Nicholas [III]
Bishop servant of the servants of God.
For an everlasting memorial.
Soriano, Italy: August 14, 1279 A.D.

He who sows went forth (Exiit qui seminat) from the bosom of the Father into the world to sow His own seed, that is the Son of God, Jesus Christ, clothed with the garment of humanity, the one (who was) to sow the evangelical word among each of the approved and reprobate...

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8. ... But such an abdication of property this does not seem to lead to a renunciation of the use of things in every case for anyone; for since in temporal things is to be considered the particular property, possession, usufruct, right of use (jus utendi) and simple factual use (usus facti), and lastly as much as driven by necessity, the life of mortals may be able, it is lawful to lack these things, in short there can be no profession, which excludes the necessary use for sustenance of himself, truly was he condescending by this profession, by which he has vowed on his own to follow the poor Christ in such poverty, abdicating the dominion of all things and being content with the necessary use of those things conceded to himself.

The Rule obliges the abdication of the right of possession (jus dominii) and the retention of the factual use (usus facti).

9. Nor by this, that one seems to have abdicated the property, use, and dominion of whatever thing, is one to be conjectured to have renounced the simple use of everything, who says not the right of use (usus juris) but the factual use (usus facti) in as much as having the name of “factual” (facti) it offers however in the using no right to those [so] using, nay even of necessary things as much as for the sustenance of life as for the execution of the duties of one's state, except that which is subjoined below regarding money, the moderate use according to their rule and all truth has been conceded to the friars; which things the friars can licitly use, during the license of the one conceding [them], and according to that which is contained in the present arrangement [of this document]. Nor is it discerned to resist these things that in human things civil providence humanely prevails, namely that it is not possible for use or usufruct to be separated from perpetual dominion; and lest the dominion of the owner always be rendered useless by surrendering its use, the one providing these things [should have] declared in [the act of] bestowing [them] only a temporary use. Since the retention of the dominion of such things, when by concession [their] use has been granted to the poor, is not unprofitable to the owner since it is meritorious for eternity and opportune to the profession of the poor, which as much as it is judged more useful for himself, so much more that he exchange temporal for eternal things. Next [whether or not] this was the intention of the confessor of Christ in instituting the rule; nay rather he wrote the contrary in it, he observed the contrary in living [it]; since even he himself was for the necessity of using temporal things and manifests in many places in the rule that such a use is lawful for the friars: for he says in the rule that the clerics should recite the divine office, for which the can have breviaries: from this insinuating openly, that the friars would be having the use of [those] breviaries and books, which might be opportune for the [recitation] of the divine office; also in another chapter it is said that the Ministers and Custodes for the necessities of the infirm and for the clothing of the other friars may conduct a solicitous care by [means of]
spiritual friends according to places and seasons and cold regions, as might seem to them to expedite necessity; even in another [place] exhorting the friars to avoid idleness by means of a fitting exercise of labor, he says, that they may receive for themselves and for their brothers [those things] necessary for the body as the wage for [their] labor; also in another chapter there is contained that the friars may go about confidently for alms. Even in the same rule it is had that in the preaching, which the friars do, their speech be examined and chaste for the utility and edification of the people by announcing to them vices and virtues, punishment and glory. But this proves that this supposes science; science requires study, the exercise of study truly cannot be normally had without the use of books: from which it is sufficiently clear to all [men] that from the rule the use of [those things] necessary for food, clothing, the divine worship and study of wisdom have been conceded to the friars.

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The Rule obliges the poor use (usus pauper).

12. Moreover they should have neither utensils nor other things, the use of which [is had] from necessity and for the execution of the duties of their state [in life], nor indeed the use of all things, as has been said, to any [degree of] superfluity, riches, or abundance, which would derogate poverty such as either a treasuring up [of such things] or by such a spirit so that they might alienate [such things], or sell [them], receive [them], either under the appearance of providing for the future or by other occasions; may even let [their] abdication of all kinds of dominion and the necessity in [their] use [of things] appear in all things [pertaining] to them. Let the Ministers and Custodes together and individually in their administrations and custodies dispose of these also with discretion according to the exigency of persons and places, since concerning such things sometimes the quality of persons, the variety of seasons, the condition of places and not a few other circumstances more or less or otherwise require to be provided for. Let them do those things however so that holy poverty may always shine forth in them and in their deeds, just as it is appointed them [to do] from their rule.

The Rule obliges the non-use of money. How this is to be observed.

13. Moreover since it is prohibited under the stricture of precept in the same rule that the friars not receive through themselves or through others coins or money in any manner, and so that the friars may desire to observe [this] in perpetuity and so that they may be obliged to fulfill what was necessary to be enjoined [upon them], lest their purity in the observance of this kind of precept be stained in any thing or [lest] consciences of the friars be pricked by any goading anguish, this very same article for the sake of rebutting more profoundly those who are detracting it, which Our predecessors had done taking it up, and pursuing the same by more clear determinations We say first of all, let the friars themselves abstain from contracting debts [mutua]; since for them to contract a debt, considering their state [in life], is not lawful, nevertheless they themselves can, for making satisfaction for their necessities, which might occur for a time when alms have ceased, concerning which it may not be able to be satisfied conveniently at the time beyond promising a bond of some sort of obligation, which by means of alms and other friends of the friars they intend to work faithfully to repay this kind [of debt]. In which case it is to be procured by the friars, that the one who will give alms through himself or through another who is not to be nominated by them, if it can be done, but by himself more according to his own chosen pleasure, make satisfaction of this kind in entirety or in part, just as
the Lord will inspire him. If however he himself does not want to do this or cannot, or his departure [from office] is imminent, or because to those whom he wishes to commit [the matter], he has no knowledge of their trustworthiness, or on account of whatever other happening or cause, We declare and say that in no [way] is the purity of the rule infringed nor is the observance of it stained in any manner whatsoever, if the friars themselves care to make known to him [the trustworthiness] of another or of others, or to nominate someone or others or even to present him or them, to whom, if it pleases such to give alms, the execution of the aforesaid things can be entrusted; and let his approval of the below-written replacements be had: nevertheless so that in the power of the one giving dominion, property and possession of his own money with power free to recall the same money to himself always up until its conversion into the deputed item with those things fully, freely and integrally remaining, the friars may have entirely no right to the money itself nor [may they have its] administration or dispensation, nor may they themselves hold against the person nominated or not nominated by them, in whatever condition he might be, in court or outside it, a judicial prosecution or any other right howsoever the aforesaid person [have conducted himself] in a commission of this kind. Nevertheless it is lawful for the friars to make known and specify and manifest their necessities to the aforesaid person and to beg him to fulfill them. They can even exhort and induce the same person to conduct himself faithfully in the matter committed [to his care]; and to take care of the salvation of his soul in the execution of the matter committed to himself, to this extent, that the friars abstain entirely from all administration or dispensation of this money and from [all] action or judicial prosecution, as has been said, against the aforesaid person. If truly it might happen that a person of this kind, nominated or not nominated by the friars, not be able to execute through himself the aforesaid [matter] because of absence, infirmity, free-will or distance of places, on account of which he himself does not wish to present [himself], in those [places where] the payment may be made or the satisfaction [of the debt] made, or to be impeded for some other reason, it is lawful for the friars with a pure conscience as much as to substitute one other person to the aforementioned [matter] by nominating [him] and others, if they cannot, or do not wish to have recourse to the first donor, since as just above We have declared that it is lawful for them to so nominate such a person. For when the aforesaid satisfaction is presumed to be able to be expedited more swiftly, the agency by-way-of-substitution, as has been said, is more commonly and more generally considered by the first of the two persons to be [the one] able to suffice in the execution of the aforesaid things. If however in the mean time because of the distance of places, in which the satisfaction might be made and where there emerges conditions or other circumstances in the case, in which the agency of many substituted persons seems opportune, it is lawful for the friars themselves in this case according to the character of the business [and] with the aforesaid method observed to choose, nominate, or present many persons to execute that agency. And since it is right and expedient that for the necessities of the friars not only for those for which there might have already been made a payment or a satisfaction, as has just been said above, but even for those things imminent, either violent necessities which they are able to expedite for a short time, or such granted that [they be] comparatively few, the provision for which [things] has been brought about by [something] necessary, as in the writing of books, the construction of churches or buildings for the use of their habitation, the repair of books and clothes in remote places, and other things similar, if as they might occur, [they are] to be soberly provided for with the above mentioned regulation; so that We may distinguish clearly among those necessities, We thus declare that in them the friars can proceed safely and with a healthy conscience, namely, that in violent or imminent necessity, which for a brief time or which
sometimes from other circumstances not so brief, as has been said above in the last case, it can be expedited, as much as regards the one giving an alms as regards the one nominated or substituted in all these, and for all these let it be conducted just as in the article on making payment for past necessities [which] We have declared just above. In that true necessity however much violent at the present, which however from its quality, as has been said, has been protracted for a time, because in this case it is true that then by reason of the distance of places, which on account of the character of the necessity itself would require traveling, then also by considered reason of the circumstances of the same necessity there would frequently befall cases, in which it would be right that the money deputed for this kind of necessity would pass through diverse hands and persons, for whom of all [these] persons it would be almost impossible that there be a principle owner who deputes money for this necessity or even one [who was] substituted by him, and third also by the substituted one himself if such a case would happen, after the substitute has received notice, We declare and say that in this article besides those two methods explained regarding past necessities and those violent which might be for a brief time, or sometimes not brief, as is expressed above, to be expedited, as We have said before are to be observed, to protect in every way the purity of the Rule itself and its professors, that if there be at hand one giving out abundantly alms of this kind or his nuncio, who is able to do this, to whom it is expressly said beforehand by the friars that it would please themselves that with the dominion of such money freely remaining in the possession of him always, with the free power of recalling to himself the very same money, even until its conversion into the thing deputed, as has been said in the other two above cases, through however many hands or persons, nominated by him or by the friars, the money or alms itself be borne, the entire [matter] proceed with his consent, will and authority, in order that by granting his assent to the aforementioned things the friars can use safely the thing bought or acquired by that money by whomsoever according to the manner described above. However for a greater clarity [regarding] the aforesaid things We declare the following be valid in perpetuity [regarding] the method of providing [for such things], to the end that the friars by the aforementioned means, as has been said, with those things being observed regarding money to care for their past and violent necessities, they are not to be understood nor can they be said to receive money through themselves or an interposed person contrary to the Rule, or to the purity of the profession of their order, since it is patently manifest from the aforementioned things that the friars themselves not only from reception, propriety, dominion or use of the very money, but truly even from whatever handling of the same and from [the money itself] they be entirely prohibited.

The manner in which the Friars can have recourse to benefactors who have money.

14. Truly in this case when beforehand the money itself has been exchanged in a licit transaction for something to have or use, it customarily has happened that the money being conceded, if the one conceding had said or expressed in the act of conceding that the deputed might expend the same money for the necessary use of the friars, whatever might happen to the one conceding [it] in life or at death, whether the one conceding might relinquish an inheritance of this kind or not, the friars have been able to have recourse to the person deputed, not withstanding the death of the one conceding or a contradiction of the inheritance, for that money [which was] to be expended just as they had been able [to have recourse] to the owner himself [who] conceded [it]. Because truly We are zealous for the purity of the order itself with the intimate affection of the heart, when in the aforesaid cases for the sake of a determined necessity, as has been said, it has happened that money has been conceded for some [purpose], the one conceding the money can
himself be begged by the friars, that if any [amount] of the money had for the determined necessity would remain, that the one conceding [it] himself consent that the remainder of the aforementioned money be exchanged into other things for the other aforesaid necessities of the friars themselves; to the end that [when] he does not consent to the aforesaid thing, the remainder, if there was any, be restored to him. Let the friars beware, however, that they solicitously agree amongst themselves so that they do not knowingly consent [that there] be conceded to themselves more [money] than in the semblance of the truth can be judged to be the value of the necessary thing for which the money itself is conceded. And since in the orderly exposition of the aforesaid things the giver or recipient can easily err, so that more clearly for the utility of the ones giving, for the purity of the order of [those] other simple men, for the health of souls on this side and that more securely that understanding be considered, which sufficiently in this case be understood by a sane thinker and [so] We are elucidating [all this] in the order of a constitution [that is] to have an eternal validity, wishing [as We do] that it be brought to the attention of the public, namely that always when money is sent or offered to the friars themselves unless expressly by means of the one sending or offering something be expressed, it is to be understood to have been offered and send by the aforesaid means. For it does not have the semblance of truth that someone would want to fix beforehand that means [concerning] his alms without expressing [it], by means of which even the donor be defrauded of merit or those for whose necessities there be intended by providing a gift of this kind be defrauded either of the effect of [such] a gift or of the purity of their conscience.