

The Reception of Holy Communion Before Penance Is Sought

Anthony St. Louis-Sanchez, JCL

*Judge and Director,
Metropolitan Tribunal and Office of Canonical Affairs
Instructor, Saint John Vianney Theological Seminary*

Abstract

This study examines the discipline governing the reception of Holy Communion prior to sacramental confession, as articulated in canon 916 of the 1983 *Code of Canon Law*. Using a multi-layered canonical and theological methodology of historical analysis, canonical hermeneutics, and legislative-intent analysis, the study traces the evolution of ecclesial discipline from the early Church to the modern codification. The study argues that canon 916 represents a deliberate and milder norm than its predecessor in the 1917 Code, evidenced by the substitution of *necessitas* with *gravis ratio*. Drawing on the legislative history preserved in *Communicationes*, the study demonstrates that this change was intentional and substantive. According to canons 17 and 18, *gravis ratio* must be interpreted strictly as an objectively serious reason—such as fear of infamy—rather than either strict necessity or mere subjective convenience. Stricter theological interpretations that equate *gravis ratio* with *necessitas* are therefore found to be canonically unsustainable.

Introduction

Catholics are encouraged to receive Holy Communion frequently, as often as they attend Mass. However, Catholics are also warned not to approach Holy Communion if there is consciousness of having committed a

mortal sin. The discipline of the Church is clear: If anyone is conscious of having committed grave sin, then that person must approach the sacrament of penance before approaching Holy Communion, unless there is a grave reason, and there is no opportunity for confession, and the person has made a perfect act of contrition, with the intention to confess as soon as possible. This discipline is articulated in canon 916 of the *Code of Canon Law*.

The present study offers an interpretation of this discipline through a detailed analysis of canon 916 of the *Code of Canon Law*. This canon, and the discipline it articulates, must be seen through a historical lens. The discipline of the Church is an ever-evolving reality, and a full appreciation of the current discipline can only be achieved through an appreciation of the evolution of the discipline through time. This historical analysis is not undertaken for its own sake, but to illuminate the juridical meaning of a canon that presupposes centuries of disciplinary development. The historical analysis is part of a multi-layered canonical and theological methodology grounded in (1) the historical development of ecclesial discipline, (2) the hermeneutical norms of the *Code of Canon Law*, and (3) legislative-intent analysis derived from authoritative sources. Because the interpretation of canon 916 raises both historical and juridical questions—touching on sacramental theology, moral theology, and canonical hermeneutics—a single methodological approach would be insufficient.

The praxis regarding the reception of Holy Communion prior to a sacramental confession has evolved throughout the history of the Church. Today this discipline is articulated in canon 916 of the *Code of Canon Law*. The present study argues that canon 916 intentionally represents a milder norm than the 1917 Code by replacing *necessitas* with *gravis ratio*, but nevertheless requires a strict interpretation under canon 18, such that *gravis ratio* must be

objectively serious (e.g., fear of infamy), not merely subjective convenience, and cannot be collapsed back into strict necessity as some theologians implicitly do.

The Discipline of the Early Church

From the beginning, the Church taught that anyone approaching the Eucharist must do so worthily. The scriptural basis for this is I Cor 11:27–29, where St. Paul teaches,

Whoever, therefore, eats the bread or drinks the cup of the Lord in an unworthy manner will be answerable for the body and blood of the Lord. Examine yourselves, and only then eat of the bread and drink of the cup. For all who eat and drink without discerning the body, eat and drink judgment against themselves.¹

In this passage, St. Paul exhorts the Corinthians to not approach the Eucharist without first examining themselves. The scriptures also distinguish between grave sins and less grave sins.² Some sins lead to spiritual death, whereas other sins do not. Augustine made a distinction between sins and crimes. He said, “although every crime is a sin, every sin is not a crime,”³ and some crimes “cut off the sinner from the body of Christ.”⁴ Augustine teaches that “outside the Church sins are not remitted [because] the Church alone has received the pledge of the Holy Spirit.”⁵ Indeed, it is God who

¹ *The New Revised Standard Version Catholic Edition* (National Council of Churches of Christ, 1993).

² Cf. 1 Jn 5:16-17.

³ Augustine, *Enchiridion*, in *Nicene and Post-Nicene Fathers*, First Series, vol. 3, ed. Philip Schaff (The Christian Literature Company, 1887), no. 64, 258.

⁴ Augustine, *Enchiridion*, no. 65, 258.

⁵ Augustine, *Enchiridion*, no. 65, 258.

forgives sins, and Augustine says, “a broken and contrite heart God doth not despise.”⁶ This highlights a certain tension in the discipline between the forgiveness of God directly due to contrition, and the mediation of forgiveness through the ministry of the Church. It is precisely this tension that the present study traces through history.

St. Paul’s exhortation to receive the Eucharist worthily, after having examined oneself, does not seem to have inhibited many Christians from receiving Holy Communion. Frequent reception of Holy Communion was common in the early Church.⁷

Apart from publicly known crimes, Augustine identified the individual Christian as the one who judges whether or not to receive Holy Communion.⁸ But those who disregard their own good judgment and approach the Eucharist unworthily, “are storing up wrath for themselves in the day of wrath.”⁹ Such consequences could cause anxiety in some, and scrupulosity in others.

The apostolic fathers spoke of the need to approach the Eucharist worthily by confessing sins first.¹⁰ However, there was no universal norm requiring personal confession to a priest. The norm of confessing personal sins prior to receiving Holy Communion evolved liturgically into the *Confiteor* at Mass, followed by the priest’s *absolutio*, which according to Jungmann, “continued to be for several centuries, the regular expression of the priests’ sacramental

⁶ Augustine, *Enchiridion*, no. 65, 258.

⁷ Cf. Joseph Nicholas Stadler, *Frequent Holy Communion: A Historical Synopsis and a Commentary* (The Catholic University of America Press, 1947), 1–5.

⁸ Augustine, *Sermons (341–400)*, part 3, vol. 10, trans. Edmund Hill, OP (New City Press, 1995), sermon 351, 126.

⁹ Augustine, *Sermons*, sermon 351, 126.

¹⁰ Cf. Didache 14.1, in *The Apostolic Father: Greek Texts and English Translations*, Third Edition, ed. Michael W. Holmes (Baker Academic, 2007), 365.

absolution.”¹¹ Priests could give the absolution found in the liturgical books for Mass, but more serious sins were reserved for public penance and absolution by the bishop.

With the persecution of the Christians by the Roman Empire, some of the faithful chose to renounce Christ and offer sacrifice to the Roman gods, rather than lose position, property, or life. After the persecutions, some of these lapsed Christians returned to the Church. This raised the question of what was needed for a lapsed Christian to return.

The practice of penance in the early Church was much different than it is today. Everyday sins could be forgiven by a priest, but more serious sins required absolution by the bishop. Canon 32 of the council of Elvira stated, “One who gravely falls into mortal ruin because of sin must seek penance from the bishop and not a presbyter.”¹² Public penance was practiced in the early Church, but it was also a once-in-a-lifetime event. The Church understood that baptism removed all sin, but if a Christian gravely sinned after baptism, there was “a second—nay, in that case, the last—hope,”¹³ namely, the sacrament of penance.

The practice of public penance in the early Church was rigorous and difficult. Epistle 217 of St. Basil gives details about the process of making reparation for sins.¹⁴

¹¹ Josef A. Jungmann, *The Mass of the Roman Rite: Its Origins and Development*, trans. Francis A. Brunner, vol. 1 (Benziger Brothers, 1951), 300.

¹² “Apud presbyterum, si quis gravi lapsu in ruinam mortis inciderit, placuit agere poenitentiam non debere, sed potius apud episcopum.” Council of Elvira (ca. 306), canon 32, in *Concilios Hispaniae*, ed. José Vives (Consejo Superior de Investigaciones Científicas, 1963), 14. Translations from Latin are my own, unless otherwise attributed, with the exception of the Codes of Canon Law.

¹³ Tertullian, *De paenitentia* 7, in *Ante-Nicene Fathers*, vol. 3, ed. Alexander Roberts and James Donaldson (Hendrickson, 2004), 662.

¹⁴ Basil of Caesarea, *Letters*, vol. 2, trans. Agnes Clare Way (The Catholic University of America Press, 1955), 108.

This involved multiple stages leading to full reconciliation with the Church. The first stage of the process was that of the weepers, who were not allowed to enter the church. Weepers would stand outside the church, confessing their sins, and asking those entering to pray for them. The second stage of reparation was that of hearers. Hearers were allowed to enter the church. They could attend the liturgy, but only the liturgy of the word. The hearers had to leave the liturgy before the liturgy of the Eucharist. The third stage was that of the prostrators. The prostrators were also admitted to the liturgy and were allowed to stay through the prayers of the faithful. In this way, they prostrated themselves before the Lord with the community in prayer but were then dismissed before the Eucharistic anaphora. The final stage consisted in standing with the faithful through the entire liturgy but not being allowed to receive Holy Communion. Only by completing these four stages could a sinner be admitted back into communion with the Church.

Depending on the gravity of the sin, this process of public penance could last for years if not decades. Also, the fact that penance could be completed only once in a lifetime encouraged the faithful to put off penance until the end of life, which could never be accurately predicted. Not only was the penance itself severe but there were perpetual consequences to having undertaken public penance: The married had to perpetually abstain from sexual intercourse with their spouses, and the clerical state was forever blocked.¹⁵ Instead of accepting years of harsh penance followed by a monk-like life, some faithful chose a self-imposed excommunication. These early ecclesial practices established the foundational tension between the obligation to honor the Eucharist and the desire to avoid excessive rigorism—a tension canon 916 later inherits. There was need

¹⁵ Cf. Hubert Jedin, ed., *History of the Church*, vol. 2, *From Constantine to the Early Middle Ages* (Crossroad, 1980), 300.

for the Church to clarify the discipline of the reception of Holy Communion.

During the latter part of the first millennium, the Church began moving away from public penance. The first step in this direction was the move to private confession of sins. Slowly, private confession of serious sins replaced the public confession of them. This transition to private confession did not happen quickly or uniformly throughout the Church.¹⁶ Despite the shift to private confession, “the penance was always public, so that it was clear who was performing it.”¹⁷ So, private confession came before private penance.

Irish missionary monks to the European mainland played a role in the slow transition from public penance to private penance. The Irish monks brought with them to continental Europe their Celtic practice of repeatable penance.¹⁸ The ancient custom on the continent of Europe was that the sacrament of penance could only be received once in a lifetime. This new practice of repeatable penance offered the possibility of many smaller penances throughout life, instead of one large one at the end.

The Irish monks did not directly introduce private penance. Rather, private penance developed slowly throughout Europe.¹⁹ Private penance provided some benefits. For example, penitents avoided the public disgrace that came with public penance. Similarly, the perpetual effects of public penance (i.e., abstinence from sexual intercourse and the disbaring from the clerical state) were no longer enforceable. The emergence of private penance, however, did not automatically put an end to public

¹⁶ Cf. Paul Haffner, *The Sacramental Mystery* (Gracewing, 1999), 124.

¹⁷ Haffner, *Sacramental Mystery*, 122.

¹⁸ Haffner, *Sacramental Mystery*, 125.

¹⁹ Cf. Jedin, *History of the Church*, 2:679.

penance.²⁰ Public penance was still practiced, especially for extremely grave sins.

After the appearance of repeatable penance, it became possible for the Church to mandate confession once a year. Annual confession was mandated for the faithful in “England around 670,” and “around the turn of the eighth century it was mentioned as a strict prescription for the Frankish realm by Theodulf (Capitulare I, 36).”²¹ These local laws were the first of their kind mandating repeated penance rather than once-in-a-lifetime penance. By the year 1000 the practice of private penance was firmly established.²²

Even though the discipline of the Church shifted from public penance to private penance, there was no parallel shift to frequent reception of Holy Communion. The habit of the Christian faithful avoiding the reception of Holy Communion became so prevalent that the Church had to address it. The Fourth Lateran Council, in the year 1215—in a first for an ecumenical council—stated that penance must be received at least once a year along with the reception of Holy Communion.²³ This was the earliest form of a universal ecclesiastical norm regulating how often the faithful must receive Holy Communion and do penance. This act by the Fourth Lateran Council was necessary because the Christian faithful were not in the regular habit of receiving these sacraments.

²⁰ Hubert Jedin, ed., *History of the Church*, vol. 3, *The Church in the Age of Feudalism* (Crossroad, 1980), 302.

²¹ Jedin, *History of the Church*, 3:303.

²² Cf. Herbert Vorgrimler, *Sacramental Theology*, trans. Linda M. Maloney (Liturgical Press, 1992), 209.

²³ Fourth Lateran Council (1215), canon 21 (*Omnis utriusque sexus*), in *Enchiridion symbolorum*, ed. Peter Hünemann, 43rd ed. (Herder, 2012), DH 812. Here and throughout DH refers to the *Enchiridion symbolorum* originally compiled by Heinrich Denzinger and later edited by Peter Hünemann, and the number following refers to the paragraph number.

Those Unworthy to Receive Holy Communion

Due to the harshness of penance, some sinners sought to delay the sacrament. Tertullian complained, “Yet most men either shun this work, as being a public exposure of themselves, or else defer it from day to day. ... Is it better to be damned in secret than absolved in public?”²⁴ Despite such exhortations, not every sinner approached public penance, many opting to do so only at the end of life.

Over centuries, the practice of the Church changed from frequent reception of Holy Communion by the faithful to a general reluctance to approach it. Preaching was one way that people became more conscious of sin. In a homily, St. John Chrysostom stated, “coming once a year [to receive Holy Communion] does not free us from the reproach of our sins if we draw near to the table with an unworthy heart.”²⁵ Thus, due to a growing sense of unworthiness, it became common for the Christian faithful to refrain from receiving Holy Communion. Even priests would sometimes feel unworthy to celebrate the Eucharist and thus seek to avoid the sacrament. Early in the Church’s tradition, we find a command for priests to receive at every Eucharist.²⁶ Priests did not have the option to abstain from receiving Holy Communion if they were celebrating Mass.

Some priests, faced with their own sinfulness, deemed it better to not celebrate the sacrament than to receive Holy Communion unworthily, even going so far as to simulate the sacrament. This problem was addressed by Pope Gregory IX and became incorporated into the *Corpus iuris canonici*. A question was asked of Pope Gregory IX

²⁴ Tertullian, *De paenitentia* 10, in *Ante-Nicene Fathers*, vol. 3, ed. Alexander Roberts and James Donaldson (Peabody, MA: Hendrickson, 2004), 664.

²⁵ John Chrysostom, *On the Incomprehensible Nature of God*, homily 6, trans. Paul W. Harkins, *Fathers of the Church* 72 (The Catholic University of America Press, 1984), 181.

²⁶ *Canones Apostolorum*, canon 9, in *Patrologia Latina*, vol. 67, col. 142.

about priests who simulate the Eucharist to avoid sacrilege. Pope Gregory IX responded,

One who, out of the awareness of his own sin, judges himself unworthy, sins gravely if he irreverently presumes to approach it, nevertheless, he appears to sin more gravely who fraudulently dares to simulate it in this way; since the former falls into the hands of God's mercy alone, but the latter, binds himself not only to God, whom he does not fear to mock, but to the people, whom he deceives.²⁷

Pope Gregory IX declared that it is better for a priest to receive the Eucharist unworthily than to simulate the sacrament. This canon X 3.41.7 is a decretal of Pope Gregory IX, issued on 22 September 1237, and incorporated into the *Liber Extra*. This norm became universal law in the Church with its promulgation in the *Corpus iuris canonici*.

Gratian

Gratian's *Decretum*, which is believed to have been written around the year 1140, is a marvelous synthesis of the canonical tradition which preceded it. In many cases, Gratian brought together norms from different eras and locations and compared them side by side. This inevitably highlighted

²⁷ "Qui pro sui criminis conscientia reputat se indignum, ... peccet graviter, si se ingerat, irreverenter ad illud; gravius tamen ... videtur offendere, qui sic fraudulenter illud praesumpserit simulare, quum ille in solius misericordia Dei manum incidat, iste vero non solum Deo, cui non veretur illudere, sed ... populo, quem decipit, se adstringat. Dat. Sorae X. Kal. Oct. Pont. nostr. Ao. XI." Gregory IX, decretal *Cum pro conscientia*, in *Liber Extra*, bk. 3, tit. 41 (*De celebratione missarum et sacramento eucharistiae et divinis officiis*), c. 7, in *Corpus iuris canonici*, ed. Emil Ludwig Richter, vol. 2 (Tauchnitz, 1839), col. 615.

their differences, which Gratian would then try to harmonize.

Gratian identified two distinct strands of the canonical tradition regarding confession. On the one hand, Gratian examined many scriptural authorities and concluded, “Since therefore, before confession, as was proven, we are brought back to life through grace and made children of light, it is abundantly clear that by contrition of heart alone, without confession of the mouth, sin is remitted.”²⁸ He also stated, “Confession is therefore made for the manifestation of penitence, not for obtaining pardon.”²⁹ Interior contrition can lead to an infusion of sanctifying grace. When God enters the soul through sanctifying grace, any personal sin is burned away by the divine presence. This theological principle opens the possibility of obtaining forgiveness of sins without recourse to sacramental confession. This is one strand of the canonical tradition identified by Gratian, which predominated in the early years of the Church before the rise of public penance.

On the other hand, Gratian identified another strand of the canonical tradition supported by many Church fathers, which taught the necessity of confession. He stated, “Others, on the contrary, testify by saying that without confession of the mouth and satisfaction by works, no one can be cleansed from sin, if he has had time to make satisfaction.”³⁰ Gratian

²⁸ “Cum ergo ante confessionem, ut probatum est, sumus resuscitati per gratiam, et filii lucis facti, evidentissime apparet, quod sola contritione cordis sine confessione oris, peccatum remittitur.” Gratian, *Decretum*, de paenitentia, d. 1, c. 36, in *Corpus iuris canonici*, ed. Emil Ludwig Richter, vol. 1 (Tauchnitz, 1879), col. 1167.

²⁹ “Fit itaque confessio ad ostensionem penitenciae, non ad inpenetrationem veniae.” Gratian, *Decretum*, de paenitentia, d. 1, c. 37, in *Corpus iuris canonici*, ed. Richter, 1:1167.

³⁰ “Alii e contra testantur, dicentes sine confessione oris et satisfactione operis neminem a peccato posse mundari, si tempus satisfaciendi habuerit.” Gratian, *Decretum*, de paenitentia, d. 1, c. 37, in *Corpus iuris canonici*, ed. Richter, 1:1167.

also said, “No one removes the guilt of sin [*peccati culpam*] before confession of the mouth and satisfaction by works.”³¹ The latter position was supported by many arguments, including scriptural arguments that the keys of the kingdom were given to the Church, and priests had the power to absolve sins.

Gratian put these two strands of the tradition side by side and stated, “We have briefly set forth the authorities and the supports of reasoning on which each of the two opinions regarding confession and satisfaction rests. To which of these one ought rather to adhere is left to the judgment of the reader. For each has wise and devout men as its supporters.”³² Gratian, then, goes on to look for a way to harmonize these two strands.

Gratian articulated the distinction between *peccati culpa*, which was removed by contrition, and *peccati reatus*, which was removed by penance. He stated:

For just as in baptism sin is remitted and yet its penalty is reserved, so by contrition of heart each person is said to be raised up again by God, although he is still held by the guilt of sin [*peccati reatu*]. Therefore, by the authorities or arguments that have been adduced, no one is shown to be

³¹ “Quod nullus ante confessionem oris et satisfactionem operis peccati abolet culpam.” Gratian, *Decretum, de paenitentia*, d. 1, c. 60, in *Corpus iuris canonici*, ed. Richter, 1:1175.

³² “Quibus auctoritatibus, vel quibus rationum firmamentis utraque sententia confessionis et satisfactionis nitatur in medium breviter proposuimus. Cui autem harum potius adherendum sit, lectoris iudicio reservatur. Utraque enim fautores habet sapientes et religiosos viros.” Gratian, *Decretum, de paenitentia*, d. 1, c. 89, in *Corpus iuris canonici*, ed. Richter, 1:1189.

cleansed from sin without confession of the mouth and satisfaction by works.³³

In other words, contrition can lead to the forgiveness of *culpa*, but the *peccati reatus* must still be paid through works of penance. This distinction became the conceptual foundation for later canonical reasoning about whether perfect contrition can substitute temporarily for sacramental confession.

The Era of Scholasticism

The scholastics further refined the distinction between grave sins and less serious sins. It was important to define as clearly as possible those mortal sins, which would cause a Christian to become unworthy to receive Holy Communion. Aquinas identified three essential elements of a mortal sin: the nature of its object, deliberation by reason, and the free act of the will. Aquinas stated, “when the will is directed to a thing that is in itself contrary to charity, whereby man is directed to his last end, the sin is mortal by reason of its object.”³⁴ This is the first essential element of a mortal sin, namely, that the object itself be contrary to charity. In addition, he identified causes which weaken reason and causes which weaken the will as two other essential elements.³⁵ Thus, in addition to the object itself, the

³³ “Sicut enim in baptisate peccatum remittitur, et tamen eius pena reservatur, sic per contritionem, cordis quisque a Deo resuscitari dicitur, licet adhuc peccati reatu teneatur. Non ergo promissis auctoritatibus vel argumentis sine confessione oris et satisfactione operis aliquis probatur a peccato mundari.” Gratian, *Decretum*, de paenitentia, d. 1, c. 87, §3, in *Corpus iuris canonici*, ed. Richter, 1:1185.

³⁴ Thomas Aquinas, *Summa theologiae* I–II, q. 88, a. 2, in *The Summa Theologica of St. Thomas Aquinas*, trans. Fathers of the English Dominican Province (Benziger Brothers, 1947).

³⁵ Cf. Aquinas, *Summa theologiae* I–II, q. 73, a. 6.

two other essential elements are the deliberation by the intellect and the free choice of the will.

The supplement to the *Summa theologiae*, edited after Aquinas's death, affirmed the tradition that contrition itself could remit even grave sins outside of confession. In the supplement, q. 5, a. 1, ad 3, it is stated,

The dispensation of the Eucharist belongs to the ministers of the Church: wherefore a man should not go to Communion until his sin has been forgiven through the ministers of the Church, although his sin may be forgiven him before God.³⁶

Indeed, Aquinas taught, "forgiveness of sin can come from God without the sacrament of Penance, but not without the virtue of penance."³⁷ The virtue of penance includes a change of will, a renouncing of sin, and an intention for amendment.³⁸ Nevertheless, the Church is responsible for dispensing the grace of forgiveness.

In addition, confession was necessary to give the Christian assurance of forgiveness. Aquinas said that confession is necessary, even though contrition may remit the sin, "because man cannot be sure that his contrition was sufficient," and because the Church mandates confession.³⁹

The Council of Trent

On November 25, 1551, the Fathers gathered for the Fourteenth Session of the Council of Trent. In this session, the council dealt with the sacraments of penance and extreme unction. The Fathers affirmed that penitence is required by divine law for the forgiveness of sins, and that

³⁶ Aquinas, *Summa theologiae*, suppl., q. 5, a. 1, ad 3.

³⁷ Aquinas, *Summa theologiae* III, q. 86, a. 6.

³⁸ Cf. Aquinas, *Summa theologiae* III, q. 86, a. 2.

³⁹ Aquinas, *Summa theologiae*, suppl., q. 1, a. 1, ad 3.

“the power of forgiving and retaining sins was given to the apostles and their lawful successors for reconciling the faithful who have fallen after baptism.”⁴⁰ The council also affirmed that penance can be received “not only once, but as often as, repentant of the sins committed.”⁴¹

The Council of Trent also defined the term “contrition.” The council stated that contrition “consists in the sorrow of the soul and the detestation of the sin committed, together with the resolve not to sin any more.”⁴² This definition of contrition is a general one, which can be further distinguished into perfect contrition and imperfect contrition. The council taught that perfect contrition “reconciles man to God before this sacrament is actually received,” but the forgiveness of sins “is not to be ascribed to contrition itself without the desire of the sacrament, a desire that is included in it.”⁴³ Thus, the Council of Trent taught that perfect contrition includes a desire to receive the sacrament of penance, thus linking the forgiveness of sins which comes through perfect contrition with the sacrament of penance.

This teaching of the Council of Trent is a synthesis of the tension which Gratian highlighted. The Council of Trent walked a middle path between the two strands of the canonical tradition: On the one hand, God can restore a person to a state of grace through a perfect act of contrition outside of the sacrament of penance, and on the other hand, the sacrament of penance is necessary for the forgiveness of serious sins committed after baptism. The Council of Trent

⁴⁰ Council of Trent, session 14 (1551), chap. 1, in *Enchiridion symbolorum*, ed. Hünemann, DH 1670.

⁴¹ Council of Trent, session 14 (1551), chap. 2, in *Enchiridion symbolorum*, ed. Hünemann, DH 1671.

⁴² Council of Trent, session 14 (1551), chap. 4, in *Enchiridion symbolorum*, ed. Hünemann, DH 1676.

⁴³ Council of Trent, session 14 (1551), chap. 4, in *Enchiridion symbolorum*, ed. Hünemann, DH 1677.

united these two strands by making the desire to receive the sacrament of penance an essential element of perfect contrition.

The Council of Trent also championed the frequent reception of Holy Communion. In the twenty-second session of the council, the Fathers expressed a desire that the faithful receive Holy Communion at Mass “so that the fruits of this most holy sacrifice could be theirs more fully.”⁴⁴ The council linked the frequent reception of Holy Communion with the prerequisites of firmness of faith, devotion of soul, piety, and worship. Even though the council promoted the frequent reception of Holy Communion, many of the Christian faithful did not consider themselves to have enough faith, devotion, piety, and worship to be able to receive frequently.

One essential component of being able to receive Holy Communion is not being aware of previous serious sin. The council stated that “no one who is aware of personal mortal sin, however contrite he may feel, should approach the Holy Eucharist without first having made a sacramental confession.”⁴⁵ The council went on to say that this applied even to “those priests who may have the obligation to celebrate Mass, so long as they do not lack an available confessor. But if a priest should celebrate in urgent need [*necessitate urgente*] without previous confession, let him confess at the first opportunity.”⁴⁶ Pope Gregory IX already taught that it is better for a priest to receive the Eucharist unworthily than to simulate the sacrament. The Council of Trent taught that priests have an excuse, namely, urgent necessity by virtue of their office, to receive Holy

⁴⁴ Council of Trent, session 22 (1562), chap. 6, in *Enchiridion symbolorum*, ed. Hünermann, DH 1747.

⁴⁵ Council of Trent, session 13 (1551), chap. 7, in *Enchiridion symbolorum*, ed. Hünermann, DH 1647.

⁴⁶ Council of Trent, session 13 (1551), chap. 7, in *Enchiridion symbolorum*, ed. Hünermann, DH 1647.

Communion even if there was no prior confession. However, the council did not anticipate that lay people could partake of such a possibility because they had no ecclesiastical office which would make the reception of Holy Communion before sacramental confession urgently necessary.

After the Council of Trent, the Church settled into what we would identify as the modern discipline of the sacrament of penance. The *Rituale Romanum* was promulgated in 1614 and provided a rite of penance for use throughout the entire Latin Church, something that did not exist before then.

The Response to Jansenism

The Council of Trent attempted to move the discipline of the Church away from the rare reception of Holy Communion to more frequent reception. However, shortly after the council another force appeared which pushed the discipline in the opposite direction. In the aftermath of the Protestant revolution, a strict movement began in the Church, known as Jansenism. Cornelius Jansen was bishop of Ypres, France, in the 1630s, and died in 1638. After his death, his posthumous work, *Augustinus*, was published in 1640. *Augustinus* included Jansen's interpretation of St. Augustine and caused a stir.

Continuing the work of Jansen, Antoine Arnauld wrote an influential book, *De la fréquente communion*, which was published in 1643. Richard Yoder describes Arnauld as “the undisputed master of theological Jansenism.”⁴⁷ Yoder explains that Arnauld's book promotes two key points, namely, that absolution should not be given until after the fulfillment of penance, and “that it can be salutary and even necessary for a soul to withdraw from

⁴⁷ Richard T. Yoder, “Antoine Arnauld,” in *Jansenism: An International Anthology*, ed. Shaun Blanchard and Richard T. Yoder (The Catholic University of America Press, 2024), 121.

receiving Communion for a time, so as better to cultivate a spirit of penance.”⁴⁸ These points of discipline were stricter than required at the time. By the thirteenth century, the practice was firmly established of granting absolution immediately after confession but before the completion of the penance.

In chapter twenty-two of the first part of *De la fréquente communion*, Arnauld wrote that the weekly reception of Holy Communion required not having any affection for venial sin.⁴⁹ This rule is stricter than the Church required. Indeed, the Church required freedom from mortal sin, but not the complete removal of any affection for venial sin. This is a much higher bar for the reception of Holy Communion than found in the discipline of the Church.

Arnauld goes on to explain that the removal of any affection for venial sin often requires a retreat from the world. The world is so sinful that a Christian spending too much time in the world is in danger of developing an affection for venial sin. Arnauld advised ways to avoid developing an affection for venial sin: “This consists principally in loving solitude and a retreat at home, and little company with the people of the world, which such a person must see only by necessity and by force.”⁵⁰ According to this teaching, the only way to be deemed worthy of weekly reception of Holy Communion is to live a semi-cloistered life.

Jansenism was initially seen as a dispute within the French clergy. However, the rigorous discipline inspired by Jansenism was taking hold increasingly in the Church. Pope Innocent X responded decisively to Jansenism. In the year 1653, Pope Innocent X issued an Apostolic Constitution, *Cum occasione*, which condemned five propositions drawn

⁴⁸ Yoder, “Antoine Arnauld,” 122.

⁴⁹ Yoder, “Antoine Arnauld,” 132.

⁵⁰ Yoder, “Antoine Arnauld,” 132.

from *Augustinus*, and undermined the theological foundation of Jansenism.⁵¹

Then, in 1690, the Holy Office issued a decree condemning various errors of Jansenism. The work of compiling and evaluating the errors of Jansenism was completed over four years.⁵² The Holy Office condemned the teaching that penance must be completed before absolution is given.⁵³ They also condemned the teaching that receiving Holy Communion before penance has been completed is sacrilegious.⁵⁴

St. Alphonsus Liguori was one of the most influential moral theologians in the fight against Jansenism. Liguori taught that the Christian faithful should approach Holy Communion frequently, insofar as they are properly disposed. He also opposed the rigorism of the Jansenists.

Liguori gave witness to a customary exemption from the law of having to confess sins prior to receiving Holy Communion, in his work *Theologia Moralis*. After quoting the Council of Trent, session thirteen, chapter seven, regarding the necessity for sacramental confession prior to approaching Holy Communion, Liguori said,

However, they commonly make an exception, as they say ... if one cannot confess, without danger of scandal or infamy, for example if he is celebrating Mass, or one is already at the

⁵¹ Innocent X, apostolic constitution *Cum occasione* (1653), in *Enchiridion symbolorum*, ed. Hünemann, DH 2001–2007.

⁵² Peter Hünemann stated, “The examination, begun in Rome in 1682, ended in July 1686. The issuance of the decree was delayed for four years, probably to facilitate a reconciliation of the conflict that arose in 1682 pertaining to the Gallican articles.” Peter Hünemann, commentary in *Enchiridion symbolorum*, 43rd ed. (Herder, 2012), 489.

⁵³ Holy Office, decree of December 7, 1690, in *Enchiridion symbolorum*, ed. Hünemann, DH 2316–2317.

⁵⁴ Holy Office, decree of December 7, 1690, in *Enchiridion symbolorum*, ed. Hünemann, DH 2322.

communion bench and cannot leave without everyone noticing.⁵⁵

According to this custom, scandal and infamy provide a cause for receiving Holy Communion before confessing. Liguori goes on to note that scandal is “when occasion is given for disparaging, or for judging rashly, but not when occasion is only given for wonder.”⁵⁶ This customary exemption is at once in line with the Council of Trent and moves beyond Trent. The Council of Trent only foresaw the possibility of the priest having an urgent need to receive Holy Communion before confession, whereas this customary exemption applies also to the laity.

The Liturgical Movement and the 1917 *Code of Canon Law*

It is perhaps not surprising that the liturgical movement, which would eventually champion the active participation of the lay faithful in the Mass, began in the same country most affected by Jansenism. The roots of the liturgical movement can be traced back to France, specifically the Benedictine monastery of Solesmes, and spread from France to Germany and Belgium.

In the Twentieth Century, the popes lent their authority to support the liturgical movement. Pope Leo XIII issued an Encyclical letter, *Mirae caritatis*, on May 28, 1902, which declared the Eucharist to be the soul of the

⁵⁵ “Excipiunt tamen communiter, ut dicunt ... si sine periculo scandali, vel infamiae, quis non possit confiteri, puta si celebret, vel sit jam in scamno communicantium, a quo non valeat recedere sine nota.” Alphonsus Liguori, *Theologia moralis*, vol. 6 (Naples, 1841), 377–78 (no. 257).

⁵⁶ “Quod scandalum tunc dicitur, quando datur occasio detrahendi, vel temere judicandi, non vero quando datur solum occasio admirationis.” Liguori, *Theologia moralis*, 6:378 (no. 257).

Church (*anima Ecclesiae*).⁵⁷ The pope also condemned the idea that the Eucharist should be reserved for only certain kinds of people,⁵⁸ and stated that the Church “makes it the greatest of all her cares to prepare and lead the hearts of the faithful to an intimate union with Christ through the sacrament of his Body and Blood, and to draw them thereto.”⁵⁹

Pope Pius X issued a decree, *Sacra Tridentina Synodus*, on December 16, 1905, on the frequent and even daily reception of Holy Communion. Peter Hünermann notes, “This decree was issued in response to heated debates in Belgium over the question of frequent communion.”⁶⁰ The pope decreed that frequent and even daily reception of Holy Communion “must be open to all the faithful of whatever class or condition, so that none who is in the state of grace and approaches the holy table with a right and pious intention may be turned away from it.”⁶¹ The pope also decreed that it is desirable that those who receive frequent and even daily Holy Communion be free from venial sins, but “it is enough that they be free from mortal sins and resolved never to sin again.”⁶² At the beginning of the twentieth century, *Sacra Tridentina Synodus* was a strong statement of papal authority supporting the right of the faithful to receive Holy Communion frequently.

The ecclesial discipline was first codified in 1917 with the promulgation of the *Code of Canon Law*. Pietro Gasparri was the principal drafter of the 1917 *Code of Canon Law*. Gasparri published his *Tractatus Canonici de*

⁵⁷ Leo XIII, encyclical *Mirae caritatis* (May 28, 1902), in *Enchiridion symbolorum*, ed. Hünermann, DH 3364.

⁵⁸ Leo XIII, *Mirae caritatis*, DH 3361.

⁵⁹ Leo XIII, *Mirae caritatis*, DH 3364.

⁶⁰ Peter Hünermann, commentary in *Enchiridion symbolorum*, 43rd ed. (Herder, 2012), 683.

⁶¹ Pius X, decree *Sacra Tridentina Synodus* (December 20, 1905), in *Enchiridion symbolorum*, ed. Hünermann, DH 3379.

⁶² Pius X, *Sacra Tridentina Synodus*, DH 3381.

Sanctissima Eucharistia in 1897. It is in this work that we find Gasparri's thinking about the reception of Holy Communion prior to the 1917 *Code of Canon Law*. Gasparri wrote,

No one conscious of mortal sin can approach the celebration of Mass or Holy Communion, no matter how contrite he seems to himself, without previous sacramental confession, unless necessity urges and there is a lack of abundant confessors: in which case the faithful are not bound by the precept of the Church to confess as soon as possible.⁶³

In this passage, Gasparri articulated the tradition of the Church, reflecting especially the Council of Trent and the customary exemption identified by St. Alphonsius Liguori. Unlike Trent, Gasparri foresees that both clergy and laity may make use of the exemption. This formulation of Gasparri's foreshadowed the 1917 *Code of Canon Law*.

When necessity urges and there are a lack of confessors, one can receive Holy Communion, but to avoid sacrilege, Gasparri stated that the sinner

ought to make beforehand an act of perfect contrition, which is always possible, since on the one hand God does not deny his grace to the one who makes a serious effort, in a moment of need, and on the other hand, the act is not of such a kind,

⁶³ "Neminem, consciū peccati mortalis, posse ad Missae celebrationem vel sacram communionem accedere, quantumvis sibi contritus videatur, sine praevia sacramentali confessione, nisi necessitas urgeat et desit confessarii copia: quo in casu fideles Ecclesiae praecepto confitendi quamprimum non adstringuntur." Pietro Gasparri, *Tractatus canonicus de sanctissima Eucharistia*, vol. 2 (P. Lethielleux, 1897), 365.

being accompanied by divine grace, that it is greatly difficult and long. Neither is absolute certainty necessary, but a prudent opinion or assurance that an act of contrition was made.⁶⁴

Even though an act of perfect contrition is not wholly within the capacity of the human person, since it requires the movement of grace which the person does not control, Gasparri teaches that an act of perfect contrition is always possible because God is ready to bestow His grace.

Gasparri also stated that only the individual, who knows his or her own conscience, can judge whether to receive Holy Communion “not however the superiors or the highest authorities in the external forum.”⁶⁵ Thus, it is not for bishops or priests to determine when a person should receive Holy Communion; this decision can only be made by the individual, after weighing his or her conscience.

Because of Pietro Gasparri’s influence in drafting the Church’s first-ever codification of her discipline, the 1917 Code is often viewed in light of Gasparri’s teachings. The 1917 Code contained two canons articulating the discipline of the Church regarding the reception of Holy Communion before sacramental confession. Canon 807 of the 1917 *Code of Canon Law* pertained to priests, whereas canon 856 pertained to the faithful receiving Holy Communion. Canon 807 stated,

⁶⁴ “Debet praemittere actum contritionis perfectae, qui semper est possibilis, cum ex una parte serium conatum adhibenti Deus gratiam suam, instante necessitate, non deneget, et ex alia non agatur de actu, comitante divina gratia, adeo difficili et longo, nec necessaria sit omnimoda certitudo, sed prudens opinio seu persuasio contritionis factae.” Gasparri, *Tractatus canonicus*, 1:316.

⁶⁵ “Ex his apparet solum illum qui intimas conscientiae latebras cognoscit, judicare posse num et quoties sacra communio sumi valeat aut debeat; non autem superiores aut superiorissas fori externi.” Gasparri, *Tractatus canonicus*, 2:369.

Priests conscious of grave sin, no matter how contrite they believe themselves to be, shall not dare to celebrate Mass without prior sacramental confession; but if because there is lacking a sufficient supply of confessors that there is urgent necessity, he shall make an act of perfect contrition, celebrate, and as soon as possible confess.⁶⁶

This canon articulated the ancient discipline of the Church going back not only to the moralists, but also to the canons of the Apostles, Gratian, and Trent. Priests who needed confession, but had no opportunity to confess, and who had need to celebrate Mass could do so by first making a perfect act of contrition. This act of contrition must involve the intention to go to confession as soon as possible.

The 1917 *Code of Canon Law* reproduced a similar norm for laity. Canon 856 stated, “No one burdened by mortal sin on his conscience, no matter how contrite he believes he is, shall approach holy communion without prior sacramental confession; but if there is urgent necessity and a supply of ministers of confession is lacking, he shall first elicit an act of perfect contrition.”⁶⁷ According to the 1917 Code, the standard measure for both priests and laity to use this exemption is “necessity.” Priests clearly have need to

⁶⁶ “Sacerdos sibi conscius peccati mortalis, quantumvis se contritum existimet, sine praemissa sacramentali confessione Missam celebrare ne audeat; quod si, deficiente copia confessarii et urgente necessitate, elicito tamen perfectae contritionis actu, celebraverit, quamprimum confiteatur.” *Codex iuris canonici* (1917), c. 807, trans. Edward Peters, *1917 Pio-Benedictine Code of Canon Law* (Ignatius Press, 2001).

⁶⁷ “Nemo quem conscientia peccati mortalis gravat, quantumcunque etiam se contritum existimet, sine praemissa sacramentali confessione ad sacram communionem accedat; quod si urgeat necessitas ac copia confessarii illi desit, actum perfectae contritionis prius eliciat.” *Codex iuris canonici* (1917), c. 856.

celebrate Mass, and they do not have the option of not receiving Holy Communion when celebrating Mass. Laity, on the other hand, rarely have a strict necessity for receiving Holy Communion.

The commentators elaborated on the circumstances which could embody necessity for lay people to receive Holy Communion before sacramental confession. Vermeersch and Creusen listed various types of necessities, including protection of the Eucharist and the annual precept.⁶⁸ Another major category considered by nearly every commentator was that of infamy. Vermeersch and Creusen noticed that the customary frequency of Holy Communion would affect the perception of infamy. They stated, “The practice of daily Communion makes more frequent the occurrence of this moral necessity of communicating, which is considered to exist when someone cannot abstain from communion without grave suspicion.”⁶⁹ It was common for the commentators to discuss the example of “a lay person already seated at the communion bench and he remembers another mortal sin that has not been forgiven.”⁷⁰ This example represented a situation where the person could legitimately fear incurring grave suspicions by the community of having committed grave sin, even in a time and place in which daily reception of Holy Communion was not common. How much more so would a person have reason to fear grave suspicion of serious sin in the post

⁶⁸ Cf. Arthur Vermeersch and Joseph Creusen, *Epitome iuris canonici cum commentariis*, vol. 2, 6th ed. (Gregorian University Press, 1940), 83.

⁶⁹ “Usus communionis cotidiana frequentiore casum inducit moralis istius necessitatis communicandi, quae adesse censetur cum quis sine suspitione gravis peccati communione abstinere nequit.” Vermeersch and Creusen, *Epitome iuris canonici*, 2:83.

⁷⁰ “Ex. gr. si laicus iam scamno communionis assideat et recordetur alicuius peccati mortalis nondum remissi.” Felix Cappello, *De sacramentis*, vol. 1 (Gregorian University Press, 1945), 404.

Vatican II environment, when almost everyone in the church receives Holy Communion every given Sunday.⁷¹

Commentators made a distinction between infamy of fact and infamy of law. Smith stated that infamy of fact “depends somewhat on the ideas, customs, and manners of the people and times. Thus an action may be looked upon as infamous by the people at one time and not so at another.”⁷² Thus, the fear of infamy is culturally conditioned. As frequent and even daily reception of Holy Communion became more common in the Church, so too did the fear of infamy, should one abstain from receiving.

Vermeersch and Creusen viewed this customary exemption as a depraved custom. They stated that “although we cannot condemn those who, in order to avoid a mark of suspicion, are content with a sincere act of contrition,”⁷³ nevertheless they taught that this is a depraved custom,⁷⁴ and “such a thing should not be preached in a homily.”⁷⁵ The concern of Vermeersch and Creusen was that if clergy preached about this exemption, this would encourage people to receive Holy Communion without making a prior sacramental confession. Such a practice could retract from the reverence due to Eucharist and lessen the sense of sin among the people.

⁷¹ In a later work, Vermeersch stated, “propagatam cotidianam communionem, periculum vere molestae notae patiendae minus raro oboritur.” (After the spread of daily communion, the danger of having to bear a truly unpleasant mark of suspicion arises somewhat more often). Arthur Vermeersch, *Theologia moralis*, vol. 3, 4th ed. (Gregorian University Press, 1948), 232.

⁷² B. S. Smith, *Elements of Ecclesiastical Law*, vol. 3, 3rd ed. (Benziger Brothers, 1888), 120.

⁷³ “Quamvis damnare non possumus qui, ut notam vitet, actu sinceræ contritionis perfectæ sit contentus.” Vermeersch and Creusen, *Epitome iuris canonici*, 2:83.

⁷⁴ “Pravam consuetudinem!” Vermeersch and Creusen, *Epitome iuris canonici*, 2:83.

⁷⁵ “Numquam igitur tale quidpiam erit in contione predicandum.” Vermeersch and Creusen, *Epitome iuris canonici*, 2:83.

To receive Holy Communion in a state of mortal sin is a sacrilegious act and such an act does not fulfill the obligation to receive Holy Communion.⁷⁶ Nevertheless, priests should not be too scrupulous about not giving Holy Communion to the unworthy. Vermeersch and Creusen taught that even though giving Holy Communion to those unworthy could constitute “material cooperation in another’s sin,” nevertheless, priests “can be excused by reasons drawn from the good of the people, for whose sake the sacraments exist.”⁷⁷ Despite their dislike of the depraved custom of receiving Holy Communion prior to a sacramental confession, Vermeersch and Creusen offered practical advice to priests about this custom and did not entirely seek to have it suppressed.

The Liturgical Movement and the Second Vatican Council

The liturgical movement continued throughout the twentieth century and was greatly supported by Pope Pius XII. On November 20, 1947, he issued the Encyclical Letter, *Mediator Dei*, which taught about the nature of the liturgy from a theological perspective. In this encyclical we hear that the liturgy is the “worship rendered by the Mystical Body of Christ in the entirety of its Head and members.”⁷⁸

⁷⁶ Gasparri stated, “Qui sacrilege communicat, praeceptum minime implet” (One who receives sacrilegiously hardly fulfills the precept). Gasparri, *Tractatus canonicus*, 2:384.

⁷⁷ “Tribuere enim sacramentum mere indigno, qui per se ad ultimum usque momentum, actu contritionis, se dignum efficere possit, non est intrinsece illicitum, sed est cooperatio materialis ad peccatum alienum, quam rationes petita ex bono hominum, propter quos sunt sacramenta, excusare possunt.” Vermeersch and Creusen, *Epitome iuris canonici*, 2:78.

⁷⁸ Pius XII, encyclical *Mediator Dei* (November 20, 1947), in *Enchiridion symbolorum*, ed. Hünemann, DH 3841.

The pope also taught about the priesthood of all the faithful.⁷⁹

The Second Vatican Council continued the trajectory of the liturgical movement, especially regarding the teachings of Pius XII. *Sacrosanctum Concilium*, the first document released by the council, adopted his language, stating, “In the liturgy the whole public worship is performed by the Mystical Body of Jesus Christ, that is, by the Head and his members.”⁸⁰ The idea that liturgy is the worship of the Mystical Body of Jesus Christ explains why the faithful are not mere spectators, but active participants in the liturgy. Active participation in the liturgy was a key focus of *Sacrosanctum Concilium*.⁸¹ Active participation is demanded by the very nature of the liturgy. The council explained that the faithful, “should take part in the sacred action conscious of what they are doing ... They should be instructed by God’s word and be nourished at the table of the Lord’s body.”⁸²

The council explicitly sought to continue moving the Church from infrequent reception of Holy Communion to regular reception. It taught, “The more perfect form of participation in the Mass whereby the faithful, after the priest’s communion, receive the Lord’s Body from the same sacrifice, is warmly commended.”⁸³ The frequent reception of Holy Communion was not required by the council, but strongly recommended.

⁷⁹ Pius XII, *Mediator Dei*, DH 3851.

⁸⁰ Second Vatican Council, *Sacrosanctum Concilium* (1963), no. 7, in *Enchiridion symbolorum*, ed. Hünermann, DH 4007.

⁸¹ Second Vatican Council, *Sacrosanctum Concilium* (1963), no. 14, in *Enchiridion symbolorum*, ed. Hünermann, DH 4014.

⁸² Second Vatican Council, *Sacrosanctum Concilium*, no. 48, in *Enchiridion symbolorum*, ed. Hünermann, DH 4048.

⁸³ Second Vatican Council, *Sacrosanctum Concilium*, no. 55, in *Vatican Council II*, vol. 1, ed. Austin Flannery, OP (Costello Publishing, 1998), 18.

The 1983 Code of Canon Law

The 1983 *Code of Canon Law*, following the Second Vatican Council, empowered the laity in unique ways. The laity can participate in ecclesiastical governance because of their baptism.⁸⁴ The Code states that parents who raise their children with Christian principles participate in the sanctifying function of the Church.⁸⁵ Laity can also participate in the teaching function of the Church by teaching the sacred sciences, even in seminaries and in institutes of higher education.⁸⁶ The Code also articulates some ways that the laity can participate in the governing function of the Church, such as through ecclesiastical offices such as the Diocesan Finance Officer and lay judge in the Tribunal.⁸⁷ The laity are also empowered to determine when and how often to receive Holy Communion. This was noticed much earlier in the history of the Church, as seen above.

The 1983 *Code of Canon Law* articulated the rights and obligations of various states and provided the means to protect and vindicate these rights. Among the various rights found in the 1983 Code, is the right to receive Holy Communion. The Code states, “Any baptized person not prohibited by law can and must be admitted to Holy Communion.”⁸⁸ Prohibitions by law include excommunication, interdict, and obstinate persistence in manifest grave sin, in accord with canon 915 of the *Code of Canon Law*. Otherwise, if a Catholic is properly disposed and approaches to receive Holy Communion at Mass, he or she must be admitted. The determination of whether one is

⁸⁴ Cf. *Codex iuris canonici* (1983), cc. 129 §2; 204 §1.

⁸⁵ Cf. *Codex iuris canonici* (1983), c. 835 §4.

⁸⁶ Cf. *Codex iuris canonici* (1983), c. 229 §3.

⁸⁷ Cf. *Codex iuris canonici* (1983), cc. 494; 1421 §2.

⁸⁸ *Codex iuris canonici* (1983), c. 912, trans. *Code of Canon Law: Latin-English Translation*, 4th ed. (Canon Law Society of America, 2023).

properly disposed is left to the individual Catholic, after an examination of conscience.

Canon 916 of the 1983 *Code of Canon Law* contains the discipline for self-evaluation of proper disposition to receive Holy Communion. Even though the 1983 *Code of Canon Law* presents the ancient discipline of the Church regarding the reception of Holy Communion prior to sacramental confession, it introduces some nuanced innovations. The 1917 *Code of Canon Law* contained two norms, one for priests (canon 807) and one for laity (canon 856). The 1983 *Code of Canon Law*, on the other hand, has combined these two norms into a single canon:

Anyone who is conscious of grave sin may not celebrate Mass or receive the Body of the Lord without previously having been to sacramental confession, unless there is a grave reason and there is no opportunity to confess; in this case the person is to remember the obligation to make an act of perfect contrition, which includes the resolve to go to confession as soon as possible.⁸⁹

This canon reproduces the ancient discipline of the Church but makes some subtle innovations.

The commentators on the 1983 *Code of Canon Law* generally emphasize that canon 916 reproduces the ancient canonical discipline in the Church. Huels states, “Canon 916 adds nothing new to past discipline.”⁹⁰ Huels also gives examples of grave reasons for receiving Holy Communion before a sacramental confession, “Grave reasons for going to communion without confessing include danger of death

⁸⁹ *Codex iuris canonici* (1983), c. 916.

⁹⁰ John M. Huels, “Title III: The Most Holy Eucharist,” in *New Commentary on the Code of Canon Law*, ed. John P. Beal, James A. Coriden, and Thomas J. Green (Paulist Press, 2000), 1111.

and serious embarrassment if communion is not taken.”⁹¹ Historically, commentators mentioned fear of infamy as a cause necessitating the reception of Holy Communion. The phrase “serious embarrassment” is even less grave than fear of infamy.

However, some argue for a stricter interpretation of canon 916. Lawrence Feingold, in *The Eucharist: Mystery of Presence, Sacrifice, and Communion*, presents a stricter interpretation of canon 916 than many canonists. However, it should be noted that Feingold is writing as a theologian, not a canonist. As a theologian, Feingold has a different focus than canonists do. Feingold states, “Grave reason to celebrate Mass (and thus to receive Communion as celebrant) would be the duty of pastors to their faithful.”⁹² Indeed this would be a grave reason, but even more it would be necessity. Feingold seems to interpret canon 916 of the 1983 *Code of Canon Law* more in line with the 1917 *Code of Canon Law*. Feingold goes on, “If a member of the faithful who does not have a pastoral duty to celebrate Mass is aware of grave sin, ordinarily he must receive sacramental absolution prior to Holy Communion.”⁹³ On the one hand, this represents the teaching of the Church, but on the other, Feingold is implying that only duty satisfies the grave cause required by canon 916.

When faced with a dispute about the interpretation of a certain canon, we should look first at the norms of interpretation given in the *Code of Canon Law* itself. Canon 18 of the *Code of Canon Law* states, “Laws which establish a penalty, restrict the free exercise of rights, or contain an exception from the law are subject to strict interpretation.”⁹⁴ Canon 18 is pertinent to our interpretation of canon 916 in

⁹¹ Huels, “Title III,” 1111.

⁹² Lawrence Feingold, *The Eucharist: Mystery of Presence, Sacrifice, and Communion* (Emmaus Academic, 2018), 364.

⁹³ Feingold, *Eucharist*, 364.

⁹⁴ *Codex iuris canonici* (1983), c. 18.

two ways. Canon 916 can be broken up into two main clauses. The first clause states, “Anyone who is conscious of grave sin may not celebrate Mass or receive the Body of the Lord without previously having been to sacramental confession.”⁹⁵ This clause was promulgated to restrict the free exercise of rights. The Christian faithful have the right to receive Holy Communion, but they are restricted from receiving insofar as there is consciousness of grave sin without first having confessed. The second clause of canon 916 states, “... unless there is a grave reason and there is no opportunity to confess; in this case the person is to remember the obligation to make an act of perfect contrition, which includes the resolve to go to confession as soon as possible.”⁹⁶ This clause contains an exception to the law of having to first receive penance before receiving Holy Communion. Thus, according to canon 18, canon 916 is subject to a strict interpretation on two fronts, as a restriction of the free exercise of rights and as an exception to the law.

A strict interpretation of a law is one which restricts the application of the law to the smallest number of people without rendering the law meaningless. Huels states, “Strict interpretation limits the law’s application to the minimum stated in the law; broad interpretation widens the application of the law to all possible cases that can fall within its meaning.”⁹⁷ Whenever a word or term in the law has

⁹⁵ “Qui conscius est peccati gravis, sine praemissa sacramentali confessione Missam ne celebret neve Corpori Domini communicet.” *Codex iuris canonici* (1983), c. 916.

⁹⁶ “Nisi adsit gravis ratio et deficiat opportunitas confitendi; quo in casu meminerit se obligatione teneri ad eliciendum actum perfectae contritionis, qui includit propositum quam primum confitendi.” *Codex iuris canonici* (1983), c. 916.

⁹⁷ John M. Huels, “Title I: Ecclesiastical Laws,” in *New Commentary on the Code of Canon Law*, ed. John P. Beal, James A. Coriden, and Thomas J. Green (Paulist Press, 2000), 75. See also, “Si segue il senso stretto, cioè il senso proprio delle parole con il minimo di estensione” (One follows the strict sense, that is, the proper meaning of the words with the

multiple possible meanings, a strict interpretation requires that the narrowest meaning of the word or phrase be selected, so that the law is applicable to the smallest number of people possible without rendering it meaningless.

Regarding the first clause of canon 916, there is not much ambiguity in this clause, except in the phrase *peccati gravis*. *Peccati gravis* could mean a variety of things. There are at least three definitions of *peccati gravis*. Firstly, *peccati gravis* could refer to crimes, or *delicta*, which must be defined by law. Secondly, *peccati gravis* could refer to mortal sins, as defined by St. Thomas Aquinas. Finally, *peccati gravis* could refer to sins involving grave matter, but which are not mortal sins because of a defect of intellect or will. Which meaning of *peccati gravis* would limit the scope of canon 916 to the smallest number of individuals necessary? The first interpretation of *peccati gravis*, namely, as crimes, would narrow the law to the smallest number of people possible. However, this would also render the law almost completely meaningless. This interpretation would mean that only those who are conscious of having committed a crime, or delict, must refrain from receiving Holy Communion, until after receiving the sacrament of penance. But penance is not sufficient to remit a penalty, only the power of governance can remit a penalty. This would render the law meaningless. Therefore, we should prefer the second meaning of *peccati gravis*, namely, mortal sins. By interpreting *peccati gravis* as mortal sins, we give a strict interpretation which does not render the law meaningless.

The second clause of canon 916 states, "... unless there is a grave reason and there is no opportunity to confess."⁹⁸ As is clear from the first word *nisi*, this clause

minimum extension). Giuliano Brugnotto, "*Titolo I: Le leggi ecclesiastiche*," in *Codice di Diritto Canonico Commentato*, 4th ed. (Ancora, 2017), 112.

⁹⁸ "Nisi adsit gravis ratio et deficiat opportunitas confitendi." *Codex iuris canonici* (1983), c. 916.

presents an exception to the law. Thus, in accord with canon 18, this clause is also subject to strict interpretation. Again, there is not much ambiguity here save for the phrase *gravis ratio*. *Gravis ratio* can mean at least three distinct things. First, *gravis ratio* can mean strict necessity. This is the interpretation adopted by Feingold. Secondly, *gravis ratio* can mean some grave reason as determined by the objective circumstances. Thirdly, *gravis ratio* can mean any subjectively determined serious reason.

Given this spectrum of meanings of *gravis ratio*, strict interpretation would suggest that the narrowest meaning should be selected, namely, *gravis ratio* meaning strict necessity. This would restrict the number of people who can make use of this exception to the law to the smallest number possible without rendering the law meaningless. Indeed, this is precisely the interpretation of canon 916 that Feingold seems to offer.

However, we must also consider the principles of interpretation articulated in canon 17. Canon 17 states that laws must be interpreted properly, and where there is doubt about the interpretation of a law, recourse can be made to “the mind of the legislator.”⁹⁹ In general, it is difficult to understand the mind of the legislator. However, after the Second Vatican Council, Pope Paul VI put together a commission to revise the 1917 *Code of Canon Law*. This commission met throughout the years in various groups to discuss and revise the *Code of Canon Law*. The notes of these meetings have been published in *Communicationes*. Specifically, *Communicationes* 13 (1981), pp. 413–14, contains the notes of the meeting to discuss the revision of what would become canon 916. The discussions at this meeting reveal the mind of the legislator.

The commission noted that some episcopal conferences had recommended deleting this newly proposed

⁹⁹ *Codex iuris canonici* (1983), c. 17.

canon because “confession appears to be the only condition for communion.”¹⁰⁰ However, one of the consultors noted, “The obligation of confessing in the case of grave sin before the Eucharistic celebration or communion seems to be of ecclesiastical law, not divine law.”¹⁰¹ It was also noted that the proposed revision of the canon, which required a “grave cause,” was milder than those canons in the 1917 Code which required urgent “necessity.” Here is a translation of their discussion:

Our text seems milder than that which existed in the Code and the same Consultor asked whether it was really the will of the *Coetus* to make the matter milder in any way. The third consultor testified that the *Coetus* wanted to introduce some milder form, at least as far as the priests celebrating were concerned.¹⁰²

This demonstrates that the legislator intended to promulgate a milder norm, which explains why grave cause was substituted for necessity.¹⁰³

¹⁰⁰ “Nonnullae Conferentiae Episcopales petierunt ut canon supprimatur, quia confessio apparet solummodo tamquam conditio communionis.” Pontifical Commission for the Revision of the Code of Canon Law, *Coetus ‘de Sacramentis,’ Communicationes* 13 (1981): 413.

¹⁰¹ “Obligatio in casu peccati gravis confitendi antequam ad celebrationem vel communionem eucharisticam accedatur videtur iuris ecclesiastici et non divini esse.” Pontifical Commission for the Revision of the Code of Canon Law, *Communicationes* 13 (1981): 413.

¹⁰² “Textus noster mitior videtur quam ille qui in Codice exstabat et idem Consultor quaerit utrum revera voluntas Coetus esset rem aliquo modo mitiorem reddere. Tertius Consultor testatur Coetum voluisse, saltem quoad sacerdotes celebrantes, aliquam mitiorem formam introducere.” Pontifical Commission for the Revision of the Code of Canon Law, *Communicationes* 13 (1981): 413.

¹⁰³ “È mitigata la disciplina del c. 856, che richiedeva, per l'ammissione alla comunione, la ‘necessità urgente’ ... i casi possono essere maggiormente estesi.” (This discipline of canon 856 is mitigated which

Several members of the commission wanted to go back to two separate norms, one for priests and one for the faithful.¹⁰⁴ After comparing the text of two different proposed canons, the commission voted to keep only a single canon which applies to both priests and the faithful. This also shows the mind of the legislator. Not only did the legislator intend to have a single norm applicable to priests and laity alike, but also that this norm would be milder than that found in the 1917 *Code of Canon Law*.

In light of this analysis of the *mens legislatoris*, strict necessity cannot be the meaning intended by the legislator. Necessity was the standard of the 1917 Code, but the legislator explicitly intended to make the norm of the 1983 Code milder than its predecessor. This is why the term was changed from *necessitas* to *gravis ratio*. Therefore, the proper interpretation of *gravis ratio* is the second interpretation, namely, some serious reason as identified by the objective circumstances. Such *gravis ratio* could include fear of infamy, as discussed in the canonical tradition.

Thus, canons 17 and 18 give concrete guidance on how to interpret canon 916 of the *Code of Canon Law*. From this analysis we can see that Lawrence Feingold's interpretation of canon 916 is canonically difficult to sustain.

Conclusion

required 'urgent necessity' for the admission to communion ... these cases can be extended more broadly). Alberto Perlasca and Gianni Trevisan, "Art. 2: *Partecipazione alla santissima Eucaristia*," in *Codice di Diritto Canonico Commentato*, 4th ed. (Ancora, 2017), 782.

¹⁰⁴ "Maxime inter Consultores controvertitur quaestio utrum unica formula adhibenda sit in canone pro sacerdotibus et fidelibus an duae, uti erat in Codice (cann. 807 et 856)" (The question was especially debated among the Consultors whether a single formula should be used in the canon for priests and for the faithful, or two formulas, as was the case in the Code (cc 807 and 856)). Pontifical Commission for the Revision of the Code of Canon Law, *Communicationes* 13 (1981): 413.

The discipline expressed in canon 916 of the 1983 *Code of Canon Law* represents neither a rupture with the Church's tradition nor a mere restatement of prior law. Rather, it is the juridical heir to a long-standing tension within the canonical tradition: the obligation to safeguard reverence for the Eucharist while avoiding excessive rigorism that would effectively deter the faithful from sacramental participation. This study has traced the canonical exception from the general law restricting the reception of Holy Communion if there is consciousness of grave sin. In the early Church, frequent reception of Holy Communion was the norm, and the sacrament of penance did not exist as we know it today. Presumably, many of the faithful received Holy Communion without first receiving sacramental confession. As the sacrament of penance arose to prominence, it was practiced with public confession and public satisfaction of penance, only once in a lifetime. This had the effect of discouraging the Christian faithful from the frequent reception of Holy Communion. The Church attempted to correct this practice, but it took many centuries to accomplish this. During this history, there were two strands of the canonical tradition. One strand held that sins could be forgiven outside of confession with an act of perfect contrition. The other strand held that confession of sins before a priest is necessary to obtain forgiveness. These two strands of the canonical tradition lived side by side, and both contribute to our current discipline.

The revision of the law in 1983 marked a deliberate departure from the stricter standard of *necessitas* found in the 1917 Code. The substitution of *gravis ratio* was not accidental, nor was it intended merely as stylistic refinement. As the legislative history demonstrates, the legislator explicitly intended to introduce a milder norm, applicable to both clergy and laity, while retaining safeguards against abuse. Any interpretation that reduces *gravis ratio* to strict necessity fails to account for this legislative intent and

effectively negates the juridical development enacted by the revised Code.