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TITLE V.

THE APPLICATION OF PENALTIES (Cann. 1341 - 1353)

Can. 1341 An ordinary is to take care to initiate a judicial or administrative process to impose or declare penalties only after he has ascertained that fraternal correction or rebuke or other means of pastoral solicitude cannot sufficiently repair the scandal, restore justice, reform the offender.

Can. 1342 §1. Whenever just causes preclude a judicial process, a penalty can be imposed or declared by extrajudicial decree; penal remedies and penances, however, can be applied by decree in any case whatsoever.

§2. Perpetual penalties cannot be imposed or declared by decree, nor can penalties be so applied when the law or precept establishing them prohibits their application by decree.

§3. What a law or precept states about the imposition or declaration of a penalty by a judge in a trial must be applied to a superior who imposes or declares a penalty by extrajudicial decree unless it is otherwise evident or unless it concerns prescripts which pertain only to procedural matters.

Can. 1343 If the law or precept gives the judge the power to apply or not apply a penalty, the judge can also temper the penalty or impose a penance in its place, according to his own conscience and prudence.

Can. 1344 Even if the law uses preceptive words, the judge can, according to his own conscience and prudence:

- 1/ defer the imposition of the penalty to a more opportune time if it is foreseen that greater evils will result from an offerly hasty punishment of the offender;
- 2/ abstain from imposing a penalty, impose a lighter penalty, or employ a penance if the offender has reformed and repaired the scandal or if the offender has been or, it is foreseen, will be punished sufficiently by civil authority;
- 3/ suspend the obligation of observing an expiatory penalty if it is the first offense of an offender who has lived a praiseworthy life and if the need to repair scandal is not pressing, but in such a way that if the offender commits an offense again within the time determined by the judge, the person is

to pay the penalty due for each delict unless in the interim the time for the prescription of a penal action has elapsed for the first delict.

Can. 1345 Whenever the offender had only the imperfect use of reason or committed the delict from fear, necessity, the heat of passion, or mental disturbance from drunkenness or something similar, the judge can also abstain from imposing any penalty if he thinks that reform of the person can be better accomplished in another way.

Can. 1346 Whenever the offender has committed several delicts, it is left to the prudent decision of the judge to moderate the penalties within equitable limits if the sum of the *feren dae sententiae* penalties appears excessive.

Can. 1347 §1. A censure cannot be imposed validly unless the offender has been warned at least once beforehand to withdraw from contumacy and has been given a suitable time for repentance.

§2. An offender who has truly repented of the delict and has also made suitable reparation for damages and scandal or at least has seriously promised to do so must be considered to have withdrawn from contumacy.

Can. 1348 When an accused is acquitted of an accusation or when no penalty is imposed, the ordinary can provide for the welfare of the person and for the public good through appropriate warnings and other means of pastoral solicitude or even through penal remedies if the matter warrants it.

Can. 1349 If a penalty is indeterminate and the law does not provide otherwise, the judge is not to impose graver penalties, especially censures, unless the seriousness of the case clearly demands it; he cannot, however, impose perpetual penalties.

Can. 1350 §1. Unless it concerns dismissal from the clerical state, when penalties are imposed on a cleric, provision must always be made so that he does not lack those things necessary for his decent support.

§2. In the best manner possible, however, the ordinary is to take care to provide for a person dismissed from the clerical state who is truly in need because of the penalty.

Can. 1351 Unless other provision is expressly made, a penalty binds the offender everywhere, even when the authority of the one who established or imposed the penalty has lapsed.

Can. 1352 §1. If a penalty prohibits the reception of the sacraments or sacramentals, the prohibition is suspended as long as the offender is in danger of death.

§2. The obligation to observe an undeclared *latae sententiae* penalty which is not notorious in the place where the offender is present, is suspended totally or partially whenever the offender cannot observe it without danger of grave scandal or infamy.

Can. 1353 An appeal or recourse from judicial sentences or from decrees, which impose or declare a penalty, has a suspensive effect.

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