

**THE CONSTITUTION  
"APOSTOLICÆ SEDIS  
MODERATIONI"  
EXPLAINED. FIRST PART**

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The Constitution "Apostolicæ Sedis Moderationi" Explained. First Part by Thomas J. Carr

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**THOMAS J. CARR**

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THE CONSTITUTION  
"APOSTOLICÆ SEDIS  
MODERATIONI"

EXPLAINED.

BY THE

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*First Part.*

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*Die 21 Maii, 1879.*

## INTRODUCTION.

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I HAVE undertaken to prepare this Explanation of the *Apostolica Sedis*, at the suggestion and request of one on whose judgment regarding its opportuneness I could confidently rely, and to whose cherished friendship a much larger offering was due.

I have been asked to have it published with as little delay as possible, in order that it might be of some assistance in preparing for Ecclesiastical Conferences, which are to be held during the present spring, and the coming summer, and in which this Constitution will form the subject matter for discussion. I have complied with the request as far as the limited time at my disposal would allow.

I myself am responsible for the choice of the language in which it is written. To some readers it may appear that, to treat theological questions in English is a mistake similar to that—to reverse the Gospel figure—of putting old wine into new vessels, with the effect of injuring its genuine flavour.

But we must make allowance for diversity of taste, and remember that, as the ancient Romans used a little water with their oldest wine for the purpose of bringing out its rich aroma, so in case of some readers, the use of English will serve to develop the latent richness of a science which they might fail fully to appreciate in the language that may justly be called its own.

Indeed, it appears to me that there are many theological questions besides the Constitution which I am about to explain, such, for instance, as Probabilism, the Sacrament of Penance, the Sacrament and Sacrifice of the Eucharist, Vows, Oaths, &c., which, if discussed in English in a somewhat familiar style, but still with scholastic precision, would be read with deep interest by many priests, by ecclesiastical students, and by educated laymen. Perhaps some willing hands may be found to join and work with a common purpose, in bringing out a series of short theological Tracts written in English on these and kindred subjects. This would certainly render more popular a science the importance of which no one denies, but the study of which many, who are engaged in the busy occupations of life, regret, is not brought sufficiently within their reach. This want must be particularly felt with regard to the Constitution which I have undertaken to explain.

A large number of hard-working Irish priests who had completed their studies before the year of its publication, 1869, had no opportunity during their college course of becoming acquainted with the very important changes it has introduced into the penal legislation of the Church. And experience teaches, that no matter how studious a missionary priest may be, and no matter how comprehensive may be his grasp of mind, he still experiences a peculiar difficulty in subsequently mastering any Treatise, or section of a Treatise, which circumstances did not permit him to study in college. This difficulty is notably increased when, as in the case of the *Apostolica Sedis*, he has to begin the study by unlearning a good deal of what he had previously learned.

My acquaintance with the labours, the necessities,



and the helps of missionary life, is not merely theoretical. If I have done anything to make the study of this very important Constitution more easy or more satisfactory, I feel that the effort is a tribute of sympathy I owe to my missionary brethren, amongst whom I was once numbered.

What I proposed to myself in this First Part is to consider the general bearings of the different parts of the Constitution on one another, and to lay down the general lines on which the interpretation of each part must proceed. In doing so I shall, of necessity, have to explain a few of the fundamental principles of the Censure Tract. But it is unnecessary to add, that this work of mine lays no claim, and makes no pretence, to be in any sense a Treatise on Censures. Indeed, such a lengthened exposition as this, of any one Constitution, no matter how important, would be altogether out of place in a general Tract on Censures. Such a Tract, "De Censuris in Genere," worthy of his other works, has been for many years written, though not as yet published, by my learned colleague, Dr. Murray, our Senior Professor of Theology. Through his kindness I have read it through, and it is needless to say that I found in it most valuable and accurate information. I can only hope that he will soon find time to complete it by the addition of the Censures *in Specie*, and that he will then give to the world what will be a complete and an exhaustive Tract on Censures.

But my work is limited to another and narrower sphere, and is confined to the consideration of the questions arising out of a single Constitution.

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For the convenience of any readers who may wish to follow out the references given, as well as for the purpose of shortening these references hereafter, it may be useful to state in full the titles of the principal works that I have consulted and quoted.

Besides the older theologians and canonists whose works are referred to, the modern authorities whom I have consulted and frequently quoted, are :—

D'ANNIBALE, "In Constitutionem Apostolicæ Sedis Commentarii editi jussu Ill<sup>m</sup>i ac R<sup>m</sup>i Fr. Ægidii Mauri O. P. Episcopi Reatini."—Ed. 2<sup>a</sup>, Reate. 1874.

This is the work referred to by Fr. Ballerini (Gury. "De Censuris," n. 970, note [6]) in the following terms of high, but well-merited, praise :—"Quidquid de his subjiciamus in Notis, noverit Lector, id fere desumptum ex Commentariis, quæ plura jam doctorum virorum studio prodierunt : e quibus Opusculum Rev<sup>m</sup>i Reatinæ Diocesis Vicarii D. Jos. D'Annibale, Interamnæ, 1873, editum cum titulo "In Constitutionem Apostolicæ Sedis Commentarii," doctrinæ copia et soliditate, facile excellit."

AVANZINI, "De Constitutione Apostolicæ Sedis Commentarii ex Latinis Ephemeridibus, quibus titulus, Acta Sanctæ Sedis, excerpti."—Ed. 5<sup>a</sup> Romæ, 1878.

GRANDCLAUDE, "SS. DD. NN. Pii Papæ IX., Constitutio qua Ecclesiasticæ Censuræ latæ Sententiæ limitantur, Commentariis studio et opera D. Grandclaude, S. T. D. et in Seminario S. Deodati Professore illustrata."—Sancti-Deodati, 1876.

GRANDCLAUDE, "Le Canoniste Contemporain, ou La

Discipline actuelle de L'Eglise, Bulletin Mensuel par M. L'Abbé E. Grandclaude, Docteur et Professeur en Theologie et en Droit Canon."—1<sup>ère</sup> Année, Paris, 1878.

HUGUENIN, "Constitutionis Apostolicæ Sedis Brevis Explanatio, ex Tertia Editione Operis Inscripti, 'Expositio Methodica juris Canonici,' auctore Ludivico Huguenin."—Parisiis, 1877.

"ACTA SANCTÆ SEDIS in compendium opportune redacta et illustrata, studiis et cura Josephi Pennacchi et Victorii Piazzesi."—Romæ, 1869-79.

LAFFORGUE, "Commentaire de la Constitution Apostolicæ Sedis précédé d'une Introduction par M. L'Abbe Lafforgue, Vicaire-General honoraire, Superieur du Grand Séminaire de Tarbes.—Paris, 1878.

CRAISSON, "Manuale totius Juris Canonici."—Ed. 4<sup>a</sup> Pictavii, 1875.

ICARD, "Prælectiones juris Canonici habitæ in Seminario Sancti Sulpitii."—Ed. 4<sup>a</sup> Parisiis, 1875.

SMITH, "Elements of Ecclesiastical Law, compiled with reference to the Syllabus, the Constitution 'Apostolicæ Sedis,' &c., by Rev. S. B. Smith, D.D., formerly Professor of Canon Law."—2nd Edition, New York, 1878.

KONINGS, "Theologia Moralis Novissimi Ecclesiæ Doctoris S. Alphonsi in Compendium Redacta et Usui Venerabilis Cleri Americani accommodata. Auctore A Konings, C. SS. R."—Bostoniæ, 1874.