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Every effort is made to report the views of authors objectively and accurately, without attempting to comment on them. Since, however, our contributors are fully engaged in their own work, it is impossible to exclude all danger of inaccuracy or misinterpretation. If any of our readers discover any inaccuracies, we hope they will point them out to the editor.

Editor: Rev. Paul Hayward
4 Orme Court, London W2 4RL, United Kingdom.
e-mail: abstracts@ormecourt.com
<http://abstracts.clsghi.org>

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Enquiries relating to subscriptions should be referred to
Kate Dunn
Administrative Secretary
Diocesan Curia
8 Corsehill Road
Ayr KA7 2ST, United Kingdom.
e-mail: kate.dunn@gallowaydiocese.org.uk

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Contents

<u><i>General Subjects</i></u>	2
<u><i>Historical Subjects</i></u>	19
<u><i>Code of Canons of the Eastern Churches</i></u>	31
<u><i>Code of Canon Law Book I: General Norms</i></u>	38
<u><i>Book II, Part I: Christ's Faithful</i></u>	41
<u><i>Book II, Part II: The Hierarchical Constitution of the Church</i></u>	54
<u><i>Book II, Part III: Institutes of Consecrated Life and Societies of Apostolic Life</i></u>	72
<u><i>Book III: The Teaching Office of the Church</i></u>	77
<u><i>Book IV: The Sanctifying Office of the Church</i></u>	80
<u><i>Book IV, Part I, Title I: Baptism</i></u>	82
<u><i>Book IV, Part I, Title II: The Sacrament of Confirmation</i></u>	83
<u><i>Book IV, Part I, Title III: The Blessed Eucharist</i></u>	84
<u><i>Book IV, Part I, Title IV: The Sacrament of Penance</i></u>	86
<u><i>Book IV, Part I, Title VI: Orders</i></u>	88
<u><i>Book IV, Part I, Title VII: Marriage</i></u>	89
<u><i>Book IV, Part II: The Other Acts of Divine Worship</i></u>	112
<u><i>Book IV, Part III: Sacred Places and Times</i></u>	113
<u><i>Book V: The Temporal Goods of the Church</i></u>	114
<u><i>Book VI: Sanctions in the Church</i></u>	118
<u><i>Book VII: Processes</i></u>	126
<u><i>Exchange Periodicals</i></u>	145
<u><i>List of Abbreviations, Periodicals and Abstractors for this Issue</i></u>	146
<u><i>Books Received</i></u>	147

GENERAL SUBJECTS

Comparative law

J 68 (2008), 223-251: Phillip J. Brown: “Free Exercise” and the Incarnational Nature of the Catholic Faith. (Article)

B. begins with an introduction to the First Amendment to the US Constitution and “free exercise” jurisprudence of the US civil courts. He then distinguishes Catholicism from other forms of Christianity based on its incarnational nature, i.e., the importance of concrete externals. B. briefly surveys Church-State relations from the Catholic point of view and considers implications that these might have for future civil law issues in America, such as diocesan bankruptcy.

J 68 (2008), 252-297: Charles J. Reid: Marriage: Its Relationship to Religion, Law, and the State. (Article)

R. begins with a consideration of medieval views of marriage and the State and how this influenced English Protestant legal scholars. He then considers marriage and religion in the history of American law and the perseverance of religious terminology in a civil context. He finishes with a reflection on marriage and the State.

RDC 57 2/07, 277-297: Nicolas Kilgus: La formation par étapes du lien matrimonial en droit canonique et en droit français. (Article)

See below, canon 1057.

Compilations

IC 50 (2010), 293-312: Joaquín Sedano: Crónica de Derecho Canónico del año 2009. (Compilation)

S. presents a review of the main canonical contributions of Pope Benedict XVI and the Roman Curia during 2009, including the Pope’s annual address to the Roman Rota (29 January 2009: see below, canon 1095); various decrees of erection of ecclesiastical circumscriptions; the *motu proprio Ecclesiae Unitatem* restructuring the Pontifical Commission *Ecclesia Dei* and linking it more closely to the Congregation for the Doctrine of the Faith (2 July 2009: see below, canon 1382); the Apostolic Constitution *Anglicanorum Coetibus* establishing personal ordinariates in response to requests to the Holy See from groups of Anglican clerics and laity wishing to enter into full and visible communion with the Catholic Church (4 November 2009; see below, canon 372); and the *motu proprio Omnium in Mentem* modifying the text of certain canons of the CIC/83 to bring

them into line with the amended no. 875 of the *Catechism of the Catholic Church* (made public on 26 December 2009, though dated 26 October 2009: see below, canon 1086; see also *Canon Law Abstracts*, no. 104, p. 104).

The review then goes on to mention the more significant documents and activities of the Roman Curia in 2009, including the Secretary of State's communication of the Holy Father's granting of an extension of time for the members of the Lumen Dei Union to communicate in writing their desire to adhere to the Constitutions of Lumen Dei (23 January 2009; see *Canon Law Abstracts*, no. 103, p. 62; see also below, canon 318), and the subsequent appointment of a new Papal commissioner for Lumen Dei, Archbishop Sanz Montes (20 May 2009); the Congregation for the Doctrine of the Faith's Complementary Norms to *Anglicanorum Coetibus* (see above), dated the same day as the Apostolic Constitution itself; and the Congregation for Bishops' lifting of the excommunication of four bishops ordained in 1988 by Archbishop Lefebvre (21 January 2009; see below, canon 1354; see also *Canon Law Abstracts*, no. 104, p. 146).

S. then dedicates sections to the activity of the Apostolic Penitentiary (the granting of indulgences for the VI World Meeting of Families, Mexico City, 13-18 January 2009; the Year for Priests, 19 June 2009-19 June 2010: see below, canon 519; and the Holy Year of Pope St Celestine V, 28 August 2009-29 August 2010); the Pontifical Council for the Laity (erection of the *Milicia de Santa María* as an international private association of the faithful, 7 April 2009); the Press Office of the Holy See (announcement of the expulsion of the emeritus archbishop of Lusaka, Emmanuel Milingo, from the clerical state: see *Canon Law Abstracts*, no. 104, p. 62; and the non-recognition of the validity of orders conferred by him); the diplomatic activity of the Holy See during 2009; and documentation issued by the Spanish Episcopal Conference.

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J.
(Book)

This *Festschrift* in honour of Sister Rose McDermott S.S.J., Associate Professor of the School of Canon Law, Catholic University of America, is the first of a new series by the Faculty of the School of Canon Law (and in fact revives a past publication), *Institutiones Iuris Ecclesiae*. The volume contains 13 articles, the first of which is by Kenneth Pennington, *Giuseppe Dossetti's Medieval Sources* (pp. 25-34). Dossetti (1913-1996) highlighted the importance of legislative and doctrinal precedents for a proper understanding of present-day law, and P. argues, in the light of Dossetti's examination of the complicated jurisprudence that preceded canon 1017 of the CIC/17 and canon 1062 of the CIC/83, that modern canon law has been impoverished by the disconnection between the *Corpus Iuris Canonici* and the *Codex Iuris Canonici*, despite Cardinal Gasparri's attempts to repair the damage by publishing the six volumes of *Fontes* to the CIC/17.

The second article, by Thomas Green (pp. 35-62), is entitled *Lay Ministries in the*

Church: Comparative Reflections on the Eastern and Latin Codes. In approaching the topic G. begins by considering some generic Eastern canons articulating general principles on lay involvement in Church government structures, including CCEO canons 15 (the basic right to express one's spiritual needs and articulate one's opinion on issues affecting the good of the Church), 381 §3 (the obligation of the clergy to facilitate lay ecclesial involvement), 408 (different types of ecclesial service) and 929 §2 (lay eligibility to participate in the exercise of the power of governance). He then considers specific instances of lay involvement in the exercise of the *munus regendi* in various legislative, executive and judicial ministries in the two Codes, focusing especially on the Eastern Code.

Robert Kaslyn offers a contribution on *The Canonical Institute of Incardination: Entrance into the Clerical State in the Code of Canon Law* (pp. 63-99) in which he examines the transformation of the canonical institute of incardination from the CIC/17 to the *ius vigens*.

James A. Coriden writes on *Pastoral Ministry in the Parish: A Theological Consensus and Practical Issues* (pp. 100-123), in which he argues that the lay ecclesial ministry still needs to be integrated into a theological vision and canonical formulation of ministry. For C. the required theology of ministry is already available and represents "an American consensus"; and he discusses five specific issues of praxis: alternative forms of parish leadership; a theology of vocation; authorization of lay ministers; an appropriate title for the canon 517 §2 parish leaders; and terms of office for lay ecclesial ministers.

Kurt Martens (pp. 124-147) offers some reflections on *A Particular Form of Religious Life: Beguines in Flanders*, looking at the Beguines in the broader context of religious life, the meaning of their name, their history, their life and organization, and their future, if any.

Robert W. Oliver (pp. 148-167), in *Sisters and Brothers to God's People*, explores a particular aspect of the vocation of religious sisters and brothers in the Church. Through the lives they live for others, our sisters and brothers are true signs of a *novus habitus mentis* regarding consecrated life in the Church.

Sister Sharon Holland, in *Balancing Code and Culture: Select Issues in Religious Governance* (pp. 168-200) examines some contemporary questions regarding religious governance in order to determine the compatibility of trends and proposals with the provisions of the Code. She reviews some introductory canons on governance (canons 596, 617-619) with particular reference to the source of authority. She then summarizes the methods for exercising religious authority as set forth in the 2008 Instruction *The Service of Authority and Obedience*, before considering certain contemporary challenges and proposed solutions.

Phillip J. Brown looks at *Societies of Apostolic Life: The Evolution of a Canonical Institute* (pp. 201-234), examining the concept of "evolution" itself before applying it to societies of apostolic life and their characteristics, and analyzing the

treatment of such societies in canons 731-746 of the CIC/83.

Sean O. Sheridan, in *Consecrated Persons in Catholic Schools: A Canonical Analysis* (pp. 235-271) reviews select canonical provisions that pertain to the involvement of members of institutes of consecrated life and societies of apostolic life in Catholic schools, as well as relevant pre-1983 documents, the views of Pope John Paul II and Benedict XVI, and several documents from the Congregation for Catholic Education.

John J.M. Foster examines the various elements that comprise the third movement of the Liturgy of the Eucharist (the Communion rite) in “*Take and Eat, Take and Drink*”: *An Examination of the Communion Rite in the Third Edition of the Roman Missal* (pp. 272-311) in an effort to trace significant developments since the reforms of the Second Vatican Council.

John Beal, in *The Complaint of Nullity in Marriage Nullity Cases: A Hands-On Guide* (pp. 312-346), offers a practical guide for potential petitioners and tribunals on the use of the plaint of nullity, which he describes as “this often overlooked and even more misunderstood remedy against a sentence”.

Roch Pagé (pp. 347-367) asks “*Quid est Veritas*” in *Matrimonial Cases According to “Dignitas Connubii”*? and discusses the use of the ordinary contentious procedure as the ordinary means in the search for truth in matrimonial trials; the contentious procedure according to the Instruction *Dignitas Connubii*; and the search for truth in *Dignitas Connubii*.

The final article, by Ronny E. Jenkins, is entitled “*Nullum Crimen, Nulla Poena Sine Lege*.” *The Principle of Legality in Modern Canonical Theory and Practice* (pp. 368-394), and begins with a brief outline of the history of the principle of legality, before going on to discuss the appropriation of the principle by the CIC/17 and CIC/83, as well as the associated debates that resulted from the inclusion of various canons in those legislative texts. It concludes by examining the effect of the special faculty recently granted to the Congregation for the Clergy (18 April 2009: see below, canon 290) to allow the use of canon 1399, which itself is modified by several derogations from the universal law granted in the same document. (For bibliographical details see below, Books Received.)

Ecclesiology

Comm 39 (2007), 193-197: Congregatio pro Doctrina Fidei: Responsa ad quaestiones de aliquibus sententiis ad doctrinam de ecclesia pertinentibus (die 29 mensis iunii). (Reply)

The Congregation for the Doctrine of the Faith follows up previous declarations, including *Dominus Iesus* of 2000, by clarifying five points: whether Vatican II changed the previous teaching on the Church; how the Church of Christ is

understood to subsist in the Catholic Church; why the term chosen was “subsists” rather than “is”; why Vatican II describes non-Catholic Eastern Churches as “Churches”; why the term “Church” is not applied to communities born of the Reformation. This reply was approved by the Pope *in forma communi*.

Comm 39 (2007), 284-290: L'Osservatore Romano: *: Articulus explanans “Responsa” a Congregatione pro Doctrina Fidei die 29 iunii 2007 data.** (Article)

This anonymous article appearing under three asterisks, indicating a certain official standing, explains the questions lying behind the five-point reply issued on 29 June 2007 on the teaching of Vatican II on the nature of the Church (see preceding entry).

J 68 (2008), 328-349: Myriam Wijlens: The Doctrine of the People of God and Hierarchical Authority as Service in Latin Church Legislation on the Local Church. (Article)

See below, canons 511-514.

J 68 (2008), 350-360: Verena Feldhans: *Ecclesia Sui Iuris* and the Local Church: An Investigation in Terminology. (Article)

F. considers the various different terms used to describe dioceses and Eastern Churches in the conciliar and post-conciliar documents and theology. She believes that “local Church” may be preferable to “particular Church” when referring to dioceses. She also presents the various different attempts to refer to Eastern Churches.

J 68 (2008), 408-417: Laurent Villetin: Theology of the Relation of the Bishop to his Diocese in the Ceremonial of Bishops. (Article)

V. begins with a brief overview of the evolution of the *Ceremonial of Bishops* and then comments on how three Vatican II texts – *Sacrosanctum Concilium*, no. 41, *Lumen Gentium*, no. 26 and *Lumen Gentium*, no. 21 – have influenced the current *Ceremonial*.

J 68 (2008), 460-496: Adam A.J. DeVille: A Diversity of Politics: Patriarchal Leadership in the Orthodox Churches. (Article)

DeV. considers the general history, jurisdiction and territory, powers, checks and

balances, and selection of patriarchs and bishops in the Patriarchates of Constantinople (Orthodox), Alexandria (Orthodox), Alexandria (Coptic), Antioch (Orthodox), Jerusalem (Orthodox), Moscow (Orthodox), Romania (Orthodox), Bulgaria (Orthodox) and the Armenian Apostolic Orthodox Church.

Ecumenism and interreligious dialogue

Comm 39 (2007), 269-283: Pontificium Consilium ad Unitatem Christianorum Fovendam: “The Ravenna Document”. (Document)

See below, canon 755.

J 68 (2008), 114-135: Brian Sparksman: The Practice of Ecumenism in a Rural Australian Diocese. (Article)

S. describes the history of ecumenism in the diocese of Toowoomba, Australia, and some practical steps that have been taken to embed ecumenism in diocesan structures.

J 68 (2008), 460-496: Adam A.J. DeVille: A Diversity of Politics: Patriarchal Leadership in the Orthodox Churches. (Article)

See above, General Subjects (*Ecclesiology*).

J 69 (2009), 749-765: Paul McPartlan: The Ravenna Agreed Statement and Catholic-Orthodox Dialogue. (Lecture)

McP. begins with a historical introduction to Catholic-Orthodox dialogue. He then comments on the Ravenna Document (for more details of which see *Canon Law Abstracts*, no. 102, p. 56) from a theological and historical viewpoint.

J 69 (2009), 766-789: Kallistos Ware: The Ravenna Document and the Future of Orthodox-Catholic Dialogue. (Lecture)

W. compares authority and primacy in the two Churches in the past and the future. He criticizes the dropping of the title “Patriarch of the West”.

REDC 66 (2009), 801-838: Conferencia Episcopal Española: Orientaciones para la celebración del matrimonio entre católicos y musulmanes.

Orientaciones pastorales. (Document and commentary)

The text is provided of the 2008 Spanish Episcopal Conference's Pastoral Guidelines on the marriages of Catholics and Muslims, an increasing phenomenon in present-day Spain. The document presents the Catholic and Muslim understanding of the nature of marriage, the need for genuine discernment and pastoral preparation for such marriages, the circumstances of their celebration and the necessary follow-up pastoral care. Federico Aznar Gil provides a commentary on the principal points raised in the document.

Family issues

IE XXII 1/10, 275-297: Segreteria di Stato: Rescritto di approvazione del Testo Unico delle “Provvidenze a favore della famiglia”, 8 aprile 2009 (con nota di Anna Maria Cappelletti, *Le provvidenze a favore della famiglia: il Testo Unico del 2009*). (Document and commentary)

On 8 April 2009, the Secretary of State published a document which brought together into a single text the various provisions in favour of the family that had been approved on 20 January 1994, 2 June 1999 and 28 April 2004. These new provisions, which came into force on 1 July 2009, apply to those working for the Roman Curia, the *Governatorato* of the Vatican City State, and administrative organisms and bodies connected with the Holy See. They deal with child allowances, maternity, disabled relatives, and educational expenses. In her commentary, C. looks at the sources of the document and develops its main points in the light of canons 224-231 on the obligations and rights of the laity, and canons 1134-1136 on the obligations and rights arising out of marriage.

INT 15 2/09, 139-148: Mary A. McPherson Oliver: Biography of a Marriage: The 16th Century Beginnings of Conjugal Spirituality. (Article)

O. outlines the lives of Barbe Avrillot and Pierre Acarie. During their long and loving marriage they developed a common spiritual life and achieved sanctity together in their married state. Their Paris home became the focus of religious life for both lay and clergy. The author says that it was through this marriage that for the first time husband and wife emerge as a serious spiritual unit.

INT 15 2/09, 150-157: Thomas Knieps-Port le Roi: Ehespiritualität: Die Anfänge einer Laienbewegung im 20. Jahrhundert. (Article)

The author traces the development of the Catholic lay movement which gave rise to the term “conjugal spirituality”. In France in the 1930s, a number of married

people began to discuss what was, and how to live, Christian marriage. The Teams of Our Lady arose from these groups, followed by comparable European movements. The broad background was the search for a lay and married spirituality distinct from that of clergy and religious.

Law reform

FC 12 (2009), 23-30: Piotr Kroczek: Does obligatory canonical form of marriage contribute to *salus animarum*? (Article)

See below, canon 1108.

Legal theory

Comm 39 (2007), 180-182: Pope Benedict XVI: Allocutio Summi Pontificis ad Sodales Commissionis Theologicae Internationalis, die 5 octobris habita. (Address)

The Pope addresses the members of the International Theological Commission on the theme of natural law. Reflecting on no. 1955 of the *Catechism of the Catholic Church* he makes the point that the ethical content of the Christian faith is not an external imposition on human consciences but has its foundation in human nature itself. Secondly, since natural law is in principle accessible to every rational creature it provides a basis for dialogue with all people of good will and with civil and secular society. Unfortunately the prevalence of legal positivism calls into question the fundamental demands of the dignity of human beings, family and social life.

Comm 39 (2007), 190-192: Secretaria Status: Allocutio de themate “Status Iuris” ad VI Comitatum 62ae sessionis Conventus Generalis Nationum Unitarum Coetus a moderatore delegationis Sanctae Sedis habita. (Address)

The representative of the Holy See addresses the General Assembly of the United Nations (in English) on the theme of the rule of law in international relations. He calls for the further development of such structures at international level. Sovereignty cannot be seen as an absolute right.

IC 50 (2010), 221-253: Paolo Gherri: Primi appunti per una storia delle origini della Teologia del Diritto (canonico). (Article)

The theology of canon law based on the teaching of Mörsdorf is deeply rooted in a specifically German problem regarding the juridical autonomy of Churches with respect to the State. The question was raised by Sohm, who denied any such form of autonomy: *Kirchenrecht* is an exclusive prerogative of the State and contradicts the nature of the Church. In 1934 the Evangelical Church led by Barth rejected the radical Nazi laws and laid claim to autonomous intra-ecclesial regulation (also known as *Kirchenrecht*), which was grounded in *Kirchenrechtstheologie* and in philosophical terms. In the post-war period, the same line of thought was promoted by Mörsdorf so as to “revitalize” the pre-conciliar canon law (*Kanonischenrecht*). However, changes in German vocabulary and culture meant that *Kanonischenrecht* and *Kirchenrecht* became interchangeable. Sohm’s *Kirchenrecht* was the law of the State concerning Churches (ecclesiastical law), while Mörsdorf’s was the law of the Church itself (canon law). Thus the same term was used for two irreconcilable phenomena.

IE XXII 1/10, 13-17: Gaetano Lo Castro: L’idea del Diritto in Rinaldo Bertolino. (Conference presentation)

On the occasion of a conference held at the University of Turin in December 2009 to mark the retirement of Professor Rinaldo Bertolino, Rector of the University from 1996 to 2004, Lo C. looks at the tension between the norm and the individual conscience, and how Bertolino’s thought has moved and developed within this dichotomy. The answer that each person owes to the problem of the Law is to be given with humility, almost with fear, that is, interiorly acknowledging that justice and the law are greater than each individual; they are to be served, not simply to be put to our service.

IE XXII 1/10, 173-196: Marie-Dominique Goutierre: Le juge, justice vivante. Le jugement selon S. Thomas d’Aquin. (Article)

G. offers some comments on judgement as an act of the virtue of justice according to St Thomas Aquinas. She briefly looks at Aristotle’s teaching, as well as Sacred Scripture and theology, before setting out Aquinas’s position in detail, under various subheadings: judging with justice; whether (in view of apparent Scriptural prohibitions) it is in fact lawful to judge; whether judgement on the basis of suspicion is unjust and therefore illicit; presumptions of innocence and giving the accused the benefit of the doubt; whether judgement should always be based on written law; authority and abuse of power.

J 68 (2008), 569-591: Kenneth Pennington: Lex naturalis and Ius naturale. (Article)

See below, Historical Subjects (*Classical period*).

J 70 (2010), 29-85: William L. Daniel: The Principle of Legality in Canon Law. (Article)

D. offers an in-depth consideration of the “principle of legality”, that is, the idea that all norms must be harmonious with superior norms and that all authorities in the Church are bound by superior authorities: even the Pope is bound by certain limitations. Moreover, dispensations and privileges can only be granted within legal limits. In the course of this D. also discusses the distinctions between legislative, executive and judicial power in canon law.

RMDC 16 (2010), 7-36: Pío Vito Pinto: Status actual del Derecho Administrativo en la Iglesia: Sus fundamentos teológicos y las diferentes perspectivas actuales. (Article)

Administrative law is a branch of canon law which has developed since Vatican II, whose theology has fostered a better understanding of the Church as communion – a society with a divine and at the same time human nature which has in some way been affected by conflicts within its social structure. There are different views on the nature of ecclesial administrative law, but in its widest sense it can be understood as a synthesis of all governmental activity in the Church. P. examines why the Church needs administrative law, and explains the foundations of such law in the Church as Mystical Body and the Church as Communion. He devotes a substantial section of his article to the special contribution made by Pope Paul VI regarding the theological and juridical foundations of administrative law, and ends with a number of conclusions which he feels each doctrinal “school” of canon law should not only accept, but also promote and foster.

SCL V (2009), 257-276: Victor D’Souza: On the Twenty-Fifth Anniversary of the *Code of Canon Law* – a Reflection on Its Impact on the Church in India. (Article)

The true efficacy of law depends on how it is received by the community for which it is enacted. D’S. looks at how the Church in India has received the CIC/83. After a brief statistical overview he considers first the level of the Catholic Bishops’ Conference of India, which since 1988 has been an overarching body embracing issues common to the Latin and two Eastern Churches, and then the Conference of Catholic Bishops of India, which is that of the Latin rite alone. One of the most important actions was the establishment of the Institute of Canon Law at Bangalore in 1987. Diocesan response has been much more patchy. Some bishops act in a cavalier and even unlawful manner, particularly over property and appointments. Little attempt has been made to update the clergy, and seminary

teaching is inadequate in terms of time and approach. At parish level there is generally a good level of lay involvement, but less so in mission areas. When it comes to rights and obligations, lay people are often ill-informed, and resort to the civil courts which then find themselves interpreting Church law. Not only lay people but also religious and priests are frequently treated in an arbitrary manner. Bishops need better knowledge and understanding of the law.

Relations between Church and State

AnC 3/2007, 5-21: Waław Uruszczak: Recepcja prawa kanonicznego w obowiązującym prawie polskim (= Reception of canon law into the Polish law currently in force). (Article)

Church-State relations in Poland currently follow the model of “coordinated separation”, whereby the State accepts the autonomy of the Church and its right to act in social and public life. This means that canon law can be applied within the internal relationships of the State as part of the legal order currently in force. U. looks in particular at direct references made by State law to the law of the Church, especially in the area of marriage, and at other indirect references, such as the notions of “common good” and “human dignity” as found in the 1997 Constitution of the Republic. Certain terms which are of canonical origin are also found in other branches of law, notably those concerning the public activity of the institutional Church, and religious persons. The reception of canon law into Polish law does not threaten the confessional neutrality of the State, since the model followed is one which recognizes limits to the activity of the State, beyond which lies the sphere of civic activity of individuals and groups.

AnC 3/2007, 39-53: Krzysztof Andrzej Wąsowski: Status prawny komisji majątkowej. Regulacja roszczeń majątkowych Kościoła katolickiego na gruncie prawa polskiego (= Legal status of the Property Committee. Adjustment of property claims of the Roman Catholic Church in the light of Polish law). (Article)

W. describes the legal status of the Property Committee as an independent body (not a State authority) whose main aim is the restoration of the property of the Roman Catholic Church in Poland. He analyzes the organizational structure of this body and its procedures. The Property Committee is unlike any other public authority in Polish administrative law, and its decisions do not have the status of administrative decisions. In his view such decisions may be called *sui generis* “restitution rulings”.

AnC 3/2007, 67-87: Andrzej Wójcik: Prawo obywatela-katolika do

niedzielnego odpoczynku (= The right of the citizen-Catholic to Sunday rest).
(Article)

See below, canons 1246-1247.

AnC 3/2007, 169-186: Michał Józwik: Istotne okoliczności i elementy prawne przy zawieraniu małżeństwa konkordatowego w Polsce (= Matrimonial law according to the 1993 Polish Concordat). (Article)

See below, canon 1055.

AnC 3/2007, 231-244: Paweł Sobczyk: Stanowisko Prymasa Polski w sprawie wartości i wolności religijnej w Konstytucji Rzeczypospolitej Polskiej (= The position of the Primate of Poland on the religious values and religious freedom in the Constitution of the Republic of Poland). (Article)

On the 10th anniversary of the 1997 Polish Constitution, S. reflects on the personal influence which Cardinal Józef Glemp exerted in the constitutional process, through his teachings and public statements on fundamental issues concerning Catholics.

FCan V/1 (2010), 81-114, 145-151: Mário Rui de Oliveira: A Carta Circular do Supremo Tribunal da Assinatura Apostólica e o art. 16 da Concordata. (Article)

See below, canon 1059.

IC 50 (2010), 83-128: Miguel Rodríguez Blanco: Medidas de fomento y promoción en materia de asociaciones de fieles: régimen fiscal y mecenazgo. (Article)

See below, canon 298.

IE XXI 3/09, 525-548: Juan Ignacio Arrieta: L'organizzazione ecclesiastica in Cina. Lacune, problemi e prospettive. (Lecture)

A. looks at three aspects of the organization of the Catholic Church in China: the distribution of ecclesiastical circumscriptions within the country; the main laws given by the Chinese authorities to regulate the working of this organization; and the Conference of Chinese Bishops established by the government some years ago. He examines the juridical aspects of the Chinese Catholic Patriotic

Association; the circumstances leading to the periods of persecutions and clandestinity in China; and, with Pope Benedict's Letter of 2007 in mind, the religious legislation imposed by the State and the Statutes of the Conference of Chinese Bishops. His conclusion is that, without doubt, reciprocal knowledge and mutual trust is the only way to bring the Church and the Chinese authorities closer. In any event the Church teaches the faithful that respect for civil authority is part of the virtue of justice, and love for one's own country is part of the virtue of religion. A. admits that the two sides are still quite distant from each other, and suggests that the only limit to the flexibility that is called for is the divine law itself.

IE XXI 3/09, 653-667: Balázs Schanda: Financing of Churches and Religious Communities in Hungary. (Article)

The financing of the Churches is usually adjusted to the scheme of the relationship between Church and State and the role which the Church has in the country concerned. S. studies the common challenges in this respect within Central and Eastern Europe, dealing at some length with the restitution of Church property in Hungary. He also considers the financing of religious activities in Hungary through the tax assignment system, other channels of public funds, and the financing of public benefit activities. Funds are provided in such a way that the State respects the freedom of the Churches, so that they can operate in separation from the State.

IE XXI 3/09, 725-739: Portugallo, Ministério da Justiça: Decreto-Lei, n. 100/2009, 11 maggio 2009 (con nota di J.P.S. Mendonça Correia, *Anotações à regulamentação do artigo 16 da Concordata de 18 de maio de 2004 entre a Santa Sé e Portugal*). (Document and commentary)

The text is given of a provision issued by the Portuguese Ministry of Justice relating to the civil effects of ecclesiastical decisions concerning canonical marriage and the pontifical dispensation of ratified and non-consummated marriages.

IE XXII 1/10, 41-49: Giorgio Feliciani: Il finanziamento della Chiesa Cattolica dopo gli Accordi del 1984: principi ispiratori e attuazioni concrete. (Article)

20 years after the coming into force of a new system of State financing of religious confessions in Italy (1990), in accordance with the 1984 Accord modifying the Lateran Concordat of 1929, F. reflects on the extent to which the new system has been successful.

J 68 (2008), 223-251: Phillip J. Brown: “Free Exercise” and the Incarnational Nature of the Catholic Faith. (Article)

See above, General Subjects (*Comparative law*).

J 68 (2008), 252-297: Charles J. Reid: Marriage: Its Relationship to Religion, Law, and the State. (Article)

See above, General Subjects (*Comparative law*).

REDC 66 (2009), 703-719: Cónego Álvaro Bizarro: Consulta da natureza do conhecido Corpo Nacional de Escutas (CNE) face às normas jurídicas aplicáveis. (Document and commentary)

The document in question is a questionnaire from the national Scouting body in Portugal sent to the Portuguese Episcopal Conference concerning the relationship between the Portuguese Catholic Scouts Association and the Catholic Church, the canonical status of the Association and its position vis-à-vis the legislation of the Portuguese Republic in the light of the Concordat of 2004. The commentary outlines briefly the history and origins of the Catholic Scouting movement in Portugal and deals with the questions presented.

Religious freedom

AnC 3/2007, 67-87: Andrzej Wójcik: Prawo obywatela-katolika do niedzielnego odpoczynku (= The right of the citizen-Catholic to Sunday rest). (Article)

See below, canons 1246-1247.

FCan V/1 (2010), 189-209: Sérgio Pinto: Da separação à liberdade religiosa: um discurso de Casimiro Rodrigues de Sá. (Article)

See below, Historical Subjects (*20th century*).

IE XXI 3/09, 713-724: Ombretta Fumagalli-Carulli: Speech alla Organizzazione per la Sicurezza e la Cooperazione in Europa, 9 luglio 2009 (con nota di M. F. Ferrero, Note a margine del “Keynote Speech” della prof. Fumagalli Carulli). (Speech and commentary)

Text in Italian of the speech given by F.C. to the Organization for Security and Cooperation in Europe (OSCE) on 9 July 2009, dealing with questions of freedom of religion and belief. In his commentary F. explains the role and contribution of the Holy See to OCSE and describes particular aspects of its activity.

Social issues

Comm 39 (2007), 198-203: *Congregatio pro Doctrina Fidei: Responsa ad quaestiones ab episcopali Conferentia Foederatorum Americae Statuum propositas circa cibum et potum artificialiter praebenda (die 1 mensis augusti)*. (Reply)

The Congregation for the Doctrine of the Faith gives an affirmative reply to the question whether food and drink are to be supplied by artificial means to those in a “vegetative state”, unless they cannot receive it, or to do so would be gravely burdensome. The answer is negative to the question whether food and drink can be withdrawn if the medical judgement is that the patient will never regain consciousness. The short reply is followed by a more expansive comment explaining the reasoning behind it.

INT 15 2/09, 165-177: *Laura Arioso: The Consequences of Marital Instability: A Study of the Italian Situation*. (Article)

An increasingly large section of the population is separated and divorced as the barriers to separation have become considerably weakened. The consequences are not confined to the more obvious ones of poorer health and finances. The effects are multi-dimensional including those of relationships, identity, work and family and social values. As the whole person is involved the individual’s religious attitudes may also be changed. A.’s studies discern two post-separation periods: one the immediate aftermath, and the second the repercussions which are necessarily longer-term. The latter is needed to understand the real consequences of marital instability for the person’s life.

INT 15 2/09, 180-193: *Elisabetta Ruspini: Mères seules et pères seuls à Paris et à Milan: Continuités et variations*. (Article)

There have always been one-parent families, but in the past the cause has been the death of a spouse rather than, as today, the separation of the couple. Here R. enumerates forms of sole-parent families: teenage mothers, lone fathers, unmarried mothers, young widows and widowers, the separated and divorced, gay and lesbian parents, and transsexual parents. R.’s research focuses on how these different complex circumstances relate to the urban social context, and how

administration responds to these needs in Paris and Milan.

INT 15 2/09, 195-212: Jeevaraj Lourdhu: What is a Catholic Response to Spousal Abuse in the Indian Family? An Ethical Discussion Based on Church Teachings. (Article)

L. concentrates on the spousal abuse of women, given their greater vulnerability. Based on his research he defines spousal abuse as “any behaviour, action or the omission of action, that is wilfully and deliberately perpetrated against one’s spouse with the intention of controlling or harming her either physically, sexually, psychologically or economically”. Such abuse occurs in all societies. L. discusses the problem in an Indian context, looking at its forms, causes and consequences. He then examines Catholic teaching, which condemns all forms of discrimination and violence against women. He argues however that the Church still holds some positions which are ambiguous regarding the social status of women and these need to be addressed. He ends the article with practical proposals for the eradication of spousal abuse in India.

HISTORICAL SUBJECTS

First millennium

ITQ 75 (2010), 56-74: Eoin de Bhaldraithe: Bishops and Presbyters in Early Christian Ireland. (Article)

The description of the first order of saints in the *Catalogus Sanctorum Hiberniae* gives witness to very early Church traditions. From this it can be inferred that Christianity was already established in Ireland by the year 400. Every church had a bishop. One of them became the “first bishop” or primate. This was initially the Patrick of the *Confessio*. The next primate was Palladius, also called “Second Patrick” and “Old Patrick”. Presbyters lived with the bishop in the main church and travelled to other churches, or “kills”, for Sunday services. There was also a shadowy figure of power, sometimes called the *princeps* and sometimes the abbot. Conventual abbots, unlike the Roman type, were priests. By the second millennium many features of the Irish Church seemed abusive to outsiders, but they witness to traditions inherited from earlier times.

J 68 (2008), 5-21: Brian Daley: Primacy and Collegiality in the Fourth Century: A Note on Apostolic Canon 34. (Article)

D. begins with a historical overview of the Apostolic Canons and of canon 34 in particular. He considers that three aspects are relevant to today: that the basic structure of the organization of the Church is borrowed from civil society; that the canon however does not simply subordinate the lower to the higher – there is horizontal as well as vertical responsibility; and that the harmony of the bishops must be modelled on the interpersonal relationship of the Triune God rather than on the rule of Caesar.

RDC 57 2/07, 299-336: Charles Munier: À propos de Louis de Dabo, comes *Alemanorum*, aïeul du pape Léon IX. (Article)

The genealogy of Pope Leo IX (1049-1054) is well-known on the paternal side: his father Hugues was a cousin of the Holy Roman Emperor Conrad II. But the maternal side is still disputed. M. reviews the following hypothesis: the maternal grandfather of the Pope, Louis de Dabo, is the son of Renaud de Roucy, Count of Rheims, a close relative by marriage of King Louis IV of France. But this Renaud de Roucy is none other than the Norman leader Ragenold who ravaged part of Frankia in the 920s, prior to forming an alliance with Louis IV by marrying his stepdaughter. Leo IX thus descends by his mother from a Norman chief, his great-grandfather, allied with the French royal family.

RDC 57 2/07, 357-388: Michel Graur: Fulbert de Chartres et les autorités civiles. (Article)

The many connections of Fulbert de Chartres with well-known and influential public figures enabled him to acquire a certain celebrity, but also to become the voice for his time. Through the detailed correspondence he had with William of Aquitaine, Fulk II Nerra and Robert the Pious, he came to understand that the Church could not accomplish its mission without the support of the feudal lords. He thus promoted the idea of an institution where the episcopate had important political privileges and freedom of speech with regard to other social classes of the era.

Arnold Rosney: The Seal of Confession and Privileged Communications. (Thesis)

See below, canons 983-984.

Classical period

FC 12 (2009), 31-65: Carlos Larráinzar: Metodi per l'analisi della formazione letteraria del *Decretum Gratiani*. “Tappi” e “schemi” di redazione. (Conference presentation)

L. gives an account of the extensive study, analysis and research carried out with the common aim of obtaining an agreed or “safe” text of the *Decretum Gratiani*. This research began with written manuscripts; later it became necessary to introduce more precise criteria in order to select which codices to examine. L. analyzes in detail the methodology of the research.

FC 12 (2009), 119-137: Szabolcs Anzelm Szuromi: Medieval canon law heritage of the Norbertine Abbey of Weissenau in the hermitage of St Petersburg. (Article)

The Norbertine Abbey of Weissenau was founded in 1141-1145 by Gebizo of Ravensburg, and was secularized in 1802. The first provost of the monastery was Wernher in 1145; the first abbot was Heinrich I (1257-1266); and the last at the time of secularization was Bonaventura Brehm (1794-1803; †1818). Because of the Napoleonic war, the material of the abbey’s library was removed to Berlin, Prague and St Petersburg. The monastery library of Weissenau is known to have had a rich collection of books that had been gathered since the middle of the 12th century. In 1932 Paul Lehmann listed several manuscripts of Weissenau that ended up in the Latin collection of the Hermitage. This Latin collection had previously been moved to the Imperial Public Library of St Petersburg in the middle of the 19th century. Revising and analyzing the 41 Latin manuscripts of this collection, S. found four codices (Ermit. lat. 11, 12, 25, 26) which testify to the profound canonical knowledge of the Norbertine community.

IC 50 (2010), 201-219: Szabolcs Anzelm Szuromi: Some Witnesses on the Gradual Evolution of the Ivonian Textual Families. (Article)

Ivo of Chartres’ intention was to present the canon law of the Church as a whole, so as to promote the role and work of ecclesiastical institutions, especially with regard to the care of souls and salvation as the final goal. This endeavour to apply the entirety of canon law might be realized in a variety of ways, and was to be fundamentally linked to the particular features of specific ecclesiastical institutions. Strict paleological and codicological analyses of Orléans, Bibliothèque Municipale Ms. 222 (104) and Cambridge, Gonville and Caius College 393 (455) suggest convincingly that the term “textual families” should be used in relation to Ivo’s work.

J 68 (2008), 22-37: Uta-Renate Blumenthal: The Prohibition of Clerical

Marriage in the Eleventh Century. (Article)

B. presents the historical context for the prohibition of clerical marriage under Gregory VII. This calls on canonical sources but also involves the history of the clergy, Papacy, and Italian life in this period. It highlights the importance of encouragement from lower clergy and the laity in enforcing celibacy.

J 68 (2008), 569-591: Kenneth Pennington: *Lex naturalis* and *Ius naturale*. (Article)

P. compares the notions of *lex naturalis* and *ius naturale* in the medieval authors, especially Gratian and St Thomas.

Emmanuel Petit: Consentement matrimonial et fiction du droit. Etude sur l'efficacité juridique du consentement après l'introduction de la fiction en droit canonique. (Book)

See below, canons 1139-1140.

Arnold Rosney: The Seal of Confession and Privileged Communications. (Thesis)

See below, canons 983-984.

16th-19th centuries

IE XXI 3/09, 631-652: William L. Daniel: The Power of Governance Enjoyed by the Supreme Tribunal of the Apostolic Signatura with Historical Antecedents. (Article)

See below, canon 1445.

J 68 (2008), 38-52: Jacques M. Gres-Geyer: Varieties of Gallicanism: Four Sorbonne Doctors on Diriment Impediments to Matrimony (1674-1691). (Article)

G.-G. offers a historical study of the dispute among various doctors of the Sorbonne on the subject of marriage, and specifically whether the source of the power to declare impediments is civil or canon law, and whether matrimony should be seen as primarily contract or sacrament.

J 68 (2008), 53-91: Robert Trisco: An Extracanonial Institution: The Annual Meetings of the American Archbishops, 1890-1919. (Article)

T. presents a historical overview of the institution of the annual meeting of the American Archbishops, and its composition and procedures. He then considers the various topics discussed at the meetings, including faculties and dispensations, secret societies, and Byzantine-rite priests in the USA.

J 68 (2008), 252-297: Charles J. Reid: Marriage: Its Relationship to Religion, Law, and the State. (Article)

See above, General Subjects (*Comparative law*).

J 68 (2008), 497-568: John P. Beal: It's Déjà Vu All Over Again: Lay Trusteeism Rides Again. (Article)

See below, canons 1254-1310.

J 70 (2010), 186-205: Kevin E. McKenna: Clerical Penal Procedures in the United States in the 19th Century and the Instruction of 1878. (Article)

McK. offers a short history of US penal procedure in the 19th century and discusses the decrees of the 1855 Provincial Council of St Louis and, in more detail, the procedures established by the 1878 Instruction *Quamvis*. Finally, he discusses the bishops' response to this Instruction – they were not keen on so much canon law.

REDC 66 (2009), 741-800: José Antonio Calvo Gómez: Los Estatutos del Monasterio de Santa María del Burgoondo de 1549. (Document and commentary)

C.G. presents the text of the 1549 statutes of the medieval collegiate Chapter of Clerics Regular of St Augustine in Burgoondo, diocese of Ávila. This document takes up the greater part of his article and is followed by his own commentary.

SC 43 (2009), 521-546: Pierre Allard: Thomas More: Marriage, Family and Education. (Article)

A. first briefly considers the teaching of Vatican Council II about marriage and the family. Then, in Part I, the major stages of More's life are presented with insistence on his law training. Part II presents More's conception of marriage,

which reflects a sound Christian understanding of its reality. In Part III, the role of parents in the education of their children is presented under different headings: a) parents and education in general; b) children's need for affection; c) physical and psychological development; d) moral development; e) parents as models; f) spiritual formation. In Part IV, the possibility of providing education personally or by others is briefly addressed. A.'s conclusion is that More did not limit himself to taking care of the external good of his children but was concerned about their whole person. He can be a good model for today's parents.

Emmanuel Petit: Consentement matrimonial et fiction du droit. Etude sur l'efficacité juridique du consentement après l'introduction de la fiction en droit canonique. (Book)

See below, canons 1139-1140.

1917 Code

AnC 3/2007, 101-120: Zbigniew Janczewski: *Facultas ad confessiones* jako akt powierzenia kapłanowi misji sprawowania sakramentu pokuty i pojednania w Kościele katolickim (= *Facultas ad confessiones* as the act of entrusting the exercise of the mission of the sacrament of penance to a priest in the Catholic Church). (Article)

See below, canons 965-977.

Ang 87 (2010), 329-348: Piotr Skonieczny: La dispensa dal celibato ecclesiastico: l'unità scomparsa della normativa? (Article)

See below, canon 291.

IE XXI 3/09, 631-652: William L. Daniel: The Power of Governance Enjoyed by the Supreme Tribunal of the Apostolic Signatura with Historical Antecedents. (Article)

See below, canon 1445.

IE XXII 1/10, 51-67: Alberto Perlasca: Personalità giuridica e aspetti patrimoniali. (Article)

See below, canons 1256-1257.

J 68 (2008), 497-568: John P. Beal: It's Déjà Vu All Over Again: Lay Trusteeism Rides Again. (Article)

See below, canons 1254-1310.

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J. (Book)

See above, General Subjects (*Compilations*), especially the articles by Kenneth Pennington (pp. 25-34), Robert Kaslyn (pp. 63-99), and Ronny E. Jenkins (pp. 368-394).

Emmanuel Petit: Consentement matrimonial et fiction du droit. Etude sur l'efficacité juridique du consentement après l'introduction de la fiction en droit canonique. (Book)

See below, canons 1139-1140.

Arnold Rosney: The Seal of Confession and Privileged Communications. (Thesis)

See below, canons 983-984.

20th century

FCan V/1 (2010), 189-209: Sérgio Pinto: Da separação à liberdade religiosa: um discurso de Casimiro Rodrigues de Sá. (Article)

P. presents a speech by Casimiro Rodrigues de Sá – religious, journalist and political activist – dealing with the Portuguese Law of Separation of 1911, and arguing for the neutrality of the State in religious matters. The individual as a citizen – not only as a believer – is entitled to demand that the State should guarantee such separation. The speech presents religion as the most important issue in society and in the realm of citizenship.

IE XXI 3/09, 631-652: William L. Daniel: The Power of Governance Enjoyed by the Supreme Tribunal of the Apostolic Signatura with Historical

Antecedents. (Article)

See below, canon 1445.

J 68 (2008), 497-568: John P. Beal: It's Déja Vu All Over Again: Lay Trusteeism Rides Again. (Article)

See below, canons 1254-1310.

QSR 19 (2009), 15-24: Gianpaolo Romanato: La Rota Romana restituta nella riforma di S. Pio X. (Address)

R. sets out the background to Pope St Pius X's reform of the Roman Curia: the challenges facing the Church from without, as a result of the revolutionary, liberal and separatist ideas which radically altered the nature of Church-State relations during the 19th century; and those facing the Church from within, resulting from the Curia's having remained largely unaltered since its establishment by Sixtus V in 1588. Pius X's reforms brought about a clear subdivision of competencies, distributed among eleven Congregations, three tribunals, and five offices, with the Holy Office at the head of the pyramid. Administrative competencies were separated from judicial functions, which were now assigned to the three tribunals: the Penitentiary (limited to the internal forum); the Signatura, as the final jurisdictional instance; and the Rota, which had been dormant since 1870, to which were attributed all contentious cases.

Second Vatican Council and revision of the CIC

Ang 87 (2010), 329-348: Piotr Skonieczny: La dispensa dal celibato ecclesiastico: l'unità scomparsa della normativa? (Article)

See below, canon 291.

Comm 38 (2006), 23-60: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum "De Processibus" (Sessio I). (Report)

The first session of the study group on the revision of the CIC/17 on processes met on 24-28 May 1966 and reviewed canons 1522-1608.

Comm 38 (2006), 61-117: Ex Actis Pontificiae Commissionis Codici Iuris

Canonici Recognoscendo: Coetus Studiorum “De Processibus” (Sessio II).
(Report)

Report of the review of canons 1608-1705 of the CIC/17 in the session of the study group between 27 February and 3 March 1967. The *schema* of draft canons studied in this session concludes the report.

Comm 38 (2006), 118-155: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum “De Processibus” (Sessio III).
(Report)

Report of the review of canons 1706-1746 of the CIC/17 at the session 23-27 October 1967. The *schema* of draft canons for this section concludes the report.

Comm 38 (2006), 222-271: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum “De Processibus” (Sessio IV).
(Report)

In this session, 12-17 February 1968, the study group for the revision of the CIC/17 on processes reflects first on the method used so far, in particular the relationship between general principles and particular norms and the need to incorporate wider expertise from different parts of the world, and then moves on to detailed consideration of proofs in CIC/17 canons 1747-1796. The *schema* of draft canons follows.

Comm 38 (2006), 272-307: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum “De Processibus” (Sessio V).
(Report)

In this session, 14-19 October 1968, the study group completes its review of CIC/17 canons 1797-1836 on proofs, and moves on to incidental matters, CIC/17 canons 1837-1857. The *schema* of revised canons for this section then concludes.

Comm 39 (2007), 291-312: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum “De Processibus” (Sessio VIII).
(Report)

This report of the session of the study group on the reform of procedural law, 20-25 October 1969, reviews the summary contentious process, arbitration (CIC/17 canons 1925-1932) and criteria for the revision of the process for matrimonial cases. Draft canons on arbitration are provided and included at the end of the report. There is a general discussion of a number of questions of principle

concerning marriage cases.

Comm 39 (2007), 313-333: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum “De Processibus” (Sessio IX). (Report)

Further general discussion of matrimonial processes during the session 16-21 March 1970 is followed by consideration of the competent forum and the need for a collegiate tribunal (CIC/17 canons 1960-1973) and a *schema* of draft canons.

Comm 41 (2009), 109-189: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum “De Processibus”: animadversiones Consultorum et epistulae pro definitiva forma Schematis “de processibus” post Sessionem XIII missae. (Report)

Following the 13th session of the group studying the reform of procedural law, the basic *schemata* were ready but the consultors were invited to submit their responses and suggestions. The views of the eight consultors are set out in turn, followed by an exchange of letters between the Commission and the Secretariat of State (1975-1976).

Comm 41 (2009), 190-193: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum “De Processibus”: Relatio Sessionis “Parvus Coetus”. (Report)

Following the exchange of correspondence with the Secretariat of State on the *schemata* for revised procedural law, a small group under the President of the Commission met on 10 September 1976 to consider the revisions recommended.

Comm 41 (2009), 350-447: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Schema canonum de modo procedendi pro tutela iurum seu de processibus. (Document)

This is the text of the *schema* of revised canons on procedural law issued on 3 November 1976.

IE XXI 3/09, 631-652: William L. Daniel: The Power of Governance Enjoyed by the Supreme Tribunal of the Apostolic Signatura with Historical Antecedents. (Article)

See below, canon 1445.

J 68 (2008), 178-222: Kurt Martens: The Law That Never Was: The Motu Proprio *Administrativae Potestatis* on Administrative Procedures. (Article)

M. begins by considering the history of the revision of the Code and the *schema* on administrative procedure. He comments on the various different drafts and the proposed *motu proprio* that was based on the sixth draft. He concludes by examining the idea of administrative procedure in the final drafts of the Code, after the idea of a separate *motu proprio* was rejected. In an appendix M. includes the actual text of the proposed *motu proprio*.

J 68 (2008), 361-381: George H. Tavard: The Task of a Bishop in his Diocese: *Christus Dominus* 11-21. (Article)

See below, canon 381.

J 68 (2008), 408-417: Laurent Villemin: Theology of the Relation of the Bishop to his Diocese in the Ceremonial of Bishops. (Article)

See above, General Subjects (*Ecclesiology*).

J 69 (2009), 646-702: Kurt Martens: Protection of Rights: Experiences with Hierarchical Recourse and Possibilities for the Future. (Article)

See below, canons 1732-1739.

J 70 (2010), 86-113: Robert W. Oliver: Associations of the Faithful in the Antepreparatory and Preparatory Phases of Vatican II. (Article)

O. examines the submissions of episcopal conferences, bishops, faculties, and dicasteries on the subject of associations of the faithful in the antepreparatory phase of Vatican II, and then the various *schemata* on the subject produced in the preparatory phase of the Council.

QDE 23 (2010), 132-157: Gianluca Marchetti: Origine e significato nell'ordinamento canonico delle province e delle regioni ecclesiastiche. (Article)

See below, canons 431-434.

RTL 41 (2010), 86-112, 161-179: Gilles Routhier: L'écho de l'enseignement de Vatican II sur le presbytérat dans la situation actuelle. (Article)

See below, canon 519.

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J. (Book)

See above, General Subjects (*Compilations*), especially the article by Robert Kaslyn (pp. 63-99).

Emmanuel Petit: Consentement matrimonial et fiction du droit. Etude sur l'efficacité juridique du consentement après l'introduction de la fiction en droit canonique. (Book)

See below, canons 1139-1140.

Stefano Ridella: La valida alienazione dei beni ecclesiastici. Uno studio a partire dai cann. 1291-1292 CIC. (Book)

See below, canons 1291-1292.

Arnold Rosney: The Seal of Confession and Privileged Communications. (Thesis)

See below, canons 983-984.

CODE OF CANONS OF THE EASTERN CHURCHES

Historical

Comm 41 (2009), 194-220: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Orientali Recognoscendo: Coetus Studiorum "De Normis

Generalibus” (Sessio III). (Report)

The third session of the study group for the revision of General Norms was held 19-30 January 1976. There was a lengthy discussion of the meaning of “rite” and the question of ascription. The text of those draft canons approved follows, covering “Rites and Particular Churches” and “Ascription to a Particular Church”.

Comm 41 (2009), 448-490: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Orientali Recognoscendo: Coetus Studiorum “De Normis Generalibus” (Sessio IV). (Report)

This report covers the activity of the Study Group for the revision of the Eastern Code on General Norms at their fourth session in 1977. The areas covered are physical and moral persons and ordinary and delegated power.

CCEO 15

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J. (Book)

See above, General Subjects (*Compilations*), especially the article by Thomas Green (pp. 35-62).

CCEO 27-28

FC 12 (2009), 67-94: Luis Okulik: Significato e limiti della definizione di Chiesa *sui iuris*. (Article)

The concept of *Ecclesia sui iuris* – a term not used by Vatican II – has helped to clarify the status of Eastern Catholic Churches. Previously these Churches were described as being “particular Churches” or “rites”; and it was only with the promulgation of the CCEO that a clear distinction was drawn between “Church” and “rite”, the two having been regarded hitherto as virtually synonymous. “Rite” is currently defined in terms of the liturgical, theological, spiritual and disciplinary patrimony, culture and historical circumstances of a distinct people. The Second Vatican Council’s teaching regarding the Eastern Catholic Churches needs to be read in the light of subsequent historical developments. For L., the definition of a Church *sui iuris* does not fully express the ecclesiological nature of the Eastern Churches; nor does it coincide exactly with the concept which the Orthodox Churches have of local Churches. Hence it is to be seen as a stage in the evolution of the Church’s juridical terminology and ecclesiological doctrine, and at the same time as a starting-point for further enquiry into the proper nature of the Eastern Churches.

CCEO 29

FC 12 (2009), 153-166: Pablo Gefaell: Matrimonio misto ed ascrizione ecclesiastica dei propri figli: una questione riaperta? Riflessioni su alcune considerazioni recenti. (Conference presentation)

Towards the end of the 1990s the Congregation for the Oriental Churches was asked on a number of occasions about the reception into the Catholic Church of children under fourteen born of mixed marriages, who had been baptized in the Orthodox Church. The Congregation considered that it was not a matter of receiving such minors into full communion, since they should already be regarded as Catholics and as ascribed to the Church *sui iuris* of the Catholic parent. Hence if the Catholic parent wants the children to be considered Catholic there is no need for the children to be officially ascribed to the Catholic Church. Since this approach gave rise to a certain amount of perplexity, the Congregation for the Doctrine of the Faith was asked for its opinion, and it confirmed the line taken by the Congregation for the Oriental Churches – although G. says that at the time of giving his presentation (8 February 2009) he had not been able to find any place in which this reply had been officially published. He explains his own difficulties with the stance adopted by the two Congregations, among other reasons because it does not allow the parents to obtain definitive clarification of the Church to which their children are ascribed. He ends with the observation that if the children do not need to be received into the Catholic Church because they are already Catholic, then the promise requested of the Catholic party “to do all in his or her power in order that all the children be baptized and brought up in the Catholic Church” (CIC/83, canon 1125, 1^o) loses its *raison d’être* and its seriousness. Even if the children are in fact already Catholic, it should still be permitted – indeed, required – that they be registered in the baptismal register of the Catholic parish of domicile.

CCEO 84

FC 12 (2009), 95-118: Georges Ruysen: Forme istituzionali di collaborazione interrituale, ieri ed oggi. (Article)

See below, CCEO canon 322.

CCEO 202

FC 12 (2009), 95-118: Georges Ruysen: Forme istituzionali di collaborazione interrituale, ieri ed oggi. (Article)

See below, CCEO canon 322.

CCEO 322

FC 12 (2009), 95-118: Georges Ruysse: Forme istituzionali di collaborazione interrituale, ieri ed oggi. (Article)

To preserve and increase the richness and diversity of the patrimony of the Eastern Catholic Churches, the Second Vatican Council spoke in favour of maintaining a multiplicity of jurisdictions exercised by the hierarchs of different Churches *sui iuris* over the same territory, and in this connection recommended “taking common counsel in regular meetings”. In a territory governed by several ecclesiastical jurisdictions, the more common and vital matters are better treated in a common assembly rather than by each hierarch alone. This guarantees the coordination of pastoral activity and helps prevent conflicts of jurisdiction and lack of cohesion among the hierarchs, while introducing an element of collegial solidarity. The pre-conciliar dispositions contained in the *motu proprio Cleri Sanctitatis* on interecclesial cooperation inspired the two conciliar texts which deal most directly with this matter: the Decrees *Ecclesiarum Orientalium* (OE), no. 4, and *Christus Dominus* (CD), no. 38, 6. While OE insists on the regularity of interritual meetings, CD refers to the establishment, not of episcopal conferences, but of assemblies bringing together the different Catholic ritual hierarchs present in the same territory. These texts in their turn form the basis of canon 322 of the CCEO. At present the *Annuario Pontificio* lists six such assemblies. Now that the number of Christians in the Middle East is tragically diminishing, R. hopes that collaboration between the various interritual assemblies will increase still more as a living sign of the presence and witness of Christians in that region. He also suggests that interritual assemblies might be established in other parts of the world (Europe, United States, Canada, Australia, etc.) where there are large numbers of faithful of different Churches *sui iuris*.

CCEO 327

ETJ 14 (2010), 47-64: Lonappan Arangassery: The Orders of Service in the Liturgical Tradition of the Church of the East. (Article)

In 2007 the Syro-Malabar Church promulgated the revised text of its Pontifical Rites for ordination of reader, subdeacon, deacon, priest and bishop. It also gives the rites of installation of bishop, archbishop and major archbishop. A. discusses the structure, prayers, actions, gestures, symbols and other elements in these liturgical texts. He also points out that the experts who framed the particular laws of the Syro-Malabar Church on minor orders did not pay sufficient attention to their liturgical foundations.

CCEO 381

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J.

(Book)

See above, General Subjects (*Compilations*), especially the article by Thomas Green (pp. 35-62).

CCEO 396

Ang 87 (2010), 329-348: Piotr Skonieczny: La dispensa dal celibato ecclesiastico: l'unità scomparsa della normativa? (Article)

See below, CIC canon 291.

CCEO 399

RDC 57 2/07, 337-356: Rémy Lebrun: La communauté monastique selon les statuts de l'Ordre des Chartreux. (Article)

See below, CIC canon 207.

CCEO 408

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J. (Book)

See above, General Subjects (*Compilations*), especially the article by Thomas Green (pp. 35-62).

CCEO 422

SCL V (2009), 201-224: Rose McDermott: The Role of Councils in Religious Institutes: Code of Canon Law and Code of Canons of the Eastern Churches. (Article)

This paper explains the role of councils as reflected in Vatican II as assisting superiors and representing members in decision-making processes, primarily at the level of councils advising major superiors. McD. sets out the nature of the council and its function in the decision-making process, and the qualities of those called to serve in this capacity. She then looks at the norms in both Codes that require the involvement of the council, and other roles that may be entrusted to councilors. The article covers all religious institutes, pontifical and diocesan, clerical and lay, in both Latin and Eastern Churches, but does not examine the complex question of jurisdiction in clerical institutes of pontifical right.

CCEO 441

SCL V (2009), 201-224: Rose McDermott: The Role of Councils in Religious Institutes: *Code of Canon Law* and *Code of Canons of the Eastern Churches*. (Article)

See above, CCEO canon 422.

CCEO 512

SCL V (2009), 201-224: Rose McDermott: The Role of Councils in Religious Institutes: *Code of Canon Law* and *Code of Canons of the Eastern Churches*. (Article)

See above, CCEO canon 422.

CCEO 640-645

SCL V (2009), 173-200: Sean Sheridan: Selected Canonical Issues Regarding Catholic Universities and Institutes of Higher Studies: Some Comparative Reflections on the *Code of Canons of the Eastern Churches* and the *Code of Canon Law* and *Ex Corde Ecclesiae*. (Article)

S. takes as his starting-point the legislation of the CCEO, first on the teaching authority of the Church in general, then specifically on Catholic universities, offering reflections on the Latin counterparts. He notes that the preparation of the CCEO took place more or less at the same time as the drafting of *Ex Corde Ecclesiae*, and he considers whether the promulgation of the latter accounts for some of the differences between the wording of the two Codes. He concludes that the Apostolic Constitution is largely complementary in content, and seems to have had little impact on the wording of the CCEO.

CCEO 699

ETJ 14 (2010), 47-64: Lonappan Arangassery: The Orders of Service in the Liturgical Tradition of the Church of the East. (Article)

See above, CCEO canon 327.

CCEO 733

Gregory J. Zubacz: Le secret sacramental et le droit canadien. (Book)

See below, CIC canon 983.

CCEO 776

ETJ 14 (2010), 5-31; also J 70 (2010), 206-234: George D. Gallaro - Dimitri Salachas: *The Ritus Sacer* of the Sacrament of Marriage in the Byzantine Churches. (Article)

See below, CCEO canon 828.

CCEO 825

SC 43 (2009), 431-486: Jose Marattil: Reverential Fear as a Ground of Marriage Nullity with Special Reference to the Indian Culture. (Article)

See below, CIC canon 1103.

CCEO 828

ETJ 14 (2010), 5-31; also J 70 (2010), 206-234: George D. Gallaro - Dimitri Salachas: *The Ritus Sacer* of the Sacrament of Marriage in the Byzantine Churches. (Article)

This article looks at the role of the priest in the administration of the sacrament of marriage. According to the CCEO the sacred rite and blessing of the priest is essential for the validity of the sacrament. The faculty of the blessing of the marriage is not extended to deacons as in the Latin Church. The difference in the canonical discipline of the Eastern Churches and the Latin Church reflects the diverse theological perspectives on the sacrament of matrimony. The rites and symbols of marriage in the Eastern tradition have to be understood in their mystical and pneumatological perspectives. The East stresses the sacramental mystery while the West stresses the contractual nature. (See also *Canon Law Abstracts*, no 104, p. 51.)

CCEO 929

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J. (Book)

See above, General Subjects (*Compilations*), especially the article by Thomas Green (pp. 35-62).

CCEO 1007-1054

SCL V (2009), 79-118: John A. Renken: Temporal Goods in the Latin and Eastern Codes: A Comparative Study. (Article)

R. confines his commentary to showing how, while the CIC/83 and the CCEO may have largely the same subject matter, the structure is different and the content by no means identical. A detailed comparative analysis would require a much larger project but he studies each canon and section systematically. His starting-point for the comparison is the CCEO. The CCEO does not distinguish between public and private juridical persons and this has a significant impact on legislation in this area. All temporal goods belonging to juridical persons are regarded as ecclesiastical. In some areas the CCEO is simpler, but in others, e.g. consent for alienation, it is more detailed. The two Codes offer light on each other not just because the CCEO was promulgated later, but also because there are significantly different perspectives.

CCEO 1456

Gregory J. Zubacz: Le secret sacramental et le droit canadien. (Book)

See below, CIC canon 983.

CODE OF CANON LAW BOOK I: GENERAL NORMS

2

J 68 (2008), 92-113: John Huels: Reconciling the Old with the New: Canonical Questions on *Summorum Pontificum*. (Article)

See below, canons 924-930.

2

J 70 (2010), 114-130: Kevin Seasoltz: Liturgy and Ecclesiastical Law: Some Canonical and Pastoral Challenges. (Lecture)

In this Frederick McManus Memorial Lecture at the Catholic University of America (30 October 2008), S. begins by insisting that liturgical law be grounded in theology. He then comments on trends in liturgical documents. He expresses his disappointment with documents such as *Redemptionis Sacramentum* and *Liturgiam Authenticam* and his liking for documents such as the English Bishops' *Celebrating the Mass*, which he compares favourably with the General Instruction of the Roman Missal. He then comments on the different mindsets produced by

Roman law and common law and the possibility that Americans are wrongly applying Roman law-based canon law with a strict common law interpretation. This is joined with a discussion on the use of custom. S. concludes with some thoughts on the appropriate hermeneutic to be applied to liturgical law.

7

Per 98 (2009), 565-580: Szabolcs Anzelm Szuromi: Remarques concernant la nécessité de la promulgation de la loi ecclésiastique. (Article)

According to canon 7, “a law comes into being when it is promulgated.” S. considers the importance of the act of promulgation, tracing the many different ways in which the Roman Pontiff has promulgated universal and particular laws since the 4th century. The Apostolic Constitution *Promulgandi* of Pope Pius X, 29 September 1908 (published as an appendix to the article), initiated the practice of promulgation by means of publication in *Acta Apostolicae Sedis*, a practice that was incorporated into the CIC/17 and subsequently the CIC/83. Laws at different levels within the Church are promulgated in a variety of ways and must fulfil certain formalities before promulgation; some of these are identified within the Code: e.g. the making and promulgation of laws within a diocese (canon 466), particular councils (canon 446), and bishops’ conferences (canon 450).

17

AnC 3/2007, 187-197: Piotr Kroczyk: Co prawodawca miał na myśli? – czyli czym jest *mens legislatoris* i gdzie jej szukać? (= What did the legislator have in his mind? What is the *mens legislatoris*, and where can one find it?). (Article)

Canons 16-19 and canon 27 of the CIC/83 construct rules for the valid interpretation of Church law. The most important is canon 17, which provides that in the process of interpretation the *mens legislatoris* be taken into account. K. examines what is meant by *mens legislatoris*, and where it can be found. He concludes by saying that the understanding of the mind of the legislator depends on one’s view of the process of interpretation. Generally speaking, there are two ways of viewing the process of finding the meaning of a law: the “static” and the “dynamic”. The former aims to find the genuine way of thinking of the legislator by examining his intentions. The latter is interested in finding the “current” meaning of the law. K. discusses the advantages and disadvantages of both approaches. The most important conclusion is that when it comes to finding what the *mens legislatoris* is, the most decisive factor is the objective text of the law, although what the lawgiver actually wanted to say is also relevant.

34

J 70 (2010), 1-28: Robert J. Kaslyn: The Role of History and Context in Church Law: The Instruction *Dignitas Connubii* as One Case in Point. (Article)

K. highlights the importance of reading any given document in its whole context – both historical (the sources, reasons, etc., for the document) and systematic (what type of document, who issued it, what powers they have, etc.). As an example he applies this to *Dignitas Connubii* and looks at the origins of the Instruction, the competency of the dicastery, and the Instruction's relationship with universal law.

57

RMDC 16 (2010), 37-62: Pío Vito Pinto: El recurso jerárquico. (Article)

See below, canons 1732-1752.

111

FC 12 (2009), 153-166: Pablo Gefaell: Matrimonio misto ed ascrizione ecclesiastica dei propri figli: una questione riaperta? Riflessioni su alcune considerazioni recenti. (Conference presentation)

See above, CCEO canon 29.

111-112

FC 12 (2009), 67-94: Luis Okulik: Significato e limiti della definizione di Chiesa *sui iuris*. (Article)

See above, CCEO canons 27-28.

113-123

FCan V/1 (2010), 45-70: Sebastião Pires Ferreira: Os bens temporais das associações de fiéis. (Article)

See below, canons 298-329.

135

J 70 (2010), 29-85: William L. Daniel: The Principle of Legality in Canon

Law. (Article)

See above, General Subjects (*Legal theory*).

144

Emmanuel Petit: Consentement matrimonial et fiction du droit. Etude sur l'efficacité juridique du consentement après l'introduction de la fiction en droit canonique. (Book)

See below, canons 1139-1140.

BOOK II, PART I: CHRIST'S FAITHFUL

207

RDC 57 2/07, 337-356: Rémy Lebrun: La communauté monastique selon les statuts de l'Ordre des Chartreux. (Article)

The decisions of Vatican II and the promulgation of the CIC/83 necessitated changes in Carthusian legislation. The new description of the "Carthusian family", divided into two groups (clergy and laity), is an example of the influence of conciliar ecclesiology. This arrangement differs from that of the Apostolic Exhortation *Vita Consecrata* and the CCEO, which distinguish three groups: clergy, religious and laity.

215

IC 50 (2010), 9-29: Miguel Delgado Galindo: Asociaciones internacionales de fieles. (Article)

See below, canon 312.

219

FC 12 (2009), 167-207: Géza Kuminetz: Il contenuto dello *ius connubii* e lo stesso *ius* come scelta libera nello stato matrimoniale. (Article)

See below, canons 1055-1056.

221

Comm 38 (2006), 20-22: Tribunal Rotae Romanae: Allocutio ad Summum Pontificem Exc.mi Decani Tribunalis Rotae Romanae occasione Audientiae

diei 28 ianuarii 2006. (Address)

See below, canon 1400.

221

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J. (Book)

See above, General Subjects (*Compilations*), especially the article by Ronny E. Jenkins (pp. 368-394).

224-231

IE XXII 1/10, 275-297: Segreteria di Stato: Rescritto di approvazione del Testo Unico delle “Provvidenze a favore della famiglia”, 8 aprile 2009 (con nota di Anna Maria Cappelletti, *Le provvidenze a favore della famiglia: il Testo Unico del 2009*). (Document and commentary)

See above, General Subjects (*Family issues*).

225

FCan V/1 (2010), 155-160: Pedro María Reyes Vizcaino: El clérigo y la actividad política. (Article)

See below, canon 285.

226

SC 43 (2009), 521-546: Pierre Allard: Thomas More: Marriage, Family and Education. (Article)

See above, Historical Subjects (*16th-19th centuries*).

232-293

J 69 (2009), 379-417: Robert Kaslyn: Presbyters and Canonical Developments since the Promulgation of the Code of Canon Law. (Article)

K. deals with the rights and obligations of priests in relation to the sacraments. He then considers the effects of incardination, discussing particularly remuneration, obedience, and privacy. He concludes by discussing certain documents: *Pastores Dabo Vobis*; the Congregation for Catholic Education's *Guidelines for the Use of Psychology* (see below, canon 1052) and *Instruction on the Admission of*

Homosexuals; the USCCB's *Program of Priestly Formation and National Directory on Permanent Deacons*; and the 2004 directory for pastoral ministry *Apostolorum Successores* issued by the Congregation for Bishops.

241

Per 98 (2009), 581-618: Gianfranco Ghirlanda: Utilizzo delle competenze psicologiche nell'ammissione e nella formazione dei candidati al sacerdozio. (Article)

G. offers his reflections on the document issued by the Congregation for Catholic Education on 28 June 2008, *Guidelines for the Use of Psychology in the Admission and Formation of Candidates for the Priesthood* (see below, canon 1052). He sees the document as timely because of a great disparity of practice throughout the Church in this area, which in some cases has resulted in the violation of basic rights of candidates. Within the text of the CIC/83, there is no explicit legal norm to govern the intervention of a psychologist in the process of discernment by which someone is admitted to the seminary or to sacred orders. Nevertheless, the references to "psychological health", "human maturity" and requisite "psychological qualities" found in canons 241, 244 and 1029 imply that some means of measuring these qualities is to be used. By analogy with canon 642, the health and maturity of candidates may be established with the assistance of experts. G. insists that such an intervention can only be permitted, and can only be really helpful, if it takes place within very clearly determined parameters, and with the greatest respect demonstrated for the freedom and intimacy of each individual candidate: a vocation to the sacred ministry is a supernatural call and so, while psychological insights may be helpful, the intervention of the psychologist does not constitute the judgement necessary of those qualified and appointed to discern the vocation. Although this document is addressed directly to those charged with assessing the suitability of candidates for priesthood, the principles it contains, *mutatis mutandis*, can be applied usefully to the vocational discernment of candidates for consecrated life.

244

Per 98 (2009), 581-618: Gianfranco Ghirlanda: Utilizzo delle competenze psicologiche nell'ammissione e nella formazione dei candidati al sacerdozio. (Article)

See above, canon 241.

265-272

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J.

(Book)

See above, General Subjects (*Compilations*), especially the article by Robert Kaslyn (pp. 63-99).

276

IE XXII 1/10, 21-40: Massimo del Pozzo: La natura e la portata dell'obbligo del chierico di celebrare la Liturgia delle ore. (Article)

Del P. writes about the cleric's obligation to celebrate the liturgy of the hours, setting it within the context of the theological and juridical obligation to sanctify daily life. He then looks at the reasons behind this obligation, and the manner in which it is to be fulfilled, identifying the various juridical and moral considerations and emphasizing the fruitfulness of the liturgical element.

277

J 68 (2008), 22-37: Uta-Renate Blumenthal: The Prohibition of Clerical Marriage in the Eleventh Century. (Article)

See above, Historical Subjects (*Classical period*).

280

ITS 47 (2010), 9-20: Albert D'Souza: Fraternity in Ministry and Life of Priests. (Article)

Priests need relationships as much as anyone, and they need consistent familial-like community to provide support and feedback, hold them accountable and call them to holiness. Presbyterium serves as the locus *par excellence* for priestly fraternity and relationship. Fraternity is the off-shoot of communion. In this article D'S., Archbishop of Agra, explores the foundations and consequences of fraternity, especially in the light of Pope John Paul II's 1992 post-synodal Apostolic Exhortation *Pastores Dabo Vobis*. He concludes that the spirituality of the diocesan priest is one of communion, fellowship and radical commitment to belong to a bond of sacred ordained ministers, leaving no space for isolation, alienation or exclusion.

281

FC 12 (2009), 7-22: Péter Artner: The Remuneration of Diocesan Clerics. (Article)

A. briefly sets out the historical background to canon 281 of the CIC/83 concerning the remuneration of diocesan priests and of deacons who devote themselves completely to ecclesiastical ministry, and proceeds to a detailed analysis of the practical application of the canon. Regulation is not easy because of the great variety of territories and personal circumstances, but the best rule seems to be that whatever increases the cleric's ability for the work of ministry should entitle him to greater remuneration: in other words, that the amount a cleric receives should be commensurate with his responsibilities in the Church.

285

AnC 3/2007, 23-38: Józef Krukowski: Obowiązki i uprawnienia prawno-kanoniczne duchownych a ich prawa polityczne (= Canonical-legal duties and powers of the clergy and their political rights). (Article)

K. clarifies the relationship between two categories of subjective right, which derive from the fact that a cleric belongs to two types of collectivity: State and ecclesiastical. The first of these categories consists of "political rights" which pertain to clerics on the basis of their equality with other citizens, and which flow from the natural dignity of the human person and the fact of a cleric's belonging to a given State collectivity. In Poland these rights are guaranteed by the Constitution of 1997. The second category is formed of rights and duties which derive from the cleric's belonging to the clerical state, as specified in the CIC/83. These have a double dimension: a) positive – the right and duty to foster peace and harmony among the people (canon 287 §1); b) negative – the duty to avoid any public office that would involve sharing in the exercise of civil power, or any directive role in trade unions (canons 285 §3, 287 §2).

285

FCan V/1 (2010), 155-160: Pedro María Reyes Vizcaino: El clérigo y la actividad política. (Article)

Clerics carry out their pastoral ministry in the middle of the world, and must be concerned for the Christianization of society. Political activity is one of the ways in which Christians try to transform temporal structures. Clerics, however, are forbidden by Church law to take part in political activity, in view of the consideration of the excellence of their mission in the world, and also because this is a task entrusted especially to lay persons. The Catholic Church can establish penal sanctions for clerics who fail to respect this prohibition.

287

AnC 3/2007, 23-38: Józef Krukowski: Obowiązki i uprawnienia prawno-

kanoniczne duchownych a ich prawa polityczne (= Canonical-legal duties and powers of the clergy and their political rights). (Article)

See above, canon 285.

287

FCan V/1 (2010), 155-160: Pedro María Reyes Vizcaíno: El clérigo y la actividad política. (Article)

See above, canon 285.

289

FCan V/1 (2010), 155-160: Pedro María Reyes Vizcaíno: El clérigo y la actividad política. (Article)

See above, canon 285.

290

Per 99 (2010), 1-33: Damián G. Astigueta: Facoltà concesse alla Congregazione per il Clero. (Article)

The Congregation for the Clergy issued a Circular Letter, dated 18 April 2009 (see following entry), in which it made known certain faculties that had been granted to the Congregation by the Holy Father. These faculties concern dismissal from the clerical state in certain sets of circumstances. A. presents the contents of the Circular Letter. In the central part of the article, he considers each of the three distinct sets of circumstances addressed by the Letter: namely, attempted marriage and grave sins against the sixth Commandment (canons 1394-1395); non-specific violations of divine or ecclesiastical law that result in grave scandal (canon 1399); and the abandonment of sacred ministry. The precise nature of each set of circumstances is examined before A. presents the relevant faculty granted to the Congregation, and the procedures to be followed in dealing with each kind of case. It is clear that the Letter contains special faculties for those kinds of cases that cannot be handled in the ordinary way.

290

SCL V (2009), 45-68: Congregation for the Clergy: Circular Letter on Special Faculties and Procedure for Laicizing Some Priests. (Document and commentaries)

This letter, dated 18 April 2009, explains certain faculties granted to the Congregation for the Clergy on 30 January 2009. It calls to mind the diocesan bishop's responsibility for enforcing the law, particularly with regard to celibacy, and the steps open to him through the penal process; but it recognizes that there are some situations where the Code does not afford sufficient means to repair scandal, restore justice or reform the offender. The faculties cover three areas: dismissal from the clerical state and dispensation from its obligations (including celibacy) in the case of those who have attempted marriage, and who after warning persist in an irregular and scandalous life, and others guilty of grave sins against the sixth Commandment; intervention on the basis of canon 1399 owing to the gravity of the infraction and the need to apply perpetual penalties; and dismissal and dispensation of those who have freely abandoned the ministry for at least five consecutive years. In each case the result would be a request to the Pope to grant dismissal *in forma specifica*. Procedural rules are set out for handling the cases in each category.

Two commentaries on the document are provided. The first is by Ronny Jenkins (pp. 56-60), who notes that the Circular Letter does not derogate from the norms of *Sacramentorum Sanctitatis Tutela* (SST) nor those of the *Essential Norms* of the USCCB. It does not oblige the bishop to seek the intervention of the Congregation but leaves it to his discretion. On the other hand it does not relieve him of the obligation to refer to the Congregation for the Doctrine of the Faith where there may have been a delict falling under SST.

In the second commentary (pp. 60-68), William Woestman explains the competency of the Congregation and then each faculty in turn. He concludes with a brief outline of the administrative process to be used at diocesan level and a sample table of contents of acts and documents to be included with a request to the Congregation. (See also the following entry.)

290

RMDC 16 (2010), 150-158: Congregación para el Clero: Líneas procesales para tratar los casos de dimisión del Estado clerical a los que se refiere la Carta circular de la Congregación para el Clero del 18 de abril de 2009. (Document)

A letter of 17 March 2010 from the Congregation for the Clergy, addressed to all Ordinaries, provides details of the necessary documentation and procedural steps to be followed at local level in relation to the special faculties granted to the Congregation for cases of dismissal from the clerical state in certain circumstances (see preceding entries).

290

SCL V (2009), 69-78: Congregation for the Evangelization of Peoples: Special Faculties to the Congregation for the Evangelization of Peoples. (Document)

This Circular Letter from the Congregation for the Evangelization of Peoples dated 31 March 2009 and addressed to Superiors General explains that faculties equivalent to those granted to the Congregation for the Clergy (see preceding entries) were granted also to this Congregation for those subject to them (19 December 2008). These apply also to societies of apostolic life dependent on the Congregation. However, the format differs and essentially covers only the first two granted to the Congregation for the Clergy, but also includes a faculty to submit requests for dispensations from the clerical state directly to the Holy Father. An accompanying letter from the Nuncio to India dated 23 April 2009 explains that this a widening of faculties already granted in 1997 and includes the documentation to be presented in both cases, i.e. a request for dispensation from clerical obligations, and also “resignation *in poenam* from the clerical state”.

290

SCL V (2009), 277-296: John A. Renken: The 2009 Special Faculties Conceded by Pope Benedict XVI to Address Serious Clergy Issues: A Brief Commentary. (Commentary)

See preceding entries. R. looks at both sets of faculties, those granted to the Congregation for the Clergy and those granted to Congregation for the Evangelization of Peoples. He notes that guidance is still awaited from the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life which has not been granted special faculties. He takes the faculties granted to the Congregation for the Clergy section by section and then compares those granted to that for Evangelization.

291

Ang 87 (2010), 329-348: Piotr Skonieczny: La dispensa dal celibato ecclesiastico: l'unità scomparsa della normativa? (Article)

S. examines the discipline of the dispensation from ecclesiastical celibacy in its historical development, and analyzes the existing laws. After a presentation of the evolution of the relevant ecclesiastical legislation, he highlights the problem of the unity of the canonical system. The ecclesiastical legislator is so active in this area and the number of acts is so great that a question arises concerning the unity and cohesiveness of the canonical system. The principles included in the 1980 Letter *Per litteras ad universos* provide for the unity of the canonical discipline only in the substantive sense. In conclusion, S. argues for a re-examination of the present legislation in order to promulgate one uniform law regarding the granting of the

dispensation from ecclesiastical celibacy.

294-297

IC 50 (2010), 165-200: Eduardo Baura: Las circunscripciones eclesíásticas personales. El caso de los ordinariatos personales para fieles provenientes del anglicanismo. (Article)

See below, canon 372.

298

IC 50 (2010), 83-128: Miguel Rodríguez Blanco: Medidas de fomento y promoción en materia de asociaciones de fieles: régimen fiscal y mecenazgo. (Article)

The regulation of the fiscal obligations of associations of the faithful is set out in the Agreement on Economic Affairs established between the Holy See and the Spanish State on 3 January 1979. This Agreement states that associations of the faithful may avail themselves of the fiscal benefits that the legal and tax regulations in Spain provide for non-profit organizations whose purposes are of general interest. This fiscal strategy fosters the purposes of associations of the Christian faithful because of their contribution to the common good of society.

298

IE XXI 3/09, 569-584: Luis Navarro: I nuovi movimenti ecclesiali nel magisterio di Benedetto XVI. (Lecture)

N. examines the role of Cardinal Ratzinger in the early stages of ecclesial movements, and then the main characteristics of Benedict XVI's teaching in this regard. He wishes to follow the same method as the Pope: that of "openness of mind and openness of heart". He deals with the role of the Holy Spirit in the movements, distinguishing the gifts of the Holy Spirit and the movements' original charisms; and studies the juridical configuration of the movements as associations of the faithful. Bearing in mind their importance for the life of the Church, movements are studied from the perspective of their relationship with the sacred pastors. Finally N. offers a few points of orientation with regard to the canonical nature of the movements.

298-329

FCan V/1 (2010), 21-34: Manuel Pinho Ferreira: A personalidade jurídica

das associações de fiéis. (Article)

P.F. explains the difference between public and private associations. With public associations the predominant element is the direct intervention of the ecclesiastical authority, although this does not annul the fundamental right of association. The main feature of private associations is that of the development of the autonomy of the faithful. A public association remains permanently constituted as a juridical person by the decree of erection issued by the competent ecclesiastical authority. This decree grants the association its mission or mandate to act in the name of the Church – in accordance with its statutes and within the limits of its ends – with a view to the Church's public good, and under the direction of the Hierarchy. Private associations can, according to canon 322 §1, acquire juridical personality by a formal decree of the competent ecclesiastical authority.

298-329

FCan V/1 (2010), 35-44: Jorge Manuel Faria Guarda: Critérios de eclesialidade das associações de fiéis. (Article)

The present flourishing of associations in the Church gives rise to the question of how to discern their place within ecclesial life. F.G. outlines the criteria to be followed in this discernment process. While affirming the right of association of the faithful and acknowledging the benefits both for the faithful and for the Church, he also points out the difficulty of identifying where associations fit into ecclesial life. The 1987 Synod of Bishops looked at the question of the ecclesial nature of associations of the faithful. Within the context of the Church as communion, the relevant criteria are the following: fruits of holiness; the correct profession of the Catholic faith; communion with the Church and obedience to its pastors; contribution to the evangelizing mission; a sense of social service and witness to the Gospel in the world. F.G. then looks at the requirement of insertion into the local Church and into the parish.

298-329

FCan V/1 (2010), 45-70, 115-138: Sebastião Pires Ferreira: Os bens temporais das associações de fiéis. (Article)

A decree issued by the Portuguese Episcopal Conference concerning associations of the faithful (4 April 2008) deals with the question of property law, and states that just as the Church, inculcated into human history, has an inherent right to temporal goods, so too its institutions – especially those with juridical personality – have the right to acquire, retain, administer and alienate the goods which legitimately belong to them. Foremost among these are the goods of public associations, referred to in the CIC/83 as ecclesiastical goods, in respect of which the document gives clear and precise guidance. The Portuguese text of the decree

is given at pp. 115-138.

298-329

IC 50 (2010), 31-82: Carmen Peña García: Las asociaciones de fieles: su regulación en la legislación canónica particular española. (Article)

A significant number of associations of the faithful have been established in Spanish dioceses, and play an important part in the life and structure of the Church. Many of these are national or diocesan associations, established as public or private juridical persons by the episcopal conference of the local bishop in accordance with the CIC/83 and particular law. Particular law is of great significance, given that it adapts the regulation of the CIC/83 to the needs of each diocese, setting out criteria with regard to the procedure by which associations of the faithful are established, their juridical status, and the role of ecclesiastical authority. However, it is difficult to come by knowledge of this particular law, especially at diocesan level. In this article P.G. provides an overview of particular law relating to associations of the faithful in Spain. The norms defined by the Spanish Episcopal Conference are analyzed, with particular reference to an important 1986 Instruction. The extensive diocesan norms for associations of the faithful are also listed, and P.G. presents the main features and the complications to which such norms may give rise.

298-329

IC 50 (2010), 129-161: María Areitio: Asociaciones de fieles y vida consagrada: distintas relaciones y sus perspectivas canónicas. (Article)

A. addresses a number of canonical issues regarding the relationships between associations of the faithful and consecrated life within the context of the Church as communion. First, she distinguishes Third Orders from other associations of the Christian faithful linked to religious congregations; some differences are illustrated by reference to a number of statutes. Next, she explores the question of married members in the new forms of consecrated life, and offers a comparative account in relation to institutes with pontifical approval. With regard to religious who join ecclesial movements, she sets out a series of criteria drawn from the Magisterium and other theological sources. She goes on to look at the issue of celibate members in some associations of the faithful, through a definition of the canonical concept of consecration. In the light of pontifical approval for new forms of consecrated life and ecclesial movements, A. argues that it is the duty of each charism to find the juridical form most suited to its nature and development.

298-329

J 70 (2010), 86-113: Robert W. Oliver: Associations of the Faithful in the Antepreparatory and Preparatory Phases of Vatican II. (Article)

See above, Historical Subjects (*Second Vatican Council and revision of the CIC*).

305

REDC 66 (2009), 721-739: Tribunal Supremo de la Signatura Apostólica: Decreto sobre el nombramiento de un Comisario pontificio para la Asociación *Lumen Dei* (12 de septiembre de 2008); Resolución al recurso contra el Decreto de 14 de mayo de 2008 (18 de junio de 2009). (Documents and commentary)

See below, canon 318.

312

IC 50 (2010), 9-29: Miguel Delgado Galindo: Asociaciones internacionales de fieles. (Article)

International associations of the faithful are not new to canon law. However, as expressed in the Vatican II documents (Decrees *Apostolicam Actuositatem*, no. 19, and *Presbyterorum Ordinis*, no. 8) and the new universal legislation of the Church (CIC/83, canon 215 and CCEO, canon 18) the recognition of the faithful's fundamental right of association has contributed to the further emergence and expansion of associations of the faithful at international level. All the Popes from Pius XII on have shown significant interest in such associations. Vatican II marked a new stage in the development of associations of the lay faithful, as is reflected in the emergence of ecclesial movements, many of which are recognized by the Holy See as international associations of the faithful. Ecclesial movements are entrusted with the task of establishing themselves within particular Churches and carrying out their specific mission in ways that foster the common good of all the faithful in the diocese.

318

REDC 66 (2009), 721-739: Tribunal Supremo de la Signatura Apostólica: Decreto sobre el nombramiento de un Comisario pontificio para la Asociación *Lumen Dei* (12 de septiembre de 2008); Resolución al recurso contra el Decreto de 14 de mayo de 2008 (18 de junio de 2009). (Documents and commentary)

Two documents of the Apostolic Signatura are presented: the first a decree of appointment of a pontifical trustee to a private association of the faithful, the *Lumen Dei* Union; the second, a negative decision concerning an appeal made

against an earlier decree of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life which had removed the acting interim president of the association and appointed the pontifical trustee. The nub of the question was whether the Congregation had the right to intervene as it did in the affairs of a private association of the faithful, since canon 318 refers specifically to public associations. In the commentary a background is given concerning the circumstances of the original controversy, the intimate relationship between the private association *Lumen Dei* and the public association “*Lumen Dei* Priestly Union” (to such an extent they were almost indistinguishable in practice), and an account of the procedural development of many aspects of the case. (See also *Canon Law Abstracts*, no. 103, p. 62.)

323

REDC 66 (2009), 721-739: Tribunal Supremo de la Signatura Apostólica: Decreto sobre el nombramiento de un Comisario pontificio para la Asociación *Lumen Dei* (12 de septiembre de 2008); Resolución al recurso contra el Decreto de 14 de mayo de 2008 (18 de junio de 2009). (Documents and commentary)

See above, canon 318.

BOOK II, PART II: THE HIERARCHICAL CONSTITUTION OF THE CHURCH

331

Per 98 (2009), 619-642: Péter Erdő: Il fatto teologico del primato del Romano Pontefice nel diritto canonico vigente (con speciale riguardo al can. 331 C.I.C.). (Conference presentation)

In this address to the Pontifical Oriental Institute in Rome, E., Cardinal Archbishop of Esztergom-Budapest and Primate of Hungary, considers the theological fact of the primacy of the Roman Pontiff as expressed in canon 331. He shows how the canon constitutes an authentic formulation of the centuries-old teaching of the Church on the Petrine primacy as repropounded at Vatican II, and then presents a brief exegetical analysis of the text of canon 331 based on some of the epithets used to qualify the power and authority of the Roman Pontiff, e.g. “supreme”, “full”, “immediate”, and “universal”.

360

Comm 38 (2006), 18-19: Secretaria Status: Rescriptum ex Audientia, 4 januarii 2006. (Document)

This rescript granted on 4 January 2006 makes various changes in the responsibilities of different Dicasteries for different Churches, both Latin and Eastern, in Eastern Europe and the former Soviet Union.

360

IE XXI 3/09, 705-712: Segreteria di Stato: Aggiunta degli artt. 49-bis e 91-bis al Regolamento Generale della Curia Romana, 1° marzo 2008 (con nota di J. Canosa, *L'inserimento nel Regolamento generale della Curia romana della previsione relativa all'indennità di trasferta*). (Document and commentary)

This is the text of an amendment to the General Regulations of the Roman Curia, dealing with expenses and compensation in respect of work carried out away from one's normal place of work. In his commentary C. considers similar canonical "insertions", such as that of CIC canon 750 §2 / CCEO canon 598 §2.

360

IE XXII 1/10, 243-267: Benedetto XVI: Motu proprio «Venti anni orsono» con cui viene approvato il nuovo Statuto dell'Ufficio del Lavoro della Sede Apostolica (ULSA), 7 luglio 2009 (con nota di A. Perlasca, *Commento al nuovo Statuto dell'Ufficio del Lavoro della Sede Apostolica*). (Document and commentary)

The Labour Office of the Apostolic See was established by Pope John Paul II in 1989, with statutes granted *ad experimentum* for a period of five years. The definitive text of the statutes was approved in 1994. By means of an Apostolic Letter *Venti anni orsono* of 7 July 2009 Pope Benedict XVI approved new statutes that came into force on 1 January 2010.

362-367

SC 43 (2009), 331-360: B. Mukabi Ngalile Ludzu: L'exercice de la légation pontificale interne et externe en République Démocratique du Congo: Nécessité d'une commission épiscopale chargée des rapports avec la Nonciature apostolique. (Article)

The Papal legates accredited in the Democratic Republic of the Congo have done quality work; they have greatly contributed to the building up and growth of both the local Church and the life of the Congolese people in general. The author insists they should be congratulated and encouraged. At the same time, however, he observes that, in the exercise of their mission, there has sometimes been

evidence of discontinuities and the absence of a structure of permanent cohesion capable of ensuring the application and pursuit of the legates' initiatives throughout the entire territory. Sometimes, too, it has seemed that the primacy of the religious aspect of their mission, according to canons 364-365, could be enhanced. Since the legation touches closely upon the realities of the Congolese people, he proposes to the episcopal conference of the Congo the establishment of an episcopal commission, charged with studying, coordinating, and consolidating the close links between the local Church and the apostolic nunciature.

371

IC 50 (2010), 165-200: Eduardo Baura: Las circunscripciones eclesíásticas personales. El caso de los ordinariatos personales para fieles provenientes del anglicanismo. (Article)

See below, canon 372.

372

Comm 38 (2006), 166-169: Pope Benedict XVI: Allocutio Summi Pontificis ad eos qui convenerunt ad V Congressum Internationalem Ordinariatuum Castrensiuum, coram admissos in sala Clementina die 26 octobris 2006. (Address)

This address to the Congress of Military Ordinariates marks 20 years since the promulgation of *Spirituali Militum Curae*. Structurally military ordinariates were assimilated to dioceses. Membership, however, is cumulative with that of the territorial diocese. The Pope then passes on to consider how the military are ministers of security and freedom in the service of peace.

372

IC 50 (2010), 165-200: Eduardo Baura: Las circunscripciones eclesíásticas personales. El caso de los ordinariatos personales para fieles provenientes del anglicanismo. (Article)

B. begins with an account of the principles of territoriality and personality in the organization of the Church, in the light of the most recent contributions of ecclesiologists and canon lawyers. He then addresses the nature and significance of cumulative ecclesiastical jurisdiction: in particular, the difference between circumscriptions added to those already existing (where the Ordinary has cumulative jurisdiction because the faithful of such circumscriptions are also faithful of the local diocese) and circumscriptions with exclusive jurisdiction. In this context he analyzes the different types of personal circumscription: personal prelatures, military ordinariates, ritual ordinariates, and the specific case of the

apostolic administration of Campos. He concludes with a series of reflections on the nature and defining features of the personal ordinariates recently envisioned for faithful coming from Anglicanism.

372

IE XXII 1/10, 151-172, 269-273, 299-304: Juan Ignacio Arrieta: Gli Ordinariati personali. (Documents and commentary)

The Apostolic Constitution *Anglicanorum Coetibus* (AC), promulgated by Benedict XVI on 4 November 2009, institutes a new personal ecclesiastical circumscription: that of the personal ordinariate. This circumscription follows lines similar to those of other personal circumscriptions, but is new on account of the “type” of elements taken into account in bringing it into being, the most important of which are ecumenical considerations. The new personal ordinariate does not arise from within the ambit of the Catholic Church, but is rather the Church’s response to “numerous requests to the Holy See from groups of Anglican clergy and faithful in various parts of the world who want to enter into full and visible communion” with the Catholic Church. A. looks briefly at the ecumenical developments leading up to the promulgation of AC, before examining some of the fundamental postulates of the personal ordinariate, including the sacramental structuring of the community; its spiritual identity; the nature of the personal ordinariate as a “liturgy” rather than a “rite” or a “Church *sui iuris*”; the strong evidencing of its link with the Successor of Peter; and the dynamic aspect of the process of insertion into the Church. He then explains the ecclesiological context of the personal ordinariate, and how it falls within the same framework as other personal circumscriptions in the Latin Church: personal prelatures, military ordinariates, and the personal apostolic administration of Campos, Brazil. This framework was not sufficiently clear at the time of the promulgation of the CIC/83, whose language was inadequate for determining whether or not the idea of a particular Church was applicable to these hierarchically-structured personal circumscriptions. Since that time it has become clear that some of them are particular Churches, while others, including personal ordinariates, are “complementary structures”. A. carries out a detailed analysis of the juridical elements of the personal ordinariate as set out in AC and the accompanying Complementary Norms (CN) issued by the Congregation for the Doctrine of the Faith; and concludes with a consideration of some problematic areas: the silence of AC and CN regarding the faithful’s membership of the particular Church in which they are domiciled; the question of whether the vicarious nature of the Ordinary’s jurisdiction is only a starting-point, or rather a conclusion dictated by the difficulty of conferring the office of Ordinary upon a bishop; the juridical relationship between the jurisdiction of the diocesan bishop and the personal Ordinary insofar as they affect the same persons; the limitations on the Ordinary’s faculties (limitations which are not to be found in other personal circumscriptions) and, linked to this, the exercise of judicial power as provided for

in art. XII of AC. (The Italian text of AC is given on pp. 269-273, and of CN on pp. 299-304.)

372

SC 43 (2009), 389-430: John M. Huels: *Anglicanorum Coetibus: Text and Commentary.*

Given here is the text of and a canonical commentary on Pope Benedict XVI's Apostolic Constitution *Anglicanorum Coetibus* (AC) of 4 November 2009, the same date on which the Congregation for the Doctrine of the Faith promulgated administrative norms for the application of AC. The purpose of AC is to facilitate the reception of former Anglicans into the full communion of the Catholic Church, allowing them to have their own ecclesial structures, married priests, and liturgical rites. It creates a new kind of ordinariate, a personal jurisdiction headed by an Ordinary that is similar to a military ordinariate but with a major difference. Unlike the military Ordinary who has all the powers and faculties of the diocesan bishop, the Ordinary of AC lacks legislative and judicial power and has only the executive powers and other faculties in law of Ordinaries in general, not those of local Ordinaries. (The French versions of AC and the Complementary Norms are given on pp. 421-430.)

374

REDC 66 (2009), 645-666: Alphonse Borrás: *Unidades pastorales y pastoral de conjunto: la participación de los fieles junto con los pastores en la actividad evangelizadora.* (Conference presentation)

See below, canon 515.

377

J 69 (2009), 418-441: Thomas J. Green: *Selected Issues in Developing Structures of Diocesan Communion.* (Article)

See below, canons 460-468.

381

J 68 (2008), 361-381: George H. Tavard: *The Task of a Bishop in his Diocese: Christus Dominus 11-21.* (Article)

T. commences with a history of the Decree *Christus Dominus* at Vatican II – its various drafts, the different votes, etc. He then gives an overview of the document

and concludes with a commentary on each section from nos. 11 to 21.

386

J 68 (2008), 382-407: James Coriden: The Teaching Ministry of the Diocesan Bishop and its Collaborative Exercise. (Article)

C. begins with a reflection on the teaching mission of the Church and its sacramental source. He then considers the teaching mission of the bishop and stresses that the *tria munera* should not conceal the underlying unity. C. argues that the bishop could consult with others about the topics of his preaching and writing and seek evaluation from them. He concludes by arguing for certain changes in the Code – canons should insist on the collaborative exercise of the teaching function; there should be a theological consultative body, parallel to the diocesan finance council; the possibilities for lay preaching should be increased.

387

AnC 3/2007, 89-99: Jan Dyduch: Udział biskopów w posłudze uświęcającej w świetle dyrektorium *Apostolorum successores* (= Participation of the bishops in the ministry of sanctification in the light of *Apostolorum successores*). (Article)

See below, canon 835.

391

J 68 (2008), 418-459: Thomas J. Green: Contemporary Challenges to Episcopal Governance: Reflections on the 2004 Directory on the Ministry of Bishops and Other Pertinent Texts. (Article)

G. comments on the role of the bishop governing a diocese in the light of *Apostolorum Successores*, referring also to *Ecclesiae Imago* and other relevant documents. He highlights the importance of collaborative ministry, and comments on the diocesan synod, the diocesan curia, the diocesan councils (pastoral, presbyteral, and consultors), parishes and deaneries. He concludes by considering episcopal accountability – to each other and to the faithful.

392

J 69 (2009), 418-441: Thomas J. Green: Selected Issues in Developing Structures of Diocesan Communion. (Article)

See below, canons 460-468.

396

J 69 (2009), 418-441: Thomas J. Green: Selected Issues in Developing Structures of Diocesan Communion. (Article)

See below, canons 460-468.

396-398

Per 98 (2009), 643-661: Gregory N. Smith: The canonical visitation today. (Article)

In this article, drawn from his doctoral thesis *The Canonical Visitation of Parishes: History, Law and Contemporary Concerns* (Tesi Gregoriana/Serie Diritto Canonico 80, Roma 2008), S. offers some canonical considerations on the institution of the visitation by the bishop of his diocese. He traces visitation from apostolic times to the legislation of the CIC/17 and CIC/83, and its importance in the Directories for the Ministry of Bishops. As an instrument of renewal in the particular Church, such visitation, if carried out properly and with the right attitude, should not be underestimated or overlooked.

413

Per 99 (2010), 35-72: Péter Erdő: Osservazioni sul trattamento canonico dell'impedimento della sede episcopale. (Article)

The chain of succession in a diocese where the bishop is impeded from exercising his ministry is now clearly established in canon 413. This was not at all so clear under the CIC/17. Cardinal E. reflects on the situation that followed the imprisonment of Cardinal József Mindszenty in 1948 and the death of the vicar general, János Drahos, in June 1950. The governance of the diocese of Esztergom was taken over by the auxiliary bishop, Monsignor Zoltán Meszlényi, until his arrest and martyrdom in March 1951. E. considers the treatment of the impeded see as found in the CIC/17 and subsequent practice, before considering the very precise juridical situation that obtained in Esztergom after Cardinal Mindszenty's arrest and the death of the vicar general. Before he offers his conclusions on the whole question, E. presents the canonical reflections of Bishop Zoltán Meszlényi, himself no mean canonist. It is clear that the law cannot always cover or prepare for every eventuality. When a grave crisis occurs – as happened in Hungary in 1951 – there is need for a creative juridical and canonical competence of a very high standard. This was found in the auxiliary bishop of Esztergom, now Blessed Zoltán Meszlényi.

431-434

QDE 23 (2010), 132-157: Gianluca Marchetti: Origine e significato nell'ordinamento canonico delle province e delle regioni ecclesiastiche. (Article)

M. gives a very brief glance at some of the distant historical origins of ecclesiastical provinces and regions in the Church. He rapidly reviews the provisions made in the CIC/17 concerning these entities, so leading on to a more detailed review of the work of the *coetus* preparing the section of the CIC/83 that would refer to provinces and regions. M. reminds us of the change of emphasis in Church organization resulting from the establishment of episcopal conferences. He illustrates the experiences from various parts of the world that needed to be kept in mind in formulating the text of Book II, Part II, Title II of the CIC/83, "Groupings of Particular Churches". In conclusion M. notes that the new text indicates a process of development in Church organization that is still to be fully deployed.

431-434

QDE 23 (2010), 186-212: Marino Mosconi: «Favorire la comunione tra i Vescovi e la solidarietà tra le Chiese»; un'opportunità e una sfida per la provincia (e la regione) ecclesiastica. (Article)

M. reflects upon the opportunities that are open to diocesan bishops for developing various apostolic activities employing the provisions in the CIC/83 on ecclesiastical provinces and regions. The reflection is theoretical and no practical experiences are reported.

433

QDE 23 (2010), 158-185: Adolfo Zambon: Le regioni ecclesiastiche e la Conferenza Episcopale Italiana. (Article)

The dioceses or particular Churches in Italy have established a substantial number of episcopal regional groups. These groups are linked to the episcopal conference of Italy, notably through the president of each regional group participating in the national episcopal conference assemblies. Z. studies in some detail the growth of the regional assemblies. He is convinced that this development is positive and is valuable for the more effective functioning of the Italian diocese especially in promoting the *affectus collegialis* between the bishops. He notes with approval that the regional groups are often well placed to relate to the civil authorities in each region although there are some problems that need to be addressed. In these matters the Holy See maintains an interest. Z. concludes the study by expressing his conviction that the development of regional groupings is paralleled by developments in the secular field of establishing localized centres of social

organization.

455

Comm 38 (2006), 10-17: Pontificium Consilium de Legum Textibus: Nota circa la natura giuridica e l'estensione della "recognitio" della Santa Sede. (Document)

In this note Cardinal Herranz replies to questions posed by a bishop concerning the nature and extent of the Holy See's *recognitio* of local legislation. He first indicates those areas of legislation subject to *recognitio* – decrees not only of episcopal conferences, but also of particular councils. The translation "authorization" is misleading. It is more accurate to speak of "review", "approbation", or "confirmation". H. then looks at the literature on this question. He indicates that *recognitio* is a legal condition required for validity before a law can be published to ensure that it is juridically correct and favours the communal action of the Church. It does not in any way alter the status of the law as the act of the local bishops. It is not a simple approval, in that revisions can be called for.

460

J 68 (2008), 328-349: Myriam Wijlens: The Doctrine of the People of God and Hierarchical Authority as Service in Latin Church Legislation on the Local Church. (Article)

See below, canons 511-514.

460

J 68 (2008), 418-459: Thomas J. Green: Contemporary Challenges to Episcopal Governance: Reflections on the 2004 Directory on the Ministry of Bishops and Other Pertinent Texts. (Article)

See above, canon 391.

460-468

J 69 (2009), 418-441: Thomas J. Green: Selected Issues in Developing Structures of Diocesan Communion. (Article)

G. reflects on the current situation and desirable changes in various aspects of diocesan life. He considers the personal and structural relationships involved, including a view on consultative structures in general, and then offers more specific considerations of diocesan synods and diocesan councils. He then focuses

on accountability issues: the selection of bishops, financial issues, and diocesan visitation. He concludes with a consideration on ecumenism.

469

J 68 (2008), 418-459: Thomas J. Green: Contemporary Challenges to Episcopal Governance: Reflections on the 2004 Directory on the Ministry of Bishops and Other Pertinent Texts. (Article)

See above, canon 391.

495-502

J 68 (2008), 418-459: Thomas J. Green: Contemporary Challenges to Episcopal Governance: Reflections on the 2004 Directory on the Ministry of Bishops and Other Pertinent Texts. (Article)

See above, canon 391.

495-502

J 69 (2009), 418-441: Thomas J. Green: Selected Issues in Developing Structures of Diocesan Communion. (Article)

See above, canons 460-468.

495-502

SCL V (2009), 485-492: Victor D'Souza: Elected Members in the Council of Priests: A Number Game? (Opinion)

A bishop reconstituted the council of priests with six elected members plus twelve nominees and additional *ex officio* members. The original proposal had been for at least half the membership to be elected, but as promulgated the law requires only "about half". Failure to respect this shows lack of faith on the part of the bishop in his presbyterium. In the author's view anything outside the parameters of 45-55% does violence to the letter as well as the spirit of the law. The scenario mentioned involves a clear breach of the law and the bishop's duty to uphold it as expressed in canon 392 §1.

511-514

J 68 (2008), 328-349: Myriam Wijlens: The Doctrine of the People of God

and Hierarchical Authority as Service in Latin Church Legislation on the Local Church. (Article)

W. begins by considering the connection between Vatican II and the post-conciliar legislation, noting especially that the Council desired that its concepts be developed by theologians whereas in fact they were eventually defined by canonists with little theological participation. W. then considers the People of God and the hierarchy in theory and in legislation, especially the diocesan pastoral council and the diocesan synod. She finishes by suggesting future developments in diocesan institutions including the possibility of creating new ones.

511-514

J 68 (2008), 418-459: Thomas J. Green: Contemporary Challenges to Episcopal Governance: Reflections on the 2004 Directory on the Ministry of Bishops and Other Pertinent Texts. (Article)

See above, canon 391.

511-514

J 69 (2009), 418-441: Thomas J. Green: Selected Issues in Developing Structures of Diocesan Communion. (Article)

See above, canons 460-468.

515

J 68 (2008), 497-568: John P. Beal: It's Déjà Vu All Over Again: Lay Trusteeship Rides Again. (Article)

See below, canons 1254-1310.

515

J 69 (2009), 731-748: James Coriden: Enduring Parishes, Emerging Ministries. (Article)

C. writes in response to an earlier article by Pagé (see *Canon Law Abstracts*, no. 99, p. 47) who had predicted the death of the parish. C. in contrast points out that the American parish is not doing too badly in terms of sacramental practice. He argues that parishes should not be closed because of falling priest numbers. Parishes are not “Eucharistic communities”, and laypeople can administer parish life quite well. C. considers the different lay ministries that are emerging in parish

life today.

515

REDC 66 (2009), 499-518: Javier Salinas Viñals: La parroquia, ¿una institución con futuro? (Conference presentation)

At the beginning of his paper S.V. presents three areas for consideration: the value of present parish structures as against new and emerging methods of evangelization in a rapidly changing world; the parish as a living community of the faithful, not simply an organizational unit; the evolution of the understanding of parish in recent decades. He first examines the place of the parish in the social and cultural context of our times, marked as they are by an all-pervading secularism in which the Church and its structures might seem increasingly irrelevant. The parish from its beginnings in the 4th and 5th centuries has been able to persist and adapt itself to greatly-changing circumstances but within a mostly rural and geographically stable society. What has changed in our time is the immense growth of urban society and the geographical mobility of modern man who can find himself living, working and socializing in different places (sometimes quite distant from each other), and who is subject to a plethora of contradictory influences, values and information in our global village, and to consumer choice in all areas of life. The response to this challenge is not so much new pastoral plans and structures – yet more re-organization – but a genuine spiritual awakening to what it means to be children of God in the mystery of Christ with the inspiration of the Spirit. Well aware of the difficulties, S.V. nevertheless emphasizes the importance of a life-giving liturgy nourishing the spiritual life of the faithful; the involvement and responsibility of the laity; the role of permanent deacons; the need to examine the function of the priest in the community; and the reasons for the recent dramatic fall in priestly vocations.

515

REDC 66 (2009), 645-666: Alphonse Borrás: Unidades pastorales y pastoral de conjunto: la participación de los fieles junto con los pastores en la actividad evangelizadora. (Conference presentation)

B.'s starting-point is the *de facto* situation in many parts of Europe and North America of the amalgamation or grouping together of independent parishes in so-called pastoral units or areas under the pastoral care of various possible combinations of priests and laity. The main reason for this development he sees not so much in the shortage of priests as in the inability of the traditional parish structures to meet the needs of a much changed world. It is with this changed reality in mind that both theology and canon law must reinterpret what it means to be a parish today. What is required is its remodelling in accordance with the ecclesiology of Vatican II, and in this task canon law can serve as a channel

between the praxis of the Church and that renewed ecclesiology. The only official Roman document dealing with the new “pastoral units” is the Episcopal Directory *Apostolorum Successores* (2004) which B. criticizes for its emphasis on these pastoral structures as providers of a service to the lay members of a community rather than on their part in the active building up of the Church and the proclamation of the Gospel; the underlying problem to be solved is not an organizational one or a shortage of priests, but rather a missionary and socio-cultural one. The concept of *Christifideles* (canon 204), placed in the very first canon of Book II on the People of God, very much in line with the ecclesiology of Vatican II, replaces the previous division between clergy and laity and emphasizes the ecclesial and evangelizing mission of the whole community in virtue of a common baptism. For B. this will mean a reassessment of the traditional role of the priest, and a genuine handing over of responsibility to the laity. Rather than one community with a leader (the priest) at the head of those who are led (the laity), a transition must be made to a plurality of communities with a coordinator or facilitator (the priest), each with its own local leaders. The canonist’s task in all this will be to give critical attention as to how the actual institutional functioning of the Church corresponds to its declared ecclesiology.

515-516

BEF LXXXV 3/09, 311-316: Javier González: Elevation of a Quasi-Parish to a Parish. (Consultation)

A quasi-parish, in law, is equivalent to a parish (unless the law provides otherwise) which, due to special circumstances, has not yet been established as a parish. G. expounds the characteristics which are essential for a parish. He notes that the competent authority to establish a parish is the diocesan bishop, and that the parish, once established, has juridical personality by virtue of the law itself. For a quasi-parish to become a parish, G. suggests, it is merely necessary to ensure that the special circumstances which stopped it from being established as a parish no longer apply; then the diocesan bishop will be able to establish it as a parish.

517

J 69 (2009), 731-748: James Coriden: Enduring Parishes, Emerging Ministries. (Article)

See above, canon 515.

517

REDC 66 (2009), 487-498: Francesco Coccopalmerio: Las así llamadas

“unidades pastorales”: motivos, valores y límites. (Conference presentation)

This is the text of a presentation delivered at a conference on “The Parish and Pastoral Units” held in Salamanca, 21-23 September 2009. C. examines four different but related situations in which pastoral care of a number of parishes (occasionally one) is entrusted equally to a group of priests; this is the so-called “pastoral unit” of the title. He first analyzes this type of structure, emphasizing that canon 517 sees it as an exception to the general norm of entrusting the parish(es) to a single priest, with assistant priests if necessary. He suggests that the *in solidum* arrangement might be more in keeping with the equality of all ordained priests in a diocese, there being no internal “hierarchy” within the presbyterate. He then looks at a second type of “pastoral unit”, a number of parishes entrusted to a single parish priest, due almost invariably to a shortage of clergy. A third scenario is when pastoral care of one or more parishes is given to one or more persons who are not priests (deacons or laymen and women), under the overall pastoral oversight of a priest with the powers and faculties of a parish priest (canon 517 §2). These deacons or laypersons can undertake a great number of pastoral tasks usually associated with the activity of a priest (baptisms, marriages, funeral services, communal prayers and some other liturgical celebrations); these tasks should be clearly defined by the bishop on their appointment. The final scenario is when an assistant priest is appointed to carry out one specific ministry in various parishes (canon 545 §2), e.g. youth ministry, chaplaincy work. In all these scenarios the common underlying motive seems to be an insufficient number of priests (except possibly for the last, where specialist training might be required), and the need for a more coordinated and unified pastoral action over a wider area than a single parish. In many dioceses the structures may already be in place to facilitate such coordination (deaneries, vicariates forane: cf. canon 374 §2); if not, suitable “pastoral units” can be established. The present situation can be regarded as providential as it encourages the laity to play their rightful part in the pastoral life and activity of their communities, but it also brings home the need to work and pray for an increase in vocations to the priesthood.

517

REDC 66 (2009), 551-585: Felipe Heredia Esteban: La parroquia *in solidum*: una respuesta a nuevas necesidades. (Conference presentation)

Although the possibility of the appointment of various priests *in solidum* for the pastoral care of a parish is new in the CIC/83, the practice has in fact existed in the Church over many centuries, and H.E. quotes some examples ranging from the 10th to the 19th centuries. By the end of that century, however, the predominant doctrine was that the practice did not conform to the common law of the Church and was merely a tolerated custom; the practice was definitively prohibited by the CIC/17 (canon 460 §2). No mention of the matter, favourable or otherwise, was made by Vatican II, but in the post-conciliar decades the practice became more widespread as an attempt to answer the challenges of changing times. The main

part of H.E.'s presentation is an analysis of canon 517 §1 of the CIC/83 and the process of the incorporation into the law of the Church of what had been specifically forbidden in the previous Code. He examines the exceptional nature of the *in solidum* arrangement ("*ubi adiuncta id requirant*"), the practical consequences of shared ministry *in solidum*, the composition of the group, the role of the moderator and the exercise of pastoral duties. In his final section he looks at the practical aspects of establishing *in solidum* parishes in some dioceses in Spain, Germany and Austria.

517

REDC 66 (2009), 669-699: Mesa redonda: experiencias de aplicación de las unidades pastorales. (Round-table discussion)

Given here are three short articles presented at a round-table discussion during a conference on "The Parish and Pastoral Units", held in Salamanca, 21-23 September 2009, which describe the experience of establishing pastoral units or teams in three dioceses, one in Belgium (Liège) and two in Spain (Oviedo and Tortosa).

517

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J. (Book)

See above, General Subjects (*Compilations*), especially the article by James A. Coriden (pp. 100-123).

519

RTL 41 (2010), 86-112, 161-179: Gilles Routhier: L'écho de l'enseignement de Vatican II sur le presbytérat dans la situation actuelle. (Article)

In this two-part article, R. sees the "Year for Priests" as an opportunity to revisit the teaching of Vatican II on the presbyteral ministry. This deep and substantial teaching, in addition to fashioning the figure of the priest, has had real consequences on the training of priests, the practice of their ministry and the theology of the presbyterate. Nowadays it is little known and has still not been received. A rereading of it allows us to rediscover the major intuitions of the Second Vatican Council: the priest is inserted in the Church – understood as the unique priestly people – the missionary nature of which is an invitation to rethink its relationship to the world. Faithful to this fundamental perspective, Vatican II poses the question of the presbyterate in terms of the ministry of priests: prophetically announcing the Gospel, celebrating the sacraments of salvation and presiding at the building up of the Church. The spirituality of priests is in this

sense closely attached to their ministry.

526

QDE 23 (2010), 223-253: Carlo R.M. Redaelli: Figure giuridiche per l'attribuzione della cura pastorale in più parrocchie. (Article)

R. warns against the use of the provisions of the CIC/83 regarding the appointment of parish priests to respond to vacancies that are difficult to fill, as a device to deal with problems either of the clergy or in the congregation. He explores the elements that are constitutive of a parish community and of a diocese, drawing attention to the Pastoral of the Bishops of Italy of 30 May 2004. He indicates the need of a renewal of parochial life at various levels and recommends the teaching contained in the Apostolic Exhortation *Christifideles Laici* as a useful resource. He concludes his study by considering various types of collaboration between parishes that may be tried. His observations are strongly orientated on the experience of the Church in Italy.

526

REDC 66 (2009), 487-498: Francesco Coccopalmerio: Las así llamadas “unidades pastorales”: motivos, valores y límites. (Conference presentation)

See above, canon 517.

528

Per 99 (2010), 73-93: Marcelo Gidi: La referencialidad ministerial del Párroco en su misión de servicio en el anuncio del Evangelio en la Parroquia. Primera parte. (Article)

G. undertakes to examine the role of the parish priest at the service of the parish. The key to this consideration is the mission of the parish priest to announce the Word of God. G. indicates how the concept of the parish has evolved in the light of Vatican II, and how much more emphasis is placed on its being a community of the faithful, rather than on its identity as an institution. In this first part of a longer study, he focuses on the status of the parish in the light of the self-understanding of the Church and in the light of the Word of God.

529

AnC 3/2007, 151-167: Benedykt Glinkowski: Odpowiedzialność moralna wspólnoty parafialnej za potrzebujących – rola Parafialnych Zespołów Caritas (= The responsibility of the parish community towards the more

disadvantaged – the role of “Caritas” parish teams). (Article)

G. deals with the juridical status of parish groups forming part of the Catholic aid agency “Caritas”, and possible activities within the framework of diocesan juridical structures. After some general considerations on the importance of the charitable ministry, he studies the Polish situation in particular.

532

REDC 66 (2009), 615-643: Federico R. Aznar Gil: El cuidado de la administración de los bienes parroquiales. (Conference presentation)

See below, canon 1279.

532

SC 43 (2009), 487-520: John A. Renken: The *Parochus* as Administrator of Parish Property. (Article)

The parish is a public juridical person established *a iure*. Its administrator and legal representative is its *parochus*, and its superior is the diocesan bishop. As the administrator of the parish, the *parochus* acquires, retains, administers, and alienates goods on behalf of the parish. R. identifies the diverse aspects of the role of the *parochus* as the administrator of parochial property, and identifies several means whereby the diocesan bishop can assist the *parochus* in his administrative *munus*.

545

REDC 66 (2009), 487-498: Francesco Coccopalmerio: Las así llamadas “unidades pastorales”: motivos, valores y límites. (Conference presentation)

See above, canon 517.

568

BEF LXXXV 2/09, 1125-136: Gary N. S. Formoso: Pastoral Care of Migrants in the 1983 Code of Canon Law. (Article)

F. surveys the different forms of migration, with particular reference to its application to the Philippines. He considers the social, personal, and legal problems that come with migration, and the official response of the Catholic Church to these issues. He concludes with a brief reference to canon law.

BOOK II, PART III: INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE

573

IC 50 (2010), 129-161: María Areitio: Asociaciones de fieles y vida consagrada: distintas relaciones y sus perspectivas canónicas. (Article)

See above, canons 298-329.

573

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J. (Book)

See above, General Subjects (*Compilations*), especially the article by Robert W. Oliver (pp. 148-167).

573-730

SC 43 (2009), 297-329: Daniel M. Shakal: The Canonical Status of Members of Institutes of Consecrated Life. (Article)

S. examines the notion of the consecrated state and its relation to the lay and clerical states, as each is presented in the CIC/83. As can be seen when comparing canons 207, 463, 573, 588 §1 and 711, the Code itself is contradictory. It sometimes presents only two states of life – lay and clerical – but the consecrated state is at times presented as a third state. By looking at the historical development of different “states” in the Church, studying the sources of relevant canons (in particular, the Second Vatican Council), and considering the CCEO and other Magisterial documents, S. contends that there are three fundamental, canonical states in the Latin Church: lay, consecrated, and clerical.

587

Per 98 (2009), 663-691: Yuji Sugawara: Il ruolo delle costituzioni negli istituti di vita consacrata (can. 587). (Article)

The “fundamental code” or “constitutions” play an essential role in any institute of consecrated life: it is by means of this basic document that the institute expresses

the essence of its spiritual patrimony – the intentions of the founder, and all that has been approved by the competent authority concerning the nature, purpose, spirit and character of the institute. Nevertheless, no matter how clear the text may be, it is no guarantee of the fidelity of members to their charism. This faithfulness can be discerned only from the life of the members of the institute. S. points out that the law and the Magisterium of the Church foresee the possibility and even the necessity of updating the fundamental code from time to time, in order to take account of contemporary reality in the institute, in the Church and in society. He makes it clear that any revision of the constitutions must be done with the utmost care since this document touches on the identity of the institute and the fidelity of all its members to their origins. Moreover, the process leading to such a revision today will also involve the participation of the members, in keeping with the principles of co-responsibility and subsidiarity.

588

RDC 57 2/07, 337-356: Rémy Lebrun: La communauté monastique selon les statuts de l'Ordre des Chartreux. (Article)

See above, canon 207.

592

SCL V (2009), 41-44: Congregation for Institutes of Consecrated Life and Societies of Apostolic Life: Suggested Guidelines for the Preparation of Periodic Reports on the Status and Life of Institutes of Consecrated Life and Societies of Apostolic Life. (Document)

Letter of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, issued at Pentecost 2008, asking that the report indicated by CIC/83, canon 592 §1, should be made by the superior general at the conclusion of the general chapter of each institute. A set of headings setting out the style of the report is appended.

596

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J. (Book)

See above, General Subjects (*Compilations*), especially the article by Sharon Holland (pp. 168-200).

600

AnC 3/2007, 135-149: Arnold Chrapkowski: Zarząd dobrami doczesnymi w instytutach zakonnych (= The administration of temporal goods in religious institutes). (Article)

See below, canons 634-640.

603-605

IC 50 (2010), 129-161: María Areitio: Asociaciones de fieles y vida consagrada: distintas relaciones y sus perspectivas canónicas. (Article)

See above, canons 298-329.

605

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J. (Book)

See above, General Subjects (*Compilations*), especially the article by Kurt Martens (pp. 124-147).

607

AnC 3/2007, 135-149: Arnold Chrapkowski: Zarząd dobrami doczesnymi w instytutach zakonnych (= The administration of temporal goods in religious institutes). (Article)

See below, canons 634-640.

617-619

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J. (Book)

See above, General Subjects (*Compilations*), especially the article by Sharon Holland (pp. 168-200).

627

SCL V (2009), 201-224: Rose McDermott: The Role of Councils in Religious Institutes: *Code of Canon Law* and *Code of Canons of the Eastern Churches*. (Article)

See above, CCEO canon 422.

631-633

J 69 (2009), 442-471: Rose McDermott: Governance in Religious Institutes: Structures of Participation and Representation Canons 631-633. (Article)

McD. begins with a reflection on *Perfectae Caritatis, Ecclesiae Sanctae II* and *Evangelica Testificatio*. She then provides a detailed commentary on general chapters, lesser chapters, and participation or consultation bodies.

631-633

SCL V (2009), 201-224: Rose McDermott: The Role of Councils in Religious Institutes: Code of Canon Law and Code of Canons of the Eastern Churches. (Article)

See above, CCEO canon 422.

634-640

AnC 3/2007, 135-149: Arnold Chrapkowski: Zarząd dobrami doczesnymi w instytutach zakonnych (= The administration of temporal goods in religious institutes). (Article)

The Church as a community operating in earthly conditions carries out above all a spiritual mission. In order to accomplish her vocation She needs concrete material resources. Participating actively in the life and vocation of the Church and fulfilling their own proper mission, religious institutes also need particular material goods. These goods not only affect life within the institute but also witness to the credibility of the way in which poverty is practised at both the individual and the institutional level. Changing socio-economic conditions have forced institutes of consecrated life to reflect on and revise the proper norms regulating this matter and to make specific practical resolutions. Nevertheless this cannot be in contravention of the currently binding law. Also in the matter of temporal goods it is necessary to observe a “creative fidelity”.

634-640

J 68 (2008), 136-177: John A. Renken: The Principles Guiding the Care of Church Property. (Article)

See below, canons 1254-1310.

643

FC 12 (2009), 141-152: Priamo Etzi: Il «ligamen» come impedimento alla vita religiosa (can. 643 §1, 2° CJC) e sua dispensa alla luce dell'odierna comprensione del rapporto matrimonio–vita consecrata. (Conference presentation)

Canon 643 §1, 2° of the CIC/83 provides that a spouse may not be admitted to the novitiate while the marriage lasts. The essential reason for this impediment lies in the fact that the candidate cannot simultaneously have two bonds which entail a life-long commitment that are diametrically opposed to one another, insofar as one involves a vow of chastity, the other the demands of matrimony. Nevertheless the Apostolic See, through the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, can, if the other party to the marriage consents, grant a married person who intends to embrace the religious life a dispensation from the impediment – even if in practice the law is not generally favourable to this practice nowadays. E. considers whether such a dispensation is opportune in the light of the new understanding of the marriage/consecrated life relationship, which tends to stress the “reciprocity” of the two states of life, rather than determining which of them is “superior”. To this end he analyzes the principal Magisterial documents and theological reflections from the Council of Trent to the present day.

673-683

IC 50 (2010), 129-161: María Areitio: Asociaciones de fieles y vida consagrada: distintas relaciones y sus perspectivas canónicas. (Article)

See above, canons 298-329.

731-746

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J. (Book)

See above, General Subjects (*Compilations*), especially the article by Phillip J. Brown (pp. 201-234).

BOOK III: THE TEACHING OFFICE OF THE CHURCH

747

Comm 39 (2007), 204-218: Congregatio pro Doctrina Fidei: Nota dottrinale su alcuni aspetti dell'evangelizzazione. (Document)

The Congregation for the Doctrine of the Faith considers the rich meaning of the term “evangelization” and the fact that today there is some confusion caused by the idea that to present the Faith in this way fails to respect liberty of conscience. The Congregation teases out the anthropological, ecclesiological and ecumenical issues. Today’s relativism and irenicism are not valid reasons for failing to present the Gospel message.

747

FCan V/1 (2010), 73-77: Elisa Araújo: O juízo da Igreja sobre a ordem social é um direito e um dever. (Article)

Preaching is part of the ministry of the Divine Word included in the teaching function of the Church. The CIC/83 (canons 747-833) asserts not only the right and duty of preachers to set forth the Gospel, but also the ministry of the Church in respect of temporal affairs. Consistency between faith and Christian lifestyle determines the link between the content of the Gospel and its implementation. Natural law (the natural order) and Gospel principles (the supernatural order) are related, and thus the Church’s mission includes the preaching of the natural law.

751

IE XXI 3/09, 699-704: Lettera apostolica “motu proprio” *Ecclesiae unitatem, a proposito della Commissione Ecclesia Dei*, 2 luglio 2009 (con nota di F. Puig, *Mutamenti strutturali della Commissione Ecclesia Dei*). (Document and commentary)

See below, canon 1382.

755

Comm 39 (2007), 269-283: Pontificium Consilium ad Unitatem Christianorum Fovendam: “The Ravenna Document”. (Document)

This is the English text of a statement discussed and agreed unanimously by the members of the Joint International Commission for Theological Dialogue between the Roman Catholic Church and the Orthodox Church during the 10th session of the Commission held at Ravenna 8-14 October 2007. It is stated to represent the work of the Commission and not to be an official declaration of Church teaching. The document investigates first the foundations of conciliarity and of authority, and then the actualization of these at local, regional and universal levels. Primacy is firmly grounded in the canonical tradition but there are different understandings in East and West as to how universal primacy should be exercised, and with regard to its Scriptural and theological foundations.

766-767

Ang 87 (2010), 349-369: Delfina Moral Carvajal: La predicación de los laicos en una iglesia u oratorio en España. (Article)

The Spanish Bishops' Conference has tended to apply canon 766 in a limited way, understanding the possibility offered by that canon in restricted terms, and repeating the prohibition in canon 767 regarding the homily. The *admitti possunt* ("the laity may be allowed") of canon 766 comes to be understood almost in terms of a true canonical "mission". M.C. feels that the exceedingly demanding subjective requirements are aimed above all at ensuring a rigorous and uniform hierarchical control, which in fact cannot be reconciled with either the *mens* or the actual text of the canon. It has been left in the hands of the local Ordinary, which is against the explicit decision of the supreme legislator. She refers to what she identifies as an underlying outdated mentality whereby, broadly speaking, the Spanish bishops reintroduce the provisions of the Code and subsequent legislation, without entering into the merits of the matter.

768-769

REDC 66 (2009), 519-550: Manuel Cabello Martínez: Las misiones parroquiales: una propuesta de futuro. (Conference presentation)

Paradoxically, in a society characterized by a predominant secularism and indifference to organized religion, there still exists among many a yearning to find a more spiritual path, sometimes through esoteric New Age sects or purely magical practices, a yearning which must be taken seriously by the Church. This cannot be an attempt to re-establish things simply the way they were before; it requires a new type of evangelization in dialogue with the changed culture of the times, and can be undertaken successfully only by a living vibrant Christian community. The process of inculturation of the Gospel message needs to find a common language between the evangelizer and those whom the evangelizer is addressing, since the traditional language of doctrine and theology says little to many today. There is a great need to foster a more questioning and enquiring mentality among people about the profound questions of life, presenting them with experiences rather than simply doctrine and teaching, and creating new types of communities of faith. In the second part of his presentation C.M. gives a brief overview of the history of the Church's missionary activity and describes in considerable detail the motives, structure and follow-up phase of what he calls the popular itinerant parish missions and their continuing relevance in the 21st century.

796-806

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J.

(Book)

See above, General Subjects (*Compilations*), especially the article by Sean O. Sheridan (pp. 235-271).

807-814

SCL V (2009), 173-200: Sean Sheridan: Selected Canonical Issues Regarding Catholic Universities and Institutes of Higher Studies: Some Comparative Reflections on the *Code of Canons of the Eastern Churches* and the *Code of Canon Law* and *Ex Corde Ecclesiae*. (Article)

See above, CCEO canons 640-645.

BOOK IV: THE SANCTIFYING OFFICE OF THE CHURCH

834

IE XXI 3/09, 549-568: Massimo del Pozzo: La doverosità liturgica, morale e giuridica del culto ecclesiale. (Article)

Del P. aims to set out the juridical dimension of the liturgy. In so doing he is guided by an abundance of doctrine from Pope Benedict, the Congregation for Divine Worship, the Decree *Optatam Totius*, as well as a number of canonists.

835

AnC 3/2007, 89-99: Jan Dyduch: Udział biskopów w posłudze uświęcającej w świetle dyrektorium *Apostolorum successores* (= Participation of the bishops in the ministry of sanctification in the light of *Apostolorum successores*). (Article)

The bishops play a principal role in carrying out the Church's ministry of sanctification. Their task consists in guiding the particular Church by issuing suitable norms within the area of competency granted to them by legislation. They should watch over ecclesiastical discipline, which regulates the sanctifying ministry, and eliminate possible abuses. The bishops also have primary responsibility for liturgical worship, by means of which they sanctify their own life and the life of the faithful entrusted to their pastoral care.

836

N XLV 1-2/09, 40-53: Albert Malcolm Ranjith: Towards an *Ars Celebrandi* in

Liturgy. (Article)

Archbishop Ranjith emphasizes the importance of developing an “art of celebration” in order to celebrate liturgy well and to make possible the active participation of the faithful. The latter does not mean activism or abolishing the distinction between the sanctuary and the body of the church, but rather an assimilation into the body of Christ the High Priest. An “art of celebration” requires interiority and fidelity to the norms of the liturgy as something given. It involves a sense of awe and devotion, not acting on a whim.

838

Comm 39 (2007), 175-179: Pope Benedict XVI: *Litterae Apostolicae motu proprio datae Summorum Pontificum*. (Document)

This is the Latin text of the Apostolic Letter whereby the Pope recognizes that the pre-conciliar liturgical rites had not been abrogated and grants general freedom for their general use subject to certain conditions.

838

N XLV 9-10/08, 508-564: *Congregatio de Cultu Divino et Disciplina Sacramentorum: Il Convegno per la Promozione della Liturgia in Asia, Colombo, Sri Lanka, 16-21 settembre 2008*. (Report)

This report contains various messages and presentations on the liturgy in the Asian context, at a meeting in Colombo in September 2008. It includes a presentation on the history and role of the Congregation by Cardinal Arinze (pp. 526-533), a presentation by Archbishop Ranjith on the principles governing inculturation of the liturgy (pp. 534-551), and a concluding statement (pp. 552-559) which addresses worship in an Asian context, reflections on the liturgical situation in Asia, and a number of practical suggestions with regard to the promotion of liturgical life in the area.

842

REDC 66 (2009), 587-614: *José San José Prisco: Actualidad de la iniciación cristiana en la parroquia*. (Conference presentation)

See below, canon 891.

BOOK IV, PART I, TITLE I: BAPTISM

882-883

BEF LXXXV 4/09, 405-409: Javier González: Valid Administration of the Sacrament of Confirmation by a Priest. (Consultation)

G. details the circumstances in which a priest may validly confirm, with particular reference to the confirmation of an adult when he or she is baptized.

BOOK IV, PART I, TITLE II: THE SACRAMENT OF CONFIRMATION

891

REDC 66 (2009), 587-614: José San José Prisco: Actualidad de la iniciación cristiana en la parroquia. (Conference presentation)

S.J.P.'s subject concerns the order of the sacraments of Christian initiation. Although the *Catechism of the Catholic Church*, the *Ritual* of the RCIA and the CIC/83 speak of what can be regarded as the traditional order of these sacraments (baptism, confirmation and Eucharist), the still vastly predominant practice is to celebrate confirmation in last place, some years after the reception of the Eucharist. In fact there are two current perspectives (more pastoral than canonical) on the sacrament of confirmation, which can be summarized as concentrating either on its individual effects (and so arguing for the traditional order) or on its social or community aspects (and arguing for a delayed confirmation). After looking at the arguments for both positions S.J.P. uses the last part of his presentation to give some pointers towards the re-establishment of the traditional order, touching on such areas as the need for the formation of catechists, emphasis on the responsibility of parents and sponsors, and the need for flexibility to adapt to the situations of people in special circumstances (older adolescents and adults who have not yet been confirmed). He concludes by saying there is no overriding

theological or canonical argument which definitively leads to the imposition of one or other practice, and suggests that a choice of either could be made available to parents and young people.

BOOK IV, PART I, TITLE III: THE BLESSED EUCHARIST

897

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J.
(Book)

See above, General Subjects (*Compilations*), especially the article by John J.M. Foster (pp. 272-311).

907

N XLV 11-12/08, 609: Congregatio de Cultu Divino et Disciplina Sacramentorum: Responsa ad dubia proposita. (Document)

It is not permissible for the celebrant at Mass to communicate the people first, and then himself receive afterwards, nor to distribute the host first and then receive at the same time as the people.

915

J 69 (2009), 472-515: John J. M. Foster: Sacramental Law: Selected Developments in Twenty-Five Years of Praxis. (Article)

See below, canon 1086.

924-930

J 68 (2008), 92-113: John Huels: Reconciling the Old with the New: Canonical Questions on *Summorum Pontificum*. (Article)

H. comments on the *motu proprio Summorum Pontificum*. He considers the ideas “extraordinary”, “never abrogated”, “the Easter Triduum”, “parish celebrations”, and “sacrament of Confirmation” in the context of the *motu proprio*. He then considers certain changes in disciplinary laws since 1962, such as concelebration and communion under both kinds and *de defectibus*.

927

RDC 57 2/07, 409-433: Anne Bamberg: L'évêque face à la sainteté des

sacraments: loi et procédure concernant les délits les plus graves. (Article)

See below, canon 1341.

941

Comm 39 (2007), 219-220: Congregatio de Cultu Divino et Disciplina Sanctorum: Responsa ad dubia proposita. (Document)

It is not permitted to expose the Precious Blood for Eucharistic adoration. Reservation of the Precious Blood is permitted only in order to take Communion to a sick person unable to receive under the form of bread. The dangers of accidents and of corruption of the Eucharistic species are too great. The use and manufacture of monstrances with a container for the Precious Blood is reprobated.

BOOK IV, PART I, TITLE IV: THE SACRAMENT OF PENANCE

965-977

AnC 3/2007, 101-120: Zbigniew Janczewski: *Facultas ad confessiones* jako akt powierzenia kapłanowi misji sprawowania sakramentu pokuty i pojednania w Kościele katolickim (= *Facultas ad confessiones* as the act of entrusting the exercise of the mission of the sacrament of penance to a priest in the Catholic Church). (Article)

The minister of the sacrament of penance must be a priest, and he must have the *facultas ad confessiones*. The CIC/17 in contrast used the term “jurisdiction”. J. studies the difference between “jurisdiction” and the “faculty” to hear confessions. By “jurisdiction” the Church laid greater stress on the authority of the priest with respect to his penitents. The penitent was in the territory of the minister of the sacrament. The term “faculty” stresses the person of the penitent and his spiritual goods. The confessor who has habitual faculties is able to confess penitents all over the world. Jurisdiction refers to a medieval vision of the Church, whereas habitual faculties refer to a post-Vatican II vision. The faculty is the act of entrusting the exercise of the mission of the sacrament of penance to presbyters and bishops throughout the Catholic Church. J. also deals with problems arising in connection with habitual faculties.

977

RDC 57 2/07, 409-433: Anne Bamberg: L'évêque face à la sainteté des

sacraments: loi et procédure concernant les délits les plus graves. (Article)

See below, canon 1341.

979

AnC 3/2007, 245-263: Piotr Steczkowski: Normy *De gravioribus delictis Congregationi pro Doctrina Fide reservatis* – wybrane aspekty (= Selected problems on the Norms *De gravioribus delictis*). (Article)

See below, canon 1357.

983

Gregory J. Zubacz: Le secret sacramental et le droit canadien. (Book)

This is the French version (tr. Jean Pelletier) of *The Seal of Confession and Canadian Law*, referred to in *Canon Law Abstracts*, no. 103, p. 97. Z. examines the question of whether communications between priest and penitent are protected from disclosure in Canada. He considers how civil courts have resolved the conflicts between society's need to know the truth and the fundamental human need for personal privacy in the context of confidential religious communications. He examines the relevant theology, history, canon law, and civil law. (For bibliographical details see below, Books Received.)

983-984

Arnold Rosney: The Seal of Confession and Privileged Communications. (Thesis)

R. explores the topic of the seal of confession and privileged communications from a number of perspectives. In particular, chapter one treats the subject in its historical context from the early Church up to and including the CIC/83. A brief history shows that as early as the 4th century the Church insisted on the secrecy of confession, which the Fourth Lateran Council (1215) affirmed in the very first norm on the seal of confession in canon XXI. This teaching was further affirmed at the Council of Trent and in the CIC/17, canon 889, which contained the norm reaffirming the centuries-held teaching on the seal of confession. Following the Second Vatican Council, with the reform of the sacrament of penance in 1973, the new order of penance affirmed the sacramental seal on the confessor. It was only with the CIC/83 that the secrecy was placed on the penitent. The chapter concludes with an outline of canons 983-984, which confirm the traditional teaching on the seal of confession, with the penalties for violations of the sacrament in canon 1388. (For bibliographical details see below, Books

Received.)

BOOK IV, PART I, TITLE VI: ORDERS

1024

SCL V (2009), 25-40: Congregation for Catholic Education: Guidelines for the Use of Psychology in the Admission and Formation of Candidates for the Priesthood. (Document)

See below, canon 1052.

1052

SCL V (2009), 25-40: Congregation for Catholic Education: Guidelines for the Use of Psychology in the Admission and Formation of Candidates for the Priesthood. (Document)

This document speaks first of the Church and the discernment of a vocation in the light of *Pastores Dabo Vobis*, and then the preparation of those engaged in the work of formation. It addresses specifically how psychology can contribute to discernment and formation, particularly where candidates have psychological wounds of which they may be unaware. In exceptional cases recourse should be had to psychological experts both before admission and during formation, but with the informed consent of the candidate. The law requires positive evidence of suitability for ordination, and with this goes a right to the information necessary to make this judgement. The candidate cannot be forced, but if he refuses the formators must reach a judgement on the material available to them. These considerations apply also to those who have been dismissed from or freely left seminaries or houses of formation.

BOOK IV, PART I, TITLE VII: MARRIAGE

1055

AnC 3/2007, 169-186: Michał Józwik: Istotne okoliczności i elementy prawne przy zawieraniu małżeństwa konkordatowego w Polsce (= Matrimonial law according to the 1993 Polish Concordat). (Article)

The 1993 Concordat between the Holy See and the Republic of Poland, based on the principle of Church-State separation, deals among other things with the institution of marriage. J. attempts to answer the question of how cooperation between Church and State influenced the way in which the institution of marriage is presented within the Concordat.

1055

ETJ 14 (2010), 5-31; also J 70 (2010), 206-234: George D. Gallaro - Dimitri Salachas: The *Ritus Sacer* of the Sacrament of Marriage in the Byzantine Churches. (Article)

See above, CCEO canon 828.

1055

FCan V/1 (2010), 161-166: Paolo Pulido Adragão: Casamento: entre pessoas do mesmo sexo? Pressupostos fundamentais da questão. (Article)

P.A. studies the question of “marriage” between persons of the same sex, looking at the debate taking place in universities over communal and individual rights. He identifies various fallacies: canonical (the argument that marriage between different sexes is due to the influence of canonical marriage), European (the need for “Europeanization”), and the fallacy of “social necessity”. He ends with some reflections on the limits of political power.

1055

J 69 (2009), 703-730: Klaus Lüdicke: A Theory of *Bonum Coniugum*. (Lecture)

L. begins this 6th Annual Provost Memorial Lecture, given at the Catholic University of America on 18 March 2009, with Vatican II’s personalist view of marriage and how this influenced the Code’s *bonum coniugum*. L. attempts to clarify the meaning of the *bonum coniugum* with regard to both content and place in the canonical system. He states that *bonum coniugum* is not a fourth *bonum*, but is rather an end of marriage, and that the *ordinatio ad bonum coniugum* is an essential element. He finishes with a consideration of the use of this ground in marriage nullity trials, both as simulation and as inability.

1055-1056

FC 12 (2009), 167-207: Géza Kuminetz: Il contenuto dello *ius connubii* e lo stesso *ius* come scelta libera nello stato matrimoniale. (Article)

K. argues that laws on marriage should be constructed in an organic manner on the true and just ideal of marriage, that is, the ideal given by God the Creator and Redeemer. From a more perfect knowledge of this ideal will follow equilibrium and justice in legislation on marriage. K. dedicates a large part of his article to this ideal, while at the same time presenting the possibilities and errors of human thought linked with the institution of marriage. In the second part of his article K. sets out the canonical guarantees of marriage as a free choice of one's condition in life. The legislation in this regard presupposes a Christian anthropology, including the capacity to make an irreversible life-long decision, as well as a proper interpretation of human freedom. For a correct understanding of marriage between Christians, it is necessary to grasp the essence of so-called natural marriage, since the principle that grace presupposes and does not destroy nature, but perfects it and is harmoniously adapted to it, applies also to marriage as a sacrament. Hence it follows that the sacramentality of marriage simply perfects the natural foundation, which is why it is important to study what natural marriage is.

1056

FCan V/1 (2010), 139-142: Justiça, caridade e verdade no ministério judicial. Discurso do Papa Bento XVI ao Tribunal da Rota Romana 29 Janeiro 2010. (Address)

See below, canon 1060.

1056

RMDC 16 (2010), 141-147: Benedicto XVI: Alocución del Papa al inicio del año judicial, del 29 de enero de 2010. (Address)

See below, canon 1060.

1057

AnC 3/2007, 169-186: Michał Józwick: Istotne okoliczności i elementy prawne przy zawieraniu małżeństwa konkordatowego w Polsce (= Matrimonial law according to the 1993 Polish Concordat). (Article)

See above, canon 1055.

1057

RDC 57 2/07, 277-297: Nicolas Kilgus: La formation par étapes du lien matrimonial en droit canonique et en droit français. (Article)

Canon law and the French Civil Code have given legal definitions of marriage. These two types of law display the evolving, established and reflective nature of this institution. They articulate this via the concept of consent, but also through the public nature of the conjugal state of life. They set out the laws and duties entailed for each partner.

1059

FCan V/1 (2010), 81-114, 145-151: Mário Rui de Oliveira: A Carta Circular do Supremo Tribunal da Assinatura Apostólica e o art. 16 da Concordata. (Article)

Coinciding with a corresponding change in Portuguese law, the Apostolic Signatura, on 21 May 2009, issued a Circular Letter to the Portuguese bishops and tribunals, setting out the norms to be followed for the purposes of obtaining recognition of the civil effects of matrimonial nullity decisions and of dispensations from ratified and non-consummated marriages. The Circular Letter is the result of difficulties experienced at ground level because of the differing attitudes of civil courts regarding the effects of ecclesiastical decisions; hence the Signatura had to change the institutional manner in which ecclesiastical tribunals relate to the civil courts. O. provides a commentary on the background to and significance of the change; the Portuguese text of the document itself is given on pp. 145-151.

1059

QDE 23 (2010), 76-87: Giuseppe Comotti: L'esercizio della professione nel foro civile da parte dell'avvocato ecclesiastico. Aspetti deontologici e dovere della coerenza. (Article)

See below, canons 1481-1490.

1060

FCan V/1 (2010), 139-142: Justiça, caridade e verdade no ministério judicial. Discurso do Papa Bento XVI ao Tribunal da Rota Romana 29 Janeiro 2010. (Address)

In his address to the Roman Rota at the inauguration of the 2010 judicial year, the Pope sets out from the expression “administration of justice” to point out that the

tribunal's ministry is essentially a work of justice. Canon law, and in particular the process and sentence, must always be considered in their essential relationship to justice. All who work in the field of law, each according to his proper function, must be guided by justice. Advocates in particular must carefully avoid assuming patronage of causes which, according to their conscience, cannot be objectively supported. Every activity, even though it may be technical and bureaucratic, must also be informed by love for God and neighbour. The principle that "charity goes beyond justice" means that, apart from enabling the parties to make contact with the competent tribunal, definite steps must also be taken – every time there is a glimpse of hope for a favourable outcome – to persuade the spouses if possible to convalidate their marriage. The relationship of charity to justice means avoiding pseudo-pastoral solutions such as paving the way for the parties to receive the sacraments by failing to give due consideration to the truth of their canonical situation, which would risk causing them to live in objective contradiction to the truth regarding their own personal condition. Following on from his 2006 and 2007 Addresses, in which the Pope insisted that it was possible to arrive at the truth on the essence of marriage and the reality of every personal situation that is submitted to the judgement of the tribunal, and also the truth of matrimonial processes, he now emphasizes that both justice and charity postulate love for truth, and essentially entail searching for truth. Existential, person-centred and relational consideration of the conjugal union can never be at the expense of indissolubility. Moreover it must not be forgotten that matrimony is favoured by the law, and in case of doubt the marriage must be considered valid until the contrary has been proven: otherwise there is a grave risk of losing any objective reference point for pronouncements on nullity. The text of the Address is followed by a brief commentary by Miguel Falcão.

1060

RMDC 16 (2010), 141-147: Benedicto XVI: Alocución del Papa al inicio del año judicial, del 29 de enero de 2010. (Address)

See preceding entry. The Spanish text is given of the Pope's address, with a brief commentary by Luis de Jesús Hernández M.

1061

Emmanuel Petit: Consentement matrimonial et fiction du droit. Etude sur l'efficacité juridique du consentement après l'introduction de la fiction en droit canonique. (Book)

See below, canons 1139-1140.

1062

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J.
(Book)

See above, General Subjects (*Compilations*), especially the article by Kenneth Pennington (pp. 25-34).

1063-1072

SCL V (2009), 225-256: Lynda Robitaille: Marriage Preparation from the Perspective of the Chancery and Tribunal. (Article)

R. starts from the document entitled *Family, Marriage and 'de facto' Unions* issued by the Pontifical Council for the Family in 2000. This identified a crisis in marriage and family life and called for greater attention to be given to marriage preparation. She looks at this from the point of view of her tribunal experience, particularly in the light of "repeat annulments". Given the gap between popular attitudes and the Church's understanding of marriage one cannot simply presume that most people are capable of marrying. They must decide, but the Church must set out its teaching clearly. Equally the Church must help couples to discern whether they are ready for marriage, not simply refuse them. She looks in more detail at issues concerning consent and the sort of questions that need to be asked; the impediments of disparity or worship/mixed religion, and prior bond; and the question of dispensation from canonical form. A final concern is with the preparation of those wishing to enter second, third, or subsequent unions.

1075

J 68 (2008), 38-52: Jacques M. Gres-Geyer: Varieties of Gallicanism: Four Sorbonne Doctors on Diriment Impediments to Matrimony (1674-1691).
(Article)

See above, Historical Subjects (*16th-19th centuries*).

1086

Comm 38 (2006), 170-189: Pontificium Consilium de Legum Textibus: Litterae circulares missae omnibus Conferentiis episcopalibus (variis linguis exaratae), quoad verba "actus formalis defectionis ab Ecclesia catholica" (cann. 1086 §1, 1117 & 1124 CIC) et quaedam epistulae respicientes ipsarum litterarum. (Document)

This is the text of the directive given by the Pontifical Council for Legislative Texts for the understanding and application of the term "formal defection from the

Catholic Church”. It is provided in Italian, English, German, French, Spanish and Portuguese. The document has received Papal approval *in forma communi*. There must be an internal decision to leave the Catholic Church which must be manifested externally and received by the competent ecclesiastical authority. Several letters follow which include further explanation, e.g. when the person refuses a meeting to discuss the matter. [NB this document predates *Omnium in Mentem*: see below; see also *Canon Law Abstracts*, no. 104, p. 104.]

1086

J 69 (2009), 472-515: John J. M. Foster: Sacramental Law: Selected Developments in Twenty-Five Years of Praxis. (Article)

F. offers his “top three” developments in sacramental law since the CIC/83. In reverse order, these are: 3) the Apostolic Signatura’s 2007 clarification on defective convalidation; 2) the Pontifical Council for Legislative Texts’ 2000 declaration that divorced and remarried Catholics are excluded from Holy Communion; 1) the same Council’s 2006 circular letter clarifying the conditions for formal defection [NB this article was written before *Omnium in Mentem*]. F. offers a commentary on these three issues.

1086

RDC 57 2/07, 241-254: Jean Werckmeister: Le motu proprio *Omnium in mentem* et le mariage des ex-catholiques. (Article)

The *motu proprio Omnium in Mentem* removes from the CIC/83 the consequences of the right to “leave the Catholic Church”. Ex-Catholics are now subject to all Catholic laws, including the obligation to marry in accordance with canon law. The reasons invoked, W. says, are pastoral or technical. However, he considers that these provisions create as many problems as they solve. For him, from the point of view of human rights and ecumenism they represent a regression. Furthermore it is unclear how effective these new rules will be.

1086

RDC 57 2/07, 255-276: Claudius Luterbacher-Maineri: «Quitter l’Église» dans le diocèse de saint-Gall: quelles conséquences pour le droit matrimonial? (Article)

Every year many Swiss officially “leave the Catholic Church”. While this decision may suggest apostasy or schism, it is in fact motivated by the desire to stop paying Church taxes. This separation raises the question of the status of the person who has left the Church in relation to the religious institution. In particular, are these ex-faithful still entitled to the sacraments, such as marriage? [A note at the

beginning of the article clarifies that it was written prior to the publication of the *motu proprio Omnium in Mentem*, although many of the problems it refers to are still relevant in Switzerland.]

1095

FC 12 (2009), 167-207: Géza Kuminetz: Il contenuto dello *ius connubii* e lo stesso *ius* come scelta libera nello stato matrimoniale. (Article)

See above, canons 1055-1056.

1095

QSR 19 (2009), 11-14: Benedetto XVI: Allocuzione al Tribunale della Rota Romana, 29 gennaio 2009. (Address)

In this address to the members of the Tribunal of the Roman Rota given on 29 January 2009, Pope Benedict XVI recalls the 1987 and 1988 addresses of Pope John Paul II, and wonders whether and to what extent these interventions have been applied in ecclesiastical tribunals. He points out that they provide the basic criteria for a rigorous procedure for examining the psychiatric and psychological evidence and for the judicial definition of the causes. He also calls the attention of lawyers to the need to treat marriage cases with the care and depth required by the “ministry of truth and charity that are proper to the Roman Rota.” He highlights the distinctions between psychic maturity and canonical maturity; incapacity and difficulty; the canonical and the clinical dimensions of normality; and the minimum capacity sufficient for valid consent and the idealized capacity of full maturity. He also draws attention to the involvement of the intellect and will in the formation of consent. He advocates the service of experts in order to ascertain the existence of a real incapacity in the understanding of canon 1680 and *Dignitas Connubii*, article 203 §1.

1095

QSR 19 (2009), 83-97: Paolo Bianchi: L’evoluzione della giurisprudenza rotale in materia di incapacità al matrimonio. (Article)

B. looks at multiple aspects of the evolution of Rotal jurisprudence regarding psychic incapacity for marriage: jurisprudential and normative evolution; quantitative evolution; the use made of scientific advances; the content of the *in iure* section of Rotal decisions; the refinement of certain key concepts; the determining of the object of incapacity; and the means for verifying the existence of an alleged incapacity.

1095

QSR 19 (2009), 163-171: Gianfrancesco Zuanazzi: A proposito dei *lucida intervalla*. (Article)

Canonical jurisprudence often considers the question of “lucid intervals” in relation to persons affected by psychological disturbances and their capacity to contract marriage validly. In psychiatry itself there are still a number of uncertainties and unresolved issues. Z. aims in this article to identify the fundamental concepts and criteria to be taken into account, bearing in mind both the CIC/83 and the findings of modern psychiatry. In general it can be concluded that during a “lucid interval” (whatever the cause of such interval: the normal progress of the illness, the effect of medicine, etc.) a person can be considered truly free if all the principal symptoms have disappeared and the person has returned to the state that he or she was in prior to the illness. Small residual *sequelae* or difficulties can be tolerated if they do not interfere with the cognitive functions, the volitional processes and interpersonal relationships. If despite the recovery of normality there remains a disposition to relapse, this in itself is not an obstacle since what matters is the psychic condition of the person at the time of the celebration of the wedding.

1095 2º

REDC 66 (2009), 839-858: Tribunal del Obispado de Cádiz-Ceuta sobre nulidad de matrimonio por defecto de discreción de juicio, c. Pedro Velo González. Con comentario de José Luis López Zubillaga. (Sentence and commentary)

After a courtship of four years, marriage was precipitated by a pregnancy. The male petitioner was unsure which course to take and the wedding was postponed for almost three weeks while he thought things over. The marriage lasted for 24 years and four children were born. Tension appeared only after fifteen years, coinciding with the petitioner’s financial and business problems. An earlier petition before a different tribunal, which had been allowed to lapse, had been based on the grounds of grave lack of discretion and inability to assume in both parties and reverential fear in the petitioner; the grounds presented before the present tribunal were grave lack of discretion in both parties. The evidence proved to be quite divergent concerning the nature of the courtship, the petitioner’s family claiming it had been a troublesome and difficult relationship, while the other witnesses saw it as happy and stable, leading almost inevitably to marriage, and that the pregnancy simply brought forward the decision they all had been expecting. The judges felt that the three weeks the petitioner had spent considering his decision indicated he had not rushed precipitately into marriage and that the problems within the marriage had more to do with his financial problems. A negative decision was returned. L.Z. in his commentary points out the increasing use of the ground of lack of inner freedom in marriage nullity cases even though it

does not feature as a separate ground in the CIC/83 and is normally seen as included in canon 1095 2°. In this case the petitioner was alleging just such a lack of inner freedom.

1095 2°-3°

IE XXII 1/10, 107-147: Tribunale Apostolico della Rota Romana: *Rapoten. Nullità del matrimonio. Difetto grave della discrezione di giudizio. Incapacità di assumere gli obblighi essenziali per cause di natura psichica. Sentenza definitiva, 14 dicembre 2007. Stankiewicz, Ponente (con nota di H. Franceschi F., *La capacità per l'atto di volontà: relazione tra il difetto grave della discrezione di giudizio e l'incapacità di assumere gli obblighi essenziali del matrimonio in una recente sentenza c. Stankiewicz*). (Sentence and commentary)*

It is important to bear in mind that lack of discretion of judgement is not a purely abstract concept but is linked in canon 1095 2° to the essential rights and obligations of marriage to be mutually given and received. Art. 209 §2 of *Dignitas Connubii* widens this concept somewhat in calling for an enquiry into the effect of the psychic anomaly not only on the “critical faculty”, proper to the intellect, but also on the “elective faculty”, pertaining to the will. As regards incapacity to assume the essential obligations of marriage, this can only arise from “causes of a psychological nature” (canon 1095 3°). Hence such incapacity is not the result of moral vice or neglect of virtue, even though such defects may well lead to a breakdown in married life. Among the causes giving rise to grave lack of discretion of judgement and incapacity to assume is that of alcoholism, particularly when alcoholic intoxication forms part of a psychic disorder and aggravates the psychological condition of the person concerned. Violation of conjugal and family obligations while under the influence of alcoholism can be an indicator of disordered and weakened willpower. Nevertheless the non-fulfilment of such obligations after marriage does not constitute full proof of incapacity to assume or grave lack of discretion of judgement at the time of the wedding, unless it is demonstrated through expert evidence (cf. *Dignitas Connubii*, art. 203) that the party, already affected by alcoholism at the moment of exchanging consent, suffered from a true impossibility to proceed to the actions inherent in the obligations of marriage (cf. *Dignitas Connubii*, art. 209 §2, 3°); that is, that the disorder in his or her critical and elective faculties was such as to limit or eliminate serious decisions, in particular that of choosing a state in life.

1095 2°-3°

QSR 19 (2009), 67-82: Antoni Stankiewicz: *Quaestiones iurisprudenciales de discretionis iudicii defectu et incapacitate assumendi*. (Article)

The Latin text of the *in iure* section of the Rotal judgement referred to in the

preceding entry is presented here in the form of an article in its own right.

1098

QSR 19 (2009), 99-130: Raffaella Witzel: La nullità del matrimonio *ob dolum* (can. 1098) nella giurisprudenza della Rota Romana. Aspetti probatori. (Article)

Canon 1098 of the CIC/83 introduced a new ground of matrimonial nullity, that of deceit. W. studies Rotal jurisprudence on this topic from 1983 to the present, focusing in particular on aspects relating to proof of deceit, as a complement to other studies which have been published on the substantive aspects of deceit and the question of retroactivity. She identifies the essential elements of this ground – deceitful will; error; purpose of the deceitful conduct; the “quality” in question – and examines the ways of proving them.

1099

J 69 (2009), 516-561: John P. Beal: Exploring Our Erroneous Zones: Developments in Jurisprudence on Determining Error Since 1983. (Article)

B. begins with a consideration of the idea of “simple error” in the CIC/17 and how the concept of “error determining the will” was then adopted for canon 1099 of the CIC/83. He then comments on this canon and considers three relevant Rotal sentences. He concludes with some critical reflections on the current situation.

1101

IE XXII 1/10, 71-106: Tribunale Apostolico della Rota Romana: *Reg. Apuli seu Melphicten.-Ruben.-Iuvenacen.-Terlitien.* Nullità del matrimonio. Esclusione della sacramentalità. Sentenza definitiva, 27 febbraio 2004. Stankiewicz, Ponente (con nota di M. A. Ortiz, *L'esclusione della dignità sacramentale: la retta intenzione e la disposizione per credere*). (Sentence and commentary)

For the valid celebration of a marriage – which, if it takes place between two baptized persons, is a sacrament – what is required is not a degree of personal faith but the “correct intention” to marry according to the divine plan. Such intention “involves, even if not in a fully conscious way, an attitude of profound obedience to the will of God, an attitude which cannot exist without God’s grace” (John Paul II, Apostolic Exhortation *Familiaris Consortio*, no. 68). This presence of grace at the moment of forming the correct natural intention can be considered as being a “disposition to believe” which makes it possible for the sacrament of matrimony to be a “sacrament of faith” (Second Vatican Council, Constitution *Sacrosanctum Concilium*, no. 59). The lack of a “correct intention” corresponds to

the attitude of one who rejects in an explicit and formal way what the Church intends to do in celebrating the sacrament of matrimony. In assessing the relevance of a will contrary to the sacramental dignity of marriage – independently of whether it is classified as partial or total simulation – “it is crucial to bear in mind that an attitude on the part of those getting married that does not take into account the supernatural dimension of marriage can render it null and void only if it undermines its validity on the natural level on which the sacramental sign itself takes place” (John Paul II, Address to the Roman Rota, 30 January 2003, no. 8).

1101

J 69 (2009), 562-582: Klaus Lüdicke: Some Sentences on *Exclusio Boni Prolis*. (Article)

L. considers first the traditional teaching on *contra bonum prolis* and then investigates certain new criteria from Rotal jurisprudence and influential authors, such as the use of sperm banks, temporary exclusions, and the claims of a spouse to decide alone about children. He concludes by considering the possibility of resolving certain open problems about these same issues.

1101

SC 43 (2009), 547-561: Apostolic Tribunal of the Roman Rota: Exclusion of Communion of Life: Decision *coram* Verginelli, 16 March 2007. (Sentence)

This case involves a Polish woman and an American man who entered a civil union in Poland in December 1991 and a Catholic marriage in June 1992. The man refused to fulfil his promise of bringing her to reside in the United States, so the woman obtained a civil divorce and petitioned for a declaration of nullity on two grounds: 1) simulation of the matrimonial agreement through the exclusion of the union of life on the part of the respondent (canon 1101 §2); 2) substantial lack of discretion of judgement concerning the essential rights and duties of marriage mutually given and assumed on the part of the respondent (canon 1095 2^o). A negative decision was rendered, and the woman appealed on both grounds and received affirmative decisions at second instance. The case was then referred to the Roman Rota. The law section of the Rotal decision focuses on conciliar teaching on marriage, legislation on cohabitation, and the good of the spouses. The affirmative decision found that the male respondent had excluded the communion of life (*communio vitae*), and the tribunal placed a *vetitum* against his subsequent remarriage without consulting the local Ordinary.

1103

FC 12 (2009), 167-207: Géza Kuminetz: Il contenuto dello *ius connubii* e lo stesso *ius* come scelta libera nello stato matrimoniale. (Article)

See above, canons 1055-1056.

1103

RMDC 16 (2010), 115-137: Rota Romana: R.P.D. Juan Bautista Defilippi: Pescarensis-Pennensis. Nulidad de matrimonio. Sentencia del 16 de abril de 1995. (Sentence)

The Spanish translation is given of a decision *pro vinculo* concerning a marriage between the 24-year-old male petitioner and the 25-year-old respondent, the petitioner claiming to have been forced into the marriage out of fear of his mother upon her discovering that the respondent was pregnant by him. The Rotal sentence deals with the requirement of freedom to enter into marriage, and sets out the juridical principles governing invalidating fear, especially reverential fear. It then looks at the ways of proving such fear, and lists the arguments brought by the petitioner in favour of nullity, and the contrary arguments of the respondent. Although there were certain indications that the testimony of the petitioner was more credible than that of the respondent, nevertheless there was sufficient objective evidence that among the several reasons that had led the petitioner to marry, the principal factors did not stem from fear imposed from outside, but were arguments that the petitioner himself, judging in a reasonable manner, had considered to be valid for agreeing to the wishes of his mother. Rather than being contracted “out of grave fear”, the marriage was contracted “with fear”.

1103

SC 43 (2009), 431-486: Jose Marattil: Reverential Fear as a Ground of Marriage Nullity with Special Reference to the Indian Culture. (Article)

Matrimonial consent can be affected by several intrinsic and external factors which can render it null or invalid. One such factor is grave fear imposed from without, which the person is not able to resist except by choosing marriage. A particular form of grave fear implied in canon 1103 of the CIC/83 and canon 825 of the CCEO is reverential fear. The effect of reverential fear on the choices one makes is determined largely by the culture of people. The system of arranged marriages is so deeply rooted in Indian culture that, even today, the majority of the marriages are contracted in accord with that system. Although it has its own merits within the context of a particular culture, it is not without its negative impact on the freedom of the Christian faithful in the choice of their life-partners. This is particularly evident in cases of reverential fear. The specific topic M. discusses in this study is: how a culturally-rooted reverential fear can become a ground of marriage nullity with particular reference to the Indian culture. An

analysis of various cultural factors which underlie reverential fear leads him to conclude that reverential fear can substantially affect the freedom of choice of marriage itself and/or of the marriage partner.

1104

AnC 3/2007, 169-186: Michał Józwik: Istotne okoliczności i elementy prawne przy zawieraniu małżeństwa konkordatowego w Polsce (= Matrimonial law according to the 1993 Polish Concordat). (Article)

See above, canon 1055.

1108

ETJ 14 (2010), 5-31; also J 70 (2010), 206-234: George D. Gallaro - Dimitri Salachas: The *Ritus Sacer* of the Sacrament of Marriage in the Byzantine Churches. (Article)

See above, CCEO canon 828.

1108

FC 12 (2009), 23-30: Piotr Kroczek: Does obligatory canonical form of marriage contribute to *salus animarum*? (Article)

K. asks whether the requirement of canonical form as a condition for the validity of marriage (canon 1108) contributes to the principle of care of souls. He examines the meaning of the principle *salus animarum suprema lex* in canon 1752, and looks at the historical background to canon 1108. He then sets out a series of consequences of the obligatory canonical form (needless isolation from divine grace, abuses of the form, and marriage preparation). He concludes with a suggestion *de lege ferenda*.

1111

Emmanuel Petit: Consentement matrimonial et fiction du droit. Etude sur l'efficacité juridique du consentement après l'introduction de la fiction en droit canonique. (Book)

See below, canons 1139-1140.

1111-1112

ETJ 14 (2010), 5-31; also J 70 (2010), 206-234: George D. Gallaro - Dimitri Salachas: The *Ritus Sacer* of the Sacrament of Marriage in the Byzantine Churches. (Article)

See above, CCEO canon 828.

1117

Comm 38 (2006), 170-189: Pontificium Consilium de Legum Textibus: Litterae circulares missae omnibus Conferentiis episcopalibus (variis linguis exaratae), quoad verba “*actus formalis defectionis ab Ecclesia catholica*” (cann. 1086 §1, 1117 & 1124 CIC) et quaedam epistulae respicientes ipsarum litterarum. (Document)

See above, canon 1086.

1117

J 69 (2009), 472-515: John J. M. Foster: Sacramental Law: Selected Developments in Twenty-Five Years of Praxis. (Article)

See above, canon 1086.

1117

RDC 57 2/07, 241-254: Jean Werckmeister: Le motu proprio Omnium in mentem et le mariage des ex-catholiques. (Article)

See above, canon 1086.

1117

RDC 57 2/07, 255-276: Claudius Luterbacher-Maineri: «Quitter l'Église» dans le diocèse de saint-Gall: quelles conséquences pour le droit matrimonial? (Article)

See above, canon 1086.

1117

SCL V (2009), 297-362: Augustine Mendonça: Defective Consent in the Convalidation of a Marriage Null due to Lack of Canonical Form. (Article)

See below, canon 1160.

1117

SCL V (2009), 363-383: Metropolitan Tribunal of San Francisco, CA (U.S.A.): Defective Convalidation: Decision *coram* Jones, 13 February 1996. (Sentence)

See below, canon 1160.

1117

SCL V (2009), 384-391: Apostolic Tribunal of the Roman Rota: Decree Submitting the Case to an Ordinary Examination: decree *coram* De Lanversin, 17 January 1997. (Decree)

See below, canon 1160.

1117

SCL V (2009), 392-405: Apostolic Tribunal of the Roman Rota: Defect of New Act of Will in Convalidation: Decision *coram* Sable, 29 January 1999. (Sentence)

See below, canon 1160.

1117

SCL V (2009), 406-417: Apostolic Tribunal of the Roman Rota: Decree Rejecting the Request for a New Hearing: Decree *coram* Huber, 29 January 2003. (Decree)

See below, canon 1160.

1117

SCL V (2009), 418-420: Supreme Tribunal of the Apostolic Signatura: Decree Granting a New Proposition of the Cause, 23 November 2005. (Decree)

See below, canon 1160.

1117

SCL V (2009), 421-438: Apostolic Tribunal of the Roman Rota: *Votum* of the Deputy Defender of the Bond, 4 June 2007. (Votum)

See below, canon 1160.

1117

SCL V (2009), 439-475: Apostolic Tribunal of the Roman Rota: Defect of Convalidation of Matrimonial Consent: decision *coram* Yaacoub, 19 July 2007. (Sentence)

See below, canon 1160.

1117

SCL V (2009), 475-478: Supreme Tribunal of the Apostolic Signatura: Letter Regarding the Cases of Defective Convalidation, 19 December 2007. (Document)

See below, canon 1160.

1124

Comm 38 (2006), 170-189: Pontificium Consilium de Legum Textibus: Litterae circulares missae omnibus Conferentiis episcopalibus (variis linguis exaratae), quoad verba “*actus formalis defectionis ab Ecclesia catholica*” (cann. 1086 §1, 1117 & 1124 CIC) et quaedam epistulae respicientes ipsarum litterarum. (Document)

See above, canon 1086.

1124

J 69 (2009), 472-515: John J. M. Foster: Sacramental Law: Selected Developments in Twenty-Five Years of Praxis. (Article)

See above, canon 1086.

1124

RDC 57 2/07, 241-254: Jean Werckmeister: Le motu proprio Omnium in mentem et le mariage des ex-catholiques. (Article)

See above, canon 1086.

1124

RDC 57 2/07, 255-276: Claudius Luterbacher-Maineri: «Quitter l'Église» dans le diocèse de saint-Gall: quelles conséquences pour le droit matrimonial? (Article)

See above, canon 1086.

1134-1136

IE XXII 1/10, 275-297: Segreteria di Stato: Rescritto di approvazione del Testo Unico delle “Provvidenze a favore della famiglia”, 8 aprile 2009 (con nota di Anna Maria Cappelletti, *Le provvidenze a favore della famiglia: il Testo Unico del 2009*). (Document and commentary)

See above, General Subjects (*Family issues*).

1137

Emmanuel Petit: Consentement matrimonial et fiction du droit. Etude sur l'efficacité juridique du consentement après l'introduction de la fiction en droit canonique. (Book)

See below, canons 1139-1140.

1139-1140

Emmanuel Petit: Consentement matrimonial et fiction du droit. Etude sur l'efficacité juridique du consentement après l'introduction de la fiction en droit canonique. (Book)

P. examines the notion of legal fiction in canon law and its impact on the juridical efficacy of matrimonial consent. The first part of the study deals with how the Roman law concept of legal fiction, rediscovered in the Middle Ages, made its way into canon law. Having set out in broad terms the main characteristics of legal fiction, especially as it appears in canonical doctrine, P. goes on to analyze its relation to matrimonial affairs. He looks at four great canonical institutions connected with marriage. Two of these – the first to be understood as fictions – involve retroactive effects: namely, legitimization by subsequent marriage (cf. CIC/83 canons 1139-1140), and *sanatio in radice* (cf. CIC/83 canons 1161-1165). P. then deals with two “positive” fictions: putative marriages (cf. CIC/83 canons 1137, 1061 §3), and the supplying of jurisdiction (cf. CIC/83 canons 144, 1111

§1). In the light of these considerations the complexity of the relationship between matrimonial consent and juridical efficacy becomes apparent. Nevertheless P. demonstrates how the utilization of legal fictions within the sphere of matrimony is not simply a technical procedure, but rather a Christianization of juridical doctrine. (For bibliographical details see below, Books Received.)

1142

IE XXI 3/09, 725-739: Portugallo, Ministério da Justiça: Decreto-Lei, n. 100/2009, 11 maggio 2009 (con nota di J.P.S. Mendonça Correia, *Anotações à regulamentação do artigo 16 da Concordata de 18 de maio de 2004 entre a Santa Sé e Portugal*). (Document and commentary)

See above, General Subjects (*Relations between Church and State*).

1143-1150

BEF LXXXV 1/09, 95-103: Javier González: The Pauline Privilege and Other Privileges of the Faith: Are They Still Relevant Today? (Consultation)

G. outlines the history and current law concerning the Pauline privilege and other privileges of the faith (commonly called “Petrine privilege”), and shows why they are pastorally relevant today.

1156-1160

J 69 (2009), 472-515: John J. M. Foster: Sacramental Law: Selected Developments in Twenty-Five Years of Praxis. (Article)

See above, canon 1086.

1160

SCL V (2009), 297-362: Augustine Mendonça: Defective Consent in the Convalidation of a Marriage Null due to Lack of Canonical Form. (Article)

This study was prompted by a decree of the Apostolic Signatura of 23 November 2005 ordering a new hearing of a case before the Rota, which concerned the consent given when renewed in canonical form after a marriage contracted without canonical form. M. explains the juridical context and meaning of simple convalidation in its three configurations, and then radical sanation. He then studies in detail the jurisprudence relating to the case in question: 1) first instance, Los Angeles, 13 February 1996; 2) decree *coram* De Lanversin, 17 January 1997; 3) sentence *coram* Sable, 29 January 1999;

4) decree *coram* Huber, 29 January 2003; 5) decree of the Signatura, 23 November 2005; 6) *votum* of the defender of the bond, 4 June 2007; 7) sentence *coram* Yaacoub 19 July 2007. The last decision was negative, but could yet be appealed. The issue was whether one could properly speak of convalidation where canonical form had been omitted and whether knowledge that the marriage was null was necessary in order for true consent to be given in this situation. All the jurisprudence, and a subsequent letter of the Signatura on “invalid convalidation” (8), is set out in the following entries.

1) SCL V (2009), 363-383: Metropolitan Tribunal of San Francisco, CA (U.S.A.): Defective Convalidation: Decision *coram* Jones, 13 February 1996.

This couple married civilly in April 1950 and again in church in July 1950. The marriage lasted nearly 30 years. The law section refers to the requirement of a new act of will for convalidation as set out in *coram* Funghini 30 June 1988. The couple must be aware of the invalidity of their marriage in order to give consent by a new act of will. While the male petitioner was Catholic, he had a confused understanding and thought that the convalidation simply confirmed his original consent. There was no evidence that his external expression of consent was not in accord with his internal will. The respondent had attended Catholic school but did not accept the Church’s teaching that marriage had to take place in the canonical form and regarded herself as validly joined to her husband by the civil ceremony. She saw the convalidation as a blessing, “the frosting on the cake”. The decision was affirmative on the ground of invalid convalidation on the part of the respondent only.

2) SCL V (2009), 384-391: Apostolic Tribunal of the Roman Rota: Decree Submitting the Case to an Ordinary Examination: decree *coram* De Lanversin, 17 January 1997.

The respondent appealed directly to the Rota. The decree notes that the law to be applied is that of the CIC/17 canon 1137. The form prescribed for convalidation here requires the faculty on the part of the priest, exchange of consent on the part of the couple, and the presence of witnesses. One who is unaware of the invalidity of previous consent and indeed fights for its validity is impeded from giving a new act of consent. In this case more should have been done to enquire into the marriage preparation given to the couple, and so the case was remanded for the ordinary process. The law section is given in parallel Latin and English.

3) SCL V (2009), 392-405: Apostolic Tribunal of the Roman Rota: Defect of New Act of Will in Convalidation: Decision *coram* Sable, 29 January 1999.

The Rotal *turnus* under Sable upheld the first instance decision. S. notes some

confusion in terminology and points out that strictly speaking a marriage conducted without canonical form does not constitute an invalid marriage, although at times it is treated as such because of the naturally sufficient consent proffered. Nevertheless Rotal jurisprudence has consistently required a new act of will. If someone upholds the validity of the previously expressed consent, either they are simulating consent now, or simply confirming what had been expressed previously. In neither case is there a true exchange of marital consent. S. also explains how the requirement of civil registration in countries such as the USA can encourage misunderstandings of what is intended in a subsequent church ceremony. The law section is given in parallel Latin and English.

4) SCL V (2009), 406-417: Apostolic Tribunal of the Roman Rota: Decree Rejecting the Request for a New Hearing: Decree *coram* Huber, 29 January 2003.

The above sentence had been made executive and *quasi res iudicata* but the Rotal defender of the bond felt that there were inaccuracies in law and fact in the sentence and sought a new hearing. He argued that the requirement of positive law in CIC/17 canon 1133 for a new act of consent applied only in the case of diriment impediments, and that CIC/17 canon 1137 did not apply to lack of form cases. H. rejected this argument. The *turnus* accepted the proposition that in such a case it is psychologically impossible for someone unaware of the invalidity of their marriage to posit a new act of will *de praesenti*. Again the law section is given in both Latin and English.

5) SCL V (2009), 418-420: Supreme Tribunal of the Apostolic Signatura: Decree Granting a New Proposition of the Cause, 23 November 2005.

The Signatura accepted the requirement for renewal of consent in canonical form but argued that the internal consent of mind was presumed to conform to the words or signs used, and therefore one must presume until the contrary is proven that the parties knew that at least in some way their previous consent was not considered valid, and likewise that in fact they gave new consent.

6) SCL V (2009), 421-438: Apostolic Tribunal of the Roman Rota: *Votum* of the Deputy Defender of the Bond, 4 June 2007.

This is the *votum* of the defender of the bond submitted to the *turnus* appointed for the new hearing. The legal argument is given in parallel Latin and English. The defender of the bond argues that the heading “invalid convalidation” is deceptively simple and that the underlying issues are very complex, so that the true meaning of this ground lacks sufficient clarity to stand as a heading in its own right. Juridical effect can be lacking because of a diriment impediment, defective

internal consent, or failure to observe the canonical form. A purely civil marriage of Catholics is non-existent rather than invalid, as evinced by the fact that judicial procedures are not required to establish freedom to marry in such cases. One should not speak of convalidation in such a case but marriage according to legitimate or canonical form. There must be true consent *de praesenti*, whether it is styled first, new, or renewed. Since this is expressed in the words of the ceremony, the real question is whether or not there has been total simulation. In this case, is true consent excluded directly or implicitly in order to obtain some object essentially different from marriage? Since internal consent is presumed to conform to the words and signs used it is not enough to establish that there was no explicit intention to contract marriage.

7) SCL V (2009), 439-475: Apostolic Tribunal of the Roman Rota: Defect of Convalidation of Matrimonial Consent: decision *coram* Yaacoub, 19 July 2007.

The decision *coram* Yaacoub broadly accepts the argumentation of the defender of the bond. Y. accepts that the applicability of convalidation to marriages contracted without canonical form is a disputed matter, but after studying a number of eminent authors and the drafting of the CIC/83, concludes that the mind of the legislator is that such marriages do not have the semblance and form of true marriages, are non-existent canonically, and therefore simple convalidation does not apply even if such marriages can be sanated. In consequence it is not in conformity with the law to demand renewal of consent as set out in the canons on convalidation, but rather a new and canonical celebration. One cannot use the wording of canon 1160 to reverse the burden of proof. Y. then considers the applicability of the jurisprudence on total simulation. This supposes a dissonance between what is intended and what is expressed. It is not enough for marriage to be contracted for an extrinsic cause. The object of consent must also be excluded. Here the woman fought for the validity of her civil union, but one cannot really argue that her intention was altogether extraneous and foreign to the intention to marry. She was aware that it was a Church marriage and she at least intended to do what the Church does. There is no evidence pointing to the withholding of consent. The law section is in parallel Latin and English.

8) SCL V (2009), 475-478: Supreme Tribunal of the Apostolic Signatura: Letter Regarding the Cases of Defective Convalidation, 19 December 2007.

Following the above decisions the Signatura wrote to a number of tribunals where it had concerns over the use of the ground of “invalid convalidation”. The letter makes the following points: there is a presumption in favour of validity, and that internal consent conforms to the words and signs; consent expressed according to canonical form must be presumed valid until the contrary is proven; proof of defect of consent must follow the established criteria; canon 1160 applies to defect

and not absence of canonical form; the wording of canon 1157 applies to cases of diriment impediments in the preceding canon and not defect of form. Psychologically it suffices for the parties to be aware that some element was lacking that the Catholic Church considers essential. They are not required to understand the full canonical implications. Moreover canon 1100 states that even the knowledge or opinion of nullity does not necessarily exclude matrimonial consent.

1161-1165

Emmanuel Petit: Consentement matrimonial et fiction du droit. Etude sur l'efficacité juridique du consentement après l'introduction de la fiction en droit canonique. (Book)

See above, canons 1139-1140.

BOOK IV, PART II: THE OTHER ACTS OF DIVINE WORSHIP

1172

AnC 3/2007, 217-229: Marek Saj: Prawno-duszpasterskie aspekty poslugi egzorcysty (= Juridical-pastoral aspects of the office of exorcist). (Article)

The Catholic Church uninterruptedly maintains an awareness of the need to combat evil. Her activity in this field is nothing other than a continuation of the work of Christ and the Apostles, to whom he gave the power of casting out unclean spirits. The Church carries this out by means of a sacramental, that of exorcism. Exorcism is a sacred sign, an act of the Church praying for a brother or sister tormented and possessed by the devil. According to the CIC/83 no one can legitimately perform exorcisms on the possessed without the local Ordinary's special and express permission. The Ordinary may confer such permission only on a priest endowed with piety, knowledge, prudence and integrity of life. Hence the office of exorcist is a ministry which, through faith in Christ and prayer, can bring help to a possessed person. In this article S. sets out the juridical and pastoral aspects of the office of exorcist such as the Church has established in her legislation.

1172

QDE 23 (2010), 88-94: Giuliano Brugnotta: Commento a un canone. Il ministero del sacerdote esorcista (can.1172). (Commentary)

Employing both canon 1172 and the *Rituale Romanum*, B. offers a brief commentary on the canon.

1174

IE XXII 1/10, 21-40: Massimo del Pozzo: La natura e la portata dell'obbligo del chierico di celebrare la Liturgia delle ore. (Article)

See above, canon 276.

BOOK IV, PART III: SACRED PLACES AND TIMES

1205

AnC 3/2007, 121-133: Jerzy Adamczyk: Bowedle kultu jako miejsca święte – pojęcie i kategorie (= Buildings of worship as sacred places – concept and categories). (Article)

Buildings of worship fulfil an important role as a sign of the pilgrim Church on earth. The CIC/83 provides for four kinds of place of worship: churches, oratories, private chapels, and shrines. A. examines the concept of the church building as a place of worship and as an extraordinary place of burial for certain categories of deceased.

1246-1247

AnC 3/2007, 67-87: Andrzej Wójcik: Prawo obywatela-katolika do niedzielnego odpoczynku (= The right of the citizen-Catholic to Sunday rest). (Article)

W. presents the problem of the right to weekly religious rest as a fundamental right to religious freedom. A decision of the Spanish Constitutional Tribunal provides the background and starting-point for what may possibly become a constitutional controversy in Poland. The Spanish decision in some way

“secularized” Sunday, indirectly depriving it of its religious character within the State ambit. In the second part of the article, W. attempts to apply the constitutional principle of proportionality to the hypothetical case of a conflict in Poland between two constitutional principles, or freedoms: religious freedom, and freedom of enterprise. In particular he sets out the factors that place the right to Sunday rest within the essential content of the right to religious freedom, in contrast to the interpretations of State and European labour law. Within the sphere of civil law he discusses the legality of a possible prohibition on commerce on Sunday, and the constitutionality or otherwise of laws that make Sunday working compulsory. W. analyzes a sentence of the European Court of Justice which deleted a reference in a Directive of the Council of the European Union to Sunday as the day – in principle – of weekly rest, thereby ignoring the principle of religious freedom. The tension between these two freedoms should lead to greater effort on the part of Catholics to articulate, both in the civil legal sphere and in daily practice, their fundamental right to religious freedom, made specific in the obligation and right to Sunday rest.

BOOK V: THE TEMPORAL GOODS OF THE CHURCH

1254-1310

AnC 3/2007, 135-149: Arnold Chrapkowski: Zarząd dobrami doczesnymi w instytutach zakonnych (= The administration of temporal goods in religious institutes). (Article)

See above, canons 634-640.

1254-1310

FCan V/1 (2010), 45-70: Sebastião Pires Ferreira: Os bens temporais das associações de fiéis. (Article)

See above, canons 298-329.

1254-1310

J 68 (2008), 136-177: John A. Renken: The Principles Guiding the Care of Church Property. (Article)

R. describes and comments on the principles that govern ecclesiastical goods: *communio*; subsidiarity; the proper purposes of temporal goods; collaboration; vigilance; justice in employment; respecting the intentions of donors; observance of civil law; transparency and accountability; protection of goods for future

generations. R. applies these to all the different public juridical persons, especially dioceses and religious communities, and to cooperation between juridical persons.

1254-1310

J 68 (2008), 497-568: John P. Beal: It's Déja Vu All Over Again: Lay Trusteeism Rides Again. (Article)

B. presents a detailed history of Trusteeism and the civil incorporation of parishes in the United States and then applies this to the modern-day situation of St Stanislaus' Parish, St Louis, where the parish lay board was excommunicated as schismatic by Archbishop Burke (see also *Canon Law Abstracts*, no. 103, p. 81).

1254-1310

J 69 (2009), 583-614: Philip J Brown: The 1983 Code and Vatican II Ecclesiology: The Principle of Subsidiarity in Book V. (Article)

B. begins by investigating the historical sources of the idea of subsidiarity in the social teachings of the Church. He then applies the results of this to Book V of the CIC/83. Specifically he considers Book V and human dignity, the right of association, and the well-being of the whole.

1254-1310

SCL V (2009), 79-118: John A. Renken: Temporal Goods in the Latin and Eastern Codes: A Comparative Study. (Article)

See above, CCEO canons 1007-1054.

1256

REDC 66 (2009), 615-643: Federico R. Aznar Gil: El cuidado de la administración de los bienes parroquiales. (Conference presentation)

See below, canon 1279.

1256-1257

IE XXII 1/10, 51-67: Alberto Perlasca: Personalità giuridica e aspetti patrimoniali. (Article)

Despite being the shortest Book in the CIC/83, Book V, dealing with the temporal goods of the Church, does not stand in isolation within the overall structure of the

Code, nor is it limited to technical and economic aspects. For a proper grasp of the significance and implications of the provisions of Book V it is essential to see them in their ecclesial context. P. intends to show first of all how an inadequate understanding of “juridical personality” leads to problems in understanding the concept of “ecclesiastical goods” (canon 1257); he then explains how a failure of the principle that ownership of goods belongs to the juridical person that lawfully acquires them (canon 1256) can constitute a serious threat to the patrimony concerned. P. compares the provisions of the CIC/17 and CIC/83 and studies the opinions of various experts.

1279

REDC 66 (2009), 615-643: Federico R. Aznar Gil: El cuidado de la administración de los bienes parroquiales. (Conference presentation)

The mission of the Church, spiritual and religious though it is, requires material means and temporal goods to achieve its ends, and this simple reality can lead to tensions and misunderstandings both outside and inside the Church, not least between diocese and parish. The parish is autonomous, yet is part of the communion of the whole local diocesan Church. Both form separate public juridical persons; both are capable of acquiring, owning and administering their own temporal goods. A.G. comments on the canonical consequences, with particular reference to the Church in Spain, in situations where some dioceses have so centralized and regulated economic matters as to take away the effective administration of their temporal goods from the parishes. Another issue arises with the increasing number of “non-traditional” parishes (e.g. *in solidum* parishes, pastoral units and other *ad hoc* arrangements, or ecclesial base communities), especially where existing parishes have been assumed into these new realities but have not been canonically suppressed, thereby still maintaining their own public juridical personality and autonomy. A.G. examines the various economic resources available to parishes – the direct contributions of the faithful, offerings at the celebration of the sacraments, chaplaincies, foundations and possibly rental income from properties. It is the parish priest as legal representative of the parish who is the administrator of these goods; the diocese has a function of oversight as to their proper administration but cannot usurp that right from the person who alone is entitled to exercise it. Each parish should have its own financial committee or council, although in the case of the grouping together of various small parishes one single committee might, with the consent of all involved, be agreed upon. In conclusion, each parish has a duty to contribute financially towards the diocese, but the encroachment by the diocese upon the rights of administration of parish temporal goods would seem to be not infrequent and should be guarded against.

1283

J 70 (2010), 131-162: John A. Renken: The Stable Patrimony of Public Juridic Persons. (Article)

See below, canon 1291.

1285

J 70 (2010), 131-162: John A. Renken: The Stable Patrimony of Public Juridic Persons. (Article)

See below, canon 1291.

1291

J 70 (2010), 131-162: John A. Renken: The Stable Patrimony of Public Juridic Persons. (Article)

R. traces the history of the idea of “stable patrimony” in the CIC/17 and the various revised *schemata*. He sets out the descriptions of stable patrimony offered by various authors, and goes on to present the practical implications of this concept: every juridical person has the capacity to possess stable patrimony; it comes into existence by lawful designation; the competent authority must be identified (e.g. the parish priest is the only competent designator for his parish); a regularly-updated inventory is needed; stable patrimony can be alienated; it must be protected from harmful contracts; it can be converted into non-stable patrimony; it can be transformed from moveable goods to immovable goods and vice versa; gifts intended to become part of stable patrimony require the Ordinary’s consent for acceptance; administrators cannot make donations from stable patrimony; and it is not subject to diocesan taxation.

1291-1292

Stefano Ridella: La valida alienazione dei beni ecclesiastici. Uno studio a partire dai cann. 1291-1292 CIC. (Book)

In studying the topic of alienation of ecclesiastical goods R. examines canons 1291 and 1292 of the CIC/83, at the same time highlighting the many points of contact between Church and civil law. Given the extent of the Church’s material patrimony it is necessary to take into account a great variety of civil legal orders and regulations. Furthermore, since much of the evangelizing mission of the Church is dependent on the example and credibility of Christians, it is clear that in the area of material goods – which more than any other lends itself to the danger of accusations of lack of transparency and honesty – the consequences of negligent, improper or misguided behaviour can be disastrous. Hence R. attempts to go beyond a strictly technical-juridical presentation of the subject and place it

within the wider context of the Church's mission. The six principal chapters of the book deal with the sources of the law currently in force; the revision of the CIC; general considerations concerning the CIC/83; detailed commentary on canons 1291-1292; forms of alienation; invalid alienations. (For bibliographical details see below, Books Received.)

BOOK VI: SANCTIONS IN THE CHURCH

1311

RMDC 16 (2010), 159-161: Congregación para la Doctrina de la Fe: Guía para laicos no canonistas, sobre los procedimientos relativos a las acusaciones de abusos, 12 de abril de 2010. (Document)

On 12 April 2010 the Congregation for the Doctrine of the Faith provided an introductory guide for non-canonists to the *motu proprio Sacramentorum Sanctitatis Tutela* of 30 April 2001. It deals with preliminary procedures, and the courses of action open to the Congregation (penal processes; cases referred directly to the Holy Father; disciplinary measures). A final paragraph confirms that, even though some of the articles of the *motu proprio* may be amended in the light of special faculties granted to the Congregation by Popes John Paul II and Benedict XVI, the procedures outlined will not be modified.

1311-1399

J 69 (2009), 615-645: Ronny E. Jenkins: *Nulla Lex Satis Commoda Omnibus Est: The Implementation of the Penal Law of the 1983 Codex Iuris Canonici in Light of Four Principles of Modern Legal Codification.* (Article)

J. begins by considering the history of the codification of penal law. In this context he presents four principles: that the law be: a) comprehensive; b) precise; c) uniform; and d) accessible. He then investigates the implementation of penal law in the light of these principles. He argues that penal law has failed to remain comprehensive owing to the many other documents issued since 1983, and that it would be better to update the CIC/83 rather than issue instructions, *motu proprio*'s, etc. He argues that the penal law is indeed sufficiently precise and uniform; and that it is not sufficiently accessible because of a lack of training and, importantly, the lack of jurisprudence. He calls for penal jurisprudence to be more easily accessible. He concludes by warning against trying to implement canon law as if it were American common law rather than respecting its own proper principles.

1317

SCL V (2009), 45-68: Congregation for the Clergy: Circular Letter on Special Faculties and Procedure for Laicizing Some Priests. (Document and commentaries)

See above, canon 290.

1317

SCL V (2009), 69-78: Congregation for the Evangelization of Peoples: Special Faculties to the Congregation for the Evangelization of Peoples. (Document)

See above, canon 290.

1317

SCL V (2009), 277-296: John A. Renken: The 2009 Special Faculties Conceded by Pope Benedict XVI to Address Serious Clergy Issues: A Brief Commentary. (Commentary)

See above, canon 290.

1319

SCL V (2009), 45-68: Congregation for the Clergy: Circular Letter on Special Faculties and Procedure for Laicizing Some Priests. (Document and commentaries)

See above, canon 290.

1319

SCL V (2009), 69-78: Congregation for the Evangelization of Peoples: Special Faculties to the Congregation for the Evangelization of Peoples. (Document)

See above, canon 290.

1319

SCL V (2009), 277-296: John A. Renken: The 2009 Special Faculties Conceded by Pope Benedict XVI to Address Serious Clergy Issues: A Brief Commentary. (Commentary)

See above, canon 290.

1321-1330

AnC 3/2007, 199-216: Tomasz Rakoczy: Przesłanki perymptoryjne do rozpoczęcia kanonicznego procesu karnego (= Conditions preventing the start of canonical legal proceedings). (Article)

See below, canon 1341.

1331

BEF LXXXV 2/09, 203-216: Javier González: The Lifting of Excommunication of Levebrite Prelates: And Now What? (Consultation)

See below, canon 1354.

1341

AnC 3/2007, 199-216: Tomasz Rakoczy: Przesłanki perymptoryjne do rozpoczęcia kanonicznego procesu karnego (= Conditions preventing the start of canonical legal proceedings). (Article)

R. deals with the problem of conditions that prevent the possibility of starting a canonical criminal process, including prescription, diminished imputability on the part of the offender, and the requirement that other means should have proved insufficient. The lawgiver sets out the three objectives of criminal proceedings: the repair of scandal, the restoration of justice, and the reform of the offender. Criminal proceedings are a “last resort” and the bishop should therefore not begin them too hastily. He must first use other methods at his disposal, such as fraternal correction and the other means of pastoral care.

1341

BEF LXXXV 4/09, 401-404: Javier González: Imposition of canonical penalties by a parish priest on his parishioners. (Consultation)

G. reviews ecclesiastical penalties and their application, and shows that a parish priest has no faculties or powers in penal matters.

1341

RDC 57 2/07, 409-433: Anne Bamberg: L'évêque face à la sainteté des sacraments: loi et procédure concernant les délits les plus graves. (Article)

The *graviora delicta* or more serious offences involve the sacraments of the

Eucharist and penance, as well as offences against morality committed by a cleric with a minor. The *motu proprio Sacramentorum Sanctitatis Tutela* reserves the trial of such crimes to the Congregation for the Doctrine of the Faith and specifies the applicable standards in this area. The procedure, binding and delicate, is designed to protect the sanctity of the sacraments as well as the accused cleric's rights. B. draws attention to the role of the diocesan bishop in the redress of the scandal and his pastoral concern for the victims of sexual abuse.

1342

SCL V (2009), 45-68: Congregation for the Clergy: Circular Letter on Special Faculties and Procedure for Laicizing Some Priests. (Document and commentaries)

See above, canon 290.

1342

SCL V (2009), 69-78: Congregation for the Evangelization of Peoples: Special Faculties to the Congregation for the Evangelization of Peoples. (Document)

See above, canon 290.

1342

SCL V (2009), 277-296: John A. Renken: The 2009 Special Faculties Conceded by Pope Benedict XVI to Address Serious Clergy Issues: A Brief Commentary. (Commentary)

See above, canon 290.

1349

SCL V (2009), 45-68: Congregation for the Clergy: Circular Letter on Special Faculties and Procedure for Laicizing Some Priests. (Document and commentaries)

See above, canon 290.

1349

SCL V (2009), 69-78: Congregation for the Evangelization of Peoples: Special Faculties to the Congregation for the Evangelization of Peoples. (Document)

See above, canon 290.

1349

SCL V (2009), 277-296: John A. Renken: The 2009 Special Faculties Conceded by Pope Benedict XVI to Address Serious Clergy Issues: A Brief Commentary. (Commentary)

See above, canon 290.

1354

BEF LXXXV 2/09, 203-216: Javier González: The Lifting of Excommunication of Levebrite Prelates: And Now What? (Consultation)

G. explains the reasons for the excommunication of the four bishops consecrated illicitly by Archbishop Lefebvre in 1988, and the reasons for the excommunication being lifted by the Apostolic See in January 2009. He explains the limited effects of this remission, and the current status of the Society of St. Pius X.

1357

AnC 3/2007, 245-263: Piotr Steczkowski: Normy *De gravioribus delictis Congregationi pro Doctrina Fide reservatis* – wybrane aspekty (= Selected problems on the Norms *De gravioribus delictis*). (Article)

In dealing with the 2001 *motu proprio Sacramentorum Sanctitatis Tutela*, S. begins by stressing the normative aspect of the document, and outlines its formal structure. He examines the novelties which it introduces, and comments on the special aspects of this kind of penal process. He then turns his attention to some theoretical and practical difficulties connected principally with the relationship between the internal and external forum, but also with the problem of canonical equity and the *salus animarum* in the wider ecclesiological context.

1362

AnC 3/2007, 199-216: Tomasz Rakoczy: Przesłanki perymptoryjne do rozpoczęcia kanonicznego procesu karnego (= Conditions preventing the start of canonical legal proceedings). (Article)

See above, canon 1341.

1364

IE XXI 3/09, 699-704: Lettera apostolica “motu proprio” *Ecclesiae unitatem*, a proposito della Commissione *Ecclesia Dei*, 2 luglio 2009 (con *nota* di F. Puig, *Mutamenti strutturali della Commissione Ecclesia Dei*). (Document and commentary)

See below, canon 1382.

1367

RDC 57 2/07, 409-433: Anne Bamberg: L'évêque face à la sainteté des sacraments: loi et procédure concernant les délits les plus graves. (Article)

See above, canon 1341.

1378-1379

RDC 57 2/07, 409-433: Anne Bamberg: L'évêque face à la sainteté des sacraments: loi et procédure concernant les délits les plus graves. (Article)

See above, canon 1341.

1382

BEF LXXXV 2/09, 203-216: Javier González: The Lifting of Excommunication of Levebrite Prelates: And Now What? (Consultation)

See above, canon 1354.

1382

IE XXI 3/09, 699-704: Lettera apostolica “motu proprio” *Ecclesiae unitatem*, a proposito della Commissione *Ecclesia Dei*, 2 luglio 2009 (con *nota* di F. Puig, *Mutamenti strutturali della Commissione Ecclesia Dei*). (Document and commentary)

The Pontifical Commission *Ecclesia Dei* was established in 1988 by Pope John Paul II, following the illicit episcopal ordination of four priests by Archbishop Marcel Lefebvre. Its task was to facilitate the full ecclesial communion of communities or individuals linked to the Society founded by Archbishop Lefebvre. This *motu proprio* brings about a restructuring of the Commission, so that its president is now the president of the Congregation for the Doctrine of the Faith, who together with the secretary of the Commission will submit the principal cases and questions of a doctrinal nature to the Congregation for the Doctrine of

the Faith for study and discernment; the results will then be submitted to the Supreme Pontiff.

1387-1388

RDC 57 2/07, 409-433: Anne Bamberg: L'évêque face à la sainteté des sacraments: loi et procédure concernant les délits les plus graves. (Article)

See above, canon 1341.

1388

Arnold Rosney: The Seal of Confession and Privileged Communications. (Thesis)

See above, canons 983-984.

1388

Gregory J. Zubacz: Le secret sacramental et le droit canadien. (Book)

See above, canon 983.

1394-1395

SCL V (2009), 45-68: Congregation for the Clergy: Circular Letter on Special Faculties and Procedure for Laicizing Some Priests. (Document and commentaries)

See above, canon 290.

1394-1395

SCL V (2009), 69-78: Congregation for the Evangelization of Peoples: Special Faculties to the Congregation for the Evangelization of Peoples. (Document)

See above, canon 290.

1394-1395

SCL V (2009), 277-296: John A. Renken: The 2009 Special Faculties Conceded by Pope Benedict XVI to Address Serious Clergy Issues: A Brief

Commentary. (Commentary)

See above, canon 290.

1395

RDC 57 2/07, 409-433: Anne Bamberg: L'évêque face à la sainteté des sacraments: loi et procédure concernant les délits les plus graves. (Article)

See above, canon 1341.

1399

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J. (Book)

See above, General Subjects (*Compilations*), especially the article by Ronny E. Jenkins (pp. 368-394).

BOOK VII: PROCESSES

1400

Comm 38 (2006), 3-6: Pope Benedict XVI: Allocutio Summi Pontificis ad Auditores, Administros Advocatosque Rotae Romanae coram admissos 28 ianuarii 2006. (Address)

In his Rotal address for 2006 the Pope takes as his theme the process as an instrument of justice and peace, in matrimonial cases as in others. It is an instrument at the service of truth rather than vindicating the rights of one party or the other. Its pastoral value cannot be separated from love of the truth. Unfortunately pastoral charity can sometimes be contaminated by a desire to please those concerned. This does not mean that this is an abstract value. It is part of the integral journey of each person.

1400

Comm 38 (2006), 20-22: Tribunal Rotae Romanae: Allocutio ad Summum

Pontificem Exc.mi Decani Tribunalis Rotae Romanae occasione Audientiae diei 28 ianuarii 2006. (Address)

The Dean of the Rota replies to the Pope's address, picking up the theme of justice and truth. He adds that judging justly is also a service to charity and a ministry carried out in the name of Christ.

1400

RMDC 16 (2010), 7-36: Pío Vito Pinto: Status actual del Derecho Administrativo en la Iglesia: Sus fundamentos teológicos y las diferentes perspectivas actuales. (Article)

See above, General Subjects (*Legal theory*).

1400

RMDC 16 (2010), 63-112: Pío Vito Pinto: El recurso contencioso administrativo ante la Signatura Apostólica. (Article)

See below, canon 1445.

1400-1401

AnC 3/2007, 55-65: Józef Rapacz: Autonomia sądownictwa kościelnego (= Autonomy of judicial power in the Church). (Article)

The autonomy of judicial power in the Church is based on the words of the Lord, "give back to Caesar what belongs to Caesar, and to God what belongs to God" (Mt 22:21). Bearing in mind the Church's autonomy from the civil law, R. deals in a particular way with the interpretation of canons 1400 and 1401 of the CIC/83.

1400-1445

Comm 38 (2006), 23-60: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum "De Processibus" (Sessio I). (Report)

See above, Historical Subjects (*Second Vatican Council and revision of the CIC*).

1400-1752

Comm 41 (2009), 109-189: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum "De Processibus":

animadversiones Consultorum et epistulae pro definitiva forma Schematis “de processibus” post Sessionem XIII missae. (Report)

See above, Historical Subjects (*Second Vatican Council and revision of the CIC*).

1400-1752

Comm 41 (2009), 190-193: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum “De Processibus”: Relatio Sessionis “Parvus Coetus”. (Report)

See above, Historical Subjects (*Second Vatican Council and revision of the CIC*).

1400-1752

Comm 41 (2009), 350-447: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Schema canonum de modo procedendi pro tutela iurum seu de processibus. (Document)

See above, Historical Subjects (*Second Vatican Council and revision of the CIC*).

1403

Comm 38 (2006), 163-166: Pope Benedict XVI: Litterae Summi Pontificis ad eos qui sessioni plenariae Congregationis de Causis Sanctorum interfuerunt. (Document)

In this letter to the plenary session of the Congregation for the Causes of Saints Pope Benedict briefly reviews the history of the legislation on canonization. The Congregation was at that time considering a document to guide the handling of canonization processes at diocesan level (this was to result in the 2007 Instruction *Sanctorum Mater*: see below). The Pope then looks at three themes considered by the plenary session: evidence of heroic virtue; the role of miracles; martyrdom. The letter is dated 26 April 2006.

1403

Comm 39 (2007), 183-185: Pope Benedict XVI: Allocutio Summi Pontificis ad Collegium Postulatorum causarum beatificationis et canonizationis Congregationis de Causis Sanctorum die 17 decembris habita. (Address)

The Pope addresses a gathering of postulators for the causes of saints on the 25th anniversary of *Divini Perfectionis Magister*. In the light of his Encyclical *Spe Salvi* he mentions the importance of new role models of sanctity and the value of

the professional service of the postulators to local bishops at the diocesan stage in gathering and evaluating the evidence for and against outstanding holiness of life.

1403

Comm 39 (2007), 221-268: Congregatio de Causis Sanctorum: Instructio *Sanctorum Mater*. (Document)

This is the text (Italian) of the Instruction of the Congregation for the Causes of Saints on the procedure for handling the enquiry into causes of saints at diocesan or eparchial level. It seeks to clarify the Norms issued on 7 February 1983, and in particular certain areas where difficulties have arisen in practice. The document falls into several parts: 1) general introductory material; 2) preliminary phase; 3) instruction of the cause; 4) collection of documentary proofs; 5) collection of testimony; 6) closure of the enquiry. An appendix covers the canonical recognition of the mortal remains of a servant of God.

1403

IC 50 (2010), 257-291: Congregación de las Causas de los Santos: Instrucción *Sanctorum Mater* sobre el procedimiento instructorio diocesano o eparchial en las Causas de los Santos. (Document and commentary)

Text in Spanish of the Instruction *Sanctorum Mater* (17 May 2007) intended to clarify the dispositions in force on causes of the saints, facilitate their implementation, and indicate the way in which they are to be carried out. It deals first with instruction at diocesan or eparchial level of causes involving the heroic virtues or martyrdom of the Servants of God. Before accepting the cause, the bishop should carry out some preliminary enquiries to determine whether or not it is appropriate for the instruction to proceed. Once the decision is taken to admit the cause, the procedure properly so-called begins, with an order that all documentary proofs of the cause be collected. The witnesses are interviewed, and once the enquiry has been closed the acts are sent to the Congregation for the Causes of Saints in Rome for study and definitive judgement of the cause. The document is accompanied by a commentary by José Carlos Martín de la Hoz (pp. 281-291).

1405-1406

QSR 19 (2009), 177-189: Decreti del Decano della Rota Romana. (Documents)

See below, canons 1443-1444.

1420

QDE 23 (2010), 6-31: Davide Salvatori: Principi deontologici forensi nella prospettiva dell'ufficio del vicario giudiziale. (Article)

The editor of QDE sets out in his introductory note his understanding of the term “deontology” as that complex of ethical rules that should govern the exercise of a profession. In the field of law “forensic” is the term employed to specify legal deontology. By making a detailed review of the dispositions in the CIC/83 of the office of judicial vicar, S. claims that it is possible to establish a coherent body of laws that would serve to establish the duties and rights of this office.

1425

Comm 39 (2007), 313-333: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum “De Processibus” (Sessio IX). (Report)

See above, Historical Subjects (*Second Vatican Council and revision of the CIC*).

1443-1444

QSR 19 (2009), 25-63: Relazione sull'attività della Rota Romana nell'anno giudiziario 2008. (Report)

Section I of this 2008 Report on the activity of the Roman Rota contains statistical data on the Rotal College and Rotal personnel, together with details of causes pending; petitions received; sentences and decrees issued; free legal aid granted; visits to the Rota by cultural groups and episcopal conferences; publications; and the activity and composition of the *Studio Rotale*. Section II provides a summary of 2008 Rotal jurisprudence relating to matrimonial impediments (copulative impotence); consensual incapacity (canon 1095 2°-3°); defects of consent (total and partial simulation; *dolus*; error determining the will; condition; force and grave fear); separation of the spouses; property rights; a penal cause; and causes dealt with under canon 1682 §2 (decrees of confirmation; decrees admitting the case to ordinary examination). Section III summarizes 2008 Rotal jurisprudence relating to procedural matters (acceptance or rejection of the petition; admission of new grounds; admissibility of appeal; plaint of nullity; conformity of sentences; new examination of the cause; miscellaneous decrees). Section IV gives details of decrees issued by the Dean of the Rota. Section V contains a detailed breakdown of the data relating to causes examined during the year.

1443-1444

QSR 19 (2009), 177-189: Decreti del Decano della Rota Romana. (Documents)

The text is given of several decrees of the Dean of the Roman Rota issued during 2008, including the following cases in which the *libellus* submitted to the Rota was rejected on account of the Rota's lack of competency: 1) a diocesan bishop contested the provisions of a decree of the Roman Pontiff appointing a coadjutor bishop (10 January 2008); 2) a priest studying in a different diocese from his own sought redress against a parish priest who, contrary to canons 903, 906 and 932, refused him permission to celebrate Mass (14 January 2008); 3) a group of parishioners requested the sequestration of parish property in accordance with canon 1496, with a view to avoiding its being dispersed before the future of the parish had been decided (20 February 2008); 4) a number of individuals claimed that they had been defamed by a bishop, contrary to canon 1390 §2 (23 February 2008); 5) a priest claimed that a bishop was promoting associations hostile to the Church, contrary to canon 1374 (24 November 2008). Other decrees included two refusals on the part of the Rota to reserve cases to itself: one request being submitted by the priest-defendant in a first instance criminal case already in progress, where the Rota did not feel the priest's rights would be harmed by the case continuing to be dealt with in the place of his incardination (26 February 2008); the other being submitted by advocates in a first instance marriage case where the Rota could see no reason why the case should not be dealt with by the lawful first instance ecclesiastical tribunal (19 May 2008). One other decree accepts the renunciation of a case in accordance with CCEO canons 1317 §1, 1205 §1 (9 August 2008).

1444

QSR 19 (2009), 7-9: Antoni Stankiewicz: L'indirizzo d'omaggio del Decano S.E. Mons Antoni Stankiewicz a Sua Santità Benedetto XVI. (Address)

In this address at the start of the judicial year on 29 January 2009, the Dean of the Roman Rota refers to the importance of the Magisterium for a correct understanding of matrimonial canon law and for the unity of canonical jurisprudence, and to the role of the tribunal as a ministry of charity and at the same time a ministry of truth.

1444

QSR 19 (2009), 15-24: Gianpaolo Romanato: La Rota Romana *restituta* nella riforma di S. Pio X. (Address)

See above, Historical Subjects (*20th century*).

1445

IE XXI 3/09, 631-652: William L. Daniel: The Power of Governance Enjoyed by the Supreme Tribunal of the Apostolic Signatura with Historical Antecedents. (Article)

Authors largely agree that the power of governance of the Roman Curia is vicarious power of the Roman Pontiff and that it is aimed at promoting the communion of all the Churches. In this context, the power of the individual dicasteries is worthy of singular scientific attention in order to identify their specific contributions to the pursuit of ecclesial unity. D. offers a historical summary of the jurisdiction of the Apostolic Signatura in the 13th-19th centuries; and then within the 20th century he looks at pre-1917 legislation, the codification of 1917, developments preceding the Second Vatican Council, the reform of Paul VI (1967) and the *Normae Speciales* of 1968. The main and final section of the article is dedicated to the Signatura's *ius vigens*, and deals with the power of governance in general; the competency of the Signatura; and the specific powers of the Cardinal Prefect, the *Congresso*, the College of Judges, the Bishop Secretary, and the Promoter of Justice.

1445

RMDC 16 (2010), 7-36: Pío Vito Pinto: Status actual del Derecho Administrativo en la Iglesia: Sus fundamentos teológicos y las diferentes perspectivas actuales. (Article)

See above, General Subjects (*Legal theory*).

1445

RMDC 16 (2010), 63-112: Pío Vito Pinto: El recurso contencioso administrativo ante la Signatura Apostólica. (Article)

P. traces the historical evolution of administrative justice in the Church up to the time of Vatican II, and the period of uncertainty following the promulgation of Pope Paul VI's Apostolic Constitution *Regimini Ecclesiae Universae* (1967) which established the *Sectio Altera* of the Apostolic Signatura for dealing with contentious-administrative cases. Between that time and the promulgation of the CIC/83, the lack of experience of a fully-developed system of administrative justice brought about a number of negative effects, which P. describes at some length. He then highlights the importance of the various interpretative pronouncements of the legislator in this area during the 1970s, which among other things helped move the Church's system of administrative justice away from the Italian civil model, which P. considers to have been the source of some unnecessarily intricate distinctions. He examines the procedure of the *Sectio Altera* in the light of the 1968 *Normae Speciales*, which although experimental

and poorly ordered remained in force for well over 30 years; and the amendments introduced by the 1988 Apostolic Constitution *Pastor Bonus*. The last part of his article is dedicated to an analysis of the new *lex propria* of the Signatura promulgated in 2008.

1445

QSR 19 (2009), 73: Declaratio Collegii Rotalis diei 27 februarii 2009 de unico recursu apud Romanae Rotae Tribunal ad obtinendam novam causae propositionem. (Document)

See below, canon 1644.

1445

RMDC 16 (2010), 148-149: Tribunal de la Rota Romana: Declaración del Colegio de la Rota Romana, del 27 de febrero de 2009, para la instancia de nueva proposición de la causa. (Document and commentary)

See below, canon 1644.

1445

SCL V (2009), 119-172: William L. Daniel: The Strictly Judicial Function of the Supreme Tribunal of the Apostolic Signatura. (Article)

The Signatura has a threefold competency expressed in canon 1445 and articulated in articles 122-124 of *Pastor Bonus*. These are the strictly judicial, the contentious-administrative, and the disciplinary-administrative. D. sets out to explain and analyze in detail just the first of these. This area of competency is set out specifically in *Pastor Bonus* art. 122 as follows: 1) the alleged nullity of definitive decisions of the Roman Rota; 2) requests for *restitutio in integrum* against the same; 3) recourses against Rotal decrees denying a new examination of a cause regarding the status of persons; 4) recusatory exceptions against judges of the Roman Rota; 5) other causes against judges of the Roman Rota; 6) conflicts of competency between tribunals which are not subject to the same appellate tribunal.

1446-1500

Comm 38 (2006), 61-117: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum “De Processibus” (Sessio II). (Report)

See above, Historical Subjects (*Second Vatican Council and revision of the CIC*).

1481

QDE 23 (2010), 69-75: Massimo Mingardi: Il litisconsorzio attivo. Nota sull'art. 102 *Dignitas connubii*. (Article)

M. recalls some provisions of the Instruction *Dignitas Connubii*, approved by Pope John Paul on 8 November 2004, and issued by the Pontifical Council for Legislative Texts on 25 January 2005. These provisions of the Instruction allow the tribunal to permit, if the parties agree, that both petitioner and respondent be represented by the same advocate or procurator. M. draws the conclusion that such provisions, if properly understood and implemented, can lead to a reduction in time and cost in some cases without risk to the proper exercise of justice in tribunal proceedings.

1481-1490

QDE 23 (2010), 32-68: Graziano Mioli: Per un codice deontologico forense canonico: sono maturi i tempi? (Article)

See above, canon 1420, regarding the terms “deontology” and “forensic”. M. initiates his study by noting that it includes reference to both ecclesiastical and civil law in Italy. He points out the substantial growth in the number of practising advocates and female lawyers in the Italian legal scene. He then develops his thesis that there is a need for the authorities to establish a code that would ensure the application of the ethical foundations for the work of the tribunals but with a specific focus on the tasks of the advocates in the proceedings. He concludes, after a detailed examination of some elements in the CIC/83, by calling on the authorities to establish a code that would fill what he regards as a gap in the provision of an element that would safeguard the administration of justice.

1481-1490

QDE 23 (2010), 76-87: Giuseppe Comotti: L'esercizio della professione nel foro civile da parte dell'avvocato ecclesiastico. Aspetti deontologici e dovere della coerenza. (Article)

C., writing largely from the circumstances that obtain in Italy, briefly explores the case when an advocate in the ecclesiastical tribunal is called to intervene in the same case before the civil tribunal. He notes the obligation on the advocate to follow in the civil court the ethical principles that should have been applied to his work before the ecclesiastical tribunal.

1501-1525

Comm 38 (2006), 118-155: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum “De Processibus” (Sessio III). (Report)

See above, Historical Subjects (*Second Vatican Council and revision of the CIC*).

1505

SC 43 (2009), 361-387: William L. Daniel: The Rejection of a *Libellus* Due to the Lack of Any Foundation Whatsoever (CIC, c. 1505, §2, 4^o). (Article)

Throughout canonical tradition, there has been a requirement that a judicial petition be endowed with certain essential elements. Failure to include these elements makes a *libellus* vulnerable to rejection by the judge. One element that is frequently under consideration in tribunal praxis is that of the foundation (*fundamentum*) for the petition. This foundation is present or absent to the extent that it communicates a petition (*causa petendi*) based on true rights and demonstrable by provable facts. D. identifies when such a foundation is lacking; how this question is to be evaluated by the judge; and the standard for this evaluation (moral certitude). Finally, D. digests causes from Rotal jurisprudence dealing with the admission or rejection of a *libellus*. The study concludes with a sample decree initiating a preliminary investigation.

1526-1573

Comm 38 (2006), 222-271: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum “De Processibus” (Sessio IV). (Report)

See above, Historical Subjects (*Second Vatican Council and revision of the CIC*).

1572

J 70 (2010), 163-185: Peter O. Akpoghiran: The Evaluation of Witness Testimony in Marriage Nullity Trials. (Article)

A. suggests that the criteria for evaluating witness testimony can be considered under five headings: 1) moral – the condition (priest, married, age, friend of petitioner, etc.) and honesty of the witness; 2) mental – the source of the information (eye-witness, rumours, hearsay, etc.); 3) material – the consistency of the evidence (agreement, disagreement, doubt); 4) numerical – corroboration; 5) temporal – *tempore non suspecto*. A. finishes by considering sole witnesses, qualified witnesses and the circumstances of things and persons.

1574-1597

Comm 38 (2006), 272-307: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum “De Processibus” (Sessio V). (Report)

See above, Historical Subjects (*Second Vatican Council and revision of the CIC*).

1619-1627

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J. (Book)

See above, General Subjects (*Compilations*), especially the article by John Beal (pp. 312-346).

1641

IE XXI 3/09, 587-593: Tribunale Apostolico della Rota Romana: Reg. Apuli seu Baren.-Bituntina. Nullità del matrimonio. Conformità delle sentenze. Decreto, 3 luglio 2008, De Angelis, Ponente. (Decree)

The doubt was formulated on the basis of exclusion of the *bonum coniugum* and of the *bonum sacramenti* on the part of both spouses. The first instance tribunal gave an affirmative verdict *ob exclusum bonum coniugum* on the part of the female respondent, and negative verdicts under all other heads. The second instance tribunal gave a *non constat* decision in respect of exclusion of the *bonum coniugum* by the respondent, but *constat* on account of exclusion of indissolubility by both parties. The tribunal declared that there was substantial conformity between its own finding of exclusion of indissolubility on the part of the female respondent and the finding of the first instance tribunal of her exclusion of the *bonum coniugum*, since the two decisions were “rooted in the same facts rendering the marriage null and the same proofs” (*Dignitas Connubii*, art. 291 §2). The Rota gave a negative verdict, saying it was not evident that there was conformity of sentences.

1641

IE XXI 3/09, 594-605: Tribunale Apostolico della Rota Romana: Panormitana. Nullità del matrimonio. Incidente: revoca del decreto ed eccezione di *litis finitae*. Decreto, 16 ottobre 2008, Erlebach, Ponente. (Decree)

The male petitioner received a negative decision at first instance on the ground of exclusion of indissolubility on his part. At second instance he asked for an additional ground – that of conditional consent on his part – to be considered “as

at first instance” (canon 1683). The tribunal admitted this new ground for consideration, but gave a negative decision on both grounds. The petitioner appealed to the Rota at third instance against the negative decision relating to condition (not against the decision on the other ground, since a double conforming negative decision had already been produced). The female respondent submitted an exception of *litis finitae* before the third instance tribunal, arguing that the placing of a condition is in reality nothing other than a particular form of excluding indissolubility, in respect of which a definitive negative judgement had already been reached. Hence the *causa petendi* of the new ground was substantially the same as the original ground, even though formally different. The Rota rejected this argument.

1641

IE XXI 3/09, 605-628: Giovanni Maragnoli: “Causa petendi”, identificazione della domanda giudiziale, conformità sostanziale (o equivalente) di due sentenze. (Commentary)

M. comments on the Rotal decrees referred to in the two preceding entries. He examines the different ways of understanding the *causa petendi*, which constitutes the principal constitutive element in a cause of matrimonial nullity, and reflects on the problems involved in establishing when there is substantial or equivalent conformity of sentences.

1641-1644

SCL V (2009), 479-484: William Daniel: Remedies Available to the Petitioner in a Cause of Marriage Nullity After the Right to Appeal Has Been Lost. (Opinion)

What remedy is open when a party does not appeal against a negative first instance decision within the time limits? D. explains what these are, and notes that the remedy of total reinstatement is not available in marriage nullity cases. However, a declaration of the Signatura on 3 June 1989 makes it clear that, despite the wording of canon 1644, the appeal court can grant a new hearing in second instance and without the new and grave arguments required after a double conforming sentence.

1644

QSR 19 (2009), 73: Declaratio Collegii Rotalis diei 27 februarii 2009 de unico recursu apud Romanae Rotae Tribunal ad obtinendam novam causae propositionem. (Document)

See following entry.

1644

RMDC 16 (2010), 148-149: Tribunal de la Rota Romana: Declaración del Colegio de la Rota Romana, del 27 de febrero de 2009, para la instancia de nueva proposición de la causa. (Document and commentary)

On 27 February 2009 the Roman Rota declared that, with a view to avoiding delays in the process, when a Rotal *turnus* has given a decision (negative or affirmative) on a *nova causae propositio* in accordance with canon 1644 §1 (CCEO canon 1325 §1), no appeal against the decision can be made to another *turnus*. However, the right of recourse to the Apostolic Signatura under canon 1445 §1 is not affected. There is a short commentary on the document by Pío Vito Pinto.

1671-1675

Comm 39 (2007), 313-333: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum “De Processibus” (Sessio IX). (Report)

See above, Historical Subjects (*Second Vatican Council and revision of the CIC*).

1671-1691

Comm 38 (2006), 192-221: Julián Herranz: L’Istruzione *Dignitas connubii* e la trattazione delle cause di nullità del matrimonio nei tribunali ecclesiastici. (Address)

The President of the Pontifical Council for Legislative Texts addresses new bishops at the meeting organized by the Congregation for Bishops on 23 September 2006. He explains the background to *Dignitas Connubii* and the basic elements essential for marriage nullity cases. He then considers the unity and sacramentality of marriage and the relationship between marriage breakdown and nullity. He looks briefly at incapacity and simulation, and then at the role of the tribunal and of the bishop as its moderator.

1671-1691

IE XXI 3/09, 725-739: Portogallo, Ministério da Justiça: Decreto-Lei, n. 100/2009, 11 maggio 2009 (con nota di J.P.S. Mendonça Correia, *Anotações à regulamentação do artigo 16 da Concordata de 18 de maio de 2004 entre a*

Santa Sé e Portugal). (Document and commentary)

See above, General Subjects (*Relations between Church and State*).

1671-1691

J 70 (2010), 1-28: Robert J. Kaslyn: The Role of History and Context in Church Law: The Instruction *Dignitas Connubii* as One Case in Point. (Article)

See above, canon 34.

1671-1691

QSR 19 (2009), 131-162: Grzegorz Erlebach: Il «capo di nullità» secondo la giurisprudenza della Rota Romana. (Article)

E. reflects on the notion of *caput nullitatis* in Rotal jurisprudence. The “head” or “ground” of nullity can be considered as a specific type of matrimonial nullity (e.g. in the case of incapacity, it is necessary to determine what *type* of incapacity is involved); it must refer to one or both parties; and it is to be distinguished from its legal-normative foundation (as an example, the formula *defectus discretionis iudicii* would be sufficient, without the need to specify canon 1095 2°). E. examines the relationship of the *caput nullitatis* to canonical legislation; the identification of different grounds of nullity; and the possibility of “autonomous” grounds of nullity (e.g. some believe that “lack of internal freedom” could be considered as an autonomous ground with respect to lack of discretion of judgement). The recognition of an autonomous ground, if it were to be possible, could only come about little by little through jurisprudence itself. E. goes on to deal with procedural aspects: determination of the ground of nullity; whether there is a distinction to be drawn between the *caput nullitatis* and the *causa petendi* (after a lengthy discussion of the question he concludes that in Rotal jurisprudence the *causa petendi* in matrimonial causes can generally be derived *sic et simpliciter* from the *caput nullitatis*); the connection between the *caput nullitatis* and the juridical “fact” (the fact constituting the matrimonial nullity): again a lengthy discussion ensues, ending in the conclusion that the question which the judge must resolve is not limited simply to considering whether or not the juridical “fact” is proved, but must also include proof of the ground of nullity as established in the joinder of the issue, for which the juridical fact is simply a necessary prerequisite. Regarding conformity of sentences, according to the majority of Rotal jurisprudence as well as Rotal practice, “formal” conformity is based exclusively on the same response relative to the same ground of nullity, while “equivalent” conformity can be declared whenever it is shown that two sentences declarative of nullity, although issued on the basis of different grounds, are based on the same facts understood differently.

1671-1691

Robert J. Kaslyn (ed.): Essays in Honor of Sister Rose McDermott, S.S.J.
(Book)

See above, General Subjects (*Compilations*), especially the article by Roch Pagé (pp. 347-367).

1671-1716

Comm 39 (2007), 291-312: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum “De Processibus” (Sessio VIII).
(Report)

See above, Historical Subjects (*Second Vatican Council and revision of the CIC*).

1676

FCan V/1 (2010), 139-142: Justiça, caridade e verdade no ministério judicial. Discurso do Papa Bento XVI ao Tribunal da Rota Romana 29 Janeiro 2010.
(Address)

See above, canon 1060.

1676

RMDC 16 (2010), 141-147: Benedicto XVI: Alocución del Papa al inicio del año judicial, del 29 de enero de 2010. (Address)

See above, canon 1060.

1682

SCL V (2009), 493-510: Augustine Mendonça: Irremediable Nullity of a Negative Sentence in Second Instance. (Opinion)

After an affirmative decision on one ground only at first instance the appeal court issued a decree by the short process giving a negative decision on all grounds without submitting the case to ordinary examination. This is clearly contrary to the provisions of the CIC/83, and to what is spelled out in greater detail in *Dignitas Connubii* art. 265. This specifies that the defender of the bond in question is that of the appeal court. The only action open to the appeal court is to issue a decree ratifying the first instance decision or remitting the case to the ordinary process. It also makes it clear that the decree should not just be *pro forma* but should state the reasons at least summarily and respond to the observations of the defender of the bond and any made by the parties. The decision of the appeal

court in this case is irremediably null, as stated in a decree *coram* Arokiaraj of 28 May 2009.

1697-1706

FCan V/1 (2010), 81-114, 145-151: Mário Rui de Oliveira: A Carta Circular do Supremo Tribunal da Assinatura Apostólica e o art. 16 da Concordata. (Article)

See above, canon 1059.

1717-1718

AnC 3/2007, 199-216: Tomasz Rakoczy: Przesłanki perymptoryjne do rozpoczęcia kanonicznego procesu karnego (= Conditions preventing the start of canonical legal proceedings). (Article)

See above, canon 1341.

1717-1718

RDC 57 2/07, 409-433: Anne Bamberg: L'évêque face à la sainteté des sacraments: loi et procédure concernant les délits les plus graves. (Article)

See above, canon 1341.

1717-1728

SCL V (2009), 45-68: Congregation for the Clergy: Circular Letter on Special Faculties and Procedure for Laicizing Some Priests. (Document and commentaries)

See above, canon 290.

1717-1728

SCL V (2009), 69-78: Congregation for the Evangelization of Peoples: Special Faculties to the Congregation for the Evangelization of Peoples. (Document)

See above, canon 290.

1717-1728

SCL V (2009), 277-296: John A. Renken: The 2009 Special Faculties Conceded by Pope Benedict XVI to Address Serious Clergy Issues: A Brief Commentary. (Commentary)

See above, canon 290.

1720

RDC 57 2/07, 409-433: Anne Bamberg: L'évêque face à la sainteté des sacraments: loi et procédure concernant les délits les plus graves. (Article)

See above, canon 1341.

1732-1739

J 68 (2008), 178-222: Kurt Martens: The Law That Never Was: The Motu Proprio *Administrativae Potestatis* on Administrative Procedures. (Article)

See above, Historical Subjects (*Second Vatican Council and revision of the CIC*).

1732-1739

J 69 (2009), 646-702: Kurt Martens: Protection of Rights: Experiences with Hierarchical Recourse and Possibilities for the Future. (Article)

M. begins with the principles for the revision of the Code, especially nos. 6 and 7, and the history of the revision process for administrative law. He then comments on the canons on hierarchical recourse, and offers a historical and canonical introduction to the Second Section of the Apostolic Signatura with a commentary on its processes. He considers the actual experiences of recourse and calls for the publication of the Signatura's jurisprudence. He concludes with a discussion of various experiments in administrative tribunals in the USA, Great Britain and Canada.

1732-1739

RMDC 16 (2010), 63-112: Pío Vito Pinto: El recurso contencioso administrativo ante la Signatura Apostólica. (Article)

See above, canon 1445.

1732-1752

RMDC 16 (2010), 7-36: Pío Vito Pinto: Status actual del Derecho

Administrativo en la Iglesia: Sus fundamentos teológicos y las diferentes perspectivas actuales. (Article)

See above, General Subjects (*Legal theory*).

1732-1752

RMDC 16 (2010), 37-62: Pío Vito Pinto: El recurso jerárquico. (Article)

P. describes the development of the hierarchical recourse between the CIC/17 and the CIC/83, and provides a detailed commentary on canons 1732-1739 of the present Code. He then identifies elements which have remained intact from the old system and those which are new, dwelling in particular on new figure of “administrative silence” (cf. CIC/83, canon 57). The most important novelty in the CIC/83 is the clear arrangement of the topic in Part V of Book VII, and especially the descriptive character of canons 1733-1735, 1737 and 1739. Also significant is the legislator’s decision to close the CIC/83 with the express reference to the *salus animarum* (canon 1752). P. ends his article with some observations on the impact of art. 123 of the Apostolic Constitution *Pastor Bonus* of 1988, and on the scope and juridical limits of hierarchical recourse.

1752

AnC 3/2007, 245-263: Piotr Steczkowski: Normy *De gravioribus delictis Congregationi pro Doctrina Fide reservatis* – wybrane aspekty (= Selected problems on the Norms *De gravioribus delictis*). (Article)

See above, canon 1357.

1752

FC 12 (2009), 23-30: Piotr Kroczek: Does obligatory canonical form of marriage contribute to *salus animarum*? (Article)

See above, canon 1108.

- African Ecclesial Review
- Angelicum
- Annales Canonici
- Année Canonique
- Anuario Argentino de Derecho Canónico
- Apollinaris
- Archiv für katholisches Kirchenrecht
- Boletín Eclesiástico de Filipinas
- Claretianum
- Commentarium pro Religiosis et Missionariis
- Communicationes
- De Processibus Matrimonialibus
- Ephrem's Theological Journal
- Estudio Agustiniiano
- Estudios Eclesiásticos
- Folia Canonica
- Folia Theologica
- Forum
- Forum Canonicum
- Forum Iuridicum
- Idee
- Il Diritto Eclesiastico
- Immaculate Conception School of Theology Journal
- Indian Theological Studies
- Intams
- Irish Theological Quarterly
- Ius Canonicum

- Ius Ecclesiae
- Journal of Sacred Scriptures
- The Jurist
- Laurentianum
- Law and Justice
- Louvain Studies
- Periodica
- Philippine Canonical Forum
- Philippiniana Sacra
- Praxis Juridique et Religion

- Proceedings of the Canon Law Society of America
- Quaderni di Diritto Ecclesiale
- Quaderni dello Studio Rotale
- Review for Religious
- Revista Española de Derecho Canónico
- Revista Mexicana de Derecho Canónico
- Revue théologique de Louvain
- Revue de Droit Canonique
- Salesianum
- Studia Canonica
- Studies in Church Law
- Studium Generale Marcianum
- Studium Ovetense
- Teología y Vida
- Theologische-praktische Quartalschrift
- Theologica Xaveriana
- Vida Religiosa
- Vidyajyoti

LIST OF ABBREVIATIONS, PERIODICALS AND ABSTRACTORS FOR THIS ISSUE

AnC	Annales Canonici, Krakow – Abstracts supplied by publisher.
Ang	Angelicum, Rome – Abstracts supplied by publisher.
BEF	Boletin Eclesiastico de Filipinas, Manila – Rev. Mgr. J. Hadley, Leicester.
Comm	Communicationes, Rome – Rev. Mgr. Gordon Read, Colchester, Essex.
ETJ	Ephrem’s Theological Journal, Satna, India – Editor.
FC	Folia Canonica, Budapest – Editor.
FCan	Forum Canonicum, Lisbon – Abstracts supplied by publisher.
IC	Ius Canonicum, Pamplona – Abstracts supplied by publisher.
IE	Ius Ecclesiae, Pisa-Rome – Rev. Joseph D. Gabiola, London.
INT	Intams, Belgium – Mrs Margaret Foster, Lancaster.
ITQ	Irish Theological Quarterly, Pontifical University, Maynooth – Abstracts supplied by publisher.
ITS	Indian Theological Studies, Bangalore – Editor.
J	The Jurist, Washington – Rev. Paul Gargaro, Clydebank, Glasgow.
N	Notitiae, Rome – Rev. Mgr. Gordon Read, Colchester.

Per	Periodica, Rome – Rev. Aidan McGrath OFM, Rome.
QDE	Quaderni di Diritto Ecclesiale, Milan – Bishop John Jukes OFM Conv, Huntly, Aberdeenshire.
QSR	Quaderni dello Studio Rotale, Vatican City – Editor.
RDC	Revue de Droit Canonique, Strasbourg – Abstracts supplied by publisher.
REDC	Revista Española de Derecho Canónico, Salamanca – V. Rev. John McGee, Girvan, Ayrshire.
RMDC	Revista Mexicana de Derecho Canónico, Pontifical University of Mexico – Editor.
RTL	Revue théologique de Louvain, Louvain-la-Neuve – Abstracts supplied by publisher.
SC	Studia Canonica, Ottawa – Rev. Mgr. John Renken, Ottawa.
SCL	Studies in Church Law, Bangalore – Rev. Mgr. Gordon Read, Colchester.

BOOKS RECEIVED

- Samuel Fernández, Juan Noemi, Rodrigo Polanco (eds.): *Multifariam. Homenaje a los profesores Anneliese Meis, Antonio Bentué y Sergio Silva*, Pontificia Universidad Católica de Chile, Santiago, 2010, 621pp., ISBN 978-956-332-645-1
- Robert J. Kaslyn (ed.): *Essays in Honor of Sister Rose McDermott, S.S.J., (Institutiones Iuris Ecclesiae I [2010])*, Catholic University of America, 2010, viii + 400pp. [see above, General Subjects (*Compilations*)]
- Emmanuel Petit: *Consentement matrimonial et fiction du droit. Etude sur l'efficacité juridique du consentement après l'introduction de la fiction en droit canonique*, Pontificia Università Gregoriana, Rome, 2010, 410pp., ISBN 978-88-7839-174-1 [see above, canons 1139-1140]
- Stefano Ridella: *La valida alienazione dei beni ecclesiastici. Uno studio a partire dai cann. 1291-1292 CIC* (Questioni di Diritto Canonico series), Libreria Ateneo Salesiano, Rome, 2010, 275pp., ISBN 978-88-213-0762-1 [see above, canons 1291-1292]
- Arnold Rosney: *The Seal of Confession and Privileged Communications*, Chapter 1, M.A. Thesis, University of Limerick, 2008, 65pp. [see above, canons 983-984]
- Gregory J. Zubacz: *Le secret sacramental et le droit canadien* (Gratianus series), Wilson & Lafleur Ltée, Montreal, 2010, xxviii + 276pp., ISBN 978-2-89127-961-1 [see above, canon 983]

