram ipsis die..... hora..... in..... ut iuramentum praestet et examini se subiiciat in Processu super fama sanctitatis etc., praefati Servi Dei: alias cogendus et impellendus per censuras, et alias poenas ecclesiasticas ad arbitrium eorumdem Indicum infligendas.<sup>6</sup> Instante Causae Postulatore (Vice-Postulatore).

Datum.....

{*Sigillum Notarii*)

N. N..... Notarius.

Testor me praefatam citationem notificasse modo ac forma a iure requisita hac die..... In fidem me subscripsi.

N. N..... Cursor Deputatus.

13. *Form used by postulator {vice-postulator} for introducing witnesses.*

Notula testium quos nominat et inducit infrascriptus N. N., Postulator (Vice-Postulator) in Causa Beatificationis et

<sup>6</sup> The citation of a witness will usually be made in the vernacular. It will often be prudent to refrain from mentioning coercive measures.

Canonizationis Servi Dei N. N.. petens illos admitti et examinari super Articulis per ipsum exhibitis in Processu Ordinaria Auctoritate construendo in Curia N. N. super fama sanctitatis, virtutum et miraculorum praefati Servi Dei; servato sibi iure alios etiam inducendi quatenus et quoties opus fuerit aut sibi placuerit, non se tamen adstringens ad omnes et singulos testes inductos aut inducendos examinandum, etiam in casu quo iuramentum iam ab iis praestitum fuerit.

Nomina, cognomina ac domicilium testium sunt:

1. N. N., degen in..... via dicta..... no.....
2. N. N., in\_\_\_ via..... no....., etc.

Hac die.....

N. N.....Causae Postulator (Vice-Postulator).

#### 14. *Form for Articuli.*

Positiones seu articulos infrascriptos dat, facit, exhibet atque producit N. N. Postulator (Vice-Postulator) legitime constitutus in praedicta Causa Beatificationis et Canonizationis Servi Dei N. N. ad docendum de fama sanctitatis, virtutum et miraculorum; et petit illas sive illos ad probandum admitti, necnon testes inducendos super iis vel super aliquo ex iis recipi et examinari, reservata sibi facultate alios quoque Articulos, si opus fuerit, exhibendi. Non se tamen intendit adstringere ad onus superfluae probationis de quo solemniter protestatur, non solum praemisso sed omni meliori modo, salvo iure, ac reservata sibi facultate alias positiones et articulos, quatenus opus fuerit, aut sibi placuerit, dandi, faciendi, exhibendi atque producendi.

Ponit itaque anglico sermone ad faciliorem et communem intelligentiam testium, et probare vult et intendit, ut supra:

1. That it was true and is true that the Servant of God etc.
2. That it was true and is true etc.<sup>7</sup>

Pios pro nunc Causae Postulator (Vice-Postulator) producit Articulos salvo semper et servato iure alios producendi, si et

<sup>7</sup> Cf. *supra*, p. 107.

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quatenus *opus fuerit minime* tamen se adstringens ad onus superfluae probationis, de quo iterum et solemniter protestatur.

Hac die.....

N. N..... Causae Postulator (Vice-Postulator).

15. *Form for Interrogatories.*

*Ci. supra, p. 144.*

16. *Form used by notary in authenticating acts of the process.*

Super quibus omnibus et singulis ut supra gestis Ago Notarius demandato Indicum hoc publicum instrumentum confeci, in forma; et in fidem me subscripsi et meum Notariatum signum apposui.

Actum..... dic, mense, anno, loco quibus supra.

Ita est;

N. N..... Notarius Actuarius  
(*Sigillum'*)

17. *Testimony of the ordinary as to the legality and force of the notary's acts.*

Nos N. N. Episcopus N. N. notum facimus ac testamur supradictum N. N. esse Notarium publicum in hac Causa per nos specialiter deputatum, eiusque attestationibus, scripturis atque Instrumentis, plenam in iudicio et extra adhibitam fuisse et adhuc adhiberi fidem in et ab omnibus. Ea ita dicimus et testamur.

Datum..... die..... mense..... anno.....

(*Sigillum Episcopi*)

N. N..... Episcopus N.

18. *Rogatorial letters.*

Excme ac Revme Domine,

Nos infrascripti, Indices Delegati ab Excmo ac Revmo Domino N. N., Episcopo N. N., ad construendum auctoritate ordinaria Processum Informativum super fama sanctitatis, virtutum et miraculorum Servi Dei N. N. rescivimus ab huius Causae N. N.

.1Appendix I

Postulatorem (Vice-Postulatorem) in ista Tua Diocesi degere testes N. N. et N. N., qui ad nostrum Tribunal accedere non possunt. Cum vero eorum testimonium grave admodum existimet N. N. Postulator (Vice-Postulator), nos rogavit ut per Te horum testium examen recipiendum curaremus.

Precibus N. N. Postulatoris (Vice-Postulatoris) annuentes. Dominationem Tuam enixe rogamus, ut praefatos testes aliosque, si qui sint, auctoritate Tua Ordinaria, servatis de iure praescriptis, examinare velis. Ad rem hic adnectimus Positiones et Articulos Postulatoris (Vice-Postulatoris), necnon plicum Interrogatorium Promotoris Fidei clausum et sigillo nostro obsignatum, non aperiendum nisi in actu examinis; qui plicus dirigitur Promotori Fidei a Te in constructione huius Processus specialiter deputando.

Absoluto autem Processu, testium depositiones, Interrogatoria, Articulos. Acta quaecumque ac iura producta, clausa et sigillo tuo munita, ad nos transmittere per N. N. Postulatorem (Vice-Postulatorem) dignaberis, adiectis Tuis epistolas, quibus significabitur quae testibus sit habenda fides, et quidquid aliud de eorum testificatione Tibi videtur adnotandum.

Confidimus has nostras petitiones Te benigne excepturum, nosque exhibemus paratos ad similia et maiora si oportuerit.

Datum..... die..... mense..... anno.....

	N. N. ....	— Iudex delegatus.
( <i>Sigillum</i> )	N. N. ....	Index adiunctus.
	N. N. ....	Index adiunctus.

N. N. .... Notarius

Nos N. N., Episcopus N. N., commendamus Venerabili Fratri Nostro Episcopo N. N. suprascriptam petitionem Revorum N. N., N. N. et N. N. quos Indices constituimus ad construendum Processum Ordinarium super fama sanctitatis, virtutum et miraculorum Servi Dei N. N.

Datum..... die..... mense..... anno.....

(*Sigillum Episcopi*)

N. N. .... Episcopus N. N.

N. N. .... Notarius



19. *Letter of ordinary who has conducted the rogatorial process.*

Revmi Domini

Petitiones vestras ad me directas die..... anno.... mense.... benigne excipiens, examinavi testes N. N. et N. N., in hac Diocesi degentes stiper fama sanctitatis, virtutum ac miraculorum Servi Dei N. X., et nunc per X. XI. Causae Postulatorem (Vice-Postulatorem) exemplar authenticum Processus Rogatorialis super hac re confecti transmittio, sincere declarans sedulam adhibitam fuisse diligentiam, ut omnia perficerentur ad iuris normam. Insuper quod praedictos testes examinatos ac prius juramenti religione devinctos, declaro plenam eis adhibendam esse fidem, utpote veraces in deponendo deprehensi sint.

Interim etc.....

Datum..... die\_\_\_ mense..... anno.....

(*Sigillum'*)

N. N..... Episcopus N. N.

20. *Letter of ordinary to the Cardinal Prefect of the Sacred Congregation of Rites relative to the proceedings in the "processiculus diligentiarum" 3*

Eme ac Revtne Domine,

In Causa Beatificationis et Canonizationis Servi Dei N. N. cum ad eius Introductionem et Instructionem procedi non possit, nisi prius constet de puritate doctrinae quae e scriptis *eiusdem Servi Dei* eruatur, aequum existimavi ad instantiam N. N., huius Causae Postulatoris (Vice-Postulatoris), Processum instruere super perquisitione scriptorum ad normam menta, id personaliter exequi non valerem, Reviho Dno XL N. canonum 2042-2048. Cum vero, ob gravia et legitima impedimenta in Indicem a me deputato necnon Revmis N. XL et XL XL Indicibus eidem adiunctis munus hoc demandavi, quod ipsi libenti animo susceperunt et iureiurando coram me praestito

s Cf. can. 2061.

ad munus ipsum rite adimplendum sese obligavere. Nunc autem exemplar peracti Pmcssciculi ac scripta collecta Eminentiae Vfestrae exhibere gaudeo, declarans Reverendissimos Indices. Promotorem Fidei ac Notarium huic perquisition! omnem diligentiam adhibuisse ad normam iuris, uti ex Actis patebit, necnon testes vocatos es^e indubiae fidei, quippe qui homines probi, ac omni exceptione maiores.

Per publicum Instrumentum, in duplici exemplari confectum N. N. Causae Postulatori (Vice-Postiilatori), tam scripta Servi Dei N. N., quam acta Processus ad ea perquirenda tradidi, qui integra, clausa et sigillo, ut infra, obsignata portare ad Sacram Congregationem per se ipsum sub fide iuramenti promisit.

Eminentiae λ estrae addictissimus et humilis servus.

*{Sigillum Episcopi}*

N. N..... Episcopus N. N.

21. *Letter of ordinary to the Sacred Congregation relative to the Informative Process on the reputation for sanctity, etc.*

Emi ac Rmi Domini,

Sanctimoniae et heroicarum virtutum fama Servi Dei N. N. apud omnes percrebrescente, aequum ac Religioni congruum existimavi annuere porrectis precibus pro construendo super illius sanctitatis fama, virtutum et miraculorum Processu annuere. Cum vero pastoralibus curis distentus id exequi non valerem, idcirco Rnio Domino N. N. a Nobis in ludicem praesidem delegato, necnon D. D., N. N. atque N. N. eidem adiunctis munus hoc ad normam canonis 2040 demandavi; quod Ipsi nedum libenti, sed et obsequenti animo susceperunt et iureiurando coram me praestito ad munus ipsum rite implendum, et ad silentii legem servandum sese obligavere. Ut autem omnia ad normam S. S. Canonum et Decretorum S. Rituum Congregationis pereagerentur. ipsi sedulo incubuerunt: uti etiam patebit ex eorum epistola, una cum hac ad Vos missa. Id unum mihi superest adnotandum, nempe quod testes omnes a Causae Postulatore (Vice-Postulatore) et ex

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officio inducti, sint, nt me non fallit, indubiae fidei, utpote probi et omni exceptione maiores (dempto forsan X. N. qui deposuit in sessione.....).

Et interim Eminentiarum Vestrarum.....

Datum..... die..... mense..... anno-----

(*Sigillum*)

N. N.....

Episcopus N. N.

22. *Letter of Judges to the Sacred Congregation relative to the informative process on the reputation for sanctity, etc.*

Emi ac Eevmi Domini,

Ad istam Sacram Congregationem mittimus exemplum authenticum processus informative in Causa Beatificationis et Canonizationis Servi Dei N. N., quem ex delegatione in nos facta ab Rmo Dno N. N. Episcopo N. N. alacri ac libenti animo confecimus. Omnis a nobis diligentia adhibita fuit, ut execution! ad unquem mandarentur ea omnia quae in sacris canonibus praescripta sunt; et nihil actum fuit sine praesentia fidei Promotoris et Notarii in Actuarium adlecti. Testes omnes vel a Causae Postulatore (Vice-Postulatore) inducti vel ex officio vocati iuramentum de veritate dicenda, de secreto servando et de veritate dictorum praestiterunt; iique omnes primum super interrogatoriis a fidei Promotore propositis, dein super articulis a Causae Postulatore (Vice-Postulatore) penes acta exhibitis examinati fuerunt, et utpote viri probi fide digni magno animi candore, et absque ulla haesitatione testimonium dederunt, ita ut nihil in eos animadvertendum occurrat (nisi forsan\_\_\_).

Vestrum igitur erit de huiusmodi inquisitione indicum ferre, dum Vos enixe deprecamur, ne si quid videatur omissum, vel inopinato excideret, socordiae nostrae tribuatis.

Interim Eminentiarum Vestrarum s. purpuram deosculamur.

Datum..... die..... mense..... anno.....

Eminentiarum Vestrarum,

Humillimi. Addictissimi ac Obsequi Famuli

N. N. .... Index Delegatus.

N. N..... Index Adiunctus.

N. N..... ludex Adiunctus.

23. *Letter of the promoter of the faith to the promoter general of the faith relative to the informative process on the reputation for sanctity etc.*

Knie Domine,

Cum ex delegatione mei Exemi ac Riti Ordinarii munere Promotoris fidei functus fuerim in Processu Informativo in\_\_\_ confecto super fama sanctitatis, virtutum ac miraculorum Servi Dei N. N. cuius transumptum S. R. Congregationi iam exhibitum fuit, aequum et opportunum existimo Reverentiam Tuam certiore facere de cura maxima ac diligentia a me adhibita ut omnia Acta huius Processus procederent iuxta S. R. Congregationis et iuris praescripta. Qua de re, tum ego, tum Indices ac Notarius cuivis eiusdem Processus Sessioni interfuiimus omnesque, (pii in eius constructione partes haberunt iureiurando ex praescripta forma sese obligarunt ad munus fideliter obeundum et ad secretum servandum. Testes insuper, tum inducti tum ex officio vocati, emisso praescripto iuramento, rite examinati fuerunt, prius super interrogatoriis ac postea super articulis. Interrogatoria autem semper sigillis clausa una cum depositionibus retenta sunt et in examine dumtaxat reserata.

Quoad testium auctoritatem mihi testari fas est eos omnes morum integritate, rerum scientia et prudenti indicio adeo pollere, ut eorum testimonio plenam fidem tuto adhibere liceat, et quaecumque mendacii vel erroris suspicio sit amovenda. Nihil ergo restat ut omnia haec sapientiae Tuae subiiciam.

Datum..... die..... mense\_\_\_ anno\_\_\_

N. N.....

Fidei Promotor.

24. *Sentence in the process of non-cult.*

in dei nomine, amen

Nos N. N. Index delegatus praeses. N. N. et N. N. Indices synodales pro construendo processu Beatificationis et Canonizationis Servi Dei N. N. auctoritate ordinaria Run N. N., Episcopi N. N., in Indices deputati: in processu super cultu numquam praestito Servo Dei N. N.. instante et petente N. N. Causae Postulatore (Vice-Postulatore) rite constituto, et resistent R.do D.no N. N.. fidei Promoture :

N isis Decretis nuper recensitis;

Visis testium depositionibus, ex quibus plane constat imagines Servi Dei N. N. sculptas, cusas, pictas vel alio modo concinnatas numquam exhibuisse nec exhibere splendores, aureolas, diademata aut inscriptiones sive Beati sive Sancti; item imagines vel reliquias praefati Servi Dei nec fuisse nec esse super altaria vel in templis aut oratoriis collocatas; nec in publicis supplicationibus delatas *etc.* ;

Visis actis legitime confectis in accessu iudiciali ad sepulchrum Servi Dei, N. N., ecclesiam N. N. et cubiculum ubi habitavit et obiit dictus Dei Famulus ; et ex illis constare nullum adesse signum, sive lampades, sive cereos, sive tabellas votivas, sive donaria, sive inscriptiones vel alia huiusmodi, quae publicum cultum vel venerationem redoleant ;

Considerantes, cultum de quo in casu esse publicum et ecclesiasticum, seu illud quo per actus et signa Ecclesia Universalis vel particularis venerat Sanctos vel Beatos ; igitur absentibus praefatis signis et actibus non adest cultus huiusmodi ;

Considerantes, depositiones testium negativas levioris esse momenti in genere ; sed cum sint coarctatae, in affirmativas reddi, quibus quidem in casu absentia cultus fit notoria notorietate facti ;

Nos demum, visis videndis et consideratis considerandis, ex praescripto canonis 2060, *Christi nomine invocato, et solum Deum prae oculis habentes* :

Decernimus, declaramus, pronunciamus, et definitive sententiamus *constare de cultu nunquam praestito Servo Dei N. N.* seu ad propositum dubium respondemus: *Affirmative.*

Datum..... die..... mense..... anno.....

(*Sigillum*)                      N. N.....-\_\_\_\_\_ Index Delegatus.  
                                      N. N. .... ludex Adiunctus.  
                                      N. N..... Index Adiunctus.

Lecta, lata et publicata fuit praesens definitiva sententia per Rdûm Dfiuni N. N., Indicem praesidem, sedentem pro Tribunali cum Rdis Dnis N. N. ac N. N., ludicibus Adiunctis, in Sacello Palatii Episcopalis, hodie die..... mense..... anno..... de mane hora....., adstantibus Rdô Dno N. N. fidei Promoture et N. N. Causae Postulatore (Vice-Postulatore), prius legitime citatis, qui se subscripsere, ut sequitur:

N. N..... Fidei Promotor  
 N. N.....-..... Causae Postulator  
                                      (Vice-Postulator).

Et ego N. N. Notarius de hisce omnibus fidem facio ac testor et hic me subscribo.

(*Sigillum*)                      N. N.....-\_\_\_\_\_ Notarius.

## Appendix II

Specimen of the Acts of the Process<sup>1</sup>

(TITULUS CAUSAE)

SESSIO.....<sup>2</sup>

IN DEI NOMINE. AMEN.

Anno Domini..... (He..... mense..... hora.....)

Coram infrascriptis Indice Delegato et Indicibus Adiunctis in praesenti Causa Beatificationis et Canonizationis Servi Dei N. N., pro tribunali sedentibus in N. N. praesentibus Promoture Eidei legitime citato meque Notario, comparait Uatissae N. N., Postulator (Vice-Postulator), qui *petiit* inchoari testium examen.

Ex adverso *Fidei* Promoter dixit et protestatus fuit nunc et pro semper nihil fieri nisi ipso praesente in quolibet actu, ac nisi adimpletis omnibus et singulis de iure, stylo, praxi et consuetudine servandis et adimplendis. Insuper exhibuit plicuin interrogatorium super quibus *petiit* et *institit* testes omnes examinandos esse, priusquam examinentur super articulis; *petiit* pariter, quod, completo sive suspenso cuiuslibet testis examine, dictus plicus una cum depositionibus testis examinati clauderetur et obsignetur neques aperiretur nisi in actu futurae sessionis, seu examinis; similem clausuram et aperitionem respective in principio et fine cuiuslibet sessionis servandum esse dixit, et ulterius institit quod, ante inchoationem examinis cuiuslibet testis, eidem examinando iuramentum praestetur: alias de nullitate protestatur, non solum isto, sed et omni meliori modo.

Et tunc Indices, auditis N. N. Postulatoris (Vice-Postulatoris) instantiis et admissis Promotoris protestationibus, plicum interrogatorium inspexerunt, authenticum recognoverunt et mandarunt inchoari examen testis N. N. cui detulerunt iuramentum de veritate dicenda, et de secreto religiose servando, quod ipse emisit, dicens:

<sup>1</sup> Cf. *supra*, p. 129.

<sup>2</sup> The number of the session is inserted here; the sessions of each process are numbered progressively.

*"Ego infrascriptus tactis his Sacrosanctis Dei EvangeUis etc:"*<sup>3</sup>

N. N.....-..... iuravi ut supra.

Quo praestito iuramento, clausis ianuis, solisque remanentibus Officialibus ac teste examinando, Indices iusserunt aperiri plicum Interrogatorium, ac statim deventum fuit ad examen dicti testis, qui ad interrogationes sibi factas, dixit et deposuit sequentia, quae ego Notarius ad dictamen Indicum de verbo ad verbum, nihil penitus addito, dempto aut immutato, eodem quo ab ipso relata sunt idiomate descripsi et registravi ut sequitur:

luxta primum interrogatorium testis respondit.....

luxta secundum interrogatorium respondit.....

Expleto examine super interrogatoriis, deventum est ad examen super articulis :

Ad 1. art. testis respondit.....

Ad 2. art. respondit..... etc.

Et sic absoluto praedicti testis examine, de mandato ludicum ego Notarius alta et intelligibili voce testis integram depositionem perlegi, data ei facultate addendi, minuendi, corrigendi, si necessarium reputaverit. Ipse vero eam ratam habuit et confirmavit his verbis : *"Turo me veritatem in tota mea depositione dixisse, et confirmo omnia quae superius deposui. N. N..... testis deposui ut supra."*

Dimisso autem teste, indices mihi mandarunt expediri citationem contra testem inductum N. N., ut examini se subiiciat, et contra Promotorem ut assistat Sessioni ad hoc habendae die---- hora..... in hoc loco.

*If more than one witness is to be examined in the same session, the above paragraph is omitted and instead the follozving is added:*

Abeunte praedicto teste, vocatur testis N. N. qui iuramentum emisit dicens :

*"Ego infrascriptus etc.* Deinde deventum est ad eius examen, et ad primum interrogatorium respondit.....

*The examination of this witness is conducted as above; if the*

<sup>3</sup> Cf. *supra*, p. 246.



*examination of any particular -witness is interrupted to be continued later, this will be indicated in the folUrwing or similar way:*

1st attenta horae tarditate suspensum fuit examen dicti testis, animo illud continuandi die..... hora..... in hoc eodem loco. Ad quem effectum moniti fuerunt a Indicibus tam idem testis quam Iriclei Promotor. ut comparcant dictis die et hora.<sup>4</sup> Deinde ego Notarius eidem testi perlegi eius depositionem, data facultate addendi, minuendi, corrigendi, si necessarium reputaverit. Ipse eam confirmavit seque in fidem subscripsit:

Ego N. N. .... testis deposui ut supra.

*If the witness wishes to change the testimony in any way, the notary may add:*

Testis addidit aut minuit aut correxit sequentia, (piae ego fideliter descripsi, videlicet..... Quibus additionibus Testi perlectis, ipse totam suam depositionem ratam habuit etc\_\_\_

*In each case the conclusion of the session will be as follows:*

Deinde iidem Iudices, clausis et sigillo Iudicum obsignatis Interrogatoriis cum testium depositionibus, mandarunt mihi ut de praemissis instrumentum conficerem, ac sese subscripserunt cum Promotore Fide, ut sequitur:

N. N.....	ludex delegatus.
N. N.....	Index adiunctus.
N. N.....	Index adiunctus.
N. N.....	Promotor Fidei.

Super quibus omnibus et singulis ut supra Ego Notarius de mandato Iudicum hoc publicum instrumentum confeci, in forma; et in fidem me subscripsi et meum Notariatus signum apposui.

Actum..... die..... mense..... anno..... loco quibus supra.

Ita est.

(■Sigillum) N. N..... Notarius Actuarius.

*Here are inserted the citations zyhich zvere made for the above session and any other documents that pertain to the session.*

<sup>4</sup> In this instance a new formal citation directed to the witness and the promotor is not necessary; the admonition of the tribunal made to the witness and the promotor will suffice.

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## ABBREVIATIONS

- AAS—*Acta Apostolicae Sedis*.
- AA SS"—*Acta Sanctorum*.
- CSEL—*Corpus Scriptorum Ecclesiasticorum Latinorum*.
- Fontes—*Codicis Iuris Canonici Fontes cura . . . Gasparri editi*.
- JE—Jaffé, *Regesta Pontificum Romanorum* (edited by P. Ewald).

*JK*—Jaffé, *op. cit.* (edited by F. KaJtenbrunner).  
*JL*—Jaffé, *op. cit.* (edited by S. Lowenfeld).  
*MPL*—Migne, *Patrotoaiæ Cursus Completus, Series Latina*.  
 Potthast—*Potthast*, Augustus, *Rcycta Pontificum Romanorum*.  
 S. R. C.—*Sacra Rituum Congregatio*.  
 S. C. S. *Off.*—*Sacra Congregatio Sancti Officii*.

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