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## GENERAL SUBJECTS

*Comparative law*

**AC 53 (2011), 309-317: Grigorios D. Papathomas: La notion de la primauté ecclésiastique d'un point de vue ecclésio-canonique pendant le Moyen Âge.** (Article)

P. begins by looking at the common past and the subsequent divergence of the Catholic and Orthodox traditions, in particular on the question of papal primacy. For the Orthodox primacy means synodal presidency, whereas for Catholics it implies universal supremacy.

**AC 53 (2011), 357-371: Abla Koumdadji: Répudiations, droit coranique, droits marocain et algérien, droit français du divorce et du « pacs ».** (Article)

K. carries out a comparison of repudiation in Muslim law as a way of dissolving a religious marriage, and the ways recognised by modern French secular law of ending conjugal and para-conjugal relationships.

**AnC 10 (2014), 139-152: Cătălina Mititelu: The celebrant of the Holy Sacrament of the Eucharist. Rules and canonical norms of the Orthodox Church.** (Article)

M. presents the canonical legislative texts of the Orthodox Church from the first millennium – complemented by the text of liturgical-typiconal rules made and published over the centuries – concerning the celebration of the Divine Sacrament of the Eucharist and its celebrant. The article thus offers testimonies of the liturgical-canonical tradition of the Church which forms part of the common liturgical canonical heritage of the ecumenical Church of the first millennium.

**Ap LXXXVI (2013), 19-57: Elena Di Bernardo: Modelli processuali e finalità perseguite nell'Istruttoria civile e canonica. Rilievi comparativi.** (Article)

See below, canons 1717-1719.

**LJ 172 (2014), 79-94: Meryl Dickinson: Canonical Equity in the Latin Church and Economy in the Orthodox Church: An Equivalent Relaxation or Essentially Different System?** (Article)

A recognized feature of valid laws is that they must be clear, concise and understandable. One of the main resulting problems is that laws are interpreted strictly and this can lead to harsh judgements. The clearest example of this can be seen in cases of strict liability whereby no mitigating factors can be taken into consideration. In order to counter this a number of devices have developed over the years in order to take account of mitigating factors should the individual circumstances of the case require it. These devices now appear in a number of legal systems, and ecclesiastical law is no exception. References to the doctrine of equity, dispensation and necessity are rife within the canon law of a number of Churches and these are used to allow for the relaxation of legal rules should circumstances require. What is equally evident is that although such rules exist within these Churches, the precepts that they are based on, sources they drawn from, and names, are always slightly different. D. draws upon two of these devices, canonical equity in the Latin Church and the Orthodox use of economy, in order to discover if they are, in modern times, equivalent devices or if there is a greater distinction embedded through their religious development and guidance for their use. Her conclusion is that the two devices are essentially different systems built on different historical foundations and applying to very different situations.

***Compilations***

**EA 49 (2014), 363-399: Fernando Campo del Pozo: Estudios en homenaje al profesor Rafael Navarro-Valls.** (Bibliographical Review)

This is an analysis of a collection of studies presented as a homage to Rafael Navarro-Valls, Professor of Law at the Complutense University, Madrid, under the title "Religion, Marriage and Law" (*Religión, Matrimonio y Derecho. Estudios en homenaje al Profesor Rafael Navarro-Valls*, Iustel, Madrid, 2013). It contains various essays and debates on marriage and religion, within the cultural field of studies carried out by 174 European and American jurists, who deal with a wide range of topics on the regulation of marriage, relations between Church and State, Christian religion and the integration of the Islamic minorities in Europe. The two-volume work, consisting of almost 4,000 pages, contains many different opinions and points of view on questions of justice, human rights and conflicts of conscience. Also included are historical studies, including some on the work of the Spanish Augustinian canonists of the 14th and 15th centuries.

**IC 54 (2014), 11-20: Orazio Condorelli: L'attenzione per la storia del diritto nel *Diccionario General de Derecho Canónico* (e in altre recenti iniziative editoriali).** (Lecture)

C.'s lecture, given at the launch in Rome of the seven-volume *Diccionario General de Derecho Canónico* (University of Navarre, Thomson Reuters/Aranzadi, Pamplona, 2012) on 27 November 2013, provides some general observations on the publication – the fruit of the collaboration of 583 contributors – before highlighting one particular aspect of its content, namely the attention which it pays to the history of law (over 300 entries out of a total of 2118).

**IC 54 (2014), 309-335: Joaquín Sedano: Crónica de Derecho canónico del año 2013.** (Compilation)

Although from an ecclesial perspective 2013 will be remembered above all as the year in which the Pope resigned, there were several other significant juridical developments which S. summarizes in this review. He refers first of all to Pope Benedict's annual address to the Roman Rota (26 January 2013; see *Canon Law Abstracts*, no. 112, pp. 73-75); various decrees of Popes Benedict and Francis erecting and reorganizing ecclesiastical circumscriptions (these include the raising of the apostolic exarchates for Ukrainians both in Great Britain and in France to the rank of eparchies, on 18 and 19 January 2013 respectively); the *motu proprio Ministrorum institutio* transferring responsibility for seminaries from the Congregation for Catholic Education to the Congregation for the Clergy (16 January 2013; see *Canon Law Abstracts*, no. 112, pp. 44-45); the *motu proprio Fides per doctrinam* transferring competence for catechesis from the Congregation for the Clergy to the Pontifical Council for Promoting the New Evangelization (16 January 2013; see *Canon Law Abstracts*, no. 112, p. 46); modifications to the *Ordo rituum pro ministerii Petrini initio Romae episcopi* containing the liturgical texts used in papal celebrations at the start of a new Pope's ministry (18 February 2013); the *motu proprio Normas nonnullas* modifying the norms governing the election of the Roman Pontiff (22 February 2013; see below, canon 335); the resignation of Pope Benedict XVI (mentioned at the start of this abstract) during a consistory for causes of canonization on 11 February 2013, effective from 28 February 2013; the election of Pope Francis on 13 March 2013; the announcement on 13 April 2013 of the creation of a council of cardinals for the reform of the Roman Curia (formally established on 28 September 2013; see below, canon 360); and the creation of a commission for the protection of minors (December 2013). The review goes on to mention the more significant documents and activities of the Roman Curia in 2013, including the granting of new special faculties to the Roman Rota (see below, canons 1443-1444); the creation of the council of

cardinals for the reform of the Roman Curia, referred to above; the suppression by means of a rescript *ex audientia Ss.mi* of the public association of the faithful "Hermanas de San Juan y de Santo Domingo" on account of indiscipline (10 January 2013; see *Canon Law Abstracts*, no. 112, p. 41); the reception by the Congregation for the Doctrine of the Faith (CDF) of 11 sisters of the Anglican Community of St Mary the Virgin in Wantage, Oxfordshire, into the Catholic Church via the Personal Ordinariate of Our Lady of Walsingham (1 January 2013); the announcement on 24 May 2013 that the CDF had urged the bishop of Annecy (France) to remove Pascal Vesin, a parish priest who had consistently refused to renounce Freemasonry, from all his functions; the reminder from the CDF, via a letter of 21 October 2013 from the apostolic nuncio to the bishops of the United States, that it was not yet possible to state that there were apparitions or supernatural revelations in Medjugorje, Bosnia-Herzegovina; various actions taken by the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life in relation to the Legion of Christ; and the decrees of the Apostolic Penitentiary granting special indulgences for the World Day of the Sick (25 January 2013) and on the occasion of the 28th World Youth Day in Rio de Janeiro (24 June 2013; see *Canon Law Abstracts*, no. 112, p. 69). The final sections of the review are dedicated to the diplomatic activity of the Holy See during 2013 (relations with Vietnam; meetings of the permanent bilateral working commission between Israel and the Holy See; developments in diplomatic relations with South Sudan, the Republic of Cabo Verde, Hungary, Equatorial Guinea, and the Republic of Chad) and documentation and activity of the Spanish Episcopal Conference.

**IC 54 (2014), 337-366: Jorge Otaduy: Crónica de jurisprudencia 2013. Derecho eclesiástico español.** (Compilation)

O. presents a review of decisions in the Spanish courts in 2013 involving issues of Spanish ecclesiastical law (fiscal law; religion teachers; the teaching of religion; universities of the Catholic Church; the Islamic Commission of Spain; Islamic marriage and pensions for widowhood; religious symbols; wills made in favour of a confessor; administration of parochial goods; non-profit organizations and charges for services rendered; effectiveness of canonical legislation as statute law; places of worship and municipal licences; various labour questions; the ringing of bells). O. also refers to various cases involving religious matters decided by the European Court of Human Rights in 2013.

**IC 54 (2014), 367-383: Jorge Otaduy: Crónica de legislación 2013. Derecho eclesiástico español.** (Compilation)

O. presents a review of legislation from 2013 involving issues of Spanish ecclesiastical law: teaching; financial matters; places of worship; commemoration of religious events; assessment committee for religious freedom; transparency; local legislation.

**REDC 71 (2014), 516-533: Federico R. Aznar Gil: Boletín de Legislación Canónica Particular española 2013.** (Compilation)

A.G. provides listings of particular legislation issued during 2013 by the dioceses of Spain. His division follows the order of the books of the Code. He gives the name of the diocese, title and date of the legislation and its page reference in the appropriate diocesan publication.

***Ecclesiology***

**IE XXVI (2014), 27-48: Massimo del Pozzo: La struttura "ordo-plebs" cardine del sistema costituzionale canonico.** (Article)

P. sees the *ordo-plebs* structure, properly understood, as essential to ecclesiastical circumscriptions. The organic cooperation of hierarchy and laity within the circumscription provides a measure of the degree of participation and sharing in its pastoral activity.

**IE XXVI (2014), 113-125: Eduardo Baura: La funzione consultiva del giurista nella Chiesa.** (Lecture)

In this lecture to mark the opening of the 2013-1024 academic year at the Pontifical University of the Holy Cross, Rome, B. looks at the scope of the jurist's consultative function in the Church, examining what is involved in the activity of giving advice, and showing how the jurist's role goes beyond the mere interpretation of written norms.

**RDC 62/2 (2012), 409-425 Delphine Viellard: Le latin dans l'histoire de l'Église catholique: la langue de la vérité?** (Article)

V. examines the relationship between Latin and truth in the Catholic Church. Although Latin was not the original language of Christianity, the Council of Trent made it the authoritative language of dogma and of biblical translation.

This is even truer of canon law: the language of law in general, it became the *lingua franca* of canon law from the fifth century on. The 1917 and 1983 Codes, and even the 1990 Oriental Code, are all written in Latin.

**REDC 71 (2014), 209-270: José María Muñoz de Juana: Comunión en la Iglesia local y exención.** (Article)

M.J.´s theme is the disjunction which he sees between the local diocesan Church and institutions exempt from episcopal jurisdiction (exempt religious institutes and those of pontifical right). Such exemptions have caused difficulties in the past and often continue to do so today when institutions work for their own ends and objectives in the light of their own understanding of the institute's special charism, which are not always at the service of the diocese. Many of them belong to an international or worldwide organization, often with headquarters in Rome and with personnel in many parts of the world. The problem M.J. sees is the difficulty of their true integration into the local Church. He argues that there is no such entity as a supra- or extra-diocesan People of God any more than there is a supra- or extra-diocesan *presbyterium*; both people and priests belong to a local Church with the bishop as pastor. M.J. believes a solution to the problem lies much deeper than merely the maintenance of a certain level of mutual cooperation based on simple goodwill; rather, it must be based on a true theological and sacramental understanding of the nature and hierarchical structure of the Church which in turn is reflected in its canonical norms. He considers the historical development of exempt institutions, and the greater part of his article examines the theological and ecclesiological implications of a true *communio* in the Church.

***Family issues***

**Ang 90 (2013), 331-342: Vincenzo Fasano: Le mariage civil en France au lendemain de la loi n$^{o}$ 2013-404 du 17 mai 2013.** (Article)

On 17 May 2013 a law was passed in France authorizing marriages between persons of the same sex. F. examines the historical and cultural factors and the ideologies behind this development, arguing that such unions do not form a parallel reality to true marriage but are an imposition contrary to the family founded on marriage. Although this new institution which the legislator has chosen to introduce is given the name of "marriage", the essence of marriage is inevitably lost.

*General Subjects (Family issues / Human rights)*

**FCan VIII/2 (2013), 129-139: Stefan Gatzhammer: O debate de Dereito eclesiástico: a circuncisão por motivos religiosos e a nova lei do Código Civil da Alemania.** (Article)

In May 2012 an unfortunate decision of the Cologne *Landgericht* (appeal court) declared that the circumcision of a four-year old child boy amounted to a criminal offence, even though it was performed *lege artis* and with the consent of the parents. G. examines the resulting amendments introduced into the German Civil Code in December 2012, and discusses religious freedom and parental rights in education especially for Jews and Muslims in Germany.

**Ius IV 2/13, 317-327: Documentation: 2014 Synod on Family and Evangelization to Promote Episcopal Collegiality.** (Presentation)

This is the text of the preparatory document for the Synod on the Family presented at a press conference in the Vatican, with the text of addresses by Archbishop Baldisseri, Cardinal Péter Erdö and Archbishop Bruno Forte.

**RMDC 19 (2013), 335-379, 439-454: Rogelio Ayala Partida: El documento preparatorio para el Sínodo extraordinario de los Obispos de 2014 y para el Sínodo ordinario de 2015. Consulta y subsidiariedad en la Iglesia.** (Document and commentary)

A.P. analyses the preparatory document for the 2014 Extraordinary General Assembly of the Synod of Bishops and the 2015 Ordinary General Assembly, entitled *Pastoral Challenges to the Family in the Context of Evangelization*, and discusses the role of the synod of bishops. The Spanish text of the preparatory document is given on pp. 439-454.

***Human rights***

**EIC 54 (2014), 199-224: Giada Ragone: Enti confessionali e licenziamento ideologico. Uno sguardo alla giurisprudenza della Corte di Strasburgo.** (Article)

R. provides an analysis of some recent cases heard by the European Court of Human Rights in which the employer is a religious entity, concluding that the Court protects the autonomy of Churches and religious organizations as well as workers' rights, while it also takes into account the interests of third parties who are linked to the religious entity in some way and who are interested in maintaining the religious identity of the organization or body in question.

***Law reform***

**AC 53 (2011), 131-162: Jean-Louis Marchal: La complicité en droit pénal canonique: décryptage du canon 1329.** (Article)

See below, canon 1329.

**ADC 3 (abril 2014), 31-51: Manuel J. Arroba Conde: Justicia reparativa y derecho penal canónico. Aspectos procesales.** (Article)

See below, canon 1342.

**Ang 90 (2013), 293-329: Carlo Fabris: L'ecumenismo nel contesto codiciale: lettura critica e prospettive di sviluppo della disciplina vigente.** (Article)

See below, canon 755.

**Ang 90 (2013), 391-446: Piotr Skonieczny: La presunzione dell'imputabilità (can. 1321, §3 CIC/83): commento ad un disposto da abrogare.** (Article)

See below, canon 1321.

**QDE 27 (2014) 238-241: Eugenio Zanetti: Snellimento della prassi canonica in ordine alla dichiarazione di nullità del vincolo matrimonial? /1.** (Article)

Z. begins by pointing out that changing the judicial procedure for the declaration of nullity of marriage cannot be expected to solve all the problems of the divorced and civilly-remarried, and that tribunals see only a small percentage of such people. A simplified diocesan process (which would effectively be an administrative rather than judicial one) would only touch a few cases, as well as raising more serious questions about marriage preparation. Any change would have to respect both the rights and the duties of all involved in the process; it would be important to distinguish between a nullity process and the idea of moving to a process whereby marriages could be dissolved. This latter question requires careful thought, alongside consideration of improvements to the existing nullity procedures.

***Legal theory***

**AC 53 (2011), 283-298: Francesco Coccopalmerio: L'ontologie du droit dans la pensée de Benoît XVI. Réflexions sur le discours du pape devant le Bundestag (22 sept. 2011).** (Article)

On the basis of Pope Benedict XVI's address to the German Parliament on 22 September 2011 (see *Canon Law Abstracts*, nos. 109, p. 14; 111, pp. 6, 9), C. examines the notion of law in general, the legislator, and knowledge of the law on the part of the legislator, before offering some concluding reflections. He identifies two elements of particular importance in the Pope's address: the first is that "the majority principle is not enough" (what is "right" is not created by the will of the legislator, but is known by the legislator's intellect); the second is the Pope's denial that knowledge of what is right is based on religion: Christianity does not propose a juridical order derived from revelation, but points to nature and reason as the true sources of law.

**ADC 3 (abril 2014), 13-30: Michele Riondino: Justicia restaurativa y derecho penal canónico. Aspectos sustanciales.** (Article)

See below, canon 1341.

**AnCrac 45 (2013), 319-334: Piotr Kroczek: Czy starożytność powinna być inspiracją dla współczesnego prawodawcy kościelnego w dziedzinie małżeństwa i rodziny? Rozważania na kanwie kultury Grecji i Rzymu ( = Should antiquity be an inspiration for the contemporary Church legislator in the realm of marriage and the family? Deliberations based on the culture of Greece and Rome).** (Article)

Legislation is an art that takes inspiration from a variety of sources. Should antiquity be one of them? K. puts forth some proposals for such borrowing of ideas in the realm of marriage and the family: one's choice of spouse, engagement and the financial aspects of the future marriage, contracting marriage without the obligatory form, and the role of the father in the family. He concludes that the legislator should value the culture of antiquity as a source of ideals, but when borrowing ideas from of old he must follow the rules needed for such an action. K. sets out these rules, as requirements for good legislation.

**IC 54 (2014), 185-220: Miguel Ángel Asensio: Personalidad religiosa y teoría general del Derecho: nota crítica a la naturaleza asociativa de las confesiones.** (Article)

An analysis of the thesis of the associative nature of religious faiths from the perspective of general legal theory enables a clearer understanding to be obtained of what a religious entity is. Indeed, according to general legal theory, if religious faiths are associations, the foundation on which they rest must be associative; that is to say, a *universitas personarum*. In the specifically Spanish context, A. points out that from a reading of legislation the existence of a personal basis to religious faiths is not clear; however, such a basis does exist, as is reflected in the obligation to prove religious purposes in order to obtain legal recognition as a religious entity. Such religious entities may take several legal forms, including that of an association, making it possible to define and distinguish between faiths, religious associations as understood in Spanish law, and civil associations with religious purposes.

**IE XXVI (2014), 169-185: Joaquín Llobell: "Common law", proceso judicial y ecología de la justicia. Reflexiones de un canonista a propósito de un reciente libro (a proposito del volume di T. Aliste, Sistema de "Common Law").** (Bibliographical review)

L. examines the differences between the canonical concept of "moral certitude" and the common law concept of "proof beyond reasonable doubt". The current scepticism of the common law regarding the possibility of the sentence being a "declaration" of a just resolution of a controversy profoundly alters the concept of the trial, which tends to be changed into a mere "expedient" for satisfactorily settling the litigation between the parties. This phenomenon implies the privatization of the object of the controversy (even in penal matters there is the system of negotiating penal offences) and the replacement of public processes of law by "alternative dispute resolution", which has an impact on the metaphysical conception of judicial power, even in canon law, especially (but not only) in English-speaking countries.

**Ius IV 2/13, 279-298: George Nedungatt: The Law of Talion an Ancient Law of Jurisprudence.** (Article)

There is much misunderstanding about the law of talion, which many consider a relic of barbarity. In the history of penal law, however, it marked progress in justice. It was common to several cultures. It was a principle of justice conceived in terms of arithmetical equality and was adopted as a law of jurisprudence in the Old Testament. Jesus did not abolish or modify it but taught

a moral law proper to the children of God. Canon law retains the essence of the law of talion in the concept of just or congruent penalty.

**Per 103 (2014), 1-16: Velasio De Paolis – Patrick Valdrini: Presentazione del libro di Gianfranco Ghirlanda *Introduzione al diritto ecclesiale. Lineamenti per una teologia del diritto nella Chiesa*.** (Book presentations)

On 14 November 2013, in an event at the Pontifical Gregorian University, the launch took place of Gianfranco Ghirlanda's latest book, *Introduzione al diritto ecclesiale. Lineamenti per una teologia del diritto nella Chiesa*. As its title suggests, the book is an introduction to the study and practice of law in the Church; its subtitle shows that the book offers guidelines for the elaboration of a theology of law within the Church. The book was presented at the launch by two well-known canonists: Cardinal Velasio De Paolis, and Monsignor Patrick Valdrini. The texts of their presentations are published here. (See also *Canon Law Abstracts*, no. 111, p. 10.)

**TyV LIV (2013), 679-706: Sebastián Contreras Aguirre: La derivación del derecho positivo desde el derecho natural en Tomás de Aquino. Un estudio a partir de *Summa Theologiae* y *Sententia Libri Ethicorum*.** (Article)

A basic principle of Aquinas's philosophy of law postulates that all positive laws, when they are rational, are derived from natural law. Natural law is the normative principle from which human laws derive their binding force. This form of derivation of positive law from natural law is known as *determinatio.* In addressing this issue , C.A. focuses on two of the passages of Aquinas's works: *Summa Theologiae* I-II, q. 95, a. 2, and his commentary on Book V of Aristotle's Ethics.

***Relations between Church and State***

**AC 53 (2011), 191-207: Philippe Greiner: Point de vue d'un canoniste sur le mariage en Droit français.** (Article)

G. offers some canonical reflections on the French civil law of marriage. He argues that, apart from the contribution made to society, in terms of loyal and fruitful citizenship, by faithful Catholics living in sacramental marriage, theirs is also a missionary role which is sacramentally entrusted to them in view of their participation in civil society.

**AC 53 (2011), 273-281: Jean-Paul Durand: Droit français du caractère propre confessionnel. Contribution du droit français et du droit canonique à sa réception par son école privée.** (Conference presentation)

D. offers a series of reflections on the relationship between French law and canon law in respect of private schools, and examines how the French notion of the "proper character" of a school (including confessional schools) relates to the requirements of the canonical notion of Catholic or Christian education.

**ADC 3 (abril 2014), 185-215: Jaime Bonet Navarro: La relevancia internacional de la Iglesia Católica.** (Article)

See below, canon 113.

**ADC 3 (abril 2014), 217-250: Roberto Palombi – Michela Profita: Il matrimonio 'in facto' nel diritto civile italiano.** (Article)

The authors, both Rotal advocates, propose a revision of Italian civil law not only in respect of procedures for separation and divorce, but also, and above all, in respect of the *exequatur* procedure required for civil recognition of canonical matrimonial nullity decisions. They believe that reflection on the peculiarities of the canonical order can contribute to a better and more complete understanding of matrimonial law in the civil sphere.

**AkK 182 (2013), 161-200: Damián Němec: Das tschechische Gesetz über den Eigentumsvergleich mit Kirchen und religionsgemeinschaften aus dem Jahr 2012.** (Article)

In 2012, after several unsuccessful attempts since 1990, and in the face of strong political opposition, the law governing the property of Churches and religious communities was passed by the Czech parliament. It aims at the financial separation of Church and State, the latter establishing the Church's financial basis through monetary compensation and partial restoration of former Church property. The matter however became highly politicized and resulted in a political and legal battle going all the way to the Constitutional Court. The political dispute is still ongoing, although the law came into effect in 2013.

**AnC 10 (2014), 105-119: Piotr Kroczek: Teoretyczne i praktyczne zagadnienia związane z pięciodniowym terminem na złożenie wniosku do USC w celu rejestracji kanonicznego małżeństwa (art. 10 ust. 1 pkt 3 Konkordatu ( = Theoretical and practical problems with the five-day**

**deadline for application to the State Civil Registry for registering canonical marriage [art. 10, sect. 1 no. 3 of the Concordat]).** (Article)

K. looks at some difficulties arising in connection with the application of the Concordat between the Holy See and Poland signed in 1993 and ratified in 1998, in the area of registration of canonical marriages in the State Civil Registry.

**Annales Canonici: Monographiae, numer 2: Konkordat: ocena z perspektywy 15 lat obowiązywania.** (Book)

The Concordat of 1993 between the Holy See and the Republic of Poland was not ratified by the Polish parliament until 1998. This book contains a series of reflections 15 years after the coming into force of the Concordat, with contributions from Jan Dyduch on Church offices under the Polish Concordats of 1925 and 1993, Dariusz Walencik on changes in Church financing under the 1993 Concordat, Zdzisław Zarycki on the principle of independence and autonomy of Church and State, Jan Dohnalik on canonical and legal aspects of the pastoral work of the Polish Military Ordinariate, and Piotr Kroczek on civil legal recognition of canonical marriage. (For bibliographical details see below, Books Received.)

**Comm 45 (2013), 291-292: Pope Francis: Litterae Apostolicae Motu proprio datae *Ai nostri tempi* de iudicialium instrumentorum iurisdictione Civitatis Vaticanae super re poenali.** (Document)

See below, canon 360.

**Comm 45 (2013), 293-296: Pope Francis: Litterae Apostolicae Motu Proprio datae, de vitandis pecunia sordide parta, nummariis rebus at tromocratiam fovendam et accumulatione armorum ingentis destructionis.** (Document)

See below, canon 360.

**Comm 45 (2013), 297-303: Pope Francis: Litterae Apostolicae Francisci Motu Proprio die 15 mensis novembris 2013 datae quo novum statutum Auctoritatis Informationis Finantiariae approbatur.** (Document)

See below, canon 360.

**Comm 45 (2013), 304-305: Pope Francis: Chirographum Summi Pontificis quo Pontificia Commissio pro ordinatione structurae oeconomicae administrativae Sanctae Sedis instituitur.** (Document)

See below, canon 360.

**Comm 45 (2013), 320: Secretaria Status: Rescriptum "ex audientia Ss.mi" respiciens quasdam quaestiones de Instituto Operum Religionis.** (Document)

By this rescript Pope Francis applies to the Institute for the Works of Religion the principles and norms of the *Regolamento Generale della Curia Romana* of 30 April 1999, with the eventual modification of the chirograph of 1 March 1990 and current statutes, as necessary.

**Comm 45 (2013), 324-328: Dominique Mamberti: Articulus explanans litteras apostolicas *Ai nostri tempi* a Summo Pontifice die 18 mensis iulii 2013 motu proprio datas necnon novas leges de rebus poenalibus a Statu Civitatis Vaticanae latas, ab Exc.mo Dominico Mamberti conscriptus.** (Article)

Archbishop Mamberti explains the *motu proprio Ai nostri tempi* of 18 July 2013 and attendant revisions to the Laws of the Vatican City State. The Penal Law of the Vatican City State in 1929 adopted *en bloc* Italian Law, much of which dated back to 1889, and was in great need of reform in the light of changed circumstances, not least the various international agreements entered into by the Holy See. M. sees as particularly significant the introduction of administrative sanctions in the context of employment law and the extension of these provisions to all those in the service of the Holy See.

**Comm 45 (2013), 341-349: Status Civitatis Vaticanae: Protocollum conventionis inter Gubernatoratum Status Civitatis Vaticanae, et Ministerium pro Bonis et Activitatibus culturalibus Rei Publicae Italianae de adhibendis cryptoporticu, quae lingua italica appellatur "passetto" vel lingua vernacula "corridore", pertinente ab aedibus Vaticanis ad molem Adrianum, necnon turre speculatoria quae lingua italica vocatur "torre d'avistamento".** (Document)

This is the text of an agreement between the Governorate of the Vatican City State and the Italian Ministry for cultural goods and affairs concerning access to and the use of the covered passageway leading from the Vatican to Castel S. Angelo.

**Comm 45 (2013), 350-382: Status Civitatis Vaticanae: Lex N. VIII, die 11 mensis iulii 2013 a Praeside Pontificiae Commissionis Status Civitatis Vaticanae lata, qua Normae Complementariae legem poenalem respicientes promulgantur.** (Document)

This law updates various aspect of the penal law of the Vatican City State from those accepted from the Italian Penal Code in 1929. There are 11 titles covering the following areas: crimes against the person (racial discrimination); crimes against minors (trafficking, sexual abuse, pornography); crimes against humanity (genocide, torture); war crimes; terrorism; explosives and nuclear materials; security by sea or air; crimes against persons protected by international law; drugs; administrative responsibility of juridical persons; extradition.

**Comm 45 (2013), 383-407: Status Civitatis Vaticanae: Lex N. IX, die 11 mensis iulii 2013 a Praeside Pontificiae Commissionis Status Civitatis Vaticanae lata, qua Normae, introducentes mutationes in Codicem poenalem ac in Codicem procedurae iuris poenalis, promulgantur.** (Document)

This law revises provisions accepted from the Italian Penal Code in 1929 and covers a variety of areas, some procedural, e.g. extradition, others substantive, such as corruption or money laundering. Note that the pagination given in the index does not correspond to the text as printed in this and the following item.

**Comm 45 (2013), 407-419: Status Civitatis Vaticanae: Lex N. X, die 11 mensis iulii 2013 a Praeside Pontificiae Commissionis Status Civitatis Vaticanae lata, qua Normae generales de sanctionibus administrativis promulgantur.** (Document)

This law remedies a perceived gap with regard to administrative responsibility and an appropriate system of sanctions.

**Comm 45 (2013), 420-483: Status Civitatis Vaticanae: Lex N. XVIII, die 8 mensis augusti 2013 a Praeside Pontificiae Commissionis Status Civitatis Vaticanae lata, qua confirmatur Decretum N. XI de normis respicientibus perspicuitatem, vigilantiam et informationem quoad res finantiarias.** (Document)

The Vatican City does not operate a free market economy, and various activities concerned with money laundering threaten its stability and reputation. This law

is intended to provide safeguards and greater transparency with regard to financial matters. It extends to 91 articles.

**FCan VIII/2 (2013), 99-106: Paulo Pulido Adragão: Algumas Notas sobre o Direito Eclesiástico em Portugal: o Estado da Arte em 2012.** (Article)

P.A. presents, for the benefit of a foreign audience, some of the main features of the Church-State relationship in Portugal as it stands in 2012.

**IE XXVI (2014), 49-66: Ombretta Fumagalli Carulli: Matrimonio canonico, matrimoni religiosi, proliferazione delle unioni para-matrimoniali.** (Article)

Marriages in Italy, as in the rest of Europe, are rapidly giving way to other forms of civil partnership. F.C. states that this situation calls for parliamentary intervention, both in relation to the legal regulation of certain features of *de facto* unions (which are a different notion from that of marriage and enter into the sphere of the rights of the person and property rights), and with a view to full recognition of matrimonial religious freedom. The freedom to marry in accordance with one's beliefs should be better protected, allowing among other things the direct acknowledgement of religious marriages without the need for further transcriptions in the public register. F.C. argues that this would not only provide a suitable response on the part of Italian law to the question of protecting individual rights, but would also constitute a forward-looking solution in the face of several alarming tendencies arising within Europe.

**IE XXVI (2014), 149-168: Alessio Sarais: Recenti modifiche al sistema penale e amministrativo dello Stato della Città del Vaticano: una prima lettura.** (Commentary)

See below, canon 360.

***Religious freedom***

**AC 53 (2011), 183-189: Giorgio Feliciani: La liberté de religion dans le contexte du Traité de Lisbonne.** (Article)

The Treaty of Lisbon, signed by the member States of the European Union (EU) on 13 December 2007 and entering into force on 1 December 2009, provides in its article 21 that the EU will seek to advance in the wider world "democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and

solidarity, and respect for the principles of the United Nations Charter and international law". The right of religious freedom is necessarily linked to many of these human rights, and G. points out that, as Pope John Paul II had noted, the way in which it is respected by any particular State is a test of how that State respects human rights as a whole.

**AnC 10 (2014), 29-43: Nicolae V. Dură: The right to freedom of religion.** (Article)

This brief analysis of the text of the main international and European juridical instruments, namely the Universal Declaration of Human Rights, the two International Covenants adopted in 1996, the European Convention on Human Rights, the Charter of Nice (2000), and the two fundamental Treaties of the European Union, reveals that the right to freedom of religion is a *ius cogens* of the present day, initially founded both on *ius divinum* and on *ius naturale*.

**EIC 54 (2014), 171-198: Massimo Catterin: L'istruzione religiosa in Europa: politiche educative e fondamenti giuridici.** (Article)

C. examines the issue of religious education in State schools, from a European perspective. He first analyses and distinguishes the different epistemological models of religious education currently in use in the European Union, within which this matter is reserved to the national legislature of each nation. He examines the Church's teaching on Catholic education and describes the role played by the Holy See within European organizations in protecting religious education.

**IC 54 (2014), 107-144: Javier Martínez-Torrón: Símbolos religiosos institucionales, neutralidad del Estado y protección de las minorías en Europa.** (Article)

M.-T. examines religious symbols from the perspective of what is meant by State neutrality in religious matters. He argues that neutrality cannot be a uniform constitutional principle, enforced at the European level, containing a particular notion of how the relations between State and religion should be structured. He states that the judgment of the Grand Chamber in *Lautsi* v. *Italy* (the "crucifix case": see *Canon Law Abstracts*, nos. 109, p. 20; 110, pp. 27-28) was correct but that the Court could have developed the idea that coercion should be the test for a violation of freedom of religion or belief, and not the subjective feeling of offence experienced by some persons in the presence of religious symbols. In addition to looking at the jurisprudence of the European Court of Human Rights, he also looks at that of continental Europe, with

particular emphasis on the approach adopted in Spain and Germany. (See also *Canon Law Abstracts*, no. 112, p. 15.)

***Social issues***

**Ap LXXXVI (2013), 61-97: Vincenzo Buonomo: Efficacia e limiti del Diritto internazionale in tema di mobilità umana. Alla ricerca di un nuovo paradigma.** (Article)

B. looks at the history of the *ius communicationis*, which was outlined in the 16th century at the University of Salamanca by Francisco de Vitoria, in his *Relectiones de Indis*, as the right of foreigners or pilgrims to move in other States. The contemporary phenomenon of modern migration, with people moving from their homelands for political or economic reasons, religious or racial discrimination, natural disaster, civil unrest or the basic need for survival, together with human trafficking, has posed an unprecedented challenge for governments. B. argues that this requires a new paradigm going beyond domestic political considerations which see migrants, asylum seekers and refugees negatively.

**SCL IX (2013), 37-64: Government of India: The Protection of Children from Sexual Offences Act, 2012.** (Document)

This Act was enacted on 19 June 2012 in furtherance of India's accession in 1992 to the Convention on the Rights of the Child and is aimed at preventing inducement or coercion of a child to engage in unlawful sexual activity, the exploitation of children in prostitution or other unlawful sexual practices and the exploitative use of children in pornographic performances and materials. It sets out different categories of offence and the appropriate punishments, and the procedure for reporting cases and for recording a child's statement, as well as establishing special courts to hear these cases. A child is defined as a person below the age of 18 years. Noteworthy provisions include mandatory reporting of a suspected offence even before it happens and the reversal of proof so that an accused is presumed guilty unless the contrary is proved. Moreover the accused's advocate may not be present when the child's statement is taken.

**SCL IX (2013), 65-70: Jose Parappully: A Praiseworthy but Flawed Legislation.** (Comment)

See preceding entry. P. welcomes the legislation as the first time the Indian government has passed a special law to address the issue of sexual violence

against children, not least because statistics suggest that in India 53% of children have experienced sexual exploitation. It is child-friendly and intended to be speedy. However the Act is about deterrence rather than prevention. It has the consequence of rendering consensual sexual activity even between minors an offence. The wording includes victims among those legally bound to report the matter and there is no exemption for "privileged information" or provision for false accusations. There is no statute of limitation and a presumption that only males commit such offences. So far the Indian Bishops' Conference has made no public response.

## HISTORICAL SUBJECTS

### *Classical period*

**AC 53 (2011), 309-317: Grigorios D. Papathomas: La notion de la primauté ecclésiastique d'un point de vue ecclésio-canonique pendant le Moyen Âge.** (Article)

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

**AkK 182 (2013), 3-23: Szabolcs Anzelm Szuromi: The Tripartita as compared with „*Tripartita*". Notes on the Firenze, Bibliotheca Medicea-Laurentiana, Ashburnham 53 and St. Petersburg, Nationalnaya Bibliotheka, O. v. II. 4.** (Article)

S. compares the contents of the Ivonian-Tripartita Family and the Ashburnham 53 manuscript, which is a particular textual witness of the canonical collection of Anselm of Lucca and Lat. O. v. II. 4, a manuscript of the National Library of St Petersburg divided into three parts, containing Book XIX of the *Decretum Burchardi Wormatiensis*. S.'s textual-critical, codicological and structural analysis shows the similarity between the form of the exemplar of the Tripartita-Family of Ivo of Chartres and Anselm's textual witness. This supports the thesis that the very reason for the creation of the pre-Gratian canonical law books was the intention to compile the canonical norms in one volume, as complete as possible. The direct author of these textual witnesses is not a concrete person, but the daily life and many institutionalized aspects of the Church. In order to make a particular canon law collection more complete, it was a reasonable and simple solution to enlarge a structuralized canon law handbook with a section of papal decrees and some significant patristic materials, along with various other sources, as opening and concluding supplements. Through these inserted enlargements, the composite manuscript was adapted to the purposes and activity of those who needed to use such a manuscript for their work. The Firenze Ashburnham 53 manuscript is an emblematic example of this process of enlargement.

**EIC 53 (2013), 293-316: Brian E. Ferme: The Search for Legal Certainty: A gloss on Papal Elections in the Middle Ages.** (Article)

This article is a historical and canonical study of the question regarding the valid election of the Roman Pontiffs: a rather complex issue particularly in the Middle Ages on account of the lack of certain procedural rules regarding the election. F.

examines the history of the three important decrees in which the three principal modalities for the election of the Pontiff were laid down from the middle of the 11th century, providing the first normative basis for the precedent of electing the successor of Peter.

**EIC 53 (2013), 317-335: Giulietta Voltolina: Breve guida all'edizione critica di un testo giuridico-canonico di epoca medievale.** (Article)

V. aims not simply to set out criteria for publishing a critical edition, but rather to offer philological guidelines for the publication of critical editions of medieval manuscripts dealing with canon law. In the second part of the article she describes the criteria adopted in the publication of the *Decretum Electionis* of Henry of Susa (Hostiensis), making reference to the material used in the redaction of the critical edition of that text.

**EIC 53 (2013), 337-373: Enrico da Susa: Decretum per formam compromissi. *Edizione critica a cura di Giulietta Voltolina*.** (Document)

The critical edition of the *Decretum per formam compromissi* of Henry of Susa (Hostiensis) is based on four of the five manuscript witnesses found: V: Wien, Österreichische Nationalbibliothek, 2238 (Univ. 211), membr., 13th cen.; M: München, Bayerische Staatsbibliothek, clm 9662 (Ob. Alt. 162), membr,, 13th-14th cens.; $M^2$: Bayerische Staatsbibliothek 4111 (Aug. S. Cruc. 11), membr., 14th cen.; SF: Austria, Sankt Florian, Augustiner-Chorherren Stift, Codex san Florianensis XI, 79, cart., 14th-15th cens. It was not possible to find a fifth witness, Wien, Österreichische Nationalbibliothek, 2209. Once V. was chosen as the basic text, the process of *collatio* and *emendatio* followed. On the basis of this study it is possible to trace the date of the work to a period prior to 1253, the year in which Hostiensis finished writing the *Summa*.

**EIC 53 (2013), 375-389: Giuliano Brugnotto: L'apporto dell'Ostiense al processo di elezione del Vescovo in epoca medievale.** (Article)

B. presents some essential elements of the *Decretum Electionis* written by the canonist Henry of Susa (Hostiensis). The *Decretum* provides a guide for drafting a juridical text for the purposes of confirming the election that has taken place, allowing an insight into the ability of Hostiensis to adapt the canonical norm to concrete situations. He shows, within the context of elections, how to apply the principle of *aequitas*, which involves paying attention to the substance of the norm and its capacity for adaptation to real ecclesial life.

**RDC 62/2 (2012), 275-303: Pier V. Aimone: «*Quia per plures veritas melius inquiritur*»: Le principe majoritaire dans la conception des décrétalistes.** (Article)

A. studies the question of establishing the truth within canonical decisions and elections in the 13th century. Truth does not depend upon quantity but upon quality: the former does not suffice to establish the truth towards which all decisions should tend. Thus, the *major pars* is not the sole valid criterion to follow in a canonical decision or election. The *sanior pars* is also necessary. However, in some cases (notably the papal election), the majority principle cannot be done away with, although even in this case truth has to be sought. According to Sinibaldus Fliscus (Innocent IV), truth is easier to obtain if several persons agree to the same decision: *per plures veritas melius inquiritur.*

**REDC 71 (2014), 21-37: Antonio Pérez Martín: Las redacciones de la primera Partida de Alfonso X el Sabio.** (Article)

After enumerating the contents of the *Partidas* (the statutory code of normative rules and principles for governing the kingdom) of Alfonso X el Sabio (1252-1284), P.M. considers the extant manuscripts and printed editions, giving the historical background to and the reasons for their production. He ends with some guiding principles for the production of a critical edition in which he is presently engaged.

**REDC 71 (2014), 93-118; Carlos Larrainzar: La mención de Cicerón entre las *auctoritates* canónicas.** (Article)

L. considers how much influence Cicero had on Western Christian culture and its writers, with particular interest in canonical writings, including the *Decretum Gratiani* – the *Concordia Discordantium* – and Suarez's *De Tractatus Legibus*. The attraction of Cicero's writings resides in their *moralitas et rationalitas*. L. ends by quoting from Benedict XVI's address at the University of Regensburg of 12 September 2006, that "to act contrary to reason is to be in contradiction with the very nature of God".

**REDC 71 (2014), 127-164: Federico R. Aznar Gil: Listas de «casos reservados» en los sínodos bajomedievales (ss. XIII-XVI).** (Article)

A.G. examines the lists of so-called "reserved sins" as they appear in the late medieval synods held in the Iberian Peninsula between the 13th and 16th centuries. Jurisdiction was required from the superior for a priest validly to absolve sins. However, because of their serious nature some sins were excluded

from this jurisdiction and reserved to the superior. In his analysis and commentary A.G. notes how these lists of "reserved sins" increased notably in length in the period under study. This trend continued in subsequent centuries until in an Instruction of 13 July 1916 the Holy Office limited their number to three or a maximum of four. Their total absence from the CIC/83 brings this long-standing institution to an end in the Church.

**REDC 71 (2014), 165-207: Jaime Justo Fernández: Los libros en los sínodos medievales de la Península Ibérica.** (Article)

Using the critical edition of the *Synodicum Hispanicum* (published in 12 volumes, Madrid, 1981-2014) F. studies how these medieval Iberian synods legislated for the obligation of maintaining and preserving many and varied categories of books. These ranged from the minute books of cathedral chapters, inventories of diocesan goods and properties, books of visitations, and different classes of judicial registers. Parishes were to keep, among others, sacramental registers (for baptism, confirmation and marriage), a book of the dead, a Mass stipend book recording the date of celebration and by whom, account books and all the required liturgical books. Other areas included books for pastoral care and activity (catechisms, etc.), and books of study for the formation and devotions of the clergy. It is evident that the emphasis on this last category reflects the poor level of education and spiritual formation of many in the lower ranks of the clergy.

**REDC 71 (2014), 271-291: José Miguel Viejo-Ximénez: Dos escritos de la decretística boloñesa: *Inter ceteras theologiae disciplinas* y *Quoniam in omnibus*.** (Article)

V.-X. provides in appendices the text of two minor works, one on canon law, the other on the *Decretum Gratiani*, both originating in the School of Bologna. He examines the relationship between them and notes that the second (*Quoniam in omnibus*) seems to be a prologue to a *summa* traditionally attributed to Paucapalea; textual criticism shows that it in turn depends on, among others, the first document (*Inter ceteras theologiae disciplinas*). The actual authorship of both documents is not clear but their context can be found in the milieu of Gratian.

**REDC 71 (2014), 469-482: Szabolcs Anzelm Szuromi: Peculiarities of the *Decretum Burchardi Wormatiensis*, especially regarding the Discipline about Bishops and their Duties.** (Article)

The *Decretum Burchardi*, a canonical collection composed by the bishop of Worms between 1008 and 1022, became an important document after the dissolution of the Carolingian political system. S. concentrates his study on the 46 canons dealing with ecclesiastical discipline regarding bishops. He examines them under the following headings: selection of a suitable person for episcopal service and his consecration; the bishop; the bishop and his duties; relationship between the bishop, metropolitan and provincial council; metropolitan and primate. Most of this material finds its source in papal canons and those of particular councils.

### *16th-19th centuries*

**AA XIX (2013), 57-103: Javier Fronza: Inspiraciones constitucionales con respecto al factor religioso en la Argentina (en torno al Bicentenario Patrio).** (Article)

F.'s subject is the (sometimes fraught) relationship between Church and State in Argentina in the period leading to the Constitution of 1853. Despite a promising beginning with Rosas's second government in 1835 and his promises to protect and defend "our Holy Religion", Rosas was very soon reasserting and rigorously applying the royal patronage, inherited from Spanish colonial times. Not only the appointment of bishops but any directive from the Pope or Curia was required to obtain the *exequatur* of the Ministry for External Affairs, the only exceptions being those which dealt with the sacramental or internal forum. Rosas also employed constant delaying tactics regarding the possibility of establishing diplomatic relations with the Holy See. F. dedicates a large part of his article to a consideration of the ideas of Gregorio Funes, Dean of the Cathedral of Córdoba at the time, and of the so-called Generation of 1837, particularly Juan Bautista Alberdi and Esteban Echeverría, and their influence on the eventual Constitution of 1853.

**AA XIX (2013), 179-217: Sebastián Terráneo: Los delitos y las penas en los sínodos indianos celebrados en el actual territorio de la República Argentina.** (Article)

Of the 95 diocesan synods celebrated between the 16th and 18th centuries in the Spanish-held territories of Central and South America, nine took place in what is now the Republic of Argentina; these are the subject of T.'s article, and are

considered from the specific angle of the imposition of canonical penalties. T. first gives an overall picture of canonical penalties as reflected in the canonical legislation of the day, mostly drawn from the *Corpus Iuris Canonici*. Penalties were divided into so-called civil penalties (a form of reparation, agreed by the parties or imposed by law), vindictive penalties, imposed for the reform of the offender or to deter others, and medicinal penalties, usually the deprivation of spiritual goods to encourage repentance, most notably by excommunication, censure and interdict. T. looks first at the Third Provincial Council of Lima (1582-1583) which established the general principles for the imposition of penalties and set the basic pattern for the subsequent diocesan synods held in what is today Argentine territory. The final part of the article examines those synods under a series of headings, such as offences against the sacraments or divine worship, offences against the evangelizing work of the Church, offences against public morality, offences committed by clerics, and offences by the native population. Many of these penalties reflected the Church's commitment to safeguarding its evangelizing mission and to helping the recently converted population to remain true to the Faith.

**IC 54 (2014), 45-85: Francisco Luis Rico Callado: Los procedimientos gubernativos eclesiásticos en las diócesis castellanas en la Edad Moderna.** (Article)

The Catholic authorities of the early modern era enjoyed not only contentious jurisdiction, but also a power known as "voluntary jurisdiction" which encompassed the administrative activity of bishops. Despite its importance, few detailed studies have been carried out on this matter, particularly in relation to the period dealt with in this article. R.C.'s aim is to trace the features and meaning of voluntary jurisdiction through a reading of canonical sources and documents from the diocesan archives in Extremadura (Spain), in order to understand the position of Castilian dioceses from the 16th to 18th centuries. He sets out the basic characteristics of governmental procedures in the Church so as to lay the foundations for future research into diplomatics or the history of canon law.

**Ius IV 2/13, 299-316: Maria Teresa Fattori: Benedict XIV and His Sacramental Polity on the Eastern Churches (1740-1758) – Part II.** (Article)

F. continues her article on Benedict XIV's letter *De Sacramentis* (Ius IV 1/13, 101-120: see *Canon Law Abstracts*, no. 112, p. 21), in which she looked at his methodology and systematic presentation of the sacraments for Eastern Catholics. Now she discusses the authority of the minister and the multiplication

of grace through the sacraments of penance, anointing of the sick, holy orders and matrimony.

**REDC 71 (2014), 39-91: Beatriz García Fueyo: La *episcopalis audientia* posclásico-justinianea y la jurisdicción episcopal de Alonso de San Martín, hijo de Felipe (1642-1705).** (Article)

This article is based on G.F.'s doctoral thesis and contains numerous footnotes and long quotations from original documents both in her text and in footnotes. Alonso de San Martín, the illegitimate son of Felipe IV, was favoured with promotion in his ecclesiastical career until his final appointment to the see of Cuenca in 1681. In this post, as in previous offices he held, he exercised judicial power based on one of the institutions of post-classical Roman law, originating in the time of Constantine and further developed under Justinian before it became part of the *ius commune* of medieval Roman canon law. In the latter part of her article G.F. considers three procedural actions undertaken by Alonso de Martín in the episcopal sees he governed.

**REDC 71 (2014), 293-367: Justo García Sánchez: El doctoral ovetense Pedro Cienfuegos, 1642 (Grado, Asturias) – 1684 (Oviedo).** (Article)

G.S. analyses what can be ascertained of the little-known canonist Pedro Cienfuegos (1642-1684), a student of Salamanca University where he graduated *in utroque iure*. He became canon penitentiary in the cathedral of Coria (Cáceres) in 1673 and administrator of the diocesan curia, and in 1680 moved to Oviedo as *canonicus doctoralis* where he died in 1684. G.S. uses various contemporary documents to set forth the life and activities of his subject.

**REDC 71 (369-399), Miguel Anxo Pena González: La lucha por la libertad de naturales y africanos en las Indias Occidentales (siglos XVI y XVII).** (Article)

P.G. analyses the arguments put forward in the 17th century in favour of the emancipation of the black African slaves, proposed by the missionary Capuchin friars Francisco José de Jaca and Epifanio de Moirans. The aboriginal inhabitants were technically not regarded as slaves but were part of the *encomienda* system whereby they were subject to colonist *encomenderos* who had effective control and rights over them and profited from their labour. Bartolomé de las Casas had successfully championed their cause before the Spanish Crown. The African slave trade had then been established in the Spanish colonies and it is against this institution that the two Capuchin friars campaigned. P.G. sees them as pioneers of what have come to be known as

human rights. Nevertheless their arguments, expressed in Thomistic-scholastic terms, were firmly based on the Scriptures and on Christian Tradition.

**REDC 71 (2014), 435-467: Ramón Hernández Martín: Doctrina indiana de Francisco de Vitoria. Dudas y tesis.** (Article)

The early decades of the Spanish conquest of the Americas raised the moral and juridical question of the status of the indigenous population and their treatment. Despite the declaration of Queen Isabel la Católica that they were free subjects of the Crown, they were in effect being treated and used as slaves. A number of missionaries spoke out in their defence, notably Bartolomé de Las Casas. However, H.M.'s article deals only with the ideas and teaching of Francisco de Vitoria (1483-1546) in his championing the rights and freedom of the native peoples. Such ideas appeared to undermine the Crown's claim to sovereignty, and attempts were made by Carlos V, via Vitoria's Dominican superiors, to silence him. Vitoria held that the positive laws of the West could not be forced on the indigenous population, who already had their own laws and customs. The only applicable law was the natural law, common to all. Neither temporal nor spiritual power can be invoked to abuse or enslave them, or to force conversion to the Catholic faith. H.M. examines Vitoria's arguments as proposed in his *De Indis* (1532). He ends with comments on what he calls the apotheosis of Vitoria, now highly regarded as the founder, or at least the forerunner, of modern international law and human rights.

**Kevin E. McKenna: For the Defense: The Work of Some Nineteenth Century American Canonists in the Protection of Rights.** (Book)

The work of advocates protecting the rights of the members of the Church has enjoyed a long tradition. The CIC/83 clarifies that the Christian faithful have the right to vindicate and defend their rights before a competent ecclesiastical tribunal and to be judged by law with equity and not to be punished except in accordance with the norm of law. The Christian faithful are also entitled to advocacy, when circumstances require it. In providing advocacy, the Church gives better credibility to its legal system, developing a sense of justice and of unity within the Church. Besides those who function as required by law in canonical cases as advocates, there are many who serve as advocates for justice to the larger community, attempting to bring perceived injustices to the attention of the wider Church. In this book McK. explores the work of several American canonists whose writings about defects in proper canonical procedures in the disciplinary actions involving clerics led to some important contributions in the development of law in this area. The results of the intervention of some of these canonists can be seen in the development of procedures related to the

assignment of the clergy and removal from office, notably seen in the legislation of the Provincial and Plenary Councils of Baltimore. In addition, their writings assisted many canonists in the United States who were attempting to advocate for the rights of clerics. The intersection of pastoral practices, reflection and canonical advocacy continues to stimulate the development of law where justice is fostered and rights are protected in the Church's legal system. (For bibliographical details see below, Books Received.)

### *1917 Code*

**EIC 54 (2014), 71-86: Giuseppe Dalla Torre: Casimiro Gènnari e la codificazione canonica.** (Article)

Cardinal Casimiro Gènnari, although less well known than other protagonists of the CIC/17, is one of the most prominent figures among the active canonists during the decisive years of the first codification of Church law. This article looks at this life and contribution to the canonical codification process.

**EIC 54 (2014), 87-101: Matteo Nacci: San Pio X e il diritto canonico: la "cultura giuridica" della codificazione del diritto della Chiesa.** (Article)

N. examines the juridical thought of Pope Pius X and his contribution to the process of codification of canon law. In the context of the general movement towards codifications in the 18th and 19th centuries, the position of Pius X is of particular importance not only for analysing the idea which the Pope had of the Code as an "instrument" suitable for ordering the sources of law, but also for examining how it represents a practical manifestation of his motto: "*instaurare omnia in Christo*".

### *20th century*

**AC 53 (2011), 7-43: Soirée académique: le concile national de Shanghai de 1924.** (Conference)

At this meeting organized on 24 October 2010 by the international Consortium *Droit canonique et culture* of the Faculty of Canon Law of the Institute catholique de Paris, the following papers were delivered: 1. Roland Jacques, *Pensée chinoise, pensée chrétienne*: *conditions d'une réception mutuelle*, in which J. states that the reception of Christianity in China and Eastern Asia needs to take into account "Chinese thought"; he identifies certain contrasts between this and Western thinking (in the West, the human person is the central

reference point, whereas relationships are at the heart of Chinese thought; for the West, religious freedom is the touchstone for human rights, whereas in Eastern Asia there is tension between beliefs, religious rites and moral teaching; in Chinese languages the name of God is rendered by an ambiguous notion of "heaven"); 2. Jean Charbonnier, *Du protectorat français au rôle joué par Mgr Costatini: une étape importante dans l'implantation de l'Église en Chine*, which looks at the Church in China at the end of World War I under the pontificate of Benedict XV, and at the movement away from the French Religious Protectorate towards a reformed mission more acquainted with the characteristics and true needs of the Chinese people, leading to the appointment of an apostolic delegate, Archbishop Celso Costatini (1922), the first national Council, held in Shanghai (1924), and the ordination of six Chinese bishops in Rome (1926); 3. Wilhelm K. Müller, *Engagement missionnaire en faveur des communautés chinoises à l'étranger, à partir du concile nationale de Shanghai de 1924*, in which M. asks to what extent the 1924 Council of Shanghai may have inspired missionary engagement in favour of Chinese communities abroad, especially in Italy.

### *Second Vatican Council and revision of the CIC*

**Comm 45 (2013), 484-495: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum "De Iure Poenali" (Sessio IV): Praevium canonum schema *De poenis in specie* cum Appendice et Adnotationibus, in tertia Sessione emendatum et a Pio Ciprotti apparatum.** (Report)

This report contains the schema on penalties and other punishments with appendix and notes prepared by Pio Ciprotti in July 1967.

**Comm 45 (2013), 496-512: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum "De Iure Poenali" (Sessio IV): Adnotationes Consultorum ad Praevium canonum schema de Poenis in specie a Relatore paratum.** (Report)

This report contains the comments on Ciprotti's schema of the following consultors: Peter Huizing; Joseph Pašek; Boleslas Filipiak; William O'Connell; Alexandre Dordett.

**Comm 45 (2013), 513-532: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum "De Iure Poenali" (Sessio IV):**

**Primum schema generale *de delictis et poenis* (exceptum *de poenis in singularia delicta*) cum Adnotationes ac Addenda.** (Report)

This is the text of the first general schema covering delicts and penalties other than those applied to specific offences, prepared by Pio Ciprotti in November 1967.

**Comm 45 (2013), 533-547: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum "De Iure Poenali" (Sessio IV): Relatio Sessionis IV$^{ae}$.** (Report)

In their fourth session the Consultors review and discuss the schema of general canons of penal law prepared by Pio Ciprotti.

**Per 102 (2013), 517-548: Velasio De Paolis: Il Codice del 1983, ultimo documento del Vaticano II.** (Article)

Taking as his starting point the oft-quoted remark that the Code of 1983 is the Code of the Council and the last document of Vatican II, De P. reflects on the relationship between the CIC/83 and Vatican II. He covers four main themes: the historical connection between the announcement of the Council by John XXIII and the simultaneous announcement of the revision of the CIC/17; the process of the revision of the first Code and the elaboration of the current text under the influence of the teaching of Vatican II; the manner in which the Code has been presented (by John Paul II, Cardinal Castillo Lara and Cardinal Casaroli) as the Code of the Council; and his own personal reflections on how the Council finds an application today through the observance of the norms of the Code.

**Per 102 (2013), 549-566: Yuji Sugawara: La normativa sulla vita consacrata alla luce dell'aggiornamento postulato dal Vaticano II.** (Article)

See below, canons 573-730.

**Per 102 (2013), 567-615: Damián G. Astigueta: Il libro III del CIC e il Concilio Vaticano II a trenta anni della sua promulgazione.** (Article)

See below, canons 747-833.

**Per 102 (2013), 617-640: Ulrich Rhode: Le questioni interconfessionali nel Vaticano II e nel Codice di diritto canonico.** (Article)

The theme of this article by R. has to do with the manner in which inter-confessional matters raised by Vatican II are reflected in the norms of the CIC/83. He states explicitly at the beginning that it is not an article about ecumenical questions only but about something more fundamental. He examines first of all how the Council and Code view other non-Catholic Christian confessions and what law is to be applied to their members, before moving to a consideration of the relationship which the Catholic Church wishes to have with these non-Catholic Christians and their communities. At the end, he examines the norms to be applied in the case of those who change confession, i.e. non-Catholics who seek to become Catholics, and Catholics who move to become members of non-Catholic communities. Almost as an epilogue, he raises the question about the need to distinguish the norms that govern all marriages – Christian, Catholic, and non-Christian – and those norms which apply solely to Catholic marriages.

**Per 102 (2013), 641-677: G. Paolo Montini: La giustizia amministrativa dal Concilio al Codice.** (Conference presentation)

See below, canons 1732-1739.

**RMDC 19 (2013), 281-333: Marco Antonio Hernández H.: La organicidad jerárquica de la Iglesia en la Constitución dogmática *Lumen gentium*.** (Article)

H.H. studies various aspects of the Dogmatic Constitution on the Church *Lumen Gentium* which were later to be given juridical expression in the CIC/83. He looks in particular at the fundamental equality of all the baptized; functional diversity among the members of the Church; sacred power or ministry; the nature of the hierarchy; the institution of the ministry and apostolic succession; the sacramentality of orders; the college of bishops; and episcopal offices and powers.

## CODE OF CANONS OF THE EASTERN CHURCHES

***History***

**ADC 3 (abril 2014), 285-293: Matteo Nacci: Chiesa romana, chiese orientali e modernità giuridica nella prima codificazione orientale.** (Article)

N. studies the process of codification of the canons of the Eastern Churches, and its differences from the Code of Canon Law of the Latin Church, by then already promulgated. He pays particular attention to the contribution of Cardinal Acacius Coussa (1897-1962) who dedicated his entire life to working for the good of the Eastern Churches and the codification of Eastern law.

**Comm 45 (2013), 548-621: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Orientali Recognoscendo: Coetus Studii "De Delictis et Poenis" (Sessio III diebus 11-22 mensis octobris 1976 habita).** (Report)

This is a report of the third session of the Pontifical Commission for the Revision of the Eastern Code 11-22 October 1976. On the first day the group looked at a number of specific offences, such as homicide, or offences against particular obligations. Thereafter they turned their attention to more general matters: the principle that in the Eastern Code all penalties should be *ferendae sententiae*, the manner of imposing penalties, their effects, and remission.

**Ius IV 2/13, 299-316: Maria Teresa Fattori: Benedict XIV and His Sacramental Polity on the Eastern Churches (1740-1758) – Part II.** (Article)

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

### CCEO 16

**AC 53 (2011), 103-129: Dominique Le Tourneau: Les droits et les devoirs des fidèles dans la situation de danger de mort.** (Article)

See below, CIC canon 213.

## CCEO 43

**LW 119/3 (2013), 156-184: George Thekkekara: Roman Pontiff: The Supreme Pastor.** (Article)

See below, CIC canon 331.

## CCEO 47

**LW 119/3 (2013), 185-191: Shaji Jerman: *Sede Vacante* of the Petrine See.** (Article)

See below, CIC canon 335.

## CCEO 236

**LW 119/4 (2013), 257-274: Mathew John Puthenparambil: Role of Laity in Diocesan Finance Council: A Comparative Study of Latin and Eastern Codes.** (Article)

See below, CIC canon 492.

## CCEO 410

**LW 119/4 (2013), 275-285: Shaji Jerman: Consecrated Life in the Church, Canonical Perspectives.** (Article)

See below, CIC canon 573.

## CCEO 667-895

**Ius IV 2/13, 177-182: Cherian Thunduparampil: Sacraments.** (Editorial)

In his editorial T. introduces the five papers that form this issue, three of which have a sacramental theme. Maria Fattori continues her study of the sacramental polity of Pope Benedict XIV with regard to the Eastern Churches. Jesu Pudumai Doss discusses marriage dissolution processes, procedure and praxis. Pablo Gefaell looks at the provisions on baptism in the Eastern Code. More generally, Varghese Koluthara reviews the newly promulgated Particular Law of the Syro-Malabar Church and George Nedungatt looks at the "law of talion" in its linguistic, historical, sociological and biblical dimensions.

## CCEO 667-895

**Ius IV 2/13, 299-316: Maria Teresa Fattori: Benedict XIV and His Sacramental Polity on the Eastern Churches (1740-1758) – Part II.** (Article)

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

## CCEO 675-691

**Ius IV 2/13, 223-244: Pablo Gefaell: Baptism in the *Codex Canonum Ecclesiarum Orientalium*.** (Article)

G. considers the nature and theological effects of the sacrament of baptism and the elements required for valid baptism. He compares the norms of the CIC/83 and the CCEO and notes the discipline of the Orthodox Churches and other ecclesial communities. He looks at several concrete situations and problems of ascription in particular *sui iuris* Churches, the role and tasks of godparents, and the manner of entering the details in the baptismal register.

## CCEO 776

**LW 118/4 (2012), 213-229: Shaji Jerman: Sacramentality of Marriage and Pastoral Charity.** (Article)

See below, CIC canons 1055-1056.

## CCEO 828

**SCL IX (2013), 385-398: Victor D'Souza: Delegating a Deacon to Bless the Marriage of a Latin and an Eastern Catholic.** (Opinion)

A Latin-rite man and Syro-Malabar woman are to marry in the Latin-rite parish of the groom, who would like his brother, a transient deacon, to officiate. The couple are bound by both legal systems but the CCEO does not envisage deacons assisting in this way at the canonical form of marriage. D'S. is hesitant to assert too strongly that in Eastern Law the priest is the minister of marriage since the Code allows for the extraordinary form of marriage in exceptional circumstances and for sanation. The question at issue is hotly debated. On the one hand a deacon cannot impart the required blessing and the Eastern Code requires the same person to receive the vows and bless the marriage on pain of invalidity. On the other hand the CIC/83 allows the parish priest to delegate a deacon, and a doubtful law does not bind. The safer course for a marriage to take place is not to delegate a deacon. However, the marriage of Eastern Catholics entrusted to the pastoral care of a Latin ordinary and blessed by a

deacon delegated by the same ordinary should be presumed valid. More generally the author notes that the *Directory for the Ministry and Life of Permanent Deacons*, no. 33, permits deacons to assist at the celebration of marriages only outside of Mass, not within it.

## CCEO 828-835

**LW 118/4 (2012), 230-250: Sebastian Payyappilly: Sacred Rite and the Validity of Inter-Ritual and Mixed Marriages.** (Article)

Although the norms of the CIC/83 and the CCEO on marriage are broadly similar, there are important differences which may affect the validity of marriage. This is particularly true of mixed marriages between Catholics and Eastern non-Catholics, inter-ritual marriages between Latin and Eastern Catholics, and marriages involving Eastern Catholics who have been assigned to the care of a Latin cleric. In the Eastern Churches the form of marriage consists of the following elements: 1. sacred rite (*ritus sacer*); 2. the presence of the local hierarch or local pastor or a priest (*sacerdos*) lawfully delegated by either of them to bless the marriage; 3. at least two witnesses. The *ritus sacer* is defined as "the intervention of a priest (*sacerdos*) assisting and blessing" (CCEO canon 828 §2). There is no mention of a deacon or lay person in this provision. In the case of Eastern Catholics subject to a Latin-rite Ordinary, the prevalent view among Eastern canonists is that neither a deacon nor a lay person can be lawfully authorized to assist at and bless such marriages, unless a dispensation has been obtained from the Holy See or other competent authority. P. suggests that it would be opportune for the Pontifical Council for Legislative Texts to provide an authentic interpretation on this matter.

## CCEO 853-862

**Ius IV 2/13, 183-222: J. Pudumai Doss: Some Special Marriage Procedures: Legislation and Praxis.** (Article)

Matrimonial consent is an irrevocable covenant (CCEO canon 817 §1) and its indissolubility gains special firmness by reason of the sacrament (CCEO canon 776 §3). However, there are various ways in which a marriage that is not *ratum et consummatum* can be dissolved. D. looks in turn at the use of the Pauline privilege, dissolution in favour of the Faith and the dispensation of non-consummated marriages, as well as their history and legislation, procedure and praxis. He sets out the procedural steps and documentation required and also in tabular form the cases in which dissolution in favour of the Faith can be sought.

### CCEO 882-883

**EIC 54 (2014), 103-146: Geraldina Boni: Digiuno e astinenza in diritto canonico. *'Residui' di una pratica religiosa dei secoli passati?*** (Article)

See below, CIC canons 1249-1253.

### CCEO 916

**AC 53 (2011), 45-99: Colloque: Les orientaux en diaspora: protection de l'identité religieuse et intégration ecclésiale. Questions théologiques et canoniques.** (Conference)

At this colloquium organized on 12 January 2011 by the international Consortium *Droit canonique et culture* of the Faculty of Canon Law of the Institute catholique de Paris, the following papers were delivered: 1. Dimitrios Salachas, *Protection de l'identité religieuse et intégration ecclésiale en droit canonique*, dealing with the pastoral care of Eastern Catholic migrants and juridical structures in the CCEO and CIC/83; pastoral cooperation between the Eastern hierarchy of origin and the Latin hierarchy of reception of the migrants; Eastern eparchies outside the limits of the patriarchal territory; and married priests at the service of their faithful in the diaspora; 2. Hervé Legrand, *Les catholiques orientaux dans les diocèses latins: test pour la catholicité de l'Église?*, which looks at ecclesiological issues arising out of the presence of Eastern Catholics in Latin dioceses, and reflects on territorial jurisdiction as the safeguard of Catholicity; 3. Astrid Kaptijn, *Les ordinariats des catholiques des Églises orientales. Origines, légitimité, configurations juridiques. L'exemple de la France*, which examines theological and canonical aspects of the Latin-rite ordinariates for Eastern Catholics.

### CCEO 916

**LW 118/4 (2012), 230-250: Sebastian Payyappilly: Sacred Rite and the Validity of Inter-Ritual and Mixed Marriages.** (Article)

See above, CCEO canons 828-835.

### CCEO 1401-1467

**Comm 45 (2013), 548-621: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Orientali Recognoscendo: Coetus Studii "De Delictis et Poenis" (Sessio III diebus 11-22 mensis octobris 1976 habita).** (Report)

See above, CCEO (*History*).

## CCEO 1493

**Ius IV 2/13, 245-277: Varghese Koluthara: Particular Laws of the Syro-Malabar Church.** (Article)

On 3 December 2013 the Syro-Malabar Church promulgated its particular law in a single Code, the first of the Eastern Churches to complete this project. K. indicates the provisions for particular law in the CCEO and their origins. He then sketches the structure of the Code of Particular Law of the Syro-Malabar Church, highlighting the codification process, the chequered history of that Church and its juridical sources. Finally he reviews the promulgated particular laws, statutes of various organs of administration, and guidelines for the diverse institutes of the Syro-Malabar Church, with observations and suggestions for improvement.

## CODE OF CANON LAW
## BOOK I: GENERAL NORMS

### 16

**AC 53 (2011), 299-307: Francesco Coccopalmerio: Le decisioni circa la congruenza legislativa presso il Pontificio Consiglio per i Testi legislativi.** (Conference presentation)

Art. 158 of the Apostolic Constitution *Pastor Bonus* gives the Pontifical Council for Legislative Texts competence for determining whether particular laws and general decrees issued by legislators below the level of the supreme authority are in agreement or not with the universal laws of the Church. C. sets out the scope of the Pontifical Council's competence, and the procedures to be followed.

### 17

**IC 54 (2014), 23-44: Javier Otaduy: Positivismos ingenuos. A propósito del discurso de Benedicto XVI sobre interpretación de la ley canónica (21.I.2012).** (Article)

Benedict XVI's address to the Roman Rota on 21 January 2012 rejects positivism and the reading of the law as a mere text. Drawing on this address, O. comments on the interpretation of laws in the Church. Three historical areas are used for the purpose of comparative study: interpretation of the Franciscan Rule; the origin of the European codification movement; and the application of the CIC/17 in its early years. In all three historical contexts, a certain suspicion is evident with regard to the interpretation of the law. As a result there arose a kind of positivism which aimed not to reject transcendence but rather to provide clarity in the law. O. attempts to undo some fundamental errors concerning the interpretation of the law and to present as accurately as possible the teaching of Benedict XVI in this matter. (See also *Canon Law Abstracts*, nos. 109, p. 42; 110, pp. 47-48; 111, pp. 36-37; 112, p. 31.)

### 19

**LJ 172 (2014), 79-94: Meryl Dickinson: Canonical Equity in the Latin Church and Economy in the Orthodox Church: An Equivalent Relaxation or Essentially Different System?** (Article)

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

## 22

**AA XIX (2013), 153-177: Helmuth Pree: El empleo de instrumentos jurídico-civiles en la administración eclesiástica. Posibilidades y límites.** (Article)

P.'s subject is the use of civil juridical instruments (international and State laws, civil norms, institutions, etc.) in ecclesiastical administration, and how this relates to the Church's own canonical system. There are, of course, a limited number of areas where the Code "canonizes" or remits to civil legislation certain matters. In doing so it accepts their interpretation and juridical effects as governed by that civil legislation, insofar as they do not contravene divine law and canon law does not determine otherwise. Other canons presuppose or imply the use of civil instruments, for example, in those instances where an ecclesiastical juridical person represents an ecclesiastical institution (bishop, parish priest, seminary rector, etc.), designated "*in negotiis iuridicis personam gerere*"; other areas include financial matters, contracts, acquisition and alienation of goods and property. The reason for the acceptance of these civil law instruments is to safeguard the rights of the Church's own institutions. After providing a brief historical and theological background to the Church's use of such civil instruments, P. dedicates the last part of his article to the canonical doctrine behind the practice and its limits. The use of civil instruments is based on the law of the Church itself, its customs and administrative acts, and often on Church-State agreements.

## 74

**AA XIX (2013), 11-37: Ariel David Busso: Algunas cuestiones canónicas surgidas de la complejidad de la división de los fueros interno y externo.** (Article)

See below, canon 130.

## 98

**AA XIX (2013), 153-177: Helmuth Pree: El empleo de instrumentos jurídico-civiles en la administración eclesiástica. Posibilidades y límites.** (Article)

See above, canon 22.

## 113

**ADC 3 (abril 2014), 185-215: Jaime Bonet Navarro: La relevancia internacional de la Iglesia Católica.** (Article)

B.N. analyses the role of the Catholic Church as the only confessional body with authentic juridical relevance in today's international society. He examines the questions arising out of the Holy See's international juridical personality, its daily involvement in international life through its diplomatic relations with governments and international organizations, its participation in international conferences and its signing of concordats and agreements that have the juridical status of international treaties. B.N. also looks at the Holy See's work of international mediation and in the cause of peace. Indeed, throughout history, the Church's international activity has been aimed at spiritual as well as political matters; in our day, its work is also directed towards the protection of human rights, and the fostering of peace and cooperation for development, so much so that it has become a point of reference for others in the international community. The article also studies other Catholic bodies operating in international society, such as the Vatican City State and the Sovereign Order of Malta.

## 116

**AnC 10 (2014), 45-57: Ginter Dzierżon: Kontrowersje wokół normatywnego podziału na osoby prawne publiczne i osoby prawne prywatne (kan. 116 KPK) ( = Controversy over the normative division into public and private juridical persons [can. 116 CIC]).** (Article)

D. looks at the question of the criteria for differentiating public and private juridical persons. By analysing such factors as the aims of the juridical persons and the way in which those aims are achieved, he shows that these criteria are of an ambivalent nature. He believes that this results from the fact that the public dimension of the Church has an influence on the entirety of the canonical legal system.

## 127

**AC 53 (2011), 209-250: Emmanuel de Valicourt: Le canon 127 et l'exercice du pouvoir de gouvernement de l'évêque diocésain.** (Article)

De V. examines what is involved in the consultation which canon 127 requires of the diocesan bishop for certain juridical acts, and provides examples in various different areas: 1. structural and juridical issues (establishing, suppressing or altering a parish; building a church; reducing a church to profane use; creating a parish pastoral council; convoking a diocesan synod; conferring a

vacant parish; bestowing a canonry); 2. financial affairs (appointing and removing a financial administrator; allocating offerings from the faithful on the occasion of parochial services; imposing a tax: carrying out an act of extraordinary administration: alienations above the maximum sum authorized); 3. disciplinary matters (removing a parish priest from office: transferring a parish priest against the priest's will).

## 130

**AA XIX (2013), 11-37: Ariel David Busso: Algunas cuestiones canónicas surgidas de la complejidad de la división de los fueros interno y externo.** (Article)

In his introduction B. considers the fact that in canon law, unlike the situation in civil law which deals exclusively with the external forum, the relationship between the two fora is more subtle and complex. Given the aim of canon law (*salus animarum*), certain aspects of the internal forum are also regulated by the law, even though their effects are recognized only in the internal forum, except for those cases specifically established in law. To apply the categories of "moral" and "juridical" to the internal and external forum respectively is inaccurate and simplistic. While it is true that all human norms can be classified as either juridical or pertaining to the moral order, all derive from the same essential ethical principles. True law, in its juridical expression, must always find its basis in ethical principle, which in turn cannot be separated from the realm of morality and conscience. The main part of B.'s article is a consideration of the part played by the different parties involved in the formation of candidates for diaconate and priesthood and the relationship between internal and external fora in that process. Specifically, he looks at the roles of the spiritual director or other priests who may take on that role; ordinary and extraordinary confessors; the scrutinies and the right to privacy and one's good name; and the use of psychological and medical examination of candidates. B. dedicates two final sections to the role of religious superiors and to the absolution from censures in the internal forum.

## 135

**ADC 3 (abril 2014), 251-281: Julio García Martín: Algunas consideraciones sobre la potestad del tribunal colegial diocesano según los cánones 135 §3, 1609-1610.** (Article)

The power of the collegiate tribunal has been more clearly established by the present Code, which has introduced several modifications to the canonical process. The power of the judge or the collegiate tribunal has been clarified in

canon 135, which establishes the non-delegable nature of its exercise and distinguishes between the sentence and other preparatory acts such as decrees. The acts most immediate to the issuing of the sentence are the discussion of the conclusions and agreement on the dispositive part, adopted by a majority of votes. The text of the sentence drawn up by the *ponens* should be submitted for the approval of each one of the judges in a collegial action; approval is to take place in a meeting – that is, collegiately – and is to be by an absolute majority of votes, but not by unanimity, since the judges are free. If the text is not approved, it should be modified in those areas in which it is rejected, so as to achieve approval. Only when the votes of each judge have been given and an absolute majority of votes has been attained does the sentence exist juridically.

## 197

**AA XIX (2013), 153-177: Helmuth Pree: El empleo de instrumentos jurídico-civiles en la administración eclesiástica. Posibilidades y límites.** (Article)

See above, canon 22.

## BOOK II, PART I: CHRIST'S FAITHFUL

### 205

**RMDC 19 (2013), 247-279: Luis de Jesús Hernández M.: El dato de la fe en las normas canónicas.** (Article)

Whereas the aim of canon law is the achieving of a just order between the faithful and those in relation to them – whether believers or unbelievers – its ultimate aim is the salvation of souls, and it is in this light that canon laws are to be created, interpreted and applied. H.M. examines aspects of canon law in which there is a more direct and obvious connection with the established truths of the faith, including the area of religious freedom, faith as an essential element of full communion, and ecclesiastical governance.

### 208-223

**AnC 10 (2014), 153-163: Tomasz Kornecki: Prawa i obowiązki wiernych ze szczególnym uwzględnieniem praw i obowiązków rodziny ( = The rights and duties of Christ's faithful in the CIC 1983 with particular focus on the rights and duties of the family).** (Article)

The members of the Catholic Church have both rights and responsibilities, which result from the nature of the human person and from the call to follow their vocation in life. It should be emphasized that the rights and duties set out in the CIC/83 are interlinked. A human person, as a member of the community of the Church through baptism, has the right, but also the obligation, to promote holiness of life and thus strive to achieve it. This not only enriches the person's spiritual life but also affects family life, making it more human and more Christian. Parents should enjoy the right to educate their children according to their own beliefs and system of values, and the State authorities should not violate or destroy these systems. The right of education is a part of the idea of evangelization, which should originate from the closest members of a family. At the same time members of the Church, including both parents and children, can rely on the help of the clergy in achieving salvation. They have the right to form associations, and the right to defend their good name.

## 213

**AC 53 (2011), 103-129: Dominique Le Tourneau: Les droits et les devoirs des fidèles dans la situation de danger de mort.** (Article)

D. examines the canons of the CIC/83 and the CCEO dealing with the administration of sacraments in the situation of danger of death: both the "sacraments of the dead" (baptism and penance) and those "of the living" (confirmation, the Eucharist, anointing of the sick, and marriage).

## 220

**AA XIX (2013), 11-37: Ariel David Busso: Algunas cuestiones canónicas surgidas de la complejidad de la división de los fueros interno y externo.** (Article)

See above, canon 130.

## 220

**IE XXVI (2014), 127-148: Dominique Le Tourneau: Le canon 220 et les droits fondamentaux à la bonne réputation et à l'intimité.** (Article)

Le T. looks at two fundamental rights of the faithful: the right to one's good name and the right to privacy. He examines the nature of each right and the protection given to them, including the demands of justice which this involves and the corresponding duties on other faithful, especially the ecclesiastical authority. He studies the different areas in which these rights are to be exercised and in which they require protection, taking into account the different juridical situations of the faithful in the Church. The article touches on matters such as personal spirituality, the seal of confession, due process, secret marriages, calumnious accusations, admission to priesthood and to the novitiate, private life, and archives. Le T. also looks at recent provisions of the Church and of several States and supranational authorities, and stresses the relationship between these rights and other fundamental rights. He doubts whether effective protection of the rights in question does actually exist in the present state of canon law.

### 221

**ADC 3 (abril 2014), 53-72: Jaime González Argente: La norma general penal (c. 1399). ¿Una excepción al principio *nulla poena sine lege poenali praevia*?** (Article)

See below, canon 1399.

### 221

**ADC 3 (abril 2014), 73-148: Carlos López Segovia: El derecho a la defensa en el proceso penal administrativo.** (Article)

See below, canons 1720-1728.

### 222

**RDC 63/1-2 (2013), 9-30: Anne Bamberg: Le droit social au prisme du droit canonique. Droits et devoirs fondamentaux et promotion de la justice sociale.** (Article)

See below, canon 231.

### 227

**RDC 63/1-2 (2013), 31-46: Emmanuel Boudet: L'approche du travail et du droit social par le droit canonique.** (Article)

B. first establishes the link between the status of the faithful and the world of work, emphasizing the relationship between the commitment to faith, work and social justice, and considering the work relationship as a setting for witnessing to holiness. He then describes the obligations of the faithful in the context of the employment relationship, before looking at various aspects of freedom in the workplace.

### 231

**RDC 63/1-2 (2013), 9-30: Anne Bamberg: Le droit social au prisme du droit canonique. Droits et devoirs fondamentaux et promotion de la justice sociale.** (Article)

B. contextualizes canons 231, 281 and 222 within their conciliar sources and within the social doctrine of the Church. She focuses first on the respect for

labour and social law which is desired by the legislator for lay people working in the service of the Church. She then examines the complex and flexible notion of "worthy support" of sacred ministers. Finally she deals with the universal obligation to promote social justice, including justice within the Church.

### 239

**FCan VIII/2 (2013), 43-57: Alfredo de Almeida Melo: Meios de santificação do Sacerdote no Código de Dereito Canónico.** (Conference presentation)

See below, canon 276.

### 240

**AA XIX (2013), 11-37: Ariel David Busso: Algunas cuestiones canónicas surgidas de la complejidad de la división de los fueros interno y externo.** (Article)

See above, canon 130.

### 268

**SCL IX (2013), 373-384: Augustine Mendonça: *Ipso Iure* Incardination of a Cleric *Sede Vacante.*** (Opinion)

The question posed concerned a priest given permission by his own bishop to move to another diocese. He has nearly completed five years' service there but the see is vacant and there is an apostolic administrator. The institution of *ipso iure* incardination was created by Paul VI in the *motu proprio Ecclesiae Sanctae* (1966) to facilitate the sharing of clergy resources with needy dioceses. This is not achieved by simple permission to live in another diocese. There are four requirements. The priest must manifest his desire in writing, either in the course of the five years or at its end. This manifestation must be made known both to the host ordinary and his own ordinary. Only the passage of five years' formal, not material, residence is required – not the exercise of a pastoral ministry. Both ordinaries must reply to the request within four months of its receipt. An ordinary who is opposed must clearly express his opposition in writing, but it can be done through someone else, e.g. the vicar general. If the see is vacant, M. takes the view that a diocesan administrator has the same competence as a diocesan bishop in this regard after one year has elapsed. The appointment of an apostolic administrator *sede vacante* is a relatively recent practice, cf. *Apostolorum Successores*, no. 244. In his view both diocesan administrators and apostolic administrators can take this decision subject to the see having been

vacant for a year and to their having obtained the consent of the college of consultors.

### 276

**FCan VIII/2 (2013), 43-57: Alfredo de Almeida Melo: Meios de santificação do Sacerdote no Código de Dereito Canónico.** (Conference presentation)

On the basis of the CIC/83 and recent documents of the Magisterium, A.M. stresses the central place of personal holiness in the mission of the priest, and the means for achieving it: the Eucharist, prayer, confession and spiritual direction, and devotion to Our Lady.

### 281

**RDC 63/1-2 (2013), 9-30: Anne Bamberg: Le droit social au prisme du droit canonique. Droits et devoirs fondamentaux et promotion de la justice sociale.** (Article)

See above, canon 231.

### 281-282

**FCan VIII/2 (2013), 9-41: Mário Rui de Oliveira: A remuneração e sustentamento no Ministério do Presbítero e na vida da Igreja.** (Article)

Clergy maintenance is a topic which is not devoid of a spiritual element, nor can it be separated from an understanding of the nature of the Church and of how the priestly ministry is exercised. The tension over this issue is similar to that which exists in respect of the temporal goods of the Church in general. Ministers of the Lord, bearers of gifts to mankind through their consecration and mission, received free of charge the gift they announce. There is evident tension between the requirement of free bestowal of the gift, so that the splendour of the mercy of God is not obscured, and the right to live from the altar and the Gospel, albeit at the risk of being seduced by the attraction of well-being, comfort and riches.

## 298-329

**M. Bonaventure Higgins: A *Novus Habitus Mentis*: Canon Law as Empowerment of *Communio* with Particular Application to Selected New Ecclesial Communities and Associations.** (Book)

This book considers whether canon law, in compliance with the call of Vatican II to a *novus habitus mentis*, is relevant to, supportive of, and facilitates the empowerment of *communio* with particular application to new communities and associations in the Church in fostering their growth, development and recognition, with specific emphasis on the traditional concern of the Church for those marginalized in modern society. (For bibliographical details, see below, Books Received.)

## 304

**AkK 182 (2013), 103-160: Bernhard Sven Anuth: Der Neokatechumenale Weg: Erfolgreich, innovativ, umstritten. Zur Institutionalisierung einer „Bewegung" in der römisch-katolischen Kirche.** (Article)

A. looks at the origins, development and pastoral aims of the Neocatechumenal Way founded by Kiko Argüello, discussing the canonical problems and challenges to which it gives rise. He comments on its canonical form and sets out certain difficulties in connection with its more than 100 *Redemptoris Mater* seminaries around the world. He discusses the particular customs and rites of the Neocatechumenal Way.

## 321-326

**AC 53 (2011), 319-340: Hervé Miayoukou: Droit canonique des associations privées de fidèles: quelle actualisation depuis l'innovation de la codification de 1983? Contexte français.** (Article)

M. looks at the factors behind the emergence and recognition of private associations of the faithful in the Church. It often happens that such associations also have a role in civil society and must conform to the laws of that society. Looking at the French context in particular, M. examines how the canon law on associations is to be harmonized with the requirements of secular law.

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

### 331

**LW 119/3 (2013), 156-184: George Thekkekara: Roman Pontiff: The Supreme Pastor.** (Article)

Canon 331 asserts in the first place that the bishop of Rome is the successor of Peter, a *munus* or office which is transmitted to all those who succeed him. In this function as the successor of Peter, he also has the position of head of the college of bishops, vicar of Christ and pastor of the entire Church on earth. Secondly, the canon lists the various attributes which indicate the nature of the power of the Roman Pontiff – supreme, full, immediate, universal and ordinary – which he can always freely exercise. T. undertakes an exegesis of the canon, analysing the meaning of these various titles and attributes.

### 332

**EIC 53 (2013), 293-316: Brian E. Ferme: The Search for Legal Certainty: A gloss on Papal Elections in the Middle Ages.** (Article)

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

### 332

**NRT 136 (2014), 48-64: Jean-Philippe Goudot: Benoît XVI: quels modèles pour une renonciation?** (Article)

By an act unprecedented in the two thousand year history of the Catholic Church, Benedict XVI resigned from the Papacy. Yet he remains Pope Emeritus. G. points out the ambiguity and richness of an act which separates the "two bodies of the Pope" – the physical and the institutional – while at the same time recognizing that they are irreversibly coloured by one another: they sanctify the Papacy while desacralizing it. Between presence and absence Benedict XVI is still to some extent Pope.

## 335

**LW 119/3 (2013), 185-191: Shaji Jerman: *Sede Vacante* of the Petrine See.** (Article)

On the occasion of Pope Benedict XVI's announcement of his resignation in February 2013, J. examines the canons of the CIC/83 and the CCEO, as well as the provisions of the Apostolic Constitution *Universi Dominici Gregis*, dealing with the vacancy of the Petrine See following the death or resignation of the Roman Pontiff.

## 335

**SCL IX (2013), 13-18: Pope Benedict XVI: Apostolic Letter issued *Motu Proprio* "*Normas Nonnullas*" on Certain Modifications to the Norms Governing the Election of the Roman Pontiff.** (Document)

This *motu proprio* makes a number of changes to the norms for the election of the Roman Pontiff as set out in *Universi Dominici Gregis* of 1996 and the variations set out in the Apostolic Letter of 11 June 2007. The most significant areas covered are to allow the Conclave to commence earlier than the 15th day if all the eligible cardinals are present; tightened security elements; and new provisions as to the how to proceed if the ballot process has difficulty in producing a two-thirds majority. (See also *Canon Law Abstracts*, nos. 111, p. 46; 112, pp. 43-44).

## 342

**RMDC 19 (2013), 335-379, 439-454: Rogelio Ayala Partida: El documento preparatorio para el Sínodo extraordinario de los Obispos de 2014 y para el Sínodo ordinario de 2015. Consulta y subsidiariedad en la Iglesia.** (Document and commentary)

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

## 360

**Comm 45 (2013), 291-292: Pope Francis: Litterae Apostolicae Motu proprio datae *Ai nostri tempi* de iudicialium instrumentorum iurisdictione Civitatis Vaticanae super re poenali.** (Document)

The effect of this *motu proprio* is to extend to all officials and dependants of the various organisms of the Holy See and Roman Curia the jurisdiction and discipline of the laws and courts of the Vatican City State in relation to financial

matters so as to cooperate more fully with the undertakings of the Holy See in various international agreements. The document is dated 11 July 2013, was promulgated by publication in *L'Osservatore Romano*, and became effective on 1 September 2013.

## 360

**Comm 45 (2013), 293-296: Pope Francis: Litterae Apostolicae Motu Proprio datae, de vitandis pecunia sordide parta, nummariis rebus at tromocratiam fovendam et accumulatione armorum ingentis destructionis.** (Document)

This *motu proprio* articulates the document referred to in the preceding entry by enacting four articles concerning the prevention of money laundering and the financing of terrorism and weapons of mass destruction. It binds the dicasteries of the Roman Curia and other entities of the Holy See to the legislation of the Vatican City State in this area, grants powers of vigilance to the Financial Intelligence Authority, establishes the jurisdiction of the organs of the Vatican City State and establishes a Committee of Financial Security to coordinate the competent authorities of the Holy See and Vatican City State. It is dated 8 August 2013, taking effect two days later, and to be promulgated in *L'Osservatore Romano.* The statutes of the new committee are included as an appendix.

## 360

**RMDC 19 (2013), 457-462: Francisco: m. pr., para la prevención y disminución del financiamiento del terrorismo y de la proliferación de armas de destrucción masiva (Estatuto del Comité de seguridad financiera de la Santa Sede), 8 de agosto de 2013.** (Document)

The text is given in Spanish of the document referred to in the preceding entry.

## 360

**Comm 45 (2013), 297-303: Pope Francis: Litterae Apostolicae Francisci Motu Proprio die 15 mensis novembris 2013 datae quo novum statutum Auctoritatis Informationis Finantiariae approbatur.** (Document)

Pope Benedict XVI established the Financial Intelligence Authority with the *motu proprio La Sede Apostolica* of 30 December 2010 to prevent illegal financial activity. The present document revises its internal structure and provides a new statute in ten articles. It is dated 15 November 2013, was

promulgated in *L'Osservatore Romano*, and came into effect on 21 November 2013.

**360**

**RMDC 19 (2013), 455-456: Francisco: m. pr., con el que se aprueba el Nuevo Estatuto de la autoridad de información financiera, del 15 de noviembre de 2013.** (Document)

The text is given in Spanish of the document referred to in the preceding entry.

**360**

**Comm 45 (2013), 304-305: Pope Francis: Chirographum Summi Pontificis quo Pontificia Commissio pro ordinatione structurae oeconomicae administrativae Sanctae Sedis instituitur.** (Document)

In the light of the consolidated balance sheet of the Holy See and Vatican City State, Pope Francis sets up a Commission to gather information concerning the financial administration of the Vatican and to work with the Council of Cardinals and sets out its remit. It is dated 18 July 2013.

**360**

**Comm 45 (2013), 306: Pope Francis: Chirographum Summi Pontificis quo instituitur Consilium Cardinalium ad adiuvandum Romanum Pontificem in Universali Ecclesia gubernanda adque suscipiendum consilium emendationis Constitutionis Apostolicae *Pastor bonus* de Curia Romana.** (Document)

Implementing wishes expressed by the Cardinals prior to the Conclave, Pope Francis establishes a Council of Cardinals to assist him in the governance of the Church and to study the question of revising the provisions of the Apostolic Constitution *Pastor Bonus*. It is dated 28 September 2013.

**360**

**SCL IX (2013), 19-20: Pope Francis: Chirograph Establishing a Council of Cardinals.** (Document)

See preceding entry.

## 360

**Comm 45 (2013), 318-319: Secretaria Status: Communicatus Secretariae Status qui die 18 mensis Iulii 2013 publici iuris fecit Chirographum Summi Pontificis quo Pontificia Commissio pro ordinatione structurae oeconomicae-administrativae Sanctae Sedis instituitur.** (Press statement)

Given here is the text of the press statement that accompanied the publication of the chirograph establishing a Pontifical Commission to look into the financial administration of the Holy See and naming its members.

## 360

**EIC 53 (2013), 427-453: Luigi Sabbarese: *Curia romana semper reformanda*. Recenti variazioni nelle competenze di alcuni dicasteri.** (Article)

S. provides a rapid overview of the major reforms of the Roman Curia from the 16th century to its more recent reorganization. He pays particular attention to the changes made by Popes John Paul II and Benedict XVI subsequent to the Apostolic Constitution *Pastor Bonus* of 28 June 1988.

## 360

**IC 54 (2014), 221-251, 293-295: Diego Zalbidea: La reorganización económica de la Santa Sede. Balance y perspectivas.** (Article and document)

Commenting on Pope Francis' *motu proprio Fidelis dispensator et prudens* (24 February 2014) and the initial stages of the process of reform in the organizational and financial structures of the Holy See and the Vatican City State, Z. highlights the principles of transparency and professionalism which underpin this restructuring. The objective is to make such organization more effective in meeting the real needs of service to the Pope, the universal Church and the poor as the ultimate beneficiaries of the Church's mission. The principle of gratuitousness governs the meticulous care of the goods donated through the generosity of the faithful, and conditions the actions of those entrusted with such management. The rules which govern transparent management reflect this concern and the ultimate purpose of custodianship of the goods donated.

## 360

**IC 54 (2014), 293-306: Disposiciones de la Santa Sede en materia de organización económica. 2013-2014.** (Documents)

Given here are the Spanish texts of 1. the *motu proprio Fidelis dispensator et prudens* establishing a new coordinating agency for the economic and administrative affairs of the Holy See and the Vatican City State (24 February 2014: see commentary in preceding entry); 2. the *motu proprio* approving the new statutes of the Financial Intelligence Authority (15 November 2013); 3. the *motu proprio* for the prevention and countering of money laundering, the financing of terrorism and the proliferation of weapons of mass destruction (8 August 2013); and 4. Law N. XVIII confirming Decree N. XI of the President of the Governorate of the Vatican City State on norms concerning transparency, supervision and financial intelligence (8 October 2013).

## 360

**IE XXVI (2014), 149-168: Alessio Sarais: Recenti modifiche al sistema penale e amministrativo dello Stato della Città del Vaticano: una prima lettura.** (Commentary)

The new Vatican laws, nn. VIII, IX and X, dated 11 July 2013, came into force on 1 September 2013, along with the Pope's Apostolic Letter *motu proprio Ai nostri tempi*. These norms involve a considerable modification of the Vatican City State's criminal system and of its sanctions, which are still based on Italian criminal legislation dating back to 1929. Law VIII establishes new offences relating to torture, racial discrimination, genocide and crimes against humanity, and introduces the possibility of juridical persons being prosecuted. Law IX introduces the fair trial principle and the presumption of innocence, and abolishes life imprisonment. Law X sets out provisions in respect of administrative sanctions. The *motu proprio* extends the application of Vatican laws and the jurisdiction of Vatican judges to some specific fields, including matters involving dicasteries and other organisms of the Roman Curia.

## 361-367

**ADC 3 (abril 2014), 185-215: Jaime Bonet Navarro: La relevancia internacional de la Iglesia Católica.** (Article)

See above, canon 113.

## 372

**AkK 182 (2013), 44-63: Arturo Cattaneo: Zur personalen und territorialen Bestimmung von Seelsorgestrukturen.** (Article)

C. offers some canonical considerations on pastoral structures for communities of the faithful under the leadership of a pastor. These can be accommodated on two levels, either territorial or personal. Bearing in mind the decisions of Vatican II, the personal level is to be preferred to the territorial, even if the Council did not do away with territorial pastoral structures. C. shows that, although a territorially-delineated local Church has certain advantages, a personal structure emphasizes the elements of flexibility and of pastoral care tailored to particular needs and conditions.

## 375

**Comm 45 (2013), 307-308: Pope Francis: Homilia Summi Pontificis die 24 mensis octobris occasione ordinationis episcopalis Rev.morum Joannis-Mariae Speich ac Ioannis-Petri Gloder prolata.** (Homily)

Pope Francis uses the opportunity of an episcopal ordination to stress the importance of bishops reaching out in love especially to their priests and deacons, and reminding them that it is not only the Catholic community that is committed to their care.

## 377

**SCL IX (2013), 359-372: Victor D'Souza: On the Selection and Appointment of a Diocesan Bishop.** (Opinion)

D'S. explains who is involved in the process of selecting a diocesan bishop, describing the process of consultation carried out by the nuncio. In addition to the qualities mentioned in canon 378 he refers to those mentioned by Pope Francis in an address to papal representatives. The nuncio then sends in a report about 20 pages in length recommending three names, accompanied by the entire dossier of information. He then describes the process carried out in the competent dicastery (Congregation for Bishops or for the Evangelization of Peoples) resulting in a list of three names to be placed before the Holy Father. The Prefect, usually, presents the minutes of this meeting to the Pope at a private audience. A few days later he conveys his decision to the Congregation and they to the nuncio. He in turn informs the candidate. Should the candidate decline for grave reasons the nuncio must recommend this to the Pope so that he can be dispensed from accepting the appointment.

## 382

**IE XXVI (2014), 67-88: Edwin Omorogbe: The Institute of Canonical Possession in the 1983 Code of Canon Law.** (Article)

The CIC/83 mandates that a diocesan bishop take canonical possession before he is capable of exercising the office to which he has been appointed. O. examines the institute of canonical possession as it particularly relates to the office of diocesan bishop, outlining the consequences of acts placed without canonical possession. He studies the legislative history of canon 382 to understand the mind of the legislator as to whether canonical possession should be an incapacitating law. He identifies the purpose of canonical possession as the protection of communion with the Bishop of Rome, and to ensure that bishops who were to govern dioceses had been properly appointed by the Supreme Pontiff. He argues that canonical possession should always take place within a liturgical ceremony where all the faithful are gathered, and that the recommendation to this effect which is contained in canon 382 §4 should be made mandatory. This will ensure that the apostolic letter of appointment is read before the college of consultors and in some way enables all the faithful to take part in the process.

## 460-572

**Mirosław Sitarz: Competences of Collegial Organs in a Particular Church.** (Book)

S. deals with the topic of democratization in the Church in the light of the Second Vatican Council. Democratization cannot be achieved in the Church in the same way as in national communities based on natural law. One has to respect the theological premises that define the Church as a human-divine community whose foundations are grounded in the revealed divine law. A certain process of democratization has been made possible by the norms of the CIC/83 which regulate the participation of the faithful, both clerics and lay persons, in the exercise of authority by bishops through auxiliary collegial bodies in the issuance of singular administrative acts as well as through the performance of other tasks envisaged by law. The book is divided into two parts, the first dealing with substantive law, the other with procedural law. The first part is intended to present the position of collegial bodies in their exercise of executive power in a particular Church, and looks at the theological and legal foundations of the establishment of collegial organs of power in particular Churches; the notion of an organ and kinds of authorities existing in a particular Church; and the competences of collegial bodies in a particular Church. The second part aims to present legal norms that regulate the object of and the procedure for exercising competences of collegial bodies of authority, providing

an analysis of those codified norms that deal with the competences of collegial bodies, and discussing issues connected with the carrying out of individual competences by collegial bodies in a particular Church. (For bibliographical details see below, Books Received.)

### 486-491

**AA XIX (2013), 251-268: Ernesto R. Salvia: La especial atención de los archivos eclesiásticos.** (Conference presentation)

Ecclesiastical archives are the witnesses and depositories of the Church's memory throughout history; their safeguarding and preservation, therefore, have a special significance in the Church's life. S.'s article constitutes a commentary on all the canons dealing with these archives (diocesan, historical and parochial) and on other isolated canons which refer indirectly to archives. S. ends with considerations on some of the practical issues concerning the organization, classification and filing of archives and the installations necessary for their preservation.

### 486-491

**AC 53 (2011), 251-272: Jean-Pierre Capel: La tenue des registres et des archives de la paroisse.** (Article)

See below, canon 535.

### 491

**AA XIX (2013), 223-250: Octavio Lo Prete: Tutela del patrimonio cultural: marco jurídico estatal.** (Conference presentation)

See below, canon 1284.

### 492

**AA XIX (2013), 39-55: Jorge Antonio di Nicco: el delegado del Obispo diocesano para presidir el Consejo de asuntos económicos de la diócesis.** (Article)

In a brief introduction, N. explains that the original text submitted to the preparatory commission for the CIC/83 was modified in order to separate the role of the diocesan finance officer from that of the president of the diocesan finance council. The general oversight and direction of diocesan finances (the

field of the diocesan finance council) should be separate from the actual implementation and execution of its decisions and directives. The president of the council is the diocesan bishop or his delegate who calls meetings and presides but is neither a member, nor has he any vote, whether consultative or deliberative; the reason for this is most obvious in those matters where the diocesan bishop must obtain the consent of the council. N. looks briefly at those who may be members of the finance council, often a vicar general or episcopal vicar but also possibly a properly qualified lay person, and at the situation of an impeded diocese (canon 412) and one that is *sede vacante*. He concludes by noting the rather general nature of canon 492 and the need for particular legislation to clarify its proper implementation at local level.

## 492

**LW 119/4 (2013), 257-274: Mathew John Puthenparambil: Role of Laity in Diocesan Finance Council: A Comparative Study of Latin and Eastern Codes.** (Article)

P. compares the canons of the CIC/83 and the CCEO dealing with the diocesan finance committee: the appointment of lay persons as members of the committee, the president of the committee, the number of members, the qualifications of members, the term of office and resignation from office, removal from the committee, statutes of the committee, the functions of the members, the matters on which the committee offers advice or gives consent, preparation of the annual budget, review of the annual report, and the election of an interim financial administrator during the vacancy of the diocese.

## 492-494

**AkK 182 (2013), 4-43: Helmuth Pree: Der Diözesanökonom, sein rechtliches Verhältnis zum Diözesanbischof und seine Rechtsstellung in der Bischöflichen Kurie.** (Article)

The post of diocesan financial administrator is a three-way relationship with the diocesan bishop and the diocesan finance committee. The key notion in this relationship is that of "supervision". The legislator requires the appointment of a financial administrator with the requisite skills. However he is subject to the bishop and the finance committee and merely carries out their decisions. The finance committee has a supervisory role as regards the financial administrator, who may not therefore be part of that committee. Similarly the bishop may not be part of the finance committee of his own diocese, as this make supervision impossible. The need for independence also requires that the financial administrator be a different person from the vicar general.

## 508

**EIC 54 (2014), 147-170: Bruno Fabio Pighin: Il penitenziere in diocesi.** (Article)

P. sets out the role of the priest who is assigned the office of diocesan penitentiary. He traces the historical and juridical evolution of this office, and examines the current canonical legislation on the subject. He then provides an analysis of some critical issues affecting both the person who exercises the role of penitentiary and the tasks which he is called upon to carry out for the good of the particular Church and more generally for the *salus animarum*.

## 515

**AnC 10 (2014), 59-80: Piotr Skonieczny: Kim jest proboszcz zakonny? O relacji między przełożonym zakonnym a proboszczem w parafii powierzonej instytutowi zakonnemu ( = Who is a religious pastor? Concerning the relationship between the religious superior and the pastor in a parish entrusted to a religious institute).** (Article)

S. looks at the relationship between the local superior and the religious parish priest (pastor) in a parish entrusted to a religious institute, when these offices are not held by the same person. He presents a brief historical evaluation of the concept of the religious parish, and the development from *beneficium* to *communitas*. There are three main principles involved: the salvation of souls, the work of the institute, and the principle of preserving religious identity. Following these principles, S. expresses his opinion regarding the designation of the religious pastor as *pastor proprius paroeciae*, and emphasizes that the religious parish priest is first and foremost a religious, without any special rights in the religious community. S. also thinks that it would be better for religious life to use the canonical office of moderator rather than that of parish priest (cf. canon 517).

## 515

**Ap LXXXV (2012), 413-464: Supreme Tribunal of the Apostolic Signatura: *Decreta* and *adnotationes*.** (Documents)

See below, canon 1222.

## 515

**IE XXVI (2014), 89-111: Supremo Tribunale della Segnatura Apostolica: Decreto del Segretario, *Scelta della chiesa di una nuova parrocchia,* 5 luglio 2011; Decreto del Prefetto in Congresso, *Soppressione di parrocchia,* 23 settembre 2011; Decreto del Segretario, *Circa l'uso di una chiesa,* 20 gennaio 2012 (con *nota* di Javier Canosa, *I diversi effetti della tutela garantita dal diritto amministrativo canonico*).** (Documents and commentary)

See below, canon 1445.

## 515

**SCL IX (2013), 27-36: Congregation for the Clergy: Procedural Guidelines for the Modification of Parishes, the Closure, Relegation of Churches to Profane but not Sordid Use and the Alienation of the Same.** (Document)

See below, canon 1222.

## 515

**TyV LIV (2013), 729-761: Marcelo Gidi Thumala: El rostro misionero de la parroquia. Reflexión canónica-pastoral acerca de la parroquia a la luz de la carta apostólica *Porta Fidei* y de la XIII Asamblea General Ordinaria del Sínodo de los Obispos sobre *La nueva evangelización para la transmisión de la fe cristiana*.** (Article)

Parishes are becoming less significant in comparison with other, more recent, pastoral institutions. It seems necessary to stress the missionary dimension of the parish. G.T. offers a theological, canonical and pastoral view of the parish in the context of the New Evangelization. Renewal requires a rethinking of the structure of the parish, so that it is not so much a place of coordination for liturgical and catechetical services as a centre for spirituality, apostolate and mission. It also involves an openness to new ministries and charisms.

## 520

**AnCrac 45 (2013), 335-351: Piotr Skonieczny: Stosunki majątkowe między parafią zakonną a domem zakonnym ( = Property relations between the religious parish and the religious house).** (Article)

S. explains that relations between the religious parish and the religious house are founded on two basic principles: the autonomy of the two juridical persons (the religious parish and the religious house), and cooperation between them with a

view to the salvation of souls. He applies these basic principles by commenting on income, the administration of goods, and the apportionment of common costs.

## 535

**AC 53 (2011), 251-272: Jean-Pierre Capel: La tenue des registres et des archives de la paroisse.** (Article)

C. examines the canons of the CIC/83 regarding the keeping of parochial registers and archives, setting out the different kinds of register, the manner in which they are to be kept, how they are consulted and used, the content of parochial archives, and precautions to be observed, especially where ancient documents are involved.

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

## 573

**LW 119/4 (2013), 275-285: Shaji Jerman: Consecrated Life in the Church, Canonical Perspectives.** (Article)

J. examines the different forms of consecrated life (monastic life, the order of virgins, hermits, the order of widows, contemplative institutes, apostolic religious life, secular institutes, and societies of apostolic life), the vows of chastity, poverty and obedience, and the various phases of religious formation (initiation or aspirancy, preliminary period or postulancy, novitiate, probationary period, and perpetual profession).

## 573-730

**Per 102 (2013), 549-566: Yuji Sugawara: La normativa sulla vita consacrata alla luce dell'aggiornamento postulato dal Vaticano II.** (Article)

S. shows how the teaching of Vatican II has come to find expression in the norms of the CIC/83 concerning consecrated life. Some of the norms contain the terminology of the Council, while others have put into juridical form some decisions taken by the Council. Of particular significance is the importance given in the Code to the founding charism of the institute of consecrated life and the ecclesiality of consecrated life. S. concludes his reflection by noting that the Church today calls on all consecrated men and women to collaborate in the mission of the Church, and that the canons of the Code, a faithful expression of the Conciliar teaching, are not an obstacle or impediment to such a desire on the part of the Church.

## 573-746

**EIC 54 (2014), 5-48: Velasio De Paolis: L'identità della vita consacrata nel dialogo tra teologia e diritto.** (Article)

De P. analyses the main characteristics of consecrated life in the Church. Starting from the theological aspects he examines the main magisterial documents relating to the religious life, highlighting the most critical points in the more recent documents. He then turns to the current canonical legislation on the religious life, offering a comprehensive overview of the present regulatory

framework. Finally he offers an analysis of the Apostolic Exhortation *Vita Consecrata* which now governs consecrated life in the Church.

### 573-746

**SCL IX (2013), 91-122: Francis Morrisey: Selected Canonical and Civil Issues Facing Religious Institutes Today.** (Article)

M. speaks from the experience of Canada with rapidly diminishing numbers of religious, a rising median age leading to problems over governance, mergers, and related civil law issues, but also new movements and associations with different characteristics from those of present religious institutes. He looks at canonical issues surrounding chapters, leadership, the disposal of congregational assets, new ways of belonging to institutes and new associations, members who have lived alone for long periods or those who are a source of difficulty for the community, different forms of local community and inter-congregational living, departing members and support for family. Civil law issues include the unification of provinces, corporate documents, insurance, charitable status, law suits, psychological testing, access to personal information, and addiction to internet pornography.

### 573-746

**Dominique Le Tourneau: Vade mecum de la vie consacrée.** (Book)

This manual on consecrated life takes the form of a total of 1524 questions and answers covering the whole of Part III of Book II of the CIC/83, and is intended above all for religious communities, with a view to placing at their disposal in a practical manner the collection of norms governing consecrated life contained in the CIC/83 and documents published after 1983 by the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life. The book also contains a table of canons referred to, and an analytical index. (For bibliographical details see below, Books Received.)

### 596

**AnC 10 (2014), 59-80: Piotr Skonieczny: Kim jest proboszcz zakonny? O relacji między przełożonym zakonnym a proboszczem w parafii powierzonej instytutowi zakonnemu ( = Who is a religious pastor? Concerning the relationship between the religious superior and the pastor in a parish entrusted to a religious institute).** (Article)

See above, canon 515.

## 630

**AA XIX (2013), 11-37: Ariel David Busso: Algunas cuestiones canónicas surgidas de la complejidad de la división de los fueros interno y externo.** (Article)

See above, canon 130.

## 662-672

**Ang 90 (2013), 447-459: Szabolcs Anzelm Szuromi: Obblighi e diritti dei membri degli istituti di vita consacrata e le società di vita apostolica.** (Article)

The meaning of obligations and rights within institutes of consecrated life and societies of apostolic life differs essentially from the meaning of the general obligations and rights of all Christ's faithful (canons 208-223), and also from the meaning of the particular obligations and rights of clerics (canons 273-289). There is a traditional distinction in religious law between obligations which arise from the clerical state of clerical religious institutes and obligations which are based on the institutional form of consecrated life. Seeking perfection belongs to the latter within the framework of the three evangelical counsels. Therefore, the limits of obligations and rights are defined in the Rule and the proper constitution (or statutes) of the institute in question, which spring from the evangelical counsels and are intentionally accepted by the members through their profession so as to sanctify their life. There is an interaction between the institute and its members. On the one hand, the institute is responsible for ensuring the conditions necessary for the members to fulfil their vocation; on the other hand, the members, through their own physical, intellectual and spiritual activity, while they consecrate themselves to God through service to the Church, contribute to the accomplishing of their own institute's particular goal (canon 654).

## 673-683

**EIC 54 (2014), 49-70: Simona Paolini: Apostolicità propria negli istituti religiosi: similitudini e differenze.** (Article)

Apostolicity is one of the notes of the Church shared by the entire People of God. It takes a particular form in that portion of the People of God which is marked by the consecration of their whole life, for the glory of God, the building up of God's Kingdom in the service of the Church and the salvation of the world. Consecration and apostolicity make up in equal measure the state of consecrated life. However, this fruitful and natural relationship takes shape in

different ways, depending on various forms of consecration. Apostolicity therefore pertains to all consecrated life, but the apostolate of religious institutes marks them out in a special way. In fact their first apostolate is fidelity to their own form of life. The entirety of their religious life must be imbued with apostolate.

## 678

**AnCrac 45 (2013), 335-351: Piotr Skonieczny: Stosunki majątkowe między parafią zakonną a domem zakonnym ( = Property relations between the religious parish and the religious house).** (Article)

See above, canon 520.

## 684

**QDE 27 (2014) 227-237: Alberto Perlasca: Il passaggio di un religioso da un monastero *sui iuris* ad un altro dello stesso istituto, federazione o confederazione (can. 684 §3).** (Article)

P. examines the authentic interpretation of canon 684, beginning with a reflection on the discipline of the CIC/17 and the process of revision which led to canon 684. The majority of authors had considered that this canon could not be used by the temporarily professed. P. argues that this is a consequence of the fundamental homogeneity of the two monasteries. He then examines the implications of the decision that in the specific case of monastic institutes it could be used; this does not affect the restriction of the rest of the canon to the perpetually professed.

## 701

**AnC 10 (2014), 121-138: Przemysław Michowicz: È possibile risolvere la questione dell'incardinazione anomala di cui al can. 701 del CIC/83?** (Article)

M. looks at the problem of the *incardinatio abnormalis* arising as a result of the lawful dismissal of a member of a clerical religious institute. *Dimissio modo iure praescripto* automatically excardinates from the religious institute, but without any guarantee or subjective right on the part of the dismissed cleric to be eligible to be incardinated in another ecclesial community in accordance with canon 265.

## BOOK III: THE TEACHING OFFICE OF THE CHURCH

### 747

**ADC 3 (abril 2014), 295-323: María Victoria Hernández Rodríguez: El servicio de los medios de comunicación social. Magisterio eclesiástico y disposiciones legislativas.** (Article)

See below, canons 822-832.

### 747-833

**Per 102 (2013), 567-615: Damián G. Astigueta: Il libro III del CIC e il Concilio Vaticano II a trenta anni della sua promulgazione.** (Article)

A. addresses the theme of the influence of Vatican II on Book III of the CIC/83 and how the same Book III reflects the teaching of the Council. He then seeks to identify some areas in which further progress might be made in the light of subsequent legislation and the promulgation of the CCEO in 1990. As a method, not only does he make reference to a number of the Council documents that deal with themes relevant to the content of Book III, but he also makes a comparison with the corresponding canons of the CIC/17. At the end, he sees Book III as a major step forward towards the Church of the third millennium.

### 748

**RDC 62/2 (2012), 305-329: Alphonse Ky-Zerbo: Obligations et droits de tous les hommes vis-à-vis de la vérité dans le livre III du Code de droit canonique de 1983.** (Article)

The Church states the obligation, indeed the right, of every man to seek "the truth in the matters which concern God and his Church" (canon 748 §1), while at the same time it forbids the coercing of anyone to subscribe to the Catholic faith (canon 748 §2). Thus as before every human social organization it claims religious freedom and the autonomy of the human conscience. However, the contradiction between these two positions is only superficial. The Church has never ceased to proclaim its mission of making the truth known to every person and to allow those who have come to know the truth to remain faithful to it and to serve it in a free and lawful way.

### 750-751

**RMDC 19 (2013), 247-279: Luis de Jesús Hernández M.: El dato de la fe en las normas canónicas.** (Article)

See above, canon 205.

### 755

**Ang 90 (2013), 293-329: Carlo Fabris: L'ecumenismo nel contesto codiciale: lettura critica e prospettive di sviluppo della disciplina vigente.** (Article)

F. sets out the principal canons of the CIC/83 referring to ecumenism, but considers that these do not correspond adequately to the desires of Vatican II in this area. Problems arise particularly in relation to canon 755 (which specifies who is responsible for promoting ecumenical activity but gives no indication as to how this is to be carried out), and canons 844 (*communicatio in sacris*) and 1124-1128 (mixed marriages), which give rise to theoretical and practical doubts. He concludes with some suggestions for possible modifications of the existing law.

### 767

**N XLIX 11-12/13, 515-632: Pope Francis: Apostolic Exhortation *Evangelii Gaudium*.** (Document)

See below, canon 834.

### 770

**AnC 10 (2014), 81-103: Jerzy Adamczyk: Misje ludowe jako nadzwyczajna forma przepowiadania słowa Bożego w parafii. Aspekt kanoniczno-pastoralny ( = Parish mission as an extraordinary form of preaching the Word of God in the parish. The canonical-pastoral aspect).** (Article)

Canon 770 states that "At certain times, according to the regulations of the diocesan Bishop, parish priests are to arrange for sermons in the form of retreats and missions, as they are called, or in other forms adapted to requirements." A. looks at the concept and purpose of parish missions, and the question of who gives them and to whom they are addressed, focusing on the "missionary" aspect. He ends with a consideration of missionary services within the aspect of the sacraments and popular piety.

### 796-806

**AC 53 (2011), 273-281: Jean-Paul Durand: Droit français du caractère propre confessionnel. Contribution du droit français et du droit canonique à sa réception par son école privée.** (Conference presentation)

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

### 815-821

**AnC 10 (2014), 13-27: Jan Dyduch: Wspólnota akademicka Uniwersytetu Papieskiego Jana Pawła II w Krakowie ( = Academic community of the Pontifical University of John Paul II in Krakow).** (Article)

The academic community of the Pontifical University of John Paul II in Krakow is made up of the authorities, the academic teachers, the lecturers, the administration office, and of course the students. Through their common and combined effort, they must all strive for the continuation and development of the university's prominent past. Thus the university will build up its future for the good of the Church, Poland and Europe.

### 815-821

**AnCrac 45 (2013), 307-318: Jan Dyduch: Władze Uniwersytetu Papieskiego Jana Pawła II w Krakowie ( = The authorities of the Pontifical University of John Paul II in Krakow).** (Article)

The Pontifical University of John Paul II in Krakow is an ecclesiastical university, governed by the Apostolic Constitution *Sapientia Christiana* and the university's statutes. Authority is exercised by collegial bodies and natural persons. The first group includes the Congregation for Catholic Education, the Polish Episcopal Conference, and the University Senate; while the second consists of the Grand Chancellor, the vice-Grand Chancellor, the Rector and deans of faculties.

### 822-832

**ADC 3 (abril 2014), 295-323: María Victoria Hernández Rodríguez: El servicio de los medios de comunicación social. Magisterio eclesiástico y disposiciones legislativas.** (Article)

In today's world the social media play an important role in the fields of information, promotion of culture and learning: they are at the service of the common good. Society has a right to receive information based on truth,

freedom, justice and solidarity; and the exercise of this right demands that the information provided always be true and complete, respectful of justice, charitable, honest and appropriate, and in accordance with moral laws, legitimate rights and the dignity of the human person. All the members of the ecclesial society – whether active or passive subjects – must fulfil their duties of justice and charity in this field, and strive to form a clear and upright conscience in relation to the use they make of the media and to spreading correct public opinion. It is for that reason that the Church feels the need to intervene in this matter through pontifical Magisterium and by regulating the use of social media through specific legislative norms.

## BOOK IV: THE SANCTIFYING OFFICE OF THE CHURCH

### 834

**N XLIX 11-12/13, 515-632: Pope Francis: Apostolic Exhortation *Evangelii Gaudium*.** (Document)

Excerpts of the Apostolic Exhortation *Evangelii Gaudium* referring to liturgical matters are provided in English (pp. 515-574) and Spanish (pp. 575-632).

### 840-848

**ADC 3 (abril 2014), 149-184: Ignacio Pérez de Heredia y Valle: Cánones introductorios a los sacramentos. Cuestiones preliminares al título de los sacramentos.** (Article)

This article aims at an analysis of the general introductory canons on the sacraments, and addresses the following matters: the sacramental sign and its requirements (canon 840), jurisdiction over the sacraments (canon 841), baptism as the gateway to the sacraments (canon 842 §1), Christian initiation and the unity of the sacraments of initiation (canon 842 §2), the duty of ministers and the right of the faithful to receive the sacraments (canon 843 §1), the need for sacramental preparation (canon 843 §2), "*communicatio in sacris*" (canon 844), non-repeatable sacraments and administration *sub conditione* (canon 845), the observance of rubrics and rite (canon 846), holy oils (canon 847), and offerings on the occasion of the celebration of sacraments and the right of those unable to afford any offering to receive the sacraments (canon 848).

### 843

**RMDC 19 (2013), 381-412: Mario Medina Balam: Las parejas homosexuales y los sacramentos de iniciación cristiana.** (Article)

The comparatively recent development by which homosexual men and women are regarded as a different group, with different rights, means that the Church has to be ready to respond to previously unheard-of situations, such as the baptism of a child adopted by a homosexual couple, or a request from a homosexual couple to act as godparents, or to receive Communion. A true pastoral approach requires fidelity to the Church's teaching and respect for the canonical discipline. Hence a refusal to allow a homosexual couple to act as sponsors to baptism or confirmation, or to deny absolution to a homosexual who does not show repentance for his homosexual acts, or to refuse Communion to someone who openly promotes homosexuality, does not amount to

discrimination, since they are being treated like anyone else and what is being demanded of them is demanded of everyone else.

### 844

**Ang 90 (2013), 293-329: Carlo Fabris: L'ecumenismo nel contesto codiciale: lettura critica e prospettive di sviluppo della disciplina vigente.** (Article)

See above, canon 755.

## BOOK IV, PART I, TITLE I: BAPTISM

### 868

**RMDC 19 (2013), 381-412: Mario Medina Balam: Las parejas homosexuales y los sacramentos de iniciación cristiana.** (Article)

See above, canon 843.

### 872-874

**RMDC 19 (2013), 381-412: Mario Medina Balam: Las parejas homosexuales y los sacramentos de iniciación cristiana.** (Article)

See above, canon 843.

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

### 892-893

**RMDC 19 (2013), 381-412: Mario Medina Balam: Las parejas homosexuales y los sacramentos de iniciación cristiana.** (Article)

See above, canon 843.

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

### 915-916

**RMDC 19 (2013), 381-412: Mario Medina Balam: Las parejas homosexuales y los sacramentos de iniciación cristiana.** (Article)

See above, canon 843.

### 919

**EIC 54 (2014), 103-146: Geraldina Boni: Digiuno e astinenza in diritto canonico. *'Residui' di una pratica religiosa dei secoli passati?*** (Article)

See below, canons 1249-1253.

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

### 959-997

**SCL IX (2013), 153-188: Edwin Omorogbe: An Examination of the Sacrament of Penance in the Light of the Year of Faith.** (Article)

The "Year of Faith" invites us to reflect on the riches offered by the sacrament of Penance particularly in the light of the growth of groups teaching different ways of finding forgiveness, e.g. through being "born again". O. looks at the sacrament of Penance in Vatican II and the call from the International Theological Commission in 1983 for a renewed approach. He then looks in more detail at the provisions of the CIC/83 and the role of priest as minister and penitent. He concludes by investigating the teaching set out in the *Catechism of the Catholic Church*.

### 983-984

**AA XIX (2013), 11-37: Ariel David Busso: Algunas cuestiones canónicas surgidas de la complejidad de la división de los fueros interno y externo.** (Article)

See above, canon 130.

## BOOK IV, PART I, TITLE VI: ORDERS

### 1041

**AA XIX (2013), 105-151: Ricardo Medina: Imputabilidad, eximentes, atenuantes y agravantes en los delitos sexuales de clérigos con menores.** (Article)

See below, canon 1395.

### 1044

**AA XIX (2013), 105-151: Ricardo Medina: Imputabilidad, eximentes, atenuantes y agravantes en los delitos sexuales de clérigos con menores.** (Article)

See below, canon 1395.

## BOOK IV, PART I, TITLE VII: MARRIAGE

### 1055

**AA XIX (2013), 303-307: Benedicto XVI: Alocución a la Rota Romana (26 de enero de 2013).** (Address)

Given here in Spanish translation is the text of Benedict XVI's 2013 allocution to the Roman Rota. See commentary below.

### 1055

**AA XIX (2013), 309-314: Hugo Adrián von Ustinov: Benedicto XVI no innovó el 26 de enero de 2013.** (Commentary)

Given the widespread breakdown in various parts of the world of the institution of marriage, many people now advocate a more "lenient" treatment by the Church of the divorced and remarried, and even see in this papal address possible signs of such a loosening. U. begins by reminding us that this present address must be understood in the context of Benedict XVI's previous teaching, especially his overall hermeneutic of "renewal in continuity". Some would now want to see the lack of personal faith in either party to a marriage, specifically in their attitude to marriage as a sacrament, as a possible ground for nullity, yet Benedict XVI had already quoted in an earlier address words of John Paul II which emphasized that this was possible only if that party were to deny the validity of marriage on the purely natural level, for it is there that the sacramental sign is found. All that is required for a valid marriage is to "intend to do what the Church does", namely, to give free consent to an indissoluble bond of life-long fidelity, open to the procreation of children. To attempt to change this traditional Catholic teaching by adding the necessity of some kind of specifically supernatural sacramental intention as a requisite for validity would also be to deny sacramental validity to the marriages of baptized non-Catholics whose ecclesial communities lack a sacramental theology of marriage. The message of the present papal address is that the lack of personal faith can only invalidate marriage if it entails an understanding of marriage incompatible with the natural reality of the marital bond in its rejection of any of its essential elements or properties.

## 1055

**Ang 90 (2013), 331-342: Vincenzo Fasano: Le mariage civil en France au lendemain de la loi n° 2013-404 du 17 mai 2013.** (Article)

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

## 1055

**EIC 53 (2013), 391-425: Nicola Reali: *Tamquam spoliatus a nudo*: il rapporto tra matrimonio naturale e sacramento. Il punto di vista di un pastoralista.** (Article)

R. offers a pastoral insight into the relationship between marriage understood in its natural dimension and as a sacramental reality. He re-examines the principal texts of Vatican II and subsequent Magisterium in the light of current-day issues concerning Christian marriage, and more generally the family. He presents an overview of questions which have still not been resolved (the inseparability of the contract and the sacrament; what is meant by marriage being "raised" to the dignity of a sacrament; what the Church intends to do in celebrating marriage), and offers suggestions to help in seeking possible solutions.

## 1055

**FCan VIII/2 (2013), 59-98: Miguel Falcão: A essência do matrimónio: II. Fundamentação teológica.** (Lecture)

In this second part of his lecture (see *Canon Law Abstracts*, no. 112, p. 74), F. focuses on the theological foundation of marriage in the theology prior to Vatican II and in the Magisterium following the promulgation of the CIC/83. Before the Council, theology remained under the influence of St Thomas Aquinas, at the same time as personalist approaches were being increasingly debated. After the promulgation of the CIC/83, Popes John Paul II and Benedict XVI sought to correct some areas of canonical writings and jurisprudence, drawing attention to the importance of clarifying the essence of marriage. Two points are nowadays peacefully accepted: the essence of marriage has remained the same from the time of Jesus Christ to the present, and will do so in the future; and it consists in a commitment of mutual self-giving on the part of husband and wife.

## 1055

**FCan VIII/2 (2013), 107-111: Bento XVI: Falta de fé e nulidade do Matrimónio.** (Address)

In his address to the Rota of 26 January 2013, Pope Benedict XVI reasserts the traditional doctrine that the minimum condition required for a valid marriage is the intention of doing what the Church does, not the personal faith of the spouses, and the teaching of John Paul II that the rejection of the spiritual dimension of marriage only renders it null if it affects validity at the natural level. Pope Benedict considers whether a lack of faith may undermine the validity of a marriage if it involves a rejection of fidelity or another essential element or property, of if it constitutes an insurmountable obstacle to the achieving of the good of the spouses. (See also *Canon Law Abstracts*, no. 112, pp. 73-75.)

## 1055

**FCan VIII/2 (2013), 113-128: José Alfredo Patrício: Fé e consentimento matrimonial.** (Article)

On the basis of Pope Benedict XVI's 2013 address to the Rota on the relationship between faith and the sacrament of marriage (see preceding entry), P. gathers together data from Scripture, Magisterium, jurisprudence, and canonical and theological Tradition, so as to read the Pontiff's address within the framework of the debate over the sacramentality of marriage.

## 1055

**SCL IX (2013), 7-12: Pope Benedict XVI: Allocution to the Roman Rota.** (Address)

In the context of the Year of Faith Pope Benedict takes as his theme for the annual address to the Rota the relationship between faith and marriage. For marriage to be a sacrament does not, theologically, require personal faith on the part of the couple entering marriage, but the question of intention and faith cannot be completely separated. Undoubtedly rejection of the faith makes it more difficult to fulfil the obligations of marriage as understood by the Church and can reach a point where the validity of the contract is imperilled. The Pope concludes with a brief reflection on the good of the spouses.

### 1055-1056

**BV 74 (2014), 93-105: Andrej Saje: Simulacija privolitve v zakon ( = Simulation of matrimonial consent).** (Article)

See below, canon 1101.

### 1055-1056

**Comm 45 (2013), 321-323: Congregatio pro Doctrina Fidei: Litterae respicientes matrimonii indissolubilitatem necnon disceptationem de divortio separatis novas nuptias civiliter ineuntibus ad Exc.mum Administratorem Apostolicum dioecesis Friburgensis a Cardinali Praefecto Congregationis pro Doctrinae Fidei missae.** (Letter)

The Prefect of the Congregation for the Doctrine of the Faith draws the attention of the apostolic administrator of Freiburg to points in recent pastoral advice which use unclear terminology or are not consonant with the Church's law in regard to the situation of those who have divorced and entered a new civil union. The text is in German.

### 1055-1056

**Comm 45 (2013), 329-340: Gerhard Ludwig Müller: Articulus explanans matrimonii indissolubilitatem necnon disceptationem de divortio separatis novas nuptias civiliter ineuntibus ac de sacramentis ab Exc.mo Ludovico Müller conscriptus.** (Article)

In this article (in Italian) Cardinal Müller expands his response to the apostolic administrator of Freiburg in the ongoing debate about the problem of those divorced and civilly remarried. It is important that pastoral policies are approached in conformity with Catholic doctrine on marriage. M. outlines the witness of Scripture and Tradition to the indissolubility of marriage and refers to the teaching of Pope John Paul II in *Familiaris Consortio* in response to the Synod on Family Life and to that of Pope Benedict XVI on the Eucharist in *Sacramentum Caritatis*. He then looks at anthropological and theological considerations and issues in moral theology. Pastoral care cannot simply be reduced to a question of admission to Communion.

## 1055-1056

**LW 118/4 (2012), 213-229: Shaji Jerman: Sacramentality of Marriage and Pastoral Charity.** (Article)

J. looks at the history of marriage in the Church (as a family ceremony; marriage liturgy with the intervention of the priest; the *consensus–copula* debate; the Church's understanding of marriage as a sacrament) and at the canons of the CIC/83 and the CCEO on sacramentality. He then deals with irregular marital situations existing in today's society and pastoral solutions, highlighting the Church's empathetic and compassionate pastoral care of those living in irregular situations, with specific reference to St John Paul II's 1981 Apostolic Exhortation *Familiaris Consortio*.

## 1063-1071

**AC 53 (2011), 341-355: Bruno Gonçalves: Les différents aspects canoniques et pastoraux du dossier de mariage en France.** (Article)

G. examines various aspects of the preliminary pastoral care for the preparation of marriage, the part played by different members of the community in the wedding preparation and ceremony, and the documentation required, within the French context.

## 1082

**AA XIX (2013), 11-37: Ariel David Busso: Algunas cuestiones canónicas surgidas de la complejidad de la división de los fueros interno y externo.** (Article)

See above, canon 130.

## 1086

**AkK 182 (2013), 64-102: M. Antonia Sondermann: Das Motu Proprio *Omnium in mentem* und seine eherechtlichen Konsequenzen.** (Article)

Following the changes made in the *motu proprio Omnium in Mentem* in requirements concerning the form of marriage, questions arise in relation to the (in)validity of marriages of those who left the Church by a formal act and married between the time of the promulgation of the CIC/83 and the coming into force of *Omnium in Mentem*. S. summarizes the canonical position beginning with the canonical legislation, taking into account the circular letter of the

Pontifical Council for Legislative Texts of 13 March 2006, and particular German legislation.

## 1095

**SCL IX (2013), 189-234: Augustine Mendonça: The Effects of Child Abuse/Neglect on Marital Consent.** (Article)

In the light of recent Rotal decisions on grave lack of discretionary judgement M. puts forward a hypothesis that lying behind many of the mental disorders or psychic causes are various forms of abuse or neglect from early childhood, which, if not successfully addressed, can have an impact on the ability to elicit valid consent. The article falls into two main sections: the effects of child abuse/neglect on its victims; the effect of child abuse/neglect on matrimonial consent. The first part considers what constitutes child abuse, its prevalence, causes, effects and treatment. It includes not just sexual abuse, but emotional abuse and various forms of neglect. Boys and girls respond differently. The former tend to externalize in aggression whereas the latter internalize through low self-esteem and psychological disorders. Physical abuse also can impair cognitive development and the ability to form relationships. Sexual abuse can also have serious long term consequences. M. then looks at three recent Rotal decisions, *coram* Arokiaraj (26 October 2009); *coram* Alwan (27 April 2010); *coram* Erlebach (26 November 2010). In the first case an illegitimate child who never knew her father was brought up by narrow-minded grandparents. In the second the effects of an alcoholic father and authoritarian mother were compounded by the result of a road traffic accident in adolescence. The third involved a dysfunctional family where there were eight children by four different men, the mother having psychiatric problems and there being little bond between the siblings.

## 1095

**SCL IX (2013), 423-432: Augustine Mendonça: Consequences of Not Using an Expert in a Marriage Nullity Case.** (Opinion)

See below, canon 1620.

### 1095 2°-3°

**Ap LXXXV (2012), 211-222: Alessandro Manenti: Psicologia, scelta e decisione.** (Article)

M. examines how psychological analysis describes human actions without defining the essential nature of the human being, while also looking at the internal act of decision-making. He argues that people do not necessarily lose their essential freedom when their effective freedom is restricted in some way.

### 1095 2°-3°

**SCL IX (2013), 309-326: Apostolic Tribunal of the Roman Rota: Suspension of the Execution of the Definitive Decision (can. 1651); Grave Defect of Discretionary Judgement/Incapacity to Assume (can. 1095 2°-3°). Decree *coram* Arokiaraj, 21 May 2013 (Italy).** (Decree)

The man obtained a favourable decision at first instance on the grounds of grave lack of discretionary judgement and inability to assume but the respondent requested that a definitive decision be deferred until financial disputes had been sorted out by the civil courts. The case was decided by seven Rotal Auditors. They regretted that the case had been introduced before the civil matters had been settled. The Church's courts could be seen as a way of evading civil obligations and the demands of natural justice. After two conforming sentences the parties would be free and any sin would be fornication rather than adultery, but in this case neither party had marriage immediately in mind. The court decided not to suspend the process but confirm the affirmative decision by decree. However, they would postpone the application of the executory decree until all civil matters had been resolved. They expressed some astonishment that the first instance sentence began not with the statement of the petitioner but the expert report, but in fact the petitioner had very little to say *ad rem* and the witnesses provided evidence that supported the expert's conclusions.

### 1095 3°

**REDC 71 (2014), 487-505: c. Josepho Sciacca, ponente: Nulidad matrimonial. Sentencia definitiva. 131/2010.** (Sentence)

This case concerns a mentally retarded female respondent. It received a negative decision at first instance on all grounds (lack of sufficient use of reason, inability to assume the essential obligations of marriage and deceit), the respondent's mental condition not being judged sufficiently grave. Second instance declared for nullity on the ground of inability alone. Sciacca in this third instance sentence provides a relatively short but clear and methodical *in*

*iure* section, including a paragraph on mental retardment (*oligofrenia seu phrenasthenia*). Further instruction of the case was undertaken in interviews with both principal parties and with an additional expert *peritia*. It became clear that from childhood the respondent's mental faculties were not developing normally. Throughout her formal education she attended special schools, and even there, with the limited intellectual demands made on her, she struggled greatly and had to repeat some courses four times. Other instances are given by her parents of her mental difficulty in grasping even simple straightforward day-to-day situations. She was also inordinately dependent on her parents and the decisions they made for her. The psychologist found that she lacked sufficient autonomy and that her condition prevented her from establishing the minimal interpersonal relationship required for marriage. The second instance decision was upheld. A Spanish translation is given in a parallel column alongside the original Latin text. A commentary on this sentence is provided by José María Díaz Moreno.

## 1095 3º

**RMDC 19 (2013), 415-436: Decisio R.P.D. Mauricio Monier, Sentencia definitiva del 30 de abril de 2004.** (Sentence)

The case decided by the Rota involved a consideration of whether the marriage was invalid on the ground of incapacity on the part of the husband to assume the essential obligations of marriage, and/or lack of discretion of judgement on his part. At first sight it was clear that there was no bad will on the part of the husband; however, conjugal life brought to light a pre-existing psychic anomaly in him. His behaviour revealed a grave lack of equilibrium which seriously impeded any normal interpersonal relationship, even at a minimal level. It transpired that throughout his life he had been heavily dependent on his mother, and in effect he regarded the marriage as the transference of that dependence from one figure of authority to another. This personality disorder was latent up to the moment it became clear that it was impossible for him to lead a common life normally. The Rota gave an affirmative verdict on the ground of inability to assume the essential obligations of marriage.

## 1097-1098

**SCL IX (2013), 253-278: Apostolic Tribunal of the Roman Rota: Error Concerning a Quality (can. 1097 §2) and Deceit (can. 1098); Sentence *coram* Sciacca, 25 June 2010 (Italy).** (Sentence)

The decision was affirmative on deceit, upholding that of the court of second instance. S. emphasizes the weight given by Vatican II to the human attributes

of truth and freedom in matrimonial consent. This restored image of marriage is acknowledged by the ground of deceit. The concealing of a grave negative quality, whether physical or moral, prevents the establishment of a community of life and love, particularly when the other party becomes aware of this and the conjugal relationship immediately collapses. S. focuses on deceit by omission and holds that there is a moral and juridical obligation to make known such a negative quality, e.g. a contagious disease or abuse of drugs, as in the case in question. An important element of proof is the reaction of the deceived party on discovering their error. The marriage lasted just three months.

## 1097-1098

**SCL IX (2013), 279-308: Apostolic Tribunal of the Roman Rota: Total Simulation (can. 1101 §2), Error Concerning a Quality (can. 1097 §2) and Deceit (can. 1098). Sentence *coram* Alwan, 9 July 2010 (Lebanon).** (Sentence)

The decision was affirmative but only on total simulation. The case concerned a woman who married an eminent politician some 28 years older than herself for the status and wealth that accompanied this, something she had previously done with a previous husband to whom she had been civilly married. When he stepped down as a parliamentarian, as the Christian deputies were boycotting the election, she no longer wanted to be his wife but fought the nullity petition and launched an action for restoration of conjugal rights because she wanted eventually to inherit his money. Often, as in this case, the alleged simulator denies simulation. The evidence that he was in error or deceived about the circumstances of his wife's first marriage was not convincing.

## 1098

**QDE 27 (2014), 90-127: Fabio Franchetto: Fatti circonstanziali e qualità personali in relazione all'errore doloso: riscontri giurisprudenziali.** (Article)

F. examines the way that the Rota has looked at the concept of quality, relating the necessary objectivity of the quality with the subjective reaction of the other party, and going on to analyse a variety of possible situations which might count as qualities. At the level of the individual case, three elements must be demonstrated: the intention of the one deceiving, the quality, and the determining error. F. uses this clarification to analyse a number of Rotal sentences to see how the Rota has viewed possible claims of deceit.

## 1098

**SCL IX (2013), 235-252: Apostolic Tribunal of the Roman Rota: Deceit (can. 1098); Sentence *coram* Erlebach, 8 July 2004 (Trento, Italy).** (Sentence)

Before the wedding the male respondent admitted infidelity but promised to be faithful in future. The wedding went ahead but six years later his paramour became pregnant by him. The petitioner sought a declaration of nullity on the grounds of deceit. This decision upholds the negative decision at second instance. E. clarifies the background to canon 1098 and the relationship between error and deceit. For deceit to be proven four elements must all be verified: deceit or fraudulent action (positive or negative and by whomsoever perpetrated); error on the part of the person deceived; a quality of the other person which by its very nature can gravely disturb the partnership of conjugal life, objectively considered; the end of inducing the deceived person to celebrate marriage.

## 1099

**IC 54 (2014), 87-106: Ciro Tammaro: Alcune osservazioni storico-giuridiche sul concetto di «volontà prevalente» nella fattispecie simulatoria relativa all'esclusione della dignità sacramentale.** (Article)

See below, canon 1101.

## 1101

**AA XIX (2013), 303-307: Benedicto XVI: Alocución a la Rota Romana (26 de enero de 2013).** (Address)

See above, canon 1055.

## 1101

**AA XIX (2013), 309-314: Hugo Adrián von Ustinov: Benedicto XVI no innovó el 26 de enero de 2013.** (Commentary)

See above, canon 1055.

## 1101

**BV 74 (2014), 93-105: Andrej Saje: Simulacija privolitve v zakon ( = Simulation of matrimonial consent).** (Article)

The terms “total simulation” and “partial simulation” are used in legal judicial practice to indicate the complete exclusion of marriage or the exclusion of some of its essential elements (canon 1101). Simulation in this case indicates discordance between the external signs and the internal decision at the moment of matrimonial consent. Total simulation arises when the contracting party excludes marriage itself or tries to enter into the contract with an intention other than that given by the Creator to the natural covenant between a man and a woman. A person who excludes the value of Christian marriage or rejects any type of institutional matrimonial order or arrangement simulates consent totally. Partial simulation arises when the contracting party excludes one or several essential elements of the matrimonial partnership (canons 1055 §1 and 1056), namely the good of the spouses, indissolubility, procreation of offspring, fidelity, and the sacramental dimension of marriage. Matrimonial consent is invalid only in the case when at least one of the contracting parties excludes marriage or one of its essential elements through a positive act of will. Nullity has to be proven in an ecclesiastical tribunal through examination of the parties and credible witnesses. S. discusses the different forms of simulation, and provides an analysis of the development of legal judicial practice in the most recent decades with regard to the proof of nullity of marriage due to simulation.

## 1101

**EIC 53 (2013), 475-496: Alessandro Giraudo: L’oggetto della prova e i conseguenti mezzi di prova nelle cause di simulazione.** (Article)

G. examines the object of proof in marriage nullity cases involving simulation of consent by the spouses, and deals with the question of the most suitable proofs in such cases. He places particular emphasis on the aspects which those involved in the process need to bear in mind during the preparatory phase of the case, especially with regard to the elements necessary for establishing moral certainty as to the nullity or otherwise of the marriage bond.

## 1101

**IC 54 (2014), 87-106: Ciro Tammaro: Alcune osservazioni storico-giuridiche sul concetto di «volontà prevalente» nella fattispecie simulatoria relativa all'esclusione della dignità sacramentale.** (Article)

T. deals with nullity of marriage as outlined in canon 1101 §2, and the role of "*dignitatis sacramentalis exclusio*" in canonical law and procedure. In his preliminary comments he explores the essential nature of "*dignitas sacramentalis*" in the tradition of canonical trials, with particular reference to the concept of "*voluntas praevalens*" in former theological and canonical theories. He looks at "*dignitas sacramentalis*" in relation to the concept of "*actus positivus voluntatis excludens*", before analysing the meaning of "*fides*" and "*intentio*". Finally he examines the relationship between canons 1099 and 1101.

## 1101

**IC 54 (2014), 255-276: Sentencia del Tribunal de la Rota Romana. *Coram* Caberletti, 13 de enero de 2011.** (Article)

The Rota declared a marriage to be null on the ground of exclusion of the *bonum prolis* on the part of the respondent male, even though the marriage had borne two children. The first child, a boy, was born after the female petitioner had suffered a road accident which interfered with the tests which the couple used to track her menstrual cycle; the child was treated with hatred and rejection by the father, who acted violently towards his wife, convinced that she had deceived him. The second was born eight years later, after the couple had been assured by a gynaecologist that it would be impossible for the woman to conceive. The husband, despite his enduring determination not to have children, nevertheless accepted this second child more peaceably as he realised he had not been deceived in this case by the petitioner. The Rota considered that there was sufficient evidence of the respondent's determination to retain exclusive control over the right to acts suitable in themselves for the generation of children, and that from the outset he had made up his mind that it was up to him to decide whether, and when, to have children, if he decided to have them at all.

## 1101

**IC 54 (2014), 277-292: Carmen Peña: ¿Declaración de nulidad matrimonial por exclusión del *bonum prolis* a pesar de la efectiva generación de la prole? A propósito de la sentencia rotal c. Caberletti de 13 de enero de 2011.** (Commentary)

See preceding entry. In her commentary P. looks at the way the case developed at first and second instance, before dealing with the essential ordering of marriage to children and the centrality of the positive act of will in simulation. She then turns her attention to the ways in which simulation may be proved.

## 1101

**SCL IX (2013), 279-308: Apostolic Tribunal of the Roman Rota: Total Simulation (can. 1101 §2), Error Concerning a Quality (can. 1097 §2) and Deceit (can. 1098). Sentence *coram* Alwan, 9 July 2010 (Lebanon).** (Sentence)

See above, canons 1097-1098.

## 1102

**ADC 3 (abril 2014), 325-381: Jesús Bogarín Díaz: La condición potestativa en una reciente rotal (Sentencia *coram* Pinto de 18 de junio de 2010: comentario, texto y traducción).** (Sentence and commentary)

B.D. translates (into Spanish) the Rotal sentence *coram* Pinto of 18 June 2010, declaring a marriage null on the ground of the presence at the time of the wedding of a future condition (that of living in a particular town), and imposing a prohibition on remarriage. After describing the progression of the case at first, second and third instances, B.D. looks at Rotal jurisprudence on the exclusion of indissolubility and condition referred to in the sentence.

## 1108

**SCL IX (2013), 385-398: Victor D'Souza: Delegating a Deacon to Bless the Marriage of a Latin and an Eastern Catholic.** (Opinion)

See above, CCEO canon 828.

### 1108-1114

**LW 118/4 (2012), 230-250: Sebastian Payyappilly: Sacred Rite and the Validity of Inter-Ritual and Mixed Marriages.** (Article)

See above, CCEO canons 828-835.

### 1108-1129

**AC 53 (2011), 341-355: Bruno Gonçalves: Les différents aspects canoniques et pastoraux du dossier de mariage en France.** (Article)

See above, canons 1063-1071.

### 1117

**AkK 182 (2013), 64-102: M. Antonia Sondermann: Das Motu Proprio *Omnium in mentem* und seine eherechtlichen Konsequenzen.** (Article)

See above, canon 1086.

### 1124

**AkK 182 (2013), 64-102: M. Antonia Sondermann: Das Motu Proprio *Omnium in mentem* und seine eherechtlichen Konsequenzen.** (Article)

See above, canon 1086.

### 1124-1128

**Ang 90 (2013), 293-329: Carlo Fabris: L'ecumenismo nel contesto codiciale: lettura critica e prospettive di sviluppo della disciplina vigente.** (Article)

See above, canon 755.

### 1127

**LW 118/4 (2012), 230-250: Sebastian Payyappilly: Sacred Rite and the Validity of Inter-Ritual and Mixed Marriages.** (Article)

See above, CCEO canons 828-835.

**1142**

**Ap LXXXV (2012), 587-602: Grzegorz Erlebach: Nuove competenze della Rota Romana in seguito al *motu proprio "Quaerit semper".*** (Commentary)

See below, canons 1708-1712.

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

## 1166-1172

**AA XIX (2013), 317-338: José Bonet Alcón: Los Sacramentales en los Códigos y el Concilio.** (Address)

B.A. begins with a historical background to the development of the concept of sacramentals in the life of the Church. It was only in the CIC/17 that a clear definition was reached: things or actions which the Church, in a certain imitation of the sacraments, uses to achieve mainly spiritual effects through its intercession. B.A. comments on the nature of the sacramentals as sacred signs, as offering a possible clarification of the vague and confusing phrase "in a certain imitation of the sacraments". An essential difference between sacraments and sacramentals is that the former were instituted by Christ, the latter by the Church. Vatican II does in fact specifically describe sacramentals as "signs" rather than "things or actions", thereby highlighting their quasi-sacramental nature. The Council also permits local Church authorities to license "particular rites accommodated to the needs of each region"; this could have particular relevance in mission lands where some rites of purely natural religion, not inimical to the spirit of Christianity, could be incorporated into local religious life. However the present Code reiterates the injunction of the CIC/17 that only the Holy See can establish new sacramentals; the CCEO, nevertheless, remits to the particular Churches all juridical-canonical regulation of sacramentals. Not only clerics but also lay persons with the necessary qualities may administer sacramentals. B.A. concludes with some considerations on the Ritual Book of Blessings, sacramentals of the Church in the fullest sense, and he advocates their greater extension to cover more areas and circumstances of modern social life.

## 1172

**QDE 27 (2014), 10-22: Davide Salvatori: Indemoniati ed esorcismi: alcuni chiarimenti dal punto di vista terminologico.** (Article)

S. studies the terms "exorcist", "possessed" and "exorcism" in the light of both the Rites of Exorcism of 1614 and 2004, the CIC/17 and CIC/83 and the *Catechism of the Catholic Church*, so as to trace the evolution of the terms through both liturgical and canonical norms. He also clarifies their relationship with the minor exorcism of Pope Leo XIII.

## 1172

**QDE 27 (2014), 23-55: Fabio Franchetto: Il ministro dell'esorcismo.** (Article)

F. sets the work of the minister of exorcism in the context of both the theology presented in the *Praenotanda* to the revised Ritual of 2004 and the history of exorcism. He makes clear that the minister must be a priest (arguing that the Code's use of *presbyter* is related to the need for a licence), and then examines both the need for and the nature of the licence required by the Code, looking in particular at the case of an exorcism carried out without a licence and the question of whom the licence permits one to minister to. The Code provides that the licence should be given by the local Ordinary; F. contrasts this with the preference of the Ritual that it be given by the diocesan bishop. F. then looks at the qualities necessary in an exorcist, and considers the duties of the exorcist in relation to the act of exorcism, the person being exorcised, and the bishop.

## 1172

**QDE 27 (2014), 56-68: Fabio Marini: La liturgia dell'esorcismo.** (Article)

M. considers the new Ritual for exorcism, making the point that it establishes exorcism as a liturgical action. From this he draws conclusions about where and how it should be celebrated and which formulas should be used. M. then notes that the use of the preceding Ritual appears to be legitimate, and that it is still permitted to use the minor exorcism of Pope Leo XIII.

## 1173-1175

**N XLIX 9-10/13, 479-507: Paul Debout: Le renouveau liturgique dans la continuité: l'exemple et la chance de l'Office Bénédictin.** (Article)

D. studies the relationship between the Benedictine Office and the Roman Office over the course of history, and in particular the impact of Trent, the reforms of St Pius X, and Vatican II.

## BOOK IV, PART III: SACRED PLACES AND TIMES

### 1189

**AA XIX (2013), 269-285: Hugo Adrián von Ustinov: La tutela de los bienes culturales en el Derecho Canónico.** (Conference presentation)

See below, canons 1283-1284.

### 1222

**Ap LXXXV (2012), 413-464: Supreme Tribunal of the Apostolic Signatura: *Decreta* and *adnotationes*.** (Documents)

These four documents – two sentences and two decrees – principally concern the reduction of a church to profane use, although one of them also concerns the union of two parishes. A commentary is provided by Cristian Begus at pp. 445-464. (See also *Canon Law Abstracts*, no. 112, p. 94.)

### 1222

**IE XXVI (2014), 89-111: Supremo Tribunale della Segnatura Apostolica: Decreto del Segretario, *Scelta della chiesa di una nuova parrocchia,* 5 luglio 2011; Decreto del Prefetto in Congresso, *Soppressione di parrocchia,* 23 settembre 2011; Decreto del Segretario, *Circa l'uso di una chiesa,* 20 gennaio 2012 (con *nota* di Javier Canosa, *I diversi effetti della tutela garantita dal diritto amministrativo canonico*).** (Documents and commentary)

See below, canon 1445.

### 1222

**SCL IX (2013), 27-36: Congregation for the Clergy: Procedural Guidelines for the Modification of Parishes, the Closure, Relegation of Churches to Profane but not Sordid Use and the Alienation of the Same.** (Document)

Given here is the text of a circular letter from the Congregation for the Clergy dated 30 April 2013. The document falls into three sections in order to distinguish between often related but distinct canonical steps. The first describes four possible types of modifications to parishes and the justification required, which must be specific to the parish even if it takes into account wider diocesan concerns. It outlines the consultation process required. A second issue is the

closure of a church building and its relegation to profane but not sordid use. To close a church permanently even without the intention to turn it over to profane use is regarded as equivalent to this step and all the requirements of canon 1222 §2 must be fulfilled. The document sets out a number of reasons that do not in themselves constitute a grave cause, e.g. different elements amounting to "redundancy" or an overall pastoral plan. The third section covers alienation and similar transactions and sets out an order of preference for other uses, as well as explaining the procedures to be followed both in reduction to secular use and in alienation.

## 1249-1253

**EIC 54 (2014), 103-146: Geraldina Boni: Digiuno e astinenza in diritto canonico. *'Residui' di una pratica religiosa dei secoli passati?*** (Article)

B. describes the historical evolution of canonical regulations on the Eucharistic fast, penitential fasting and abstinence from meat, examining the pseudo-apostolic collections of the early centuries, the very numerous and demanding precepts of the Middle Ages, and the later process of standardization carried out by the ecclesiastical legislator. Important modifications were introduced by Pope Paul VI following the reforms of Vatican II, which mitigated the harshness of the previous regulations. B. then looks at the relevant canons in the CIC/83 and the CCEO, as well as some recent provisions laid down by the Italian Bishops' Conference. She asks why fasting and abstinence have fallen into disuse despite retaining the same meaning and value as they have always had.

## BOOK V: THE TEMPORAL GOODS OF THE CHURCH

### 1254-1310

**AA XIX (2013), 289-302: Mauricio A. Landra: La responsabilidad del Obispo diocesano en la caridad organizada.** (Commentary)

L. provides a commentary on Benedict XVI's *motu proprio Intima Ecclesiae Natura*. This papal document offers a normative framework for the better presentation of the many varied organized forms of charitable works carried out by the Church. There is no canon which directly mentions the primary responsibility of the diocesan bishop in the task of organizing charity, although it is implicit in a number of canons emphasizing the bishop as a witness and example of charity to all; the present *motu proprio* helps to fill that lacuna. The organized charitable initiatives of the faithful are carried out under the oversight of the diocesan bishop. It is he who will discern the suitability or otherwise of new organizations, and coordinate existing ones to avoid unnecessary duplication or confusion. Diocesan chaplains or an episcopal vicar for charity can be appointed in order to highlight the insertion of these organizations into the life of the Church. Cooperation with other similar non-Catholic bodies or State institutions should also be developed, but caution must be used regarding groups which do not share the Christian spirit or which work against the moral teachings of the Church.

### 1254-1310

**Ap LXXXVI (2013), 99-123: Francesco Cattozzella: Una prima lettura del m.p. "*Intima Ecclesiae Natura*" sul servizio della carità.** (Article)

Benedict XVI's *motu proprio Intima Ecclesiae Natura* (11 November 2012) regulates the service of charity in the Church and fills the legislative lacuna highlighted by *Deus Caritas Est.* C. explores the link between charity, which is rooted in God himself (cf. 1 Jn 4:8) and identified as the greatest of the three theological virtues (cf. 1 Cor 13:13), and ecclesial action. Charity is a non-negotiable aspect of the Christian faith, and is lived by the faithful as individuals and as a community, and therefore it is necessary to have an organization which recognizes and builds up the different skills and roles in the Church in order to ensure that they are exercised appropriately and fruitfully. The diocesan bishop has the responsibility of identifying those charitable organizations which need to comply with the legislation and the promotion, coordination and oversight of the Church's charitable work.

### 1254-1310

**EIC 53 (2013), 455-473: Juan Ignacio Arrieta: Le nuove norme pontificie sulle associazioni cattoliche di beneficienza.** (Commentary)

A. analyses Pope Benedict XVI's *motu proprio Intima Ecclesiae Natura* of 11 November 2012, which sets out the principal responsibilities of those involved in Catholic organizations and associations having charitable and social aims. He comments on each of the norms introduced by the papal document.

### 1259-1310

**SCL IX (2013), 123-152: John Renken: Canonical Challenges in Caring for Parish Property.** (Article)

R. develops a paper presented to the Canadian Canon Law Society at their 2013 gathering in Sudbury, Ontario. While his focus is on the parish, much would apply also to dioceses and other juridical persons. He considers six topics: the protection of parish property by the civil legal system; the legitimate designation of "stable patrimony"; identifying acts of extraordinary administration; promoting the effective involvement of the parish finance council; providing diocesan assistance, particular law and other instructions; and the application of penal law to financial malfeasance.

### 1269

**AA XIX (2013), 269-285: Hugo Adrián von Ustinov: La tutela de los bienes culturales en el Derecho Canónico.** (Conference presentation)

See below, canons 1283-1284.

### 1274

**FCan VIII/2 (2013), 9-41: Mário Rui de Oliveira: A remuneração e sustentamento no Ministério do Presbítero e na vida da Igreja.** (Article)

See above, canons 281-282.

## 1283-1284

**AA XIX (2013), 269-285: Hugo Adrián von Ustinov: La tutela de los bienes culturales en el Derecho Canónico.** (Conference presentation)

In his introduction U. describes the need of the Church, as of every human society, to avail itself of material goods in pursuit of its (spiritual) aims. Some of these goods (objects, buildings, monuments, documents, etc.) acquire a special cultural or historical value, especially those dedicated to divine worship and liturgical use. Every administrator must draw up an inventory of all sacred objects in his care, some of which may also be of cultural value. Although the primary reason for this legislation is to ensure the dignified safekeeping and use of sacred objects, it also covers those among them which are of cultural value. In the matter of prescription, the sacred goods of public juridical persons may only be acquired by another public juridical person, not by private juridical persons, associations or physical persons; this is to avoid the loss of those objects to the patrimony of the Church. To declassify any good from the category of sacred, the Ordinary must first have the consultative vote of the council of priests and the consent of those who have a claim of right over it, always ensuring that the spiritual good of the faithful does not suffer. The Code mentions but does not define "precious goods"; the meaning, however, is wider than simply monetary value and can refer, among other categories, to their antiquity or their artistic or historical value. For the alienation of goods above the maximum value set by the episcopal conference, not only is the consent of the diocesan finance council and the college of consultors required, but also, in the case of goods precious by reason of artistic or historical value or *ex voto* offerings of the faithful, the permission of the Holy See must be obtained.

## 1284

**AA XIX (2013), 223-250: Octavio Lo Prete: Tutela del patrimonio cultural: marco jurídico estatal.** (Conference presentation)

Lo P. examines the situation concerning cultural patrimony or heritage as currently found in Argentina, specifically as affecting the different religious confessions in that country. The Catholic Church is in a different position from other religious groups insofar as there is an Accord (1966) between the State and the Holy See, and in civil law the Church is recognized as a public juridical person (other religious groups are simply civil associations). The civil law also remits to canon law matters dealing with the alienation of goods. Otherwise, there is no specific accord between the State and religious confessions concerning goods and property which are regulated by general law. Over the years, Argentina has also signed a number of international agreements, mostly through UNESCO, concerning cultural and historical patrimony. There exists a

National Commission for Museums, Monuments and Places of Historic Interest, which maintains a register of such entities; no work of renovation, remodelling, etc., may be undertaken without the Commission's consent, but although the law states that the Commission "will cooperate" in the funding for such projects, this is often far from being the practice. Given that the Spanish colonial period has mostly been registered, in recent years the concept of cultural and historical heritage has been extended to the pre-colonial period and to the 20th century. T. laments that the Commission's Achilles' heel, despite its ambitious plans, is its lack of economic resources to put them into practice.

### 1288

**AA XIX (2013), 153-177: Helmuth Pree: El empleo de instrumentos jurídico-civiles en la administración eclesiástica. Posibilidades y límites.** (Article)

See above, canon 22.

### 1290

**AA XIX (2013), 153-177: Helmuth Pree: El empleo de instrumentos jurídico-civiles en la administración eclesiástica. Posibilidades y límites.** (Article)

See above, canon 22.

### 1291-1298

**SCL IX (2013), 27-36: Congregation for the Clergy: Procedural Guidelines for the Modification of Parishes, the Closure, Relegation of Churches to Profane but not Sordid Use and the Alienation of the Same.** (Document)

See above, canon 1222.

### 1292

**AA XIX (2013), 269-285: Hugo Adrián von Ustinov: La tutela de los bienes culturales en el Derecho Canónico.** (Conference presentation)

See above, canons 1283-1284.

## BOOK VI: SANCTIONS IN THE CHURCH

### 1311-1363

**Comm 45 (2013), 513-532: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum "De Iure Poenali" (Sessio IV): Primum schema generale *de delictis et poenis* (exceptum *de poenis in singularia delicta*) cum Adnotationes ac Addenda.** (Report)

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

### 1311-1363

**Comm 45 (2013), 533-547: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum "De Iure Poenali" (Sessio IV): Relatio Sessionis IV[ae].** (Report)

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

### 1321

**AA XIX (2013), 105-151: Ricardo Medina: Imputabilidad, eximentes, atenuantes y agravantes en los delitos sexuales de clérigos con menores.** (Article)

See below, canon 1395.

### 1321

**Ang 90 (2013), 391-446: Piotr Skonieczny: La presunzione dell'imputabilità (can. 1321, §3 CIC/83): commento ad un disposto da abrogare.** (Article)

After presenting the notion of presumption in general legal theory and in canon law, and the historical evolution of canon 1321 §3, S. goes on to criticize this norm and the presumption of imputability itself. He considers that the presumption referred to here is not a true procedural presumption; and even if it is taken as a "substantive" presumption it is of little help in practice. Hence he advocates the abrogation of canon 1321 §3.

## 1325

**AA XIX (2013), 105-151: Ricardo Medina: Imputabilidad, eximentes, atenuantes y agravantes en los delitos sexuales de clérigos con menores.** (Article)

See below, canon 1395.

## 1329

**AC 53 (2011), 131-162: Jean-Louis Marchal: La complicité en droit pénal canonique: décryptage du canon 1329.** (Article)

M. looks at the meaning of conspiracy in canon 1329, and examines the conditions for the existence of conspiracy and its canonical effects. He proposes that the law on conspiracy should also be made applicable to juridical persons, and suggests a simplification of the existing canon.

## 1329

**AC 53 (2011), 163-182: Jean-Louis Marchal: Complicité et droit pénal canonique: quelques questions d'actualité.** (Article)

M. studies the question of conspiracy in relation to three specific offences: violation of the law of celibacy applicable to clerics and religious in perpetual vows (canon 1394); violation of the law forbidding episcopal ordination without a pontifical mandate (canon 1382); violation of the law forbidding the procuring of an abortion (canon 1398), especially in the light of developments in secular laws and in medical techniques which give rise to a number of situations which could hardly have been envisaged in 1983.

## 1331-1340

**Comm 45 (2013), 484-495: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum "De Iure Poenali" (Sessio IV): Praevium canonum schema *De poenis in specie* cum Appendice et Adnotationibus, in tertia Sessione emendatum et a Pio Ciprotti apparatum.** (Report)

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

## 1331-1340

**Comm 45 (2013), 496-512: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum "De Iure Poenali" (Sessio IV): Adnotationes Consultorum ad Praevium canonum schema de Poenis in specie a Relatore paratum.** (Report)

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

## 1341

**ADC 3 (abril 2014), 13-30: Michele Riondino: Justicia restaurativa y derecho penal canónico. Aspectos sustanciales.** (Article)

R. attempts, without dwelling too much on theoretical aspects, to present restorative penal justice by comparing it with the two models of penal law upon which it is supposed to represent an improvement, whether in relation to the purpose of the penalty or in relation to its characteristics and content. He stresses that it is not the task of the penalty itself but rather that of the penal process to express a social judgement on the gravity of the crime, in the light of the various subjective aspects affecting the victim. He sets out certain problems of interpretation arising out of current penal canon law, for the solving of which it is useful to have recourse to the theory of restorative justice. If one bears in mind that the aim is to restore that justice upon which the identity of the saving Church is based, one is provided with orientation concerning the purpose of the penalty and also its positive content. Dealing with higher justice, Pope Emeritus Benedict, in his Lenten message of 2010, set out three key ideas which are helpful when reflecting on the offence, penal reaction to the offence, and the restoration of justice.

## 1342

**ADC 3 (abril 2014), 31-51: Manuel J. Arroba Conde: Justicia reparativa y derecho penal canónico. Aspectos procesales.** (Article)

A.C. examines the procedural aspects contained within the theory of restorative justice and their possible application to canonical penal processes. He first offers a brief reflection on the use of mediation and on the values which it involves, pointing out the possibility of taking these into account, not only as alternative ways of concluding a process, but also at the moment of setting a process in motion. On the question of the possibilities and limitations in this regard in current canon law, he focuses his attention on the preliminary investigation, the participation of victims, and the choice of the type of process (judicial or

administrative). He makes three proposals *de iure condendo*: a more detailed specification of the conditions required to be able to choose an extrajudicial procedure; obligatory reference to the criteria for assessing proofs set out in canon 1572; and the express inclusion of the possibility of mediation in the awaited reform of the canonical penal process. A.C. ends by mentioning the three most serious problems involved in the current tendency to avoid judicial processes as a way of applying sanctions: the lack of safeguards for the accused under the pretext of not falling into an allegedly excessive formalism; the temptation to apply sanctions with the principal aim of protecting institutional interests and of providing evidence of exemplary behaviour; the inevitability of losing sight of the centrality of the person in canonical procedural law.

### 1342

**ADC 3 (abril 2014), 73-148: Carlos López Segovia: El derecho a la defensa en el proceso penal administrativo.** (Article)

See below, canons 1720-1728.

### 1361

**AA XIX (2013), 11-37: Ariel David Busso: Algunas cuestiones canónicas surgidas de la complejidad de la división de los fueros interno y externo.** (Article)

See above, canon 130.

### 1382

**AC 53 (2011), 163-182: Jean-Louis Marchal: Complicité et droit pénal canonique: quelques questions d'actualité.** (Article)

See above, canon 1329.

### 1394

**AC 53 (2011), 163-182: Jean-Louis Marchal: Complicité et droit pénal canonique: quelques questions d'actualité.** (Article)

See above, canon 1329.

## 1395

**AA XIX (2013), 105-151: Ricardo Medina: Imputabilidad, eximentes, atenuantes y agravantes en los delitos sexuales de clérigos con menores.** (Article)

M. examines the subject of sexual abuse of minors by clerics with a view to understanding the circumstances which may affect imputability for this crime, such as various mental and psychological disorders. The need for clear standards in discerning imputability is a matter of the utmost importance for the obtaining of justice both in civil and canon law. Neither the existence of a purely biological-psychiatric illness nor a purely psychological criterion (looking only at the psychological effects on mind and will regardless of cause) are sufficient in themselves. A mixed psychiatric-psychological criterion is better able to discern imputability. M. notes the varying views of experts in this matter and the inconsistency of some sentences of the Spanish Penal Supreme Court to demonstrate the lack of total agreement or uniformity in deciding imputability. There are many possible contributory factors which can play a part in leading to various forms of paraphilia (including paedophilia), ranging from attention deficit hyperactivity disorder, mental retardation, trauma and brain damage to endocrine anomalies, alcoholism and personality disorders. It is also often the case that different paraphilic behaviours are present in the same person. Any of these factors may have a bearing on the imputability of the abuser of minors. In the canonical forum once the external violation of a law is demonstrated, imputability is presumed, unless it can be shown otherwise (canon 1321 §3). This presumption cannot be overturned simply by the presence of some psychological disorder; there must also be other indications which clearly impinge on the mind or will of the accused and which could lessen or entirely remove imputability for the offence. A psychological examination of the accused (if he agrees), while not *per se* determinant, would be a valuable element of proof in reaching a decision, but always bearing in mind that not every mental condition relieves a person of moral and juridical responsibility for their actions. There are undoubtedly practical problems in dealing with cases of clerical paedophilia, not least in establishing that the deed took place and discerning the level of imputability. It is a fact that some people (including a small number of clerics) suffer from an addiction to sex (as others may do to alcohol, drugs or gambling), but society is reluctant to accept, in the case of abuse of children or adolescents, that such a diagnosis may lessen the responsibility of the abuser. Yet if the diagnosis is shown to be true, the Church's courts must deal with those cases in an appropriate and humane manner, as justice itself demands.

### 1395

**Ap LXXXVI (2013), 149-176: Michele Riondino: La Convenzione di Lanzarote. Aspetti giuridici e canonici in tema di abuso sui minori.** (Article)

R. presents a summary of the guiding principles of the "Lanzarote Convention" (the Council of Europe's Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, adopted on 12 October 2012). He also looks at the protection of children in Italian law, before examining certain aspects of the Church's response to the sexual abuse of minors perpetrated by clerics, including Benedict XVI's letter to the Catholics of Ireland, the revision of the *motu proprio Sacramentorum Sanctitatis Tutela* and the circular letter of the Congregation for the Doctrine of the Faith. He argues that Pope Francis's call that all people, especially children, should be kept safe from harm needs to be translated into concrete action.

### 1395

**IC 54 (2014), 145-183: José Bernal: Cuestiones canónicas sobre los delitos más graves contra el sexto mandamiento del Decálogo.** (Article)

B. offers an overview of the norms governing violations of the sixth commandment as contained in the CIC/83 as well as in the CIC/17 and the 1962 Instruction *Crimen Sollicitationis*. A significant part of the article addresses the *graviora delicta* reserved to the Congregation for the Doctrine of the Faith, in accordance with the *motu proprio Sacramentorum Sanctitatis Tutela* (2010 revision). B. explores the most important canonical aspects of these offences, focusing on factors that may affect imputability (the consumption of alcohol or drugs, psychosexual disorders, etc.) and as a consequence, the punishment of such violations. He emphasizes the need for prudence in assessing the true seriousness of each case, taking into account all the specific circumstances, so as to establish the fairest punishment.

### 1395

**SCL IX (2013), 37-64: Government of India: The Protection of Children from Sexual Offences Act, 2012.** (Document)

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

## 1395

**SCL IX (2013), 65-70: Jose Parappully: A Praiseworthy but Flawed Legislation.** (Comment)

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

## 1398

**AC 53 (2011), 163-182: Jean-Louis Marchal: Complicité et droit pénal canonique: quelques questions d'actualité.** (Article)

See above, canon 1329.

## 1399

**ADC 3 (abril 2014), 53-72: Jaime González Argente: La norma general penal (c. 1399). ¿Una excepción al principio *nulla poena sine lege poenali praevia*?** (Article)

Canon 1399 is located within Book VI of the CIC/83 dealing with sanctions in the Church. It is a general norm allowing the imposition of a penalty for an offence not specifically included in any of the other categories in Book VI. Is this canon an exception to, or does it contradict, the principle of legality? What are the consequences of maintaining this exception? What would be the consequences of abolishing it? An attempt to answer these questions involves examining the origins of the principle of legality in penal law and its presence in the CIC/17 and in the current Code, in order to evaluate it in the light of the new understanding of the horizons and application of canonical penal law, within the *traditio canonica*.

# BOOK VII: PROCESSES

## 1403

**REDC 71 (2014), 401-433: Pierre Kaziri: Estudio histórico-jurídico de las pruebas en las causas de canonización.** (Article)

K.'s article examines the proofs required for canonization as they developed throughout history. In the early centuries the popular cult of martyrs whose fate was known to all required no further proof, but as other holy men and women became objects of cult and devotion evidence had to be provided to prove their holiness of life. However, it was only around the 9th century that an embryonic procedural method began to emerge, and around the 11th century that this had crystallized into a proper procedure for obtaining trustworthy information from reliable eyewitness sources. Until the 13th century, when they became an exclusive papal prerogative, canonizations were carried out by the local bishop. With the reforms of Urban VIII (1623-1644) and the systematization of Benedict XIV (1740-1758) the process began to take on the appearance it enjoyed in more modern times, particularly as far as the examination of proofs was concerned. These have fundamentally remained unchanged throughout history but have been adapted in keeping with the demands of the relevant procedures: martyrdom, holiness of life, practice of virtue to an extraordinary or heroic degree, and signs and miracles. The CIC/17 gave unity and cohesion to the canonization process and this was further refined by Pius XI's 1930 *motu proprio Già da qualche tempo* dealing with historic cases for which there were no contemporary eyewitness accounts. With Paul VI's 1969 reform (the *motu proprio Sanctitas Clarior*) and the CIC/83 the initial process of instruction and investigation is undertaken at local diocesan level by the Congregation for the Causes of Saints. The initiative of the local Church in proposing candidates for canonization and providing proofs is now much enhanced.

## 1420-1421

**SCL IX (2013), 407-422: Victor D'Souza: Academic Qualification for Tribunal Ministers: from Expertise to Academic Degrees?** (Opinion)

It is incorrect to state that the CIC/17 did not require academic degrees for major offices in the tribunal, although it did not require a degree for judges. The 1935 Instruction *Provida Mater* clarified that "expert" meant having adequate experience of tribunal work. It is important to understand the values and concerns lying behind the norms – adequate preparation for this important task. Pope John Paul II several times lamented wrong interpretative criteria and the need for better preparation. Only the Apostolic Signatura is competent to grant a

dispensation from the requirement of a degree. D'S. sets out the procedure for requesting this, and conditions that may be imposed in response. This enables the Signatura to decide whether someone is sufficiently expert. It is also the case that mere possession of a degree does not mean that someone is adequately prepared for this ministry.

### 1430-1437

**Comm 45 (2013), 309-310: Pope Francis: Allocutio Summi Pontificis ad eos qui die 8 mensis novembris 2013 in Conventu Plenario Supremi Tribunalis Signaturae Apostolicae partem habuerunt.** (Address)

In his address to the Apostolic Signatura Pope Francis focuses on the importance of the defender of the bond, particularly in cases where nullity of marriage is based on psychological grounds.

### 1430-1437

**SCL IX (2013), 21-24: Pope Francis: Address to the Plenary Assembly of the Supreme Tribunal of the Apostolic Signatura.** (Address)

See preceding entry.

### 1435

**SCL IX (2013), 407-422: Victor D'Souza: Academic Qualification for Tribunal Ministers: from Expertise to Academic Degrees?** (Opinion)

See above, canons 1420-1421.

### 1442-1445

**SCL IX (2013), 71-90: Raymond Burke: Ongoing Challenges in the Administration of Justice.** (Conference presentation)

This paper was presented at the 2013 Conference of the Canon Law Society of India. In it B. sets out the various ways in which the Signatura accomplishes its task of the correct administration of justice by general observations and specific comments when appropriate. He outlines the relationship between the Signatura and the Roman Rota, which provides a unity of jurisprudence both substantial and procedural. He underlines the responsibility of the diocesan bishop for his own tribunal and the need for properly trained canonists. (See also *Canon Law Abstracts*, no. 109, p. 126.)

### 1443-1444

**Ap LXXXV (2012), 587-602: Grzegorz Erlebach: Nuove competenze della Rota Romana in seguito al *motu proprio "Quaerit semper".*** (Commentary)

See below, canons 1708-1712.

### 1443-1444

**SCL IX (2013), 25-26: Secretary of State: Rescript Granting Extraordinary Faculties to the Roman Rota.** (Document)

The text of a rescript is given in Italian with a parallel unofficial English translation; it is dated 11 February 2013. It grants five extraordinary faculties to the Roman Rota for three years: Rotal sentences declaring the nullity of marriage are executive without the need for a second conforming sentence; there can be no recourse for a new proposition of a case once one of the parties has contracted a new canonical marriage; there is no appeal against Rotal decisions in matters of nullity of sentence or decrees; the Dean has the power to dispense for a grave cause from the Rotal Norms in a procedural matter; Rotal advocates are to be warned about the need for solicitude in dealing with cases entrusted to them so that no process before the Rota should exceed 18 months. (See also *Canon Law Abstracts*, no. 112, pp. 105-106.)

### 1445

**Ap LXXXV (2012), 259-316: Giuseppe Gurciullo: Personalismo e formalismo nei *Decreta expeditissime* della Rota Romana.** (Article)

G. looks at the various types of *decreta expeditissime* issued by the Roman Rota, and sees in them examples of the Rota's role within the context of the Church's judicial structure. He argues that its most frequent task is the regularization of the administration of justice in lower tribunals, especially when it declares their sentences null or illegitimate for various procedural reasons. He points particularly to the personalistic nature of the *recusatio*, the importance of evaluating the foundation of the *libellus*, the possibility of challenging the rejection of a *libellus*, the values of casuistry, the impossibility of appealing against some decrees, the role of the judge in granting the most appropriate means of challenge to a party, and the inclusion of procedural deficiencies in the new and grave arguments which can be presented in the *nova causae propositio.*

## 1445

**IE XXVI (2014), 89-111: Supremo Tribunale della Segnatura Apostolica: Decreto del Segretario, *Scelta della chiesa di una nuova parrocchia,* 5 luglio 2011; Decreto del Prefetto in Congresso, *Soppressione di parrocchia,* 23 settembre 2011; Decreto del Segretario, *Circa l'uso di una chiesa,* 20 gennaio 2012 (con *nota* di Javier Canosa, *I diversi effetti della tutela garantita dal diritto amministrativo canonico*).** (Documents and commentary)

The Latin and Italian texts of three decrees of the Apostolic Signatura are given, all of them relating to recourses from groups of faithful against decisions affecting their respective parish churches. Each recourse ultimately proved unsuccessful. The first decree makes clear that in an extinctive union of parishes, apart from the relevant juridical norms, the question of which church is to be chosen for the new parish is one of "opportuneness", it being possible to select for this purpose any of the churches within the territory. Reasons of opportuneness pertain to the merits of the case, and cannot therefore be challenged before the Signatura by way of a contentious-administrative recourse. The second decree establishes that it is not possible to bring a recourse before the Signatura against a decree from the Congregation for the Clergy unless it has been preceded by a hierarchical recourse to that Congregation. The third decree confirms that a diocesan bishop may lawfully decide on the limited use of a church under his jurisdiction, and this does not constitute a reduction of the church to profane use.

## 1446

**ADC 3 (abril 2014), 31-51: Manuel J. Arroba Conde: Justicia reparativa y derecho penal canónico. Aspectos procesales.** (Article)

See above, canon 1342.

## 1500

**AA XIX (2013), 153-177: Helmuth Pree: El empleo de instrumentos jurídico-civiles en la administración eclesiástica. Posibilidades y límites.** (Article)

See above, canon 22.

### 1526-1527

**EIC 53 (2013), 475-496: Alessandro Giraudo: L'oggetto della prova e i conseguenti mezzi di prova nelle cause di simulazione.** (Article)

See above, canon 1101.

### 1539-1546

**Ap LXXXV (2012), 541-584: Daniela Tarantino: *Instrumenta publica* ed *instrumenta privata*: la Prova documentale nel Diritto canonico codificato e nella prassi rotale.** (Article)

T. looks at the role of documentary evidence in canonical processes. She begins by looking at their role as pre-codified canon law, before examining legislation concerning them in both the CIC/17 and the CIC/83, as well as their use in the Congregation for the Causes of Saints and the Roman Rota. She concludes that written documents, particularly public documents, have an important testimonial role in canonical processes.

### 1572

**ADC 3 (abril 2014), 31-51: Manuel J. Arroba Conde: Justicia reparativa y derecho penal canónico. Aspectos procesales.** (Article)

See above, canon 1342.

### 1572-1573

**EIC 53 (2013), 475-496: Alessandro Giraudo: L'oggetto della prova e i conseguenti mezzi di prova nelle cause di simulazione.** (Article)

See above, canon 1101.

### 1574-1580

**Ap LXXXV (2012), 159-167: Francesco Dentale: Applicabilità del PDM alla Perizia psicologica in ambito canonico.** (Article)

D. looks at the role of psychological assessments in psychological processes, in particular the use of the Psychodynamic Diagnostic Manual, which he argues can be used positively to assess whether and how someone's personality can affect their discretion of judgement.

### 1586

**AA XIX (2013), 105-151: Ricardo Medina: Imputabilidad, eximentes, atenuantes y agravantes en los delitos sexuales de clérigos con menores.** (Article)

See above, canon 1395.

### 1607-1614

**QDE 27 (2014) 143-157: Tiziano Vanzetto: Alcuni criteri e suggerimenti per la stesura della sentenza del giudice nella decisione di una causa di nullità matrimoniale.** (Article)

V. begins by examining the nature of the judicial sentence, and offers a more detailed consideration of different aspects of the Code's description of that sentence, giving practical suggestions about how to incorporate them. He then looks at the different sections of the sentence and once again offers concrete practical suggestions. He displays a particular concern for making the sentence comprehensible to the lay readers who will be its subjects.

### 1609-1610

**ADC 3 (abril 2014), 251-281: Julio García Martín: Algunas consideraciones sobre la potestad del tribunal colegial diocesano según los cánones 135 §3, 1609-1610.** (Article)

See above, canon 135.

### 1620

**SCL IX (2013), 399-406: Augustine Mendonça: Where Do We Start Again when a First Instance Sentence has been Declared "Irremediably Null"?** (Opinion)

The Roman Rota has declared a first instance sentence null on the ground that the tribunal failed to publish the acts to the parties. Does the tribunal restart the case from the beginning or at the point at which the violation of the law causing irremediable nullity occurred? It would be simplistic to say that the distinction between irremediable and remediable nullity is the collapse of the entire process. There is a series of juridical acts, and various terms are used to describe the consequences of defects: null, invalid, and inefficacious. A sentence that is irremediably null does not exist in the eyes of the law and must be issued again after the defects have been remedied. In the case of a remediable defect there is

no need to repeat every procedural act. In some cases of irremediable nullity, however, basic presuppositions are absent, e.g. the total denial of the right of defence, and the case must start again from the petition. In the case put forward, lack of publication in itself is a remediable defect but if it amounts to denial of the right of defence it is irremediable. In M.'s view, after the parties have been informed of the Rota's decision the case should recommence with the correct publication of the acts.

## 1620

**SCL IX (2013), 423-432: Augustine Mendonça: Consequences of Not Using an Expert in a Marriage Nullity Case.** (Opinion)

After a negative decision at first instance the petitioner combined an appeal with a plaint of nullity based on the failure by the tribunal to use an expert in reaching their decision. The judge must reach moral certitude based on the acts and proofs, and canon 1574 (*Dignitas Connubii*, art. 203 §2) prescribes the use of experts in certain situations. Canon 1680 stipulates the use of experts in cases arising under canon 1095 "unless this would appear evidently useless". However this prescription is nowhere linked to the right of defence of either party. The Apostolic Signatura clarified this issue by explaining that it would be obviously useless if there were a suitably qualified document or evidence providing sufficient proof, or if there were otherwise sufficient evidence for moral certainty. It is one of several means of proof available to the judge. There is an obligation to seek assistance. Failure to do so would not cause irremediable nullity but could be a cause for appeal.

## 1620 7°

**SCL IX (2013), 327-358: Apostolic Tribunal of the Roman Rota: Irremediable Nullity of Definitive Decisions (Violation of the Right of Defence, can. 1620 7°; DC art. 270 7°). Decree *coram* Sable 11 January 2001 (Bangalore, India).** (Decree)

The female respondent was twice cited by the first instance tribunal at the wrong address and she became involved only after two decisions in favour of nullity. The decision was that both the first instance decision and the confirmatory decree at second instance were irremediably null, and so the option of a new proposition was not considered. S. distinguishes between a sentence which is null and one that is inexistent because one or more essential elements are missing. There may be a declaration of a judge in the format of a sentence but it must be considered no more than an opinion of the judge. This natural nullity is distinct from positive nullity or an inefficacious act caused by lack of formalities

or conditions required by canon law. One must also distinguish derived nullity where a second decision is null by reason of a defect in the first. The right of defence is fundamental and arises from natural law. It involves the right to be informed and the right to a hearing. A proper process without the *contradictorium* is inconceivable. Here almost all procedural documents were missing, but it was clear that the first instance tribunal had not cited the respondent, had not published the acts to her, nor communicated the sentence.

## 1629

**Andrés Fuentes Calero: Impugnabilidad de las decisiones judiciales *expeditissime*.** (Book)

The CIC/83 provides that certain matters arising in the course of a process are to be resolved *expeditissime* ("with maximum expedition"), these matters being an objection against one of the tribunal officials (canon 1451 §1), a recourse against the rejection of a *libellus* (canon 1505 §4), a recourse against the decree determining the terms of the controversy (canon 1513 §3), a request by one of the parties that proof rejected by a judge should be admitted (canon 1527 §2); the wide range of issues defined as "incidental matters" (canon 1589 §1), and questions about the right of appeal (canon 1631). According to canon 1629 5º, no appeal is possible against judgements or decrees given in such cases. F.C., carrying out a systematic study of recent procedural jurisprudence of the Roman Rota and the Apostolic Signatura, explores whether there may exist alternative juridical remedies to the prohibited appeal, and concludes that the remedies of plaint of nullity and *restitutio in integrum* would still be available. (For bibliographical details see below, Books Received.)

## 1640

**QDE 27 (2014) 222-226: Paolo Pavanello: Nota sulla sentenza nel processo di appello.** (Article)

Examining matrimonial cases, P. argues that the object of an appellate sentence is the same as at first instance: whether there is moral certainty about the nullity of a marriage. This should be evident both in the part of the sentence analysing the law and in that considering the facts of the case. See also below, canon 1684.

## 1651

**SCL IX (2013), 309-326: Apostolic Tribunal of the Roman Rota: Suspension of the Execution of the Definitive Decision (can. 1651); Grave**

**Defect of Discretionary Judgement/Incapacity to Assume (can. 1095 2°-3°). Decree *coram* Arokiaraj, 21 May 2013 (Italy).** (Decree)

See above, canon 1095 2º-3º.

### 1671-1691

**QDE 27 (2014) 238-241: Eugenio Zanetti: Snellimento della prassi canonica in ordine alla dichiarazione di nullità del vincolo matrimonial? /1.** (Article)

See above, General Subjects (*Law reform*).

### 1671-1691

**RDC 62/2 (2012), 331-347: Anne Bamberg: «*Pro rei veritate!*»: Pratique judiciaire canonique et recherche de la vérité.** (Article)

On the basis of the annual addresses of the Roman Pontiff to the Rota, B. shows how the instruction *Dignitas Connubii,* in explaining the Code of Canon Law, fosters the search for the truth regarding the marriage's validity or otherwise. The parties and all those involved in the tribunal process are invited to contribute actively to protect the truth, in accordance with each one's function, and always in a charitable and peaceful fashion.

### 1671-1691

**RDC 62/2 (2012), 349-378: Marcel Metzger: Reconnaître la vérité dans la procédure en nullité de mariage.** (Article)

In the call to "make the truth" within the Church, the manner of dealing with the divorced and remarried is one of the most delicate subjects, and M. considers it to be an area in which the solutions offered by canon law are found wanting. The nullity procedure is perceived as a *de facto* divorce, granted randomly. Meanwhile, within our Western societies, the practices relative to the marriage and family have evolved considerably, as is acknowledged by the surveys carried out before the Synod of Bishops in October 2014. The pastors of the Catholic Church are confronted with situations which are absolutely new to them, and for which more suitable canonical norms need to be implemented. M. offers some practical orientations that are more adapted to the real situations of people, both for the celebration of marriage and for the pastoral welcoming of the divorced and remarried in the context of conversion.

### 1671-1691

**RDC 62/2 (2012), 379-408: Jean-Luc Hiebel: Vérité, droit canonique et théologie pastorale.** (Article)

Canon law, says H., is supposed to protect the truth without defining it, other than to recall that it is revealed. But which truth? Is it the one which is offered without constraints to foster a life lived in accordance with reason, and which is betrayed by Western thinking, according to Benedict XVI in his Regensburg address? For example, the natural law of marriage, which was previously a necessary intellectual and moral point of reference, is today a debated issue. H. asks whether marriage is grounded on objective truth, or on an "approximate" truth as is suggested by more recent philosophies. In commenting on some essential canons of Latin matrimonial canon law he identifies certain questions raised by pastoral reality.

### 1682

**QDE 27 (2014) 158-186: Bassiano Ugge: Il decreto di conferma di una sentenza affermativa.** (Article)

U. begins by affirming the judicial nature of the decree confirming an affirmative sentence, despite some of the administrative appearances it has. *Dignitas Connubii*, no. 265, has expanded the provisions of the Code, and U. both examines these provisions and considers when their process can be used. He looks at the matters which need to be considered in the formulation of the decree (arguing in particular that all the acts of the cause should be examined and not simply the sentence) and suggests how the decree should be laid out. Four detailed examples of decrees are offered.

### 1682

**QDE 27 (2014) 187-221: Paolo Bianchi: Il decreto di ammissione di una causa di nullità matrimoniale all'esame ordinario in secondo grado di giudizio.** (Article)

After examining the roots of this legal possibility, B. considers the situations in which an appellate tribunal should admit a case to ordinary examination (whether of law or of fact); when such an admission is not necessary; and what criteria should guide this decision. Careful attention is given to how to frame the decree, especially when the appellate tribunal is reframing the way the case was approached initially. Four detailed examples of possible decrees conclude the article.

## 1684

**QDE 27 (2014) 222-226: Pierantonio Pavanello: Nota sulla sentenza nel processo di appello.** (Article)

See above, canon 1640. P. looks at the properties of a sentence in an appeal process. What is confirmed, or reformed, is the dispositive part of the sentence. The *in iure* section should set out the specific principles on which the decision is based, and the *in facto* section should contain an examination of the proofs which were collected at lower instance as well as those resulting from the ordinary examination of the case.

## 1697-1706

**Ap LXXXV (2012), 587-602: Grzegorz Erlebach: Nuove competenze della Rota Romana in seguito al *motu proprio "Quaerit semper".*** (Commentary)

See below, canons 1708-1712.

## 1708-1712

**Ap LXXXV (2012), 587-602: Grzegorz Erlebach: Nuove competenze della Rota Romana in seguito al *motu proprio "Quaerit semper".*** (Commentary)

Benedict XVI's *motu proprio Quaerit Semper* (30 August 2011) transferred the competence of the Congregation for Divine Worship and the Discipline of the Sacraments (CDW) for proceedings concerning the dissolution of a non-consummated marriage and the nullity of ordination to a new office to be established in the Tribunal of the Roman Rota, in order that the CDW could "dedicate itself principally to giving a new impulse to the promotion of the sacred liturgy in the Church, according to the renewal desired by the Second Vatican Council". However, there is no substantive change in the procedure to be followed, certainly at the diocesan level, although E. concludes that the establishment of the office, distinct but not separate from the other work undertaken by the Rota, will have a positive effect on the judicial work of the Rota. He also suggests that there should be a discussion on the application of the *vacatio legis*, since *Quaerit Semper* was brought into effect just three days after its publication in *L'Osservatore Romano* on 28 September 2011.

### 1714

**AA XIX (2013), 153-177: Helmuth Pree: El empleo de instrumentos jurídico-civiles en la administración eclesiástica. Posibilidades y límites.** (Article)

See above, canon 22.

### 1717-1719

**Ap LXXXVI (2013), 19-57: Elena Di Bernardo: Modelli processuali e finalità perseguite nell'Istruttoria civile e canonica. Rilievi comparativi.** (Article)

Di B. looks at the differences between the preliminary stages of trials in both common law and civil law juridical systems and finds that the canonical preliminary investigation is closer in aim to the preliminary enquiry in civil law, which seeks to ascertain what really happened at an early stage in the legal process, than to the adversarial system favoured by common law.

### 1717-1728

**ADC 3 (abril 2014), 31-51: Manuel J. Arroba Conde: Justicia reparativa y derecho penal canónico. Aspectos procesales.** (Article)

See above, canon 1342.

### 1720-1728

**ADC 3 (abril 2014), 73-148: Carlos López Segovia: El derecho a la defensa en el proceso penal administrativo.** (Article)

The natural origin of the right to defence demands that it be protected in all processes, whether judicial or administrative. Most authors defend the Legislator's choice of the judicial trial as the ordinary penal process, as distinct from the exceptional administrative penal process, since the former offers greater protection of the accused's rights. In practice there has been a proliferation of administrative processes, which may be due to a lack of knowledge of the judicial penal process and to its unmerited reputation for being unduly long. Because of this many cases that should have been dealt with judicially were in fact not dealt with, and led to their having to be sorted out administratively in order to provide justice to the victims (this is especially so with clerical sexual abuse cases). However, the guidance offered by the Congregation for the Doctrine of the Faith for the *graviora delicta* encourages

respect for a healthy balance between the right of defence and the good of the victims: only in this way is true justice achieved. Better knowledge of the current procedural norms would lead to their proper application and would help avoid some of the situations which the Church has had to undergo over the last two decades.

## 1728

**QDE 27 (2014), 69-89: Marino Mosconi: Nessuno può essere obbligato a riconoscere la propria colpa: il can. 1728 §2.** (Article)

M. studies the two elements of canon 1728 §2, the right of the accused to remain silent, and the obligation not to impose an oath on the accused. Both of these are set into the context of their historical evolution, and the content of the norms is examined with reference also to the moral obligation of telling the truth. M. concludes with a detailed survey of how the two elements should be applied at different stages of the penal process.

## 1732-1734

**Ap LXXXV (2012), 7-72: Paolo Gherri: L'Autotutela amministrativa come supplemento di conoscenza: la *Remonstratio canonica* (Cann. 1732-1734 CIC).** (Article)

G. looks at the role of those who exercise authority in the Church with regard to discernment in the conferring of various *munera* or ministries on members of the faithful, ordained and lay. He analyses this in the context of Vatican II's teaching on the role of personalism, since it is in the Church, the People of God, that the faithful's identity and fundamental dignity given in baptism as sharers in Christ's mission as prophet, priest and king is lived out. He sees the *remonstratio canonica* provided by canons 1732-1734 as a new juridical autonomous institution based, albeit indirectly, on the ecclesiology of the Council.

## 1732-1739

**ADC 3 (abril 2014), 73-148: Carlos López Segovia: El derecho a la defensa en el proceso penal administrativo.** (Article)

See above, canons 1720-1728.

### 1732-1739

**Per 102 (2013), 641-677: G. Paolo Montini: La giustizia amministrativa dal Concilio al Codice.** (Conference presentation)

In this presentation to the 48th Colloquium of the Gregorian University, held at Brescia in June 2013, M. examines canonical administrative justice in the Church from Vatican II to the CIC/83. His basic premise is the understanding of administrative justice as consisting of all the instruments foreseen by the canonical order for the resolution of controversies arising out of an act of administrative power. He proceeds to reflect on the institution of the contentious-administrative process at the Apostolic Signatura, the juridical institutions of silence-as-refusal and silence-as-rejection, the necessity of giving reasons for all decisions, the need to inform people of the possibility of recourse, the institution of hierarchical recourse in particular, and the awarding of damages. In all, he concludes that the interpretative criterion of adjustment and adaptation is nothing more than the prudent evolution of the compatibility or sustainability of certain developments with the entire system of Church order.

### 1732-1739

**Per 103 (2014), 27-66: G. Paolo Montini: Conspectus decisionum quae a Supremo Signaturae Apostolicae Tribunali in ambitu contentioso administrativo ab anno 1968 ad annum 2012 latae atque publici iuris factae sunt.** (Article)

M. introduces a brief summary and overview of the 128 published decrees of the Apostolic Signatura issued between 1968 and 2012 concerning contentious-administrative matters. He indicates not only the fundamental nature of the controversy in each case, but gives bibliographical indications of the place of publication of each decree and, where they exist, of commentaries on the decree.

### 1733

**Mirosław Sitarz: Competences of Collegial Organs in a Particular Church.** (Book)

See above, canons 460-572.

### 1734

**IE XXVI (2014), 89-111: Supremo Tribunale della Segnatura Apostolica: Decreto del Segretario, *Scelta della chiesa di una nuova parrocchia,* 5 luglio**

**2011; Decreto del Prefetto in Congresso, *Soppressione di parrocchia,* 23 settembre 2011; Decreto del Segretario, *Circa l'uso di una chiesa,* 20 gennaio 2012 (con *nota* di Javier Canosa, *I diversi effetti della tutela garantita dal diritto amministrativo canonico*).** (Documents and commentary)

See above, canon 1445.

### 1737

**IE XXVI (2014), 89-111: Supremo Tribunale della Segnatura Apostolica: Decreto del Segretario, *Scelta della chiesa di una nuova parrocchia,* 5 luglio 2011; Decreto del Prefetto in Congresso, *Soppressione di parrocchia,* 23 settembre 2011; Decreto del Segretario, *Circa l'uso di una chiesa,* 20 gennaio 2012 (con *nota* di Javier Canosa, *I diversi effetti della tutela garantita dal diritto amministrativo canonico*).** (Documents and commentary)

See above, canon 1445.

### 1742

**Mirosław Sitarz: Competences of Collegial Organs in a Particular Church.** (Book)

See above, canons 460-572.

## EXCHANGE PERIODICALS

- Analecta Cracoviensia
- Angelicum
- Annales Canonici
- Année Canonique
- Anuario Argentino de Derecho Canónico
- Anuario de Derecho Canónico
- Apollinaris
- Archiv für katholisches Kirchenrecht
- Boletin Eclesiastico de Filipinas
- Bogoslovni vestnik
- Claretianum
- Commentarium pro Religiosis et Missionariis
- De Processibus Matrimonialibus
- Eastern Legal Thought
- Ephemerides Iuris Canonici
- Ephrem's Theological Journal
- Estudio Agustiniano
- Estudios Eclesiásticos
- Folia Theologica et Canonica
- Forum Canonicum
- Forum Iuridicum
- Il Diritto Ecclesiastico
- Indian Theological Studies
- Intams
- Irish Theological Quarterly
- Ius Canonicum
- Ius Ecclesiae
- Iustitia: Dharmaram Journal of Canon Law
- Journal of Sacred Scriptures
- The Jurist
- Laurentianum
- Law and Justice
- Louvain Studies
- Periodica
- Philippine Canonical Forum
- Philippiniana Sacra
- Quaderni dello Studio Rotale
- 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
- Theologica Xaveriana
- Vida Religiosa
- Vidyajyoti

## ABBREVIATIONS, PERIODICALS AND ABSTRACTORS FOR THIS ISSUE

| | |
|---|---|
| AA | Anuario Argentino de Derecho Canónico, Buenos Aires – V. Rev. John McGee, Girvan, Ayrshire. |
| AC | L'Année Canonique, Paris – Editor. |
| ADC | Anuario de Derecho Canónico, Valencia – Abstracts supplied by publisher. |
| AkK | Archiv für katholisches Kirchenrecht, Paderborn – Abstracts supplied by publisher. |
| AnC | Annales Canonici, Krakow – Abstracts supplied by publisher. |
| AnCrac | Analecta Cracoviensia, Krakow – Abstracts supplied by publisher. |
| Ang | Angelicum, Rome – Abstracts supplied by publisher / Editor. |
| Ap | Apollinaris, Rome – Rev. Andrew Cole, Nottingham. |
| BV | Bogoslovni vestnik, Ljubljana – Mgr. Andrej Saje, Ljubljana. |
| Comm | Communicationes, Rome – Rev. Mgr. Gordon Read, Colchester, Essex. |
| EA | Estudio Agustiniano, Valladolid – Abstract supplied by publisher. |
| EIC | Ephemerides Iuris Canonici, new series, Venice – Abstracts supplied by publisher. |
| FCan | Forum Canonicum, Lisbon – Abstracts supplied by publisher. |
| IC | Ius Canonicum, Pamplona – Abstracts supplied by publisher. |
| IE | Ius Ecclesiae, Pisa-Rome – Abstracts supplied by publisher. |
| Ius | Iustitia: Dharmaram Journal of Canon Law – Rev. Mgr. Gordon Read, Colchester, Essex. |
| LJ | Law and Justice, Worcester – Abstracts supplied by publisher. |
| LW | The Living Word, Kerala – Editor. |
| N | Notitiae, Rome – Rev. Mgr. Gordon Read, Colchester, Essex. |
| NRT | Nouvelle revue théologique, Brussels – Abstracts supplied by publisher. |
| Per | Periodica, Rome – Rev. Aidan McGrath OFM, Rome. |
| QDE | Quaderni di Diritto Ecclesiale, Milan – Rev. Luke Beckett, Ampleforth, York. |
| 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. |
| SCL | Studies in Church Law, Bangalore – Rev. Mgr. Gordon Read, Colchester, Essex. |
| TyV | Teología y Vida, Santiago de Chile – Abstracts supplied by publisher. |

## BOOKS RECEIVED

- ANNALES CANONICI: *Monographiae, numer 2: Konkordat: ocena z perspektywy 15 lat obowiązywania*, Uniwersytet Papieski Jana Pawła II w Krakowie, 2014, 185pp., ISBN 978-83-7438-376-9 [see above, General Subjects (*Relations between Church and State*)]
- M. Bonaventure HIGGINS: *A* Novus Habitus Mentis: *Canon Law as Empowerment of* Communio *with Particular Application to Selected New Ecclesial Communities and Associations*, Edwin Mellen Press, Lewiston NY/Lampeter, 2014, 468pp., ISBN 978-0-77334-4277-1 [see above, canons 298-329]
- Andrés FUENTES CALERO: *Impugnabilidad de las decisiones judiciales "expeditissime"*, Lateran University Press, Rome, 2013, 519pp., ISBN 978-88-465-0860-7 [see above, canon 1629]
- Dominique LE TOURNEAU: *Vade mecum de la vie consacrée*, Traditions Monastiques, Flavigny-sur-Ozerain, 2014, 442pp., ISBN 9782878101119 [see above, canons 573-746]
- Kevin E. MCKENNA: *For the Defense: The Work of Some Nineteenth Century American Canonists in the Protection of Rights*, Wilson & Lafleur, Montreal, 2014, xiii + 196pp., ISBN 978-2-89689-070-5 [see above, Historical Subjects (*16th-19th centuries*)]
- Mirosław SITARZ: *Competences of Collegial Organs in a Particular Church*, Wydawnictwo KUL, Lublin, 2013, 274pp., ISBN 978-83-7702-764-6 [see above, canons 460-572]