# Probabilism

Probabilism is the moral system which holds that, when there is question solely of the lawfulness or unlawfulness of an action, it is permissible to follow a solidly probable opinion in favour of liberty even though the opposing view is more probable.

State of the question

When a prohibiting law is certain, the subjects of the law are bound to abstain from performing the action which the law forbids, unless they are excused by one of the ordinary exempting causes. On the other hand, when it is certain that no law forbids an action, there is no obligation to abstain from performing it. Between these two extremes there can be varying degrees of uncertainty about the existence or cessation of a prohibiting law. There is doubt in the strict sense when the intellect neither assents nor dissents, because either there are no positive arguments for and against the law, or the arguments for and against the law are equal in strength. The opinion which favours the law, and which is technically called the safe opinion, can be more probable than the opinion which favours liberty and which still retains solid probability. Again, the opinion which favours the law can be most probable, and the opinion which favours liberty only slightly probable. In the same way the opinion which favours liberty and which is technically called the less safe opinion, can be more probable than the opposing view, or can be most probable.

In estimating the degree which is required and which suffices for solid probability, moralists lay down the general principle that an opinion is solidly probable which by reason of intrinsic or extrinsic arguments is able to gain the assent of many prudent men. All admit that extrinsic authority can have sufficient weight to make an opinion solidly probable; but there is divergence of view in estimating what number of experts is able to give an opinion this solid probability. The prevailing theory amongst Probabilists holds that if five or six theologians, notable for prudence and learning, independently adhere to an opinion their view is solidly probable, if it has not been set aside by authoritative decisions or by intrinsic arguments which they have failed to solve. Even one theologian of very exceptional authority, such as St. Alphonsus Liguori, is able to make an opinion solidly probable, as we know from the official declarations of the Holy See. All moralists agree that mere flimsy reasons are insufficient to give an opinion solid probability, and also that the support of many theologians who are mere collectors of the opinions of others is unable to give solid probability to the view which they maintain.

Non-Catholics who bring charges of laxity against the moral systems which Catholic theologians uphold, often forget that the Catholic Church, in theory and in practice, has condemned various views in favour of liberty which are based on insufficient data.

If the less safe opinion is speculatively uncertain it is unlawful to follow it in practice, until all reasonable effort has been made to remove the uncertainty, by considering the arguments on both sides and by consulting available authorities. It is unlawful, also, to act on the less safe view unless the speculative uncertainty has been changed into practical certainty that the action to be performed is lawful. The whole question at issue between different moral systems concerns the way in which the speculative uncertainty is changed into practical certainty; each system has what is called a reflex principle of its own, by which practical certainty can be obtained that the action to be performed is lawful.

Rigorism, or, as it is frequently called, Tutiorism held that the less safe opinion should be most probable, if not absolutely certain, before it could be lawfully put into practice, while

Laxism maintained that if the less safe opinion were slightly probable it could be followed with a safe conscience.

These two views, however, never received serious support from Catholic theologians, and were formally condemned by the Holy See. At one time or another in the history of the Church three other opinions gained many adherents.

Some theologians, who put forward the system known as Probabiliorism, hold that the less safe opinion can be lawfully followed only when it is more probable than the safe opinion.

Others, upholding Æquiprobabilism, maintain that, when the uncertainty concerns the existence of a law, it is lawful to follow the less safe opinion when it has equal or almost equal probability with the safe opinion, but that, when there is question of the cessation of a law, the less safe opinion cannot lawfully be followed unless it is more probable than the safe view.

Others again, who adhere to Probabilism, believe that, whether there is question of the existence or of the cessation of a law, it is lawful to act on the less safe opinion if it is solidly probable, even though the safe view is certainly more probable.

In recent years a system known as Compensationism has tried to reconcile these three opinions by holding that not only the degree of probability attaching to various opinions must be taken into account, but also the importance of the law and the degree of utility attaching to the performance of the action whose morality is in question. The more important the law, and the smaller the degree of probability attaching to the less safe opinion, the greater must be the compensating utility which will permit the performance of the action of which the lawfulness is uncertain.

From what has so far been said it is clear that these various moral systems come into play only when the question concerns the lawfulness of an action. If the uncertainty concerns the validity of an action which must certainly be valid, it is not lawful to act on mere probability unless, indeed, this is of such a nature as to make the Church certainly supply what is needed for the validity of the act. Thus, apart from necessity, it is not lawful to act on mere probability

when the validity of the sacraments is in question. Again, it is not lawful to act on mere probability when there is question of gaining an end which is obligatory, since certain means must be employed to gain a certainly required end. Hence, when eternal salvation is at stake, it is not lawful to be content with uncertain means. Moreover, the virtue of justice demands equality, and as such excludes the use of probability when the established rights of another are concerned. Consequently, if a certain debt has not been certainly paid, at least a payment pro rata dubii is required according to the prevailing view. It is evident, then, that the question which arises in connection with the moral systems has to do solely with the lawfulness or unlawfulness of an action.

History of probabilism

Probabilism as a moral system had no history prior to the end of the sixteenth century. Fathers, doctors and theologians of the Church at times solved cases on principles which apparently were probabilist in tendency. St. Augustine declared that marriage with infidels was not to be regarded as unlawful since it was not clearly condemned in the New Testament: "Quoniam revera in Novo Testamento nihil inde praeceptum est, et ideo aut licere creditum est, aut velut dubium derelictum" ("De Fide et Operibus", c. xix, n. 35 in "P.L.", XL, 221). St. Gregory of Nazianzus laid down, against a Novatian writer, that a second marriage was not unlawful, since the prohibition was doubtful: "Quo argumento id confirmas. Aut rem ita esse proba, aut, si id nequis, ne condemnes. Quod si res dubia est, vincat humanitas et facilitas" (Or. 39, "In sancta Lumina", n. 19 in "P.G.", XXXVI, 358). St. Thomas maintained that a precept does not bind except through the medium of knowledge: "Unde nullus ligatur per praeceptum aliquod nisi mediante scientia illius" ("De Veritate", Q. xvii, a. 3); and Probabilists are accustomed to point out that knowledge implies certainty.

On the other hand many theologians were Probabiliorist in their principles before the sixteenth century. Sylvester Prierias (Opinio, s. 2), Conradus (De Contract., Q. ult), and Cajetan (Opinio) were Probabiliorists; so that Probabiliorism had gained a strong hold on theologians when Medina arrived on the scene. Bartholomew Medina, a Dominican, was the first to expound the moral system which is known as Probabilism. In his "Expositio in 1am 2ae S. Thomae" he taught that, "if an opinion is probable it is lawful to follow it, even though the opposing opinion is more probable". His system soon became the common teaching of the theologians, so that in the introduction to his "Regula Morum" Father Terill, S.J.* (d. 1676) was able to say that until 1638 Catholic theologians of all schools were Probabilists. There were exceptions such as Rebellus (d. 1608), Comitolus (d. 1626), and Philalethis (d. 1642), but the great body of the theologians of the end of the sixteenth and of the first half of the seventeenth century were on the side of Medina. Amongst them were Sa (d. 1596), Toletus* (d. 1596), Gregorius de Valentia (d. 1603), Bañez (d. 1604), Vasquez (d. 1604), Azor (d. 1607), Thomas Sanchez (d. 1610), Ledesma (d. 1616), Francisco Suárez (d. 1617), Lessius (d. 1623), Laymann (d. 1625), Bonacina (d. 1631), Castropalaus (d. 1633), Alvarez (d. 1635), and Ildephonsus (d. 1639).

With the rise of Jansenism and the condemnation of "Augustinus" a new phase in the history of the Probabilist controversies began. In 1653 Innocent X condemned the five propositions taken from "Augustinus", and in 1655 the Louvain theologians condemned Probabilism. Tutiorism was adopted by the Jansenists, and the Irish Jansenist theologian, Sinnichius (d. 1666), a professor of Louvain, was the foremost defender of the Rigorist doctrines. He held that it is not lawful to follow even a most probable opinion in favour of liberty. Jansenist Rigorism spread into France, and Pascal in his "Lettres Provinciales" attacked Probabilism with the vigour and grace of style which have given his letters their high place in literature. The "Lettres Provinciales" were condemned by Alexander VII in 1657, but Rigorism did not receive its final blow till the year 1690 when Alexander VIII condemned the proposition of Sinnichius: "Non licet sequi opinionem vel inter probabiles probabilissimam ".

After this condemnation a moderate form of Tutiorism was unfolded by theologians like Steyaert (d. 1701), Opstraet (d. 1720), Henricus a S. Ignatio (d. 1719), and Dens (d. 1775). During this period, dating from the middle of the seventeenth to the middle of the eighteenth century, the following were amongst the notable theologians who remained true to Probabilism: Lugo (d. 1660), Lupus (d. 1681), Cardenas (d. 1684), Deschamps (d. 1701), Lacroix* (d. 1714), Sporer (d. 1714), Salmanticenses (1717-1724), Mazzotta (d. 1748).

Side by side with Probabilism and Rigorism a party held sway which favoured Laxism, and which maintained in theory or practice that a slightly probable opinion in favour of liberty could safely be followed. The principal upholders of this view were Juan Sanchez (d. 1620), Bauny (d. 1649) Leander (d. 1663), Diana (d. 1663), Tamburini (d. 1675), Caramuel (d. 1682), Moya (d. 1684). Laxism was expressly condemned by Innocent XI in 1679; and Alexander VII (1665-66), and Innocent XI (1679) condemned various propositions which savoured of Laxism.

Besides Rigorism, Probabilism, and Laxism, there was also a theory of Probabiliorism which held that it is not lawful to act on the less safe opinion unless it is more probable than the safe opinion. This view, which was in vogue before the time of Medina, was renewed in the middle of the seventeenth century, as an antidote against Laxism. Its revival was principally due to the efforts of Alexander VII and Innocent XI. In 1656 a general chapter of the Dominicans urged all members of the order to adopt Probabiliorism. Though previously Dominican theologians like Medina, Ledesma, Bañez, Alvarez, and Ildephonsus were Probabilists subsequently the Dominicans in the main were Probabiliorists. Amongst them were Mercorius (d. 1669), Gonet (d. 1681), Contenson (d. 1674), Fagnanus (d. 1678), Natalis Alexander (d. 1724), Concina (d. 1756), Billuart (d. 1757), Patuzzi (d. 1769). Probabiliorism was held by many Jesuits such as Gonzalez (d. 1705), Elizalde (d. 1678), Antoine* (d. 1743), Ehrentreich (d. 1708), and Taberna (d. 1686). In 1700 the Gallican clergy, under Bossuet, accepted Probabiliorism. The Franciscans as a rule were Probabiliorists, and in 1762 a general chapter of the order, held at Mantua, ordered the members to follow Probabiliorism. In 1598 a general chapter of the Theatines adopted Probabiliorism. The Augustinians, the Carmelites, the Trinitarians, and many

Benedictines were also Probabiliorists. The most notable event in the history of the controversy occurred in connection with Thyrsus Gonzalez, S.J., a professor of Salamanca, who (1670-72) wrote a work, entitled "Fundamentum Theologiae Moralis", in favour of Probabiliorism. In 1673 the book was sent to the Jesuit General Oliva, who refused permission for its publication. Innocent XI favoured Gonzalez, and in 1680 sent, through the Holy Office, a decree to the General Oliva ordering that liberty be given to the members of the order to write in favour of Probabiliorism and against Probabilism. Gonzalez was elected general of the order in 1687, but his book was not published until 1694.

During the controversies between the Probabilists and the Probabiliorists, the system known as Æquiprobabilism was not clearly brought into prominence. Æquiprobabilism holds that it is not lawful to follow the less safe opinion when the safe opinion is certainly more probable; that it is not lawful to act on the less safe opinion even when it is equally probable with the safe opinion, if the uncertainty regards the cessation of a law; but that if the existence of the law is in question, it is lawful to follow the less safe opinion if it has equal or nearly equal probability with the safe opinion. Many of the moderate Probabilists of the sixteenth and seventeenth centuries foreshadowed in their writings the theory to which, in his later-days, St. Alphonsus adhered. Even Francisco Suárez, who is regarded as a typical Probabilist, said: "Major probabilitas est quaedam moralis certitudo, si excessus probabilitatis certus est (De Legibus, 1. VIII, c. 3, n. 19). In the beginning of the eighteenth century Amort. (d. 1775), Rassler (d. 1730), and Mayr (d. 1749), who are sometimes classed as moderate Probabilists, in reality defended Æquiprobabilism.

This view gained vigour and persistence from the teaching of St. Alphonsus, who began his theological career as a Probabiliorist, subsequently defended Probabilism, especially in a treatise entitled "Dissertatio scholastico-moralis pro usu moderato opinionis probabilis in concursu probabilioris" (1749, 1755), and finally, about 1762, embraced Æquiprobabilism. In a new dissertation he laid down the two propositions that it is lawful to act on the less safe opinion, when it is equally probable with the safe opinion, and that it is not lawful to follow the less safe opinion when the safe opinion is notably and certainly more probable. In the sixth edition (1767) of his "Moral Theology" he again expressed these views and indeed towards the end of his life frequently declared that he was not a Probabilist.

Probabilists sometimes hold that St. Alphonsus never changed his opinion once he had discarded Probabiliorism for Probabilism, though he changed his manner of expressing his view so as to exclude Laxist teaching and to give an indication of what must be regarded as a solidly probable opinion. As a matter of fact, as can be seen from a comparison between the "Moral Theologies" of moderate Probabilists and of Æquiprobabilists, there is little practical difference between the two systems, so far at least as the uncertainty regards the existence as distinguished from the cessation of a law. Since the time of St. Alphonsus the prevailing moral systems have been Probabilism and Æquiprobabilism. Probabiliorism has to a great extent

disappeared, and even many Dominican theologians have espoused the cause of Æquiprobabilism. During the nineteenth century the principal Æquiprobabilists have been Konings, Marc, Aertnys, Ter Haar, de Caigny, Gaude, and Wouters. Quite recently Ter Haar and Wouters have been engaged in controversy with Lehmkuhl who, especially In his "Probabilismus Vindicatus" (1906) and in the eleventh edition of his "Theologia Moralis" (1910), has strongly supported the Probabilist thesis which has been accepted during the nineteenth century by the vast majority of theologians.

In late years the system of Compensationism has arisen, which holds that a compensating reason proportionate to the gravity of the law and to the degree of probability in favour of the existence of the law, is required in order that a person might lawfully act on the less safe opinion. This theory was proposed by Mannier, Laloux, and Potton; but it has gained little support and has not yet become a rival of the old theories of Probabilism, Æquiprobabilism, or even Probabiliorism.

Probabilism

Teaching of probabilists

The central doctrine of Probabilism is that in every doubt which concerns merely the lawfulness or unlawfulness of an action it is permissible to follow a solidly probable opinion in favour of liberty, even though the opposing view is more probable. Probabilists apply their theory only when there is question merely of the lawfulness or unlawfulness of an action, because in other cases certainty might be demanded on various grounds, as happens when the validity of the sacraments, the attainment of an obligatory end, and the established rights of another are concerned. They apply their doctrine whether the doubt about the lawfulness or unlawfulness of an action be a doubt of law, or a doubt of fact which can be reduced to a doubt of law. Thus if it is solidly probable that Friday morning has not yet set in, there is a doubt of fact which can be reduced to a doubt of law as to whether it is lawful in the circumstances to take meat. They also apply their doctrine not merely to human but also to Divine and natural laws on the ground that the Divine legislator is not more exacting than a human legislator. They apply their principles whether the existence or the cessation of a law is concerned, since, in their estimation, liberty is always in possession. They also apply their doctrine even though the person whose action is in question believes that the safe opinion is the more probable opinion. If, however, he looks on the safe opinion as morally certain, he cannot lawfully use the opinion of others who differ from him. Nor can a person on the same occasion use opposing probabilities in his favour in reference to several obligations of which one or another would be certainly violated; thus a priest cannot lawfully take meat on the probability that Friday has already elapsed, and at the same time postpone the reading of Compline on the probability that Friday will not elapse for some time. Finally, Probabilists insist that the opinion in favour of liberty must be based on solid arguments and not on mere flimsy reasons which are insufficient to gain the assent of prudent men.

Arguments for probabilism

(1) External arguments

(a) Probabilism, if untrue, is seriously detrimental to the spiritual life of the faithful, since it permits actions which ought to be forbidden, and the Church cannot tolerate or give approval to such a moral system. But the Church during many centuries has tolerated Probabilism, and has given it approval in the person of St. Alphonsus. Hence Probabilism is not a false system of morals. That the Church has tolerated Probabilism is shown from the numerous approved authors, who, since the time of Medina, have defended it without interference on the part of ecclesiastical authority. That the Church has given positive approval to Probabilism in the person of St. Alphonsus is proved from the fact that his works including his treatises in favour of Probabilism, received official sanction from the Decree of 18 May, 1803, the reply of the Sacred Penitentiary of 5 July, 1831 the Bull of Canonization of 26 May, 1839 and the Apostolic Letters of 7 July, 1871 (cf. Lehmkuhl, "Theologia Moralis", I, nn. 165-75).

Æquiprobabilists reply that this argument proves too much for Probabilists, since the Church has also tolerated Æquiprobabilism, and has given it positive approval in the person of St. Alphonsus, whose works in favour of Æquiprobabilism received the sanction of the Holy See in the official documents of 1803, 1831, 1839, and 1871. If Æquiprobabilism is false, it is seriously detrimental to the spiritual life of the faithful, since it imposes burdens which ought not to be imposed. Hence, if any argument can be derived for Probabilism from the toleration or approval of the Church, a similar argument can be derived therefrom for Æquiprobabilism.

(b) In interpreting her own laws the Church applies the principles of Probabilism, since amongst the rules of law in "Sexto Decretalium" we read: "Odia restringi, et favores convenit ampliari" (r. 15); "In obscuris minimum est sequendum" (r. 30); "Contra eum qui legem dicere potuit apertius, est interpretatio facienda" (r. 57); "In poenis benignior est interpretatio facienda" (r. 89). What is true of the Church is equally true of other legislators, because God is not a more exacting Legislator than His Church, nor is the State to be presumed more strict than God and the Church (cf. Tanquerey, "Theologia Moralis fundamentalis", n. 413).

Æquiprobabilists reply to this argument that when the less safe opinion is certainly less probable than the safe opinion, the former has lost solid probability and consequently cannot, so far as conscience is concerned, obtain the privileges which the Divine Legislator, the Church, and the State concede in the case of really doubtful laws. Moreover, many of these rules of law directly apply to the external forum and ought not, without due limitation, be transferred to the forum of conscience.

(2) Internal arguments

(a) A law which has not been promulgated is not a law in the full and strict sense, and does not impose an obligation. But when there is a solidly probable opinion in favour of liberty, the law has not been sufficiently promulgated, since there has not been the requisite manifestation of the mind of the legislator. Hence when there is a solidly probable opinion in favour of liberty, the law is not a law in the full and strict sense, and does not impose any obligation (cf. Lehmkuhl, "Theologia Moralis", I, nn. 176-8).

Æquiprobabilists reply that when there is a solidly probable opinion in favour of liberty, the law is probably not sufficiently promulgated, and the question remains whether a law that is probably not sufficiently promulgated imposes any obligation in conscience. It would be begging the question to assume that no obligation is imposed simply because there is a probability that the law has not been sufficiently promulgated. Moreover, if the safe opinion happens to be the true opinion, a material sin is committed by the person who, acting on probability, performs the prohibited action. But, unless the law is promulgated, a material sin cannot be committed by its violation, since promulgation is a necessary condition of a binding law (cf. McDonald, "The Principles of Moral Science", p. 245).

(b) An obligation, concerning whose existence there is invincible ignorance, is no obligation. But, so long as there is a solidly probable opinion in favour of liberty, there is invincible ignorance about the obligation imposed by the law. Hence a law does not impose an obligation so long as the less safe opinion is solidly probable (cf. Lehmkuhl, "Theologia Moralis", I, n. 179).

Æquiprobabilists reply that there is not invincible ignorance in regard to a law when the safe opinion is also the more probable opinion, because in these circumstances a person is bound by ordinary prudence to give assent to the safe opinion. Although it is true that an obligation concerning whose existence there is invincible ignorance is no obligation, this is not true when one is compelled to give assent to an opinion as the more probable opinion (cf. Wouters, "De Minusprobabilismo", p. 121).

(c) According to the axiom: lex dubia non obligat, a doubtful law does not bind. But a law is doubtful when there is a solidly probable opinion against it. Hence it is lawful to follow a solidly probable opinion in favour of liberty (cf. Tanquerey, "Theologia Fundamentalis", n. 409).

Æquiprobabilists in reply say that the axiom lex dubia non obligat holds when the law is strictly doubtful, i.e. when the reasons for and against the law are equal or nearly equal. A fortiori the law does not bind when the safe opinion is more probable than the less safe opinion. It would, however, be begging the question to assume that the axiom holds when the less safe opinion is clearly less probable than the safe opinion.

(d) According to Æquiprobabilists, it is lawful to follow the less safe opinion, when it is more probable than the safe opinion. But they must admit that Probabilism is more probable than Æquiprobabilism, since the vast majority of theologians favour the milder view, and Æquiprobabilists do not reject external authority. Hence on their own principles they ought to admit the practical truth of Probabilism.

Æquiprobabilists reply that extrinsic authority is of no avail when the arguments on which the authority rests have been proved to be invalid; and they claim that they have proved the invalidity of the Probabilist arguments. Moreover a reflex principle is useless unless its truth is proved with certainty, since its sole utility is to change speculative uncertainty into practical certainty. But greater probability does not give certainty. Accordingly, even if Æquiprobabilists were to admit the greater probability of Probabilism, that admission would be useless for Probabilists. The case is different with Æquiprobabilism which has practical certainty, since nearly all theologians nowadays admit the lawfulness of following the less safe opinion regarding the existence of a law, when it is equally or almost equally probable with the safe opinion.

(e) Many Probabilists lay stress on a practical argument in favour of their opinion, which is derived from the difficulty of distinguishing between various grades of Probability. It is impossible in practice, especially for ordinary people, to tell when one solidly probable opinion is more probable than another solidly probable opinion. But a moral system, to be of any serious utility, must be universal, so that not merely experts in moral science but also ordinary people can utilize it. Hence the systems which demand a knowledge of the various degrees of probability must be discarded as practically useless, and Probabilism alone must be accepted as a working system.

Æquiprobabilists reply that their system merely asks, that if after due investigation it is found that the less safe opinion is notably and certainly less probable than the safe opinion, the law must be observed. The necessary investigation has frequently been already made by experts, and others, who are not experts, are safe in accepting the conclusions to which the experts adhere.

Arguments against probabilism

In addition to some arguments to be explained in connection with the other modern moral systems, it is necessary to mention a few difficulties which have been urged directly against Probabilism.

(1) When the less safe opinion is notably and certainly less probable than the safe opinion, there is no true probability in favour of liberty, since the stronger destroy the force of the weaker reasons. Hence Probabilists cannot consistently maintain that it is safe in practice to act on the less safe opinion which is also the less probable.

Probabilists reply that the greater probability does not of necessity destroy the solid probability of the less probable opinion. When the foundations of the opposing probabilities are not derived from the same source, then at least the opposing arguments do not detract from one another; and even when the two probabilities are based on a consideration of the same argument, one opinion will retain probability in so far as the opposing opinion recedes from certainty.

(2) A moral system, to be of any use, must be certain, since an uncertain reflex principle cannot give practical certainty. But Probabilism is not certain, because it is rejected by all those theologians who upheld one or another of the opposing views. Hence Probabilism cannot be accepted as a satisfactory solution of the question at issue.

Probabilists reply that their system can be of no use to those who do not look on it as certainly true; but the fact that many theologians do not accept it does not prevent its adherents from regarding it as certain, since these can and do believe that the arguments urged in its favour are insuperable.

(3) Probabilism is an easy road to Laxism, because people are often inclined to regard opinions as really probable which are based on flimsy arguments, and because it is not difficult to find five or six serious authors who approve of opinions which right-minded men consider lax. The only sure way to safeguard Catholic morals is to reject the opinion which opens the way to Laxism.

Probabilists reply that their system must be prudently employed, and that no serious danger of Laxism arises if it is recognized that an opinion is not solidly probable unless there are arguments in its favour which are sufficient to gain the assent of many prudent men. As for the authority of approved authors, it must be remembered that five or six grave authors do not

give solid probability to an opinion unless they are notable for learning and prudence, and independently adhere to an opinion which has not been set aside by authoritative decisions or by unanswered arguments.

## Moral systems opposed to probabilism

### Æquiprobabilism

This system can be expressed in the three following propositions:

The opinions for and against the existence of a law having equal or nearly equal probabilities, it is permissible to act on the less safe opinion.

The opinions for and against the cessation of a law having equal or nearly equal probabilities, it is not permissible to act on the less safe opinion.

The safe opinion being certainly more probable than the less safe opinion, it is unlawful to follow the less safe opinion.

With the first of these propositions Probabilists agree — but they deny the truth of the second and third propositions (cf. Marc, "Institutiones Morales", I, nn. 91-103).

Arguments for Æquiprobabilism: (1) In proof of their first proposition Æquiprobabilists quote the axiom: lex dubia non obligat. When the opposing probabilities are equal or nearly equal, the law is doubtful in the strict sense, and a doubtful law imposes no obligation in conscience. They also apply the rule: in dubio melior est conditio possidentis. When the doubt regards the existence, as distinguished from the cessation of a law, liberty is in possession and accordingly the opinion which favours liberty can be followed in practice.

(2) In proof of their second proposition, Æquiprobabilists quote the same axiom: in dubio melior est conditio possidentis. When the doubt concerns the cessation of a law, the law is in possession, and therefore the law must be observed until it is displaced by a stronger probability in favour of liberty.

Probabilists reply to this argument that liberty is always in possession, since law and obligation presuppose liberty in the subject.

(3) In proof of their third proposition Æquiprobabilists put forward various arguments, of which the following are the most forcible:

(a) A person is bound seriously to endeavour to bring his actions into harmony with objective morality. But a person who follows the less probable opinion in favour of liberty fails to observe this dictate of prudence, and consequently acts unlawfully (cf. Wouters "De Minusprobabilismo", p. 71).

Probabilists reply that this argument, if carried to its logical conclusion, would end in Rigorism, because the only way efficiently to bring our actions into perfect harmony with objective morality is to follow the safe opinion, so long as the less safe opinion has not acquired moral certainty. This is the only way of preventing all serious danger of committing material sin, and consequently is the only way of observing perfect harmony with objective morality. Since, however, Rigorism is universally condemned, the argument must be rejected, and the principles of Probabilism must be adopted which hold that it is sufficient to observe harmony with objective morality in so far as this is known with moral certainty (cf. Lehmkuhl, "Theologia Moralis", I, n. 191).

(b) On 26 June, 1680 the Holy Office, under the presidency of Innocent XI, issued, in connection with the teaching of Thyrsus Gonzalez, S.J., a Decree of which the authentic text was published 19 April 1902, by the Secretary of the Holy Office. So much controversy has recently arisen in regard to the value of decree, that it is opportune to quote the whole text:

A report having been made by Father Laurea of the contents of a letter directed by Father Thyrsus Gonzalez, S.J., to Our Most Holy Lord; the Most Eminent Lords said that the Secretary of State must write to the Apostolic Nuncio of the Spains [directing him] to signify to the said Father Thyrsus that His Holiness, having received his letter favourably, and having read it with approval, has commanded that he [Thyrsus] shall freely and fearlessly preach, teach, and defend with his pen the more probable opinion, and also manfully attack the opinion of those who assert that in a conflict of a less probable opinion with a more probable, known and estimated as such, it is allowed to follow the less probable; and to inform him that whatever he does and writes on behalf of the more probable opinion will be pleasing to His Holiness.

Let it be enjoined upon the Father General of the Society of Jesus, as by order [de ordine] of His Holiness, not only to permit the Fathers of the Society to write in favour of the more probable opinion and to attack the opinion of those who assert that in a conflict of a less probable opinion with a more probable, known and estimated as such, it is allowed to follow the less probable- but also to write to all the Universities of the Society [informing them] that it is the mind of His Holiness that whosoever chooses may freely write in favour of the more probable opinion, and may attack the aforesaid contrary [opinion]; and to order them to submit entirely to the command of His Holiness.

Æquiprobabilists say that in this Decree there is a clear expression of the mind of Innocent XI about the morality of teaching that it is permissible to act on the less safe opinion when the safe opinion is certainly more probable. The pope disapproves of this teaching, commends Father Gonzalez for his opposition to It, and orders the General of the Jesuits to allow full liberty so that anyone who pleases may write against it.

Probabilists reply that, though Innocent XI was opposed to Probabilism, his official Decree merely commanded that liberty of teaching be allowed to the members of the order. Moreover, they point out that Gonzalez was not an Æquiprobabilist, but a Probabiliorist of a strict type whom St. Alphonsus regarded as an extremist.

Probabiliorism

According to the teaching of Probabiliorists, it is unlawful to act on the less safe opinion unless it is also the more probable opinion. In addition to an argument derived from the Decree of Innocent XI, the principal arguments for Probabiliorism are the following:

(1) It is not lawful to follow the less safe opinion, unless it is truly and expeditely probable. But an opinion which is opposed by a more probable opinion is not truly and expeditely probable, since its arguments are annulled by more potent opposing arguments and cannot in consequence gain the assent of a prudent man. Hence it is not lawful for a person to follow the less safe opinion when he regards the safe opinion as more probable.

As has already been explained in connection with Probabilism, Probabilists maintain that the less safe opinion does not necessarily lose its solid probability because of more probable opposing arguments. This being so, the law is not certain, and consequently does not impose an obligation in regard to action, even though in regard to speculative assent it is rightly looked on as more probable.

(2) As in speculative doubt we are bound to give assent to the new which is more likely to exclude error, so in practical doubt about lawfulness we are bound to adopt the opinion which is more likely to exclude the danger of material sin. But the more probable opinion is the more likely to exclude this danger. (Consequently in practical doubt we are bound to adopt the Probabiliorist view. Probabilists reply that this argument leads to Tutiorism rather than to Probabiliorism, because the only efficacious way of excluding reasonable danger of material sin is to act on the safe opinion so long as the less safe opinion is not morally certain. Moreover, Probabiliorism would impose an intolerable burden on the consciences of timorous minds, since it would demand an investigation into the various degrees of probability, 80 as to enable a person definitely to say that one opinion is more probable than another. In view of

the great diversity of opinion, which exists on many moral subjects, this definite judgment is practically impossible, especially in the case of the vast majority of men who are not experts in moral science.

Compensationism

This maintains that a doubtful law is not devoid of all binding force, and that there must be a compensating reason, proportionate to the probability and gravity of the law, to justify the performance of the action which is probably forbidden. This teaching is based on an analogy with an act which has two effects, one good and the other bad. It is not lawful to perform such an act unless there is a justifying cause proportionate to the evil. In the case of a doubtful law the bad effect is the danger of material sin, and the good effect is the benefit, which arises from the performance of the action which is probably forbidden. Hence in this as in the former case, a compensating cause, proportionate to the probable evil, is required to justify the performance of the action.

Probabilists reply that this moral system leads to Tutiorism, because it implies that if no compensating benefit exists, it is not lawful to perform an action so long as it certainly is not forbidden. Again, Probabilists say that the preservation of liberty is of itself a sufficient compensating reason when there is question of a law which is not certain. Finally, Probabilists are prepared to admit that, as a point of expediency though not of obligation, it is advisable to look for a compensating cause over and above the preservation of liberty when a confessor is directing penitents in the use of probable opinions. If no such compensating reason exists, the penitent can be advised, though not under pain of sin, to abstain from the performance of the action which is probably forbidden.

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