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

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## Contents

<u>General Subjects</u>	3
<u>Historical Subjects</u>	13
<u>Code of Canons of the Eastern Churches</u>	19
<u>Book I: General Norms</u>	20
<u>Book II, Part I: Christ's Faithful</u>	28
<u>Book II, Part II: The Hierarchical Constitution of the Church</u>	38
<u>Book II, Part III: Institutes of Consecrated Life &amp; Societies of Apostolic Life</u>	49
<u>Book III: The Teaching Office of the Church</u>	54
<u>Book IV: The Sanctifying Office of the Church</u>	57
<u>Book IV, Part I: The Sacraments</u>	60
<u>Book IV, Part I, Titles I &amp; II: Baptism and Confirmation</u>	62
<u>Book IV, Part I, Title III: The Blessed Eucharist</u>	63
<u>Book IV, Part I, Title IV: The Sacrament of Penance</u>	70
<u>Book IV, Part I, Title V: The Sacrament of Anointing of the Sick</u>	72
<u>Book IV, Part I, Title VI: Orders</u>	73
<u>Book IV, Part I, Title VII: Marriage</u>	77
<u>Book IV, Part II: The Other Acts of Divine Worship</u>	93
<u>Book IV, Part III: Sacred Places and Times</u>	95
<u>Book V: The Temporal Goods of the Church</u>	98
<u>Book VI: Sanctions in the Church</u>	102
<u>Book VII: Processes</u>	107
<u>Exchange Periodicals</u>	119
<u>List of Abbreviations, Periodicals and Abstractors for this Issue</u>	120
<u>Books Received</u>	121

## GENERAL SUBJECTS

**AA XII (2005), 379-393: Octavio Lo Prete: Consideraciones sobre la libertad religiosa en la Argentina.** (Article)

Lo P. traces the historical development of the right to freedom of religion in Argentina from the founding Constitution of 1853 to the constitutional reform of 1994. For historical and demographical reasons the special position of the Catholic Church in Argentinian society is recognised by the Constitution which also affirms that the federal government will provide support for the maintenance of Catholic worship. Nevertheless, the right to freedom of religion and worship was also extended to non-Catholic religions, in no small measure to accommodate the arrival in Argentina of many European immigrants from predominantly Protestant countries. The use of the *Patronato* (dating from the colonial era), which allowed the State a hand in some internal decisions, actions and appointments within the Catholic Church, came to an end in 1996. Non-Catholic religions and associations are still expected to register with the appropriate department of State although in practice many ignore this requirement, with few if any negative consequences. There is now general consensus that this legal requirement should be reformed.

**AA XII (2005), 217-232: Zenon Grocholewski: La especificidad del derecho canónico.** (Conference presentation)

This is the text of a conference given by Cardinal Grocholewski at the Faculty of Canon Law of the Pontifical Catholic University Santa María de los Buenos Aires on 23 May 2005. His theme is the specific nature of canon law in comparison with State or civil law. He deals with his subject under the following headings: the fundamental law of the Church, in which he emphasises the scriptural, theological and ecclesiological basis of the present Code; the anthropological dimension, dealing with the true Christian understanding of the human person and his relationship to God; *salus animarum suprema lex*; the concept of justice in the Church based on the justice of God which is inextricably linked to his goodness and mercy – hence the Code’s insistence that all efforts at mediation and reconciliation should be made before initiating a judicial process, and its reluctance (unlike civil law) to impose penalties; and the function of law in the Church in the context of the sacramental and ecclesial life of the people of God, in which he comments on the flexibility of canon law precisely to facilitate this end, shown especially in *aequitas canonica* and the system of dispensations.

**AA XII (2005), 395-410: Helmuth Pree: El sostenimiento del culto en Alemania.** (Article)

P. gives some historical background to the system of State support for the Churches in Germany. The confiscation of much Church property in the

Napoleonic era led by way of compensation to State aid which included, as well as direct financial assistance, the maintenance of Church buildings, State subsidies for the upkeep of Church schools, hospitals and other social institutions. Some specifically State institutions help further the wider mission of the Church, such as faculties of theology and the teaching of religion in State schools. Although Church and State are totally separate in Germany, the Catholic Church (as other Churches) enjoys a recognised juridical existence as a legal public corporation with all the rights pertaining to such entities. Church-State relations are regulated by Concordat, not only at national (federal) level but also with the federal States. P. describes the present system of Church taxation gathered through the machinery of the State. All Churches may use this system or otherwise as they see fit, so respecting their autonomy. Individuals can free themselves from contributing by a formal abandonment of the Church. Among the disadvantages of the system is the Church's dependence on the fiscal policy of the State and the anonymity of the process. Not least among the other disadvantages is the mechanism whereby the faithful can claim to abandon the Church through a purely civil, State regulation, often for solely financial reasons, as no substitute tax replaces the Church tax from which they have freed themselves.

**Ap LXXVII 1-2 (2004), 29-32: Holy See: Conventio 19.12.2001 inter Apostolicam Sedem et Civitatem Saraviae.** (Document)

Text in German and Italian of a change in the Concordat between the Holy See and the Saarland concerning schools.

**Ap LXXVII 1-2 (2004), 39-45: John Paul II: Allocutio, 28.01.2002, ad Romanae Rotae tribunal.** (Address)

Text in Italian of the Holy Father's 2002 address to the officials of the Roman Rota.

**Ap LXXVII 1-2 (2004), 71-78: Conventio, 21.08.2002.** (Document)

Text in Slovak and Italian of the Convention signed between the Holy See and the Slovak Republic providing for the spiritual care of Catholic members of the armed forces of the Republic.

**Ap LXXVII 1-2 (2004), 81-85: Conventio, 1.09.2002.** (Document)

Text in English and Albanian made between the Holy See and the Albanian

Republic on the regulation of their mutual relations.

**Ap LXXVII 1-2 (2004), 125-140: Conventio 08.11.2002.** (Document)

Text in Latvian and English of the new Agreement between the Holy See and the Latvian Republic replacing the Concordat of 1922.

**CLSN 143/05, 60-77: D. Vidler: Statistics and what they can tell us about marriage, divorce and annulments 1851-2001.** (Article)

In the light of statistics of the general population of England and Wales compared to the Catholic population, V. considers what implications, if any, may be drawn from them. He makes reference to the work of Lawrence Stone and four features of the modern family as identified by that author: 1. intensified bonding at the core of the family at the expense of neighbours and other relatives; 2. a strong sense of individuality; 3. a weakening of the association of sexual sin with guilt; and 4. a growing desire for physical privacy – factors which he thinks pastors should be aware of in order to serve those they encounter.

**For XVI 2/05, 291-294: Pope Benedict XVI: The Church contributes to the good of all dimensions of the human person.** (Letter)

The Pope sends his greeting to a Colloquium held in Paris to mark the 25th anniversary of Pope John Paul II's visit to UNESCO. Respect for all the rights of man is foundational for the construction of peace. The Church's contribution is to shed light on the relationship between the human person and the Creator.

**For XVI 2/05, 294-302: Pope Benedict XVI: Living the Truth that "God loves his people".** (Address)

This was given to the Diocesan Convention of Rome on 6 June 2005 and addresses the guidelines to be followed in a pastoral year, following up the Synod held in preparation for 2000. The focus is on the nature of the family, and its relationship to the Church.

**For XVI 2/05, 303-321: Pope Benedict XVI: What the "Grain of Wheat" teaches us today.** (Address)

The Pope speaks to a gathering of priests of the Diocese of Aosta. His theme is the varying yield of a grain of wheat. Lack of results can leave priests

disheartened, but if priests did not suffer this would indicate a lack of commitment. In passing he considers a number of topics: vocations and their motivation; and whether “Sunday celebrations without a priest” are truly helpful. He then responds to questions from the audience on questions such as: education and the role of Catholic schools; the consecrated life; prison chaplaincy; marriage of those lacking faith; the level of faith needed for baptism; and the *Compendium of the Catechism*.

**For XVI 2/05, 321-324: Pope Benedict XVI: Humanity’s future rests in the family.** (Address)

The Pope reminds participants in a meeting of the Presidents of Episcopal Commissions for Family Life in Latin America of how the elimination of embryos or their arbitrary scientific use contradicts Christian moral values and shakes the foundations of society.

**For XVI 2/05, 325-328: Pope Benedict XVI: Giving a fresh face to health pastoral care.** (Address)

Speaking to a Conference organised by the Pontifical Council for Health Pastoral Care, the Pope reminds participants of the dignity of every human being, and that a claim to total autonomy by science and technology endangers this.

**For XVI 2/05, 329-332: Pope Benedict XVI: Needed by theologians: competence, faith, humility.** (Address)

The Pope speaks to members of the International Theological Commission, concentrating on their second theme, the status and method of theology.

**For XVI 2/05, 358-361: Holy See: A united Europe must be attentive to its Christian roots and values.** (Address)

The Secretary for the Holy See’s Relations with States speaks to a summit meeting of Heads of State and Governments of the Council of Europe. Archbishop Lajolo makes the point that Europe will be loved by its citizens and serve as an agent of peace only if based on certain fundamental values, and must reflect Europe’s spiritual identity. Challenges arise from migration and instability. He concludes by looking at the future construction project of Europe, and the roles of the Council of Europe and the Organisation for Security and Cooperation in Europe.

**For XVI 2/05, 492-497: E. Sgreccia: “Advance medical directives”: what does this mean? (Article)**

S. looks at the significance of “living wills”. Proposals for such directives have been put before the Italian Parliament. He examines the background, and also two different ways of understanding the principle of self-determination, and its application to medical practitioners as well as patients.

**For XVI 2/05, 498-507: D. Tettamanzi: Pro life, civil law and individual duty. (Article)**

T. explains the principles behind the Italian Bishops’ advice to the Italian people to abstain in a referendum on removing restrictions on medically assisted procreation.

**IC XLVI 91/06, 315-320: Jorge Otaduy: Crónica de legislación 2005. Derecho eclesiástico español. (Report)**

O. presents a review of legislation from 2005 involving issues of Spanish ecclesiastical law, especially those of education, ministers of worship, State funding, and foundations.

**IC XLVI 91/06, 321-354: Jorge Otaduy: Crónica de jurisprudencia 2005. Derecho eclesiástico español. (Report)**

O. presents a review of decisions in 2005 of the European Court of Human Rights and the Spanish courts, on religious freedom and a variety of issues of Spanish ecclesiastical law.

**IC XLVI 91/06, 355-374: Joaquín Sedano: Novedades canónicas del año 2005. (Report)**

S. presents a review of the main canonical innovations of 2005 introduced by the Roman Pontiff through documents, speeches, messages, writings, the erection of ecclesiastical circumscriptions, and other pontifical acts; also by the Roman Curia (Congregations, Tribunals and Pontifical Councils); and by the Synod of Bishops. He then dedicates short sections to the diplomatic activity of the Holy See, and to the Spanish Episcopal Conference.

**IE XVIII 1/06, 3-27: Velasio de Paolis: La Chiesa cattolica e il suo**



**ordinamento giuridico.** (Article)

De P. gives a detailed picture of the Church's juridical order as a human and divine reality; the transcendence of its ends and means; sacred power; its basis in the natural and positive divine law; the specificity of canon law in the service of love and in the exercise of power, as the revelation of the mystery of God's love; the pastoral nature of authority; and dialogue between the canonical and the civil order. All this prepares the ground for him to study the recent crisis and recovery of canon law. He points at some relevant facts and proposes that, from the doctrinal point of view, the diverging attempts to define the law either as an *ordinatio rationis* or as an *ordinatio fidei* have led to a dead-end. The encyclical *Fides et Ratio* of 14 September 1998 marks an important moment for an understanding of the Church's juridical experience under the light of theology and philosophy. The need for a clear vision of this duality in the life of man cannot be overlooked when considering the law. Attempts at a theology of law as a foundation for the law of the Church run the risk of ignoring her nature as a community and people of God; and it would remove the bridge necessary for a dialogue between culture and faith. De P. ends his article with a thorough treatment of this point.

**LJ 156/06, 3-10: Antonin Scalia: God's Justice and Ours.** (Article)

S., Justice of the United States Supreme Court, explains why he accepts the morality of the death penalty.

**LJ 156/06, 11-23: Bernard Hoose: Moral Theology and Capital Punishment.** (Article)

H. reviews the history of Catholic attitudes to the death penalty and gives a summary of three present positions on the right to inflict it.

**LJ 156/06, 24-36: James Wadsworth: The USA and the Death Penalty: A View from the Outside.** (Article)

Basing his article on a book by Sister Helen Prejean, W. sets out the theory and practice of individual State courts and the Supreme Court.

**LJ 156/06, 37-44: David McIlroy: Oliver O'Donovan and the Tradition of Christian Thought Regarding the Death Penalty.** (Article)

M. recounts O'Donovan's search to explore contested issues in a Catholic manner, not only attending to Christians from every present source, but also

from every past age.

**LJ 156/06, 53-58: Jack O'Mahoney: Respecting Human Rights.** (Article)

O'M. examines briefly the development of the concept of human rights and the objections to their proliferation.

**Per VC 1/06, 3-35: Péter Erdő: Foro interno e foro esterno nel diritto canonico.** (Article)

Within the life of the Church, canon law distinguishes the internal forum and the external forum. In this article, E. explores the differences between the two fora of the Church's activity and mission. He highlights several tensions that can arise between them and suggests how these tensions might be resolved.

**Per VC 2/06, 365-389: Ottavio De Bertolis: Globalizzazione, pluralismo e ordinamenti giuridici: verso un nuovo giusnaturalismo?** (Article)

De B. examines the contemporary phenomenon of globalisation from a juridical perspective. He sees in some recent developments and decisions the re-emergence of a quest for justice that goes beyond the merely political and reflects a reliance on a natural law based on equity and general principles for the safeguarding of rights, rather than on a series of minutely detailed collections of regulations.

**REDC 62 158/05, 142-182: José Miguel Viejo-Ximénez: Posición jurídica de la iglesia católica en el orden internacional.** (Conference address)

This is the text of an address given during a series of conferences entitled "Respect and Independence: Marking 25 Years of the Accords between the Spanish State and the Holy See", originally delivered in November 2004 in Las Palmas de Gran Canaria. V.-X. deals with the relations of the Holy See in the context of international law. Within the limits of its specific mission and the means necessary to achieve it, the Holy See is a sovereign power. V.-X. considers the subject under these principal headings: pontifical diplomacy – *ius legationis* and *ius foederum*; bilateral and multilateral agreements – *ius tractatum*; and participation in international organisations and conferences. In this whole field the Holy See is subject to the norms of international law while always safeguarding its true spiritual and religious nature as the Spouse of Christ. Appendices provide lists of countries with Apostolic Nuncios or Delegates, countries diplomatically accredited to the Holy See, some international treaties and agreements, and international organisations with Holy

See representation.

**REDC 62 158/05, 217-229: Francisca Pérez-Madrid: Reflexiones acerca de la nueva instrucción *Erga migrantes caritas Christi*.** (Conference presentation)

P.-M. reflects on the Instruction of the Pontifical Council for Emigrants (3 May 2004) and the integration of local diocesan and national initiatives in this field into the wider structural and pastoral planning of the Church. She deals briefly with earlier canonical directives and then considers *Erga migrantes* under the following headings: its purpose and structure; multiculturalism and integration; relationship with Islam; intermarriage; some new challenges and areas for caution, such as the danger of religious syncretism. The Instruction emphasises the important role of the laity in this pastoral field and the need for adequate education and formation.

**RfR 65 2/06, 206-210: E. McDonough: The Importance of Procedural Law.** (Article)

In an article which covers varying applications of procedural law, McD. points out that “procedural norms are significant for maintaining fairness and objectivity in governance because they determine how certain matters must be addressed or how certain actions must be placed. Their purpose is to guarantee that all are treated in the same consistent manner in relation to how the law is actually put into practice.”

**SC 39 1-2/05, 5-39: Émilien Lamirande: L’interdiction faite aux femmes d’enseigner dans l’Église ancienne.** (Article)

L. presents evidence of the prohibition of feminine teaching in the early Church. On the basis of Genesis and Pauline writings, and also of Hellenistic and Latin cultural attitudes, the sources of second to fifth century mainstream Christianity reject unequivocally any public or official teaching of women in the communities. They refer constantly to the subordination of women to men, even to their intellectual inferiority, seldom to the attitude of Christ. This could help to interpret the changes occurring in this area.

**SC 39 1-2/05, 75-107: Jobe Abbass: Religious Expression and the Canadian Charter.** (Article)

Section 2(a) of the *Canadian Charter of Rights and Freedoms* guarantees the freedom of religion. While Canadian jurisprudence, to date, may appear to

guarantee freedom from religion in all public spaces in Canada, the definition of religious freedom and its public expression continue to be shaped by case law. As a help to judicial interpretation in this context, A. argues that the reference to the “supremacy of God” in the *Charter’s* Preamble should not be regarded as a “dead letter” but, rather, as a foundational principle which, together with the “rule of law”, constitutes a horizon against which public religious expression as well as other *Charter* values are to be interpreted. A. outlines Canadian cases which have defined “freedom of religion” and drawn the limits of its public expression. He then focuses on numerous cases in which the courts have had to balance the competing claims of freedom of religion with the right to equality under section 15 of the *Charter*. While on the level of the positive rule of law, there may be no hierarchy among the various *Charter* rights or “goods” that mark society’s “horizon of meaning”, A. argues that it is essential to identify those prior fundamental commitments that form the very horizon out of which the *Charter* guarantees grew. The Preamble to the *Charter* expressly points to that horizon in both the rule of law and the supremacy of God. Besides reason (the rule of law), consideration must also be given to the transcendental level of faith and one’s connection with the divine (God) that work together in the vital pursuit of every person’s, indeed every nation’s, true identity and fulfilment. It is within this perspective that freedom of religion is to be correctly interpreted and balanced against competing *Charter* claims.

**SC 39 1-2/05, 109-127: Anne Asselin: Les agents de pastorale dans la structure actuelle des paroisses et quelques propositions pour l’avenir.** (Article)

See below, canon 517.

**SC 39 1-2/05, 203-220: Jean Paul Betengne: Équité canonique et *salus animarum*.** (Article)

See below, canon 1752.

## HISTORICAL SUBJECTS

## *Classical period*

### **Ang 83 (2006), 377-395: *Ciro Tammaro: La giurisdizione degli ordini mendicanti durante il Medioevo: la disputa tra religiosi e secolari nell'Università di Parigi durante il XIII secolo.* (Article)**

With the advent of the mendicant orders in the thirteenth century, conflicts arose over the basis of the privileges granted to them by the Pope, and also in general terms over the exercise of their apostolate. The argument involved the nature of jurisdiction – territorial or personal – which up to that time had not been an issue since monastic life had hitherto been characterised by the territorial stability of each monastic family. The new orders brought with them new structures of government and new forms of apostolate that were not stably linked to a particular place. The problem therefore arose of the relationship between the religious on the one hand, and the Bishops and parish priests on the other, and the need to coordinate their respective powers. There was the associated financial problem arising out of the fact that the diocesan clergy saw their normal sources of income being threatened by the example of poverty set by the religious, and by the right of the new orders to beg, to which the people generally responded favourably. In this article T. looks at the theological and juridical implications of this dispute in the thirteenth century, on the basis of pontifical legislation, the theories worked out by the Doctors of the secular clergy at the University of Paris (to the effect that the local diocesan and parochial organisation of the Church was directly willed by Christ), and the opposing theories espoused by the religious Masters – notably St Thomas Aquinas and St Bonaventure – at the same University. These latter theories were based on the principle of the jurisdictional primacy of the Supreme Pontiff and the concept of the power of ecclesiastical jurisdiction understood as service – *diaconia* – for the good of souls, and the collegial and non-exclusivist nature of such power. T. also studies the theoretical and practical implications of the concrete exercise of the power of jurisdiction in the Church. What emerges, especially from St Thomas's insights, is the clearly “personalistic” nature of the power of jurisdiction, with the result that territory now represented not an essential element of jurisdiction, but only one of a number of possible mechanisms whereby the exercise of power could be regulated.

### **FT 16 (2005), 143-152: *Szabolcs Anzelm Szuromi: The Rules Concerning Bishops in an Early Gregorian Canonical Collection.* (Lecture)**

During the eleventh-century Gregorian reform, the Roman Church attempted to answer many of the questions which had arisen in the previous two centuries, especially that of the primacy and authority of the Roman Pontiff. To explain their standpoint the compilers of new canon law collections made use of the Pseudo-Isidorian forgeries or interpolated texts. The *Diuersorum patrum sententiae siue Collectio in LXXIV titulos digesta* belongs to the first period of

this reform, as a canonical handbook of the Roman Curia. The collection, compiled between 1050 and 1076, contains 315 chapters under 74 titles. In this lecture S. concentrates on the chapters that deal with the rights and duties of bishops. He concludes that the primary motive of the collection was to strengthen the independence of the Church through the exclusion of secular influence. It therefore stresses a strong episcopal power and the central power of the Roman Pontiff, which acts as a counterbalance to the “decentralising” efforts being made by secular nobles. The collection is significant as a first voluminous Gregorian work and as the source of later Gregorian collections.

**IE XVIII 1/06, 217-238: Szabolcs Anzelm Szuromi: A Snapshot from the Process of the Textual Development of Ivo’s Works (Comparative Analysis of Angers, Bibliothèque Municipale, Ms. 369 with BAV Reg. lat. 973 and Other Textual Witnesses).** (Article)

S. gives an overall view of the formation of canonical texts up to the time of Gratian’s Decree in 1140. For this task he makes use of the *Panormia*, one of the three canonical works attributed to Ivo of Chartres. He first describes the codex in detail, before comparing it with BAV Reg. lat. 973. Two appendices complete the article.

**J 65 (2005), 385-411: Michael Milgate: The “Heinous Sin” of Usury and the Paris School of Theology.** (Article)

M. points out that many medieval scholastic economic concepts and definitions originated in the body of civil law. Up to the early thirteenth century the University of Paris had not contributed notably to the development of economic doctrine. Robert of Courson, an Englishman and professor at Paris, and another Englishman, Thomas of Cobham, were uncompromising in their offensive against usury.

**Per VC 2/06, 343-363: Ciro Tammaro: Rilevanza delle ordalie e dei giudizi di Dio ed analisi strutturale e funzionale della *confessio iudicialis* nel sistema probatorio del processo canonico medievale *in re penali*.** (Article)

See below, canons 1535-1536.

***16th-18th centuries***

**Ang 83 (2006), 397-449: Bruno Esposito: Il rapporto del Codice di Diritto canonico latino con il Diritto internazionale. Commento sistematico-**

**esegetico al can. 3 del CIC/83.** (Article)

See below, canon 3.

### *19th century*

**Ang 83 (2006), 397-449: Bruno Esposito: Il rapporto del Codice di Diritto canonico latino con il Diritto internazionale. Commento sistematico-esegetico al can. 3 del CIC/83.** (Article)

See below, canon 3.

**IE XVIII 1/06, 29-60: Pablo Gefaell: Il diritto canonico orientale nei lavori del Concilio Vaticano I. Voti dei consultori della Commissione Preparatoria per le Missioni e le Chiese orientali.** (Article)

The archive collection (or “fond”) *Concilio Vaticano I*, kept in the Vatican Secret Archives, was opened in 1995. G. centres his article on the Commission for the Missions and Eastern Churches, initiated in January 1870 with the election of its first members. He dedicates attention to one of the principles decided on by the Commission: the uniformity of discipline between East and West. G. lists the twenty-one *vota* prepared by the Consultors. Although not published, they are now available in the Archives, and G. arranges them according to the interest that their content may have today.

**REDC 62 158/05, 89-144: Hugo Santos Gil: Iglesia y Constitución: La posición de la Iglesia católica en las constituciones españolas (1808-1978).** (Conference address)

This is a slightly adapted text of an address at the Ibero-American Congress of Constitutional Law, held in Seville from 3 to 5 December 2003 to coincide with the 25th anniversary of the promulgation of the present Spanish Constitution. S.G. gives the historical/constitutional background to article 16 which guarantees freedom of religion, and analyses the Catholic Church’s position in, and its attitude towards, the different Constitutions in force in Spain since 1808. He does so under the following headings: Constitution of 1812 – radical confessionality and the protection of the Catholic Church; 1834-1856 – between Carlism and Moderatism, from royal statute to the *non-nata* Constitution; Constitution of 1869 – the first recognition of freedom of religion; Constitution of 1876 – religious unity and tolerance; Constitution of 1931 – laicism and religious hostility; Epilogue – from the past to the present.

## **1917 Code**

**Ang 83 (2006), 397-449: Bruno Esposito: Il rapporto del Codice di Diritto canonico latino con il Diritto internazionale. Commento sistematico-esegetico al can. 3 del CIC/83.** (Article)

See below, canon 3.

**IC XLVI 91/06, 59-97: Javier Otaduy: El principio de jerarquía normativa y la Instrucción *Dignitas Connubii*.** (Conference presentation)

See below, canons 1671-1691.

**IC XLVI 91/06, 245-290: Paola Buselli Mondin: Osservazioni sull'esistenza giuridica della sentenza canonica.** (Article)

See below, canons 1620-1622.

**J 65 (2005), 241-267: Mary Pierre Jean Wilson / Mary Judith O'Brien: Provincial and Plenary Councils: Renewed Interest in an Ancient Institution.** (Article)

See below, canons 439-446.

**Arturo Cattaneo (ed.): L'eredità giuridica di San Pio X.** (Book)

The pontificate of St Pius X is of great interest from a canonical point of view, especially for the reforms and initiatives he introduced. In 1904 he set in motion the work of codification of canon law; he revived the pastoral visitation to the city of Rome (the last such visitation having taken place in 1831); he took a similar initiative in relation to visitations to the dioceses of Italy; and he established new norms for the election of the Roman Pontiff (including among other things the obligation of absolute secrecy in voting). In 1907 he began the reform of the Italian seminaries. In 1908 he undertook the first reform of the Roman Curia since 1588, and introduced the publication *Acta Apostolicae Sedis* as the official gazette of the Holy See, to replace the incomplete and non-official publication *Acta Sanctae Sedis* introduced by Pius IX in 1865. In 1912 he reformed the Vicariate of Rome. Apart from these major juridical reforms, there were many others in areas such as sacred music, liturgy, the administration of the Eucharist, the Roman Breviary and Missal, the reorganisation of Popular Christian Action, the publication of the Catechism, and the founding of the Pontifical Biblical Institute. The present publication contains the addresses and



communications of the 18 contributors at the Study Convention organised by the St Pius X Institute of Canon Law in Venice on 19-20 May 2005. It is divided into two main parts. Part I consists of a number of studies aimed at presenting the historical and pastoral context of the pontificate of Pius X (including the creation of the Faculty of Canon Law at Venice, to which Giuseppe Sarto dedicated special interest as Patriarch of Venice, and which as Roman Pontiff he continued to follow closely). Part II deals with more specifically canonical issues, and is subdivided into three sections: the first contains studies relating to the work of codification; the second looks at relations between Church and State under Pius X; and the third focuses on other reforms, notably those of the Roman Curia, the Vicariate of Rome, the seminaries, and the discipline regarding Eucharistic Communion. (For bibliographical details see below, Books Received.)

**Luigi Sabbarese (ed.): Coram Sabattani: decisiones ineditae (1955-1965).**  
(Book)

This is a collection of unpublished sentences and incidental decrees of Cardinal Aurelio Sabattani in his capacity as *Ponens* of the Roman Rota, arranged in chronological order from 1955 to 1965. He was especially renowned for his contributions to Rotal jurisprudence in the area of *incapacitas* – two of his decisions, from 1957 and 1961 respectively, being cited as *fontes* of canon 1095 of the 1983 Code. The present collection however is made up of sentences on other grounds of nullity. Of the 38 sentences included in the collection, 19 relate to total or partial simulation (the majority of these involving exclusion of the *bonum prolis*, although there are also cases involving total simulation, exclusion of the *bonum sacramenti*, and one case of exclusion of the *bonum fidei*), 17 relate to force or fear (8 of these involving *metus reverentialis*), and 2 relate to impotence. There are also 9 incidental decrees, most of them concerning requests for a *nova causae propositio*. (For bibliographical details see below, Books Received.)

*Second Vatican Council and revision of the CIC*

**AnC 1/2005, 13-30: Elżbieta Szczot: Ochrona Eucharystii w normach dotyczących *communicatio in sacris* (= Safeguarding the Eucharist in the norms concerning *communicatio in sacris*).** (Symposium presentation)

See below, canon 844.

**AnC 1/2005, 59-75: Andrzej Wójcik: Ochrona tajemnicy Eucharystii w normach wyznaczających szafarza Komunii świętej (= Safeguarding of the**

**mystery of the Eucharist in the norms governing the minister of Holy Communion).** (Symposium presentation)

See below, canons 900-911.

**Ang 83 (2006), 397-449: Bruno Esposito: Il rapporto del Codice di Diritto canonico latino con il Diritto internazionale. Commento sistematico-esegetico al can. 3 del CIC/83.** (Article)

See below, canon 3.

## CODE OF CANONS OF THE EASTERN CHURCHES

**Ang 83 (2006), 451-473: Lorenzo Lorusso: Il riconoscimento della pari dignità nella comunione cattolica: il decreto *Orientalium Ecclesiarum* e il Codice dei Canoni delle Chiese Orientali.** (Article)

The promulgation of the Code of Canons of the Eastern Churches by Pope John Paul II on 18 October 1990 marked the end of a long journey initiated by Leo XIII, culminating in a recognition of the equal dignity of all the different rites, which in their variety are a sign of unity. L. looks at the history of the Eastern codification, before examining the Code in the light of the Conciliar Decree *Orientalium Ecclesiarum*, which can be considered as a sort of “pre-Code”. The promulgation of the Eastern Code brought to completion the *Corpus Iuris Canonici* of the Catholic Church, but to give vitality to this *Corpus* the canons themselves are not sufficient: they also need to be correctly interpreted and applied, which makes it necessary to foster a true ecclesial awareness that is able to evaluate canon law in its proper ecclesiological and pastoral context.

**IE XVIII 1/06, 29-60: Pablo Gefaell: Il diritto canonico orientale nei lavori del Concilio Vaticano I. Voti dei consultori della Commissione Preparatoria per le Missioni e le Chiese orientali.** (Article)

See above, Historical Subjects (*19th century*).

**RTL 37 (2006), 26-43: Joseph Famerée: Le ministère du pape selon l'Orthodoxie.** (Article)

See below, canon 331.

**Arthur J. Espelage (ed.): CLSA Advisory Opinions 2001-2005. (Book)**

See below, canons 2-189.

**Luigi Sabbarese: Girovagli, migranti, forestieri e naviganti nella legislazione ecclesiastica. (Book)**

See below, canon 372.

## **BOOK I: GENERAL NORMS**

### **2-145**

**John M. Huels: Liturgy and Law. Liturgical Law in the System of Roman Catholic Canon Law. (Book)**

The aim of this book is to enable the reader to understand the field of liturgical law and its functioning within the system of canon law, which requires a familiarity with the key general norms of law from Book One of the Code of Canon Law. Chapter One treats the regulation of the liturgy by ecclesiastical authority, the first section of the chapter being a historical overview of the subject from the early Church to Vatican II, the second section covering the regulation of the liturgy under current law, especially at the levels of the Holy See, the conference of bishops, and the diocese. Chapter Two explains some canonical concepts relating to liturgical law and the themes addressed in subsequent chapters. The third chapter is devoted to basic rules and principles – mainly those contained in Titles I and III of Book One – governing ecclesiastical laws and general administrative norms, with a special focus on their applicability to liturgical laws and documents. Chapter Four deals with adaptation of the liturgy by means of law and custom. The fifth chapter is on singular administrative acts, as dealt with in Title IV of Book One of the Code. The sixth and final chapter pulls together everything affecting the validity of sacraments and those sacramentals that have juridical effects. (For bibliographical details see below, Books Received.)

### **2-189**

**Arthur J. Espelage (ed.): CLSA Advisory Opinions 2001-2005. (Book)**

This book, which represents the third volume in a series from the Canon Law Society of America, offers 231 items of canonical advice on a variety of pastoral canonical subjects. Entries were composed by national and international

members of the Canon Law Society of America and offer views on issues arising out of the Code of Canon Law and the Code of Canons of the Eastern Churches, providing advice on questions posed to canonists by laity, clergy and religious. Entries follow the seven books of the Code of Canon Law and the thirty titles of the Code of Canons of the Eastern Churches, and are organised by canon number as well as descriptive title. Two cumulative indexes are provided, the first of which is by canon number, the second by topic. (For bibliographical details see below, Books Received.)

### **3**

**Ang 83 (2006), 397-449: Bruno Esposito: Il rapporto del Codice di Diritto canonico latino con il Diritto internazionale. Commento sistematico-esegetico al can. 3 del CIC/83.** (Article)

The primary purpose of canon 3 is to define the relationship of the 1983 Code with international law, i.e. with those norms that are the fruit of Conventions with nations and other political societies. Indirectly canon 3 establishes the primacy of (most) norms of international law within the hierarchy of norms making up the canonical juridical order. In this way the Legislator uses the opportunity to express the conviction of Catholic doctrine as to the nature of international law and its intimate and necessary connection with natural law. B. traces the origins and development of relations within what is nowadays referred to as the international Community, setting out Catholic thinking in this regard, and clarifying when, how, and by means of whom, the Church has taken part and continues to take part in relations with nations and political bodies. He looks at the reasons leading to the insertion of canon 3 in the two Codes of the Latin Church; and then analyses the technical and juridical significance of the terms used in the canon, before ending the article with some replies to specific questions on the matter.

### **8**

**ACR LXXXIII 1/06, 82: Congregation for the Doctrine of the Faith: Notice: Rev. Malcolm J. Broussard.** (Document)

See below, canon 290.

### **12-13**

**Luigi Sabbarese: Girovagli, migranti, forestieri e naviganti nella legislazione ecclesiastica.** (Book)

See below, canon 372.

## 16-19

**AnC 1/2005, 175-185: Piotr Kroczek: Niedookreśloność i nieostrość zwrotów w prawie kanonicznym na przykładzie KPK z 1983 r ( = The indeterminate and unclear expressions in canon law. CIC 1983 as an example).** (Article)

K. looks at indeterminate and unclear expressions in canon law. Generally speaking, “indeterminateness” refers to the meaning of a linguistic expression, and “unclearness” to its range. Everyone agrees that law should be precise and clear. The lawgiver, however, is forced to use the universal language, which tends to be imprecise and unclear. The main aim of the process of interpretation of law is to bring out from the legal text a clear-cut norm for proper acting. Achieving this aim is made difficult by indeterminate and unclear expressions in the text. The lawgiver can make expressions more precise (specific and plain) by defining them, or he can use imprecise (indeterminate and unclear) expressions to make the law more flexible, and thus more realistic and more adaptable to changing situations. Thanks to the indeterminateness and unclearness of the legal expressions the lawgiver gives the interpreter a wider “decision zone”. The interpreter should be aware that such expressions are present in the law. He should use the most suitable meaning of the indeterminate and unclear expressions while taking into consideration the profile of the legal situation. He should also be ready to justify his choice of meaning. In summary, indeterminate and unclear expressions can dangerously weaken the clarity of the law, but they can also enhance the flexibility of its implementation. To illustrate his points, K. refers to the wordings of several canons in the 1983 Code.

## 17

**Ang 83 (2006), 121-142: Edward N. Peters: Lest Amateurs Argue Canon Law: A Reply to Patrick Gordon’s Brief Against Bp. Thomas Daily.** (Article)

See below, canon 1184.

## 29

**REDC 62 158/05, 251-275: Federico R. Aznar Gil: Boletín de legislación canónica particular española 2004.** (Particular legislation)

A.G. provides a list for 2004 of particular legislation from both the Spanish Episcopal Conference and individual dioceses of Spain. His compilation follows the order of the books and titles of the Code and gives the name of the diocese (or Episcopal Conference), title and date of the legislation and its citation in the appropriate national or diocesan publication.

**31**

**AA XII (2005), 117-164: Alejandro W. Bunge: El nuevo Directorio para el Ministerio Pastoral de los Obispos, *Apostolorum Successores*. (Article)**

See below, canons 381-402.

**34**

**IC XLVI 91/06, 59-97: Javier Otaduy: El principio de jerarquía normativa y la Instrucción *Dignitas Connubii*. (Conference presentation)**

See below, canons 1671-1691.

**34**

**IE XVIII 1/06, 187-197: Mauro Rivella: L'Istruzione in materia amministrativa 2005 della Conferenza Episcopale Italiana. (Article)**

See below, canons 1254-1289.

**34**

**IE XVIII 1/06, 199-216: Jesús Miñambres: Evoluzione nella prassi amministrativa della Chiesa in Italia: dalla «Istruzione in materia amministrativa» del 1992 a quella del 2005. (Commentary)**

See below, canons 1254-1289.

**34**

**QDE 19 (2006), 185-210: Matteo Visioli: La nuova *Istruzione in materia amministrativa* della Conferenza Episcopale Italiana. (Article)**

See below, canons 1254-1289.

**48**

**AnC 1/2005, 177-212: Piotr Majer: Kanoniczne zasady ustanawiania parafii (= Canonical rules for the creation of parishes). (Article)**

See below, canons 515-516.

## **85-87**

### **SC 39 1-2/05, 41-73: John M. Huels: Categories of Indispensable and Dispensable Laws. (Article)**

The Code of Canon Law recognises several categories of laws which may or may not be dispensed by the competent authorities. Canon 85 provides that a merely ecclesiastical law in a particular case may be dispensed; canon 86 further instructs that constitutive laws may not be dispensed. The dispensing authority of the diocesan bishop is articulated in canon 87 §1: he may dispense from universal and particular disciplinary laws when it is judged to be for the spiritual good of the faithful. However, he may not dispense from procedural laws, penal laws, or those laws whose dispensation is reserved to the Holy See or some other authority. The identification of procedural laws, penal laws, and those whose dispensation is reserved is usually not difficult. However, it is often difficult to distinguish which laws are constitutive and indispensable from those that are merely disciplinary and dispensable. In this study, H. presents an interpretation of constitutive law. He then offers a classification of constitutive laws based on the 1983 Code and the General Instruction of the Roman Missal (GIRM). This classification is further expanded with the identification of additional laws which by nature are non-dispensable. The article concludes with a survey of the canons of the 1983 Code and the norms of the GIRM which can be dispensed by the diocesan bishop.

## **96-112**

### **Luigi Sabbarese: Girovagli, migranti, forestieri e naviganti nella legislazione ecclesiastica. (Book)**

See below, canon 372.

## **113**

### **Ang 83 (2006), 397-449: Bruno Esposito: Il rapporto del Codice di Diritto canonico latino con il Diritto internazionale. Commento sistematico-esegetico al can. 3 del CIC/83. (Article)**

See above, canon 3.

## **113-116**

### **Rosemary Smith / Warren Brown / Nancy Reynolds (eds.): Sponsorship in the United States Context: Theory and Praxis. (Book)**

See below, canons 1254-1298.

## **124**

**IC XLVI 91/06, 245-290: Paola Buselli Mondin: Osservazioni sull'esistenza giuridica della sentenza canonica.** (Article)

See below, canons 1620-1622.

## **126**

**For XVI 2/05, 362-435: A. Mendonça: A doctrinal and jurisprudential analysis of canon 1097 on error of fact.** (Article)

See below, canon 1097.

## **127**

**Per VC 1/06, 37-68: Bruno Esposito: La partecipazione del superiore religioso alle votazioni con il suo consiglio quando il diritto richiede il consenso: questione risolta.** (Article)

E. examines the response given by the Pontifical Council for the Authentic Interpretation of the Code of Canon Law on 14 May 1985. This concerned the question whether or not a superior could break a deadlock in a vote where he or she was required to obtain the consent of his or her council. This response has had considerable impact in the manner in which religious superiors have used their councils. E. gives particular emphasis to this in the article and draws from his own knowledge and experience of the Dominican Constitutions.

## **129**

**For XVI 2/05, 436-458: Anne Asselin: The Laity: their service in the Church twenty years after the Code.** (Paper)

This is a revised version of the paper given to the Canadian Canon Law Society Convention in Ontario in October 2003. While the Code accepts a variety of ministries exercised by lay people, there remain some ambiguities, cf. the 1997 Instruction "On certain questions regarding the collaboration of the non-ordained faithful in the sacred ministry of priests". A. looks at several issues: the exercise of the power of governance by lay people (canon 129); installed and recognised ministries (canon 230); and the parish life collaborator (canon 517 §2). She then asks whether lay ministries are real or substitute ministries, and looks at the question of synods.

## **145**



**QDE 19 (2006), 141-157: Alberto Perlasca: Conferimento e cessazione dell'ufficio ecclesiastico. Problemi di rapporto con l'ordinamento civile.** (Article)

P. looks at certain conflicts of canon law and civil legislation in connection with the conferment and cessation of ecclesiastical offices. As regards the removal of a person from office, canon 194 specifies certain situations in which removal occurs *ipso iure*, on the basis that, in canon law, it is necessary that the requisites for conferment of the office subsist during the time the office is exercised. This can lead to strong tensions with the civil legal order. There can also be conflicts concerning offices conferred upon clerics and consecrated persons, where there may exist marked differences in the way civil legislation and canon law view the relationship of such persons with their superiors. The biggest problems of all, however, arise in cases where offices are conferred on laypersons, since the civil employment requirements are often unsuited to the canonical context. There is also the further delicate issue of the appropriate tribunal for resolving disputes that may arise between the holder of an office and the ecclesiastical administrative authorities.

**145**

**QDE 19 (2006), 158-174: Carlo Azzimonti: Lavoro ecclesiale e normativa civile italiana: il contratto di lavoro.** (Article)

From an Italian perspective, A. studies the ways in which the various kinds of contracts of those who work for the Church can be harmonised with the requirements of civil legislation.

**145**

**QDE 19 (2006), 175-184: Mauro Rivella: La remunerazione del lavoro ecclesiale.** (Article)

R. examines the question of remuneration for those who work in the service of the Church, highlighting certain problems (especially in relation to permanent deacons) arising out of the requirements of civil legislation.

**145-150**

**QDE 19 (2006), 116-140: Marino Mosconi: Quando occorre la nomina del vescovo? Il lavoro a favore della Chiesa e la nozione di ufficio ecclesiastico.** (Article)

M. attempts to identify the criteria by which a given ecclesial service is to be considered such as to require formal configuration as a canonical office, as

distinct from other forms of work on the Church's behalf which do not fall into this category. In order to be an "office", the task or *munus* must have (apart from other formal requirements) the following characteristics: it must be "stable"; it must be the result of a "decision" (divine or ecclesiastical); and it must be exercised for a spiritual end. M. goes on to study when formal establishment of an office is required; when canonical provision is necessary; the effects of the canonical establishment of an ecclesiastical office; and the nomination of the person who is to hold the office.

### **192-195**

**QDE 19 (2006), 141-157: Alberto Perlasca: Conferimento e cessazione dell'ufficio ecclesiastico. Problemi di rapporto con l'ordinamento civile.** (Article)

See above, canon 145.

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

### **205-325**

**Arthur J. Espelage (ed.): CLSA Advisory Opinions 2001-2005.** (Book)

See above, canons 2-189.

### **207**

**AA XII (2005), 165-182: Ariel D. Busso: El concepto de laicidad. Reflexiones acerca de la laicidad. Su relación con el canon 207 §1 y con la autonomía en el derecho público eclesiástico.** (Article)

See below, canon 225.

### **208**

**RTL 37 (2006), 231-244: Alphonse Borrás: Les « communautés locales ».** (Bibliographical review)

In 2005 Bishop Albert Rouet of Poitiers, together with others, wrote a book entitled *Un nouveau visage d'Église* (2005), in which they described the experience of "local communities" in the Poitiers diocese – a project based on the baptismal calling of Christians and their ability to undertake the mission of

the Church in dialogue with society. This experience gives food for thought in practical theology because of its ecclesiological coherence and its articulation with surrounding realities. It calls however for deeper theological investigation of its presuppositions and closer examination of some points of canon law. In fact B. laments the lack of any canonical approach to the project.

## **213-214**

**Luigi Sabbarese: Girovaghi, migranti, forestieri e naviganti nella legislazione ecclesiastica.** (Book)

See below, canon 372.

## **220**

**IE XVIII 1/06, 61-81: Venerando Marano: La protezione dei dati personali fra diritto statale e «garanzie» confessionali.** (Lecture)

M. first studies the 1981 Convention of the Council of Europe on the protection of individuals with regard to automatic processing of personal data. After several piecemeal attempts at legislative changes, Italy's new Personal Data Protection Code came into force on 1 January 2004. M. looks into the subsequent State norms on religious confessions in Italy, and then at the normative guidance for religious confessions according to the 1999 General Decree of the Italian Episcopal Conference. The latter seems to integrate well the system of "guarantees" in the section of the Code regarding "privacy". In the particular case of the Catholic Church, M. recalls the conditions of sovereignty and independence, as well as freedom of exercise, acknowledged by the Lateran Concordat of 1984. He rejoices at the fact that, after more than twenty years, the agreement has responded well to progressive development.

## **220-221**

**Patricia M. Dugan (ed.): Advocacy Vademecum.** (Book)

See below, canons 1501-1670.

## **222**

**QDE 19 (2006), 185-210: Matteo Visioli: La nuova Istruzione in materia amministrativa della Conferenza Episcopale Italiana.** (Article)

See below, canons 1254-1289.

**223**

**LJ 154/05, 6-26: Robert McCorquodale: Contemporary Human Rights and Christianity.** (Article)

After examining the present theories of human rights and their limitation by the rights of others, McQ. notes that there is now a “significant body” of international law regarding these. For the Christian, the basis is justice and love of one’s neighbour, with a preferential option for the poor. There is a “vertical responsibility” to God.

**224-231**

**REDC 62 158/05, 231-250: Ciro Tammaro: Profili storico-giuridici del ruolo attivo dei fedeli laici nella chiesa.** (Article)

T. offers a historical-juridical consideration of the role of the laity in the Church. After some preliminary observations he deals with the role of the laity as expressed in the 1917 Code with its clear emphasis on the hierarchical and clerical aspect of the Church and the subordinate place of the laity. He goes on to examine some of the texts of Vatican II, especially *Lumen Gentium* and its teaching on the Church as the People of God, underlining the right and duty of all the faithful to participate in the Church’s apostolate, where the laity’s role is particularly important in giving witness to the Gospel in the temporal and secular sphere. In a final section he looks at how these doctrinal elements find their place in the present Code where the title dealing with the “Obligations and Rights of the Lay Members of Christ’s Faithful” comes before that dealing with “Sacred Ministers or Clerics”. The present canonical structure provides the framework for greater future development of the fundamental rights of the laity.

**225**

**AA XII (2005), 165-182: Ariel D. Busso: El concepto de laicidad. Reflexiones acerca de la laicidad. Su relación con el canon 207 §1 y con la autonomía en el derecho público eclesiástico.** (Article)

After positing various possible meanings of the word “laity/lay” B. considers Christian dualism (“to Caesar what is Caesar’s, to God what is God’s”) and the development of the lay/clerical distinction. He then examines the process of “laicisation” in modern times, in the sense of secularisation, the diminution or total absence of the effects of religion in the life of society, manifested in the civil secularised State and ethics. He considers the autonomous nature of laicism where both civil and religious societies recognise themselves as non-competent to interfere in the sphere of the other. The authentic lay State will respect the religious differences within society and legislate accordingly for

their ordered and peaceful co-existence.

## **226**

**For XVI 2/05, 289-290: Pope Benedict XVI: The transmission of faith in the family.** (Letter)

In this letter sent to the President of the Pontifical Council for the Family, dated 17 May 2005, the Pope emphasises the role of families in passing on the Faith.

## **227**

**AA XII (2005), 233-277: Helmuth Pree: Libertad y responsabilidad del laico en los asuntos temporales.** (Article)

P.'s theme is the autonomy and responsibility of lay activity in the temporal affairs of public life and its relationship to the canon law of the Church. He presents some historical, juridical and doctrinal background before dealing with lay freedom as a subjective right. He considers the limits of this autonomy, commenting on some concrete obligations arising from canonical sources, the competence of the hierarchy in this field, and the complementarity of the hierarchical priesthood and the universal priesthood of all the faithful. His final section examines the juridical protection, in both the ecclesiastical and civil forums, of the right to freedom in secular affairs afforded by canon 227.

## **228**

**For XVI 2/05, 436-458: Anne Asselin: The Laity: their service in the Church twenty years after the Code.** (Paper)

See above, canon 129.

## **228**

**For XVI 2/05, 459-478: Linda Robitaille: Ministry – Twenty Years after the Code.** (Paper)

This article is based on a paper given to the Canadian Canon Law Society Convention in Ontario in October 2003. Understanding of ministry has evolved since 1983. There has been clarification, but issues remain. After looking at basic definitions, R. considers these in the light of the 1997 Instruction, where the term “ministry” is used in a narrower way than by many writers. She then looks at cooperation in the ministry of the bishop, ministry and the Christian faithful, the permanent diaconate and ministries fulfilled by lay persons. She

suggests greater clarity is needed on the distinction between those tasks requiring priestly orders, and those which do not, but which are customarily fulfilled by the ordained, and that consideration of the diaconal ministry may be fruitful in this process.

### **230**

**AnC 1/2005, 59-75: Andrzej Wójcik: Ochrona tajemnicy Eucharystii w normach wyznaczających szafarza Komunii świętej (= Safeguarding of the mystery of the Eucharist in the norms governing the minister of Holy Communion).** (Symposium presentation)

See below, canons 900-911.

### **230**

**AnC 1/2005, 95-108: Jan Dyduch: Udział świeckich w misji kapłańskiej Chrystusa w prawodawstwie powszechnym i polskim w latach 1983-2005 (= The participation of the laity in the priestly mission of Christ in universal and Polish particular legislation in the years 1983-2005).** (Article)

See below, canon 835.

### **230**

**For XVI 2/05, 436-458: Anne Asselin: The Laity: their service in the Church twenty years after the Code.** (Paper)

See above, canon 129.

### **230**

**For XVI 2/05, 459-478: Linda Robitaille: Ministry – Twenty Years after the Code.** (Paper)

See above, canon 228.

### **241**

**AA XII (2005), 331-346: Ariel D. Busso: La homosexualidad y el Orden sagrado.** (Article)

B. comments on the Instruction of 4 November 2005 concerning the

discernment of vocations in relation to persons with homosexual tendencies prior to their admission to seminary and holy orders. He emphasises the need for proper spiritual preparation and affective maturity in order to be able to accept the divine gift of celibacy, for only within the context of an exclusive and committed response to divine love can a truly celibate life be lived. The Instruction considers people with deeply rooted homosexual tendencies to be attracted towards acts which are intrinsically disordered and morally unacceptable. This constitutes a species of affective immaturity which would render extremely difficult a genuinely celibate life. A transitory homosexuality may sometimes exist as a passing phase in adolescence but this can hardly be said of someone who has reached adult age and is considering priestly or religious vocation. Those involved in the discernment of the suitability of candidates for seminary and sacred orders must be guided by the teaching and tradition of the Church in their deliberations and not be swayed by prevailing secular opinions and pressure groups. The ultimate decision lies with the bishop or religious superior but it is highly recommended that an Orders and Ministries Council be established to advise him.

#### **242-244**

**QDE 19 (2006), 211-222: G. Paolo Montini: La formazione negli studi teologici.** (Article)

On 18 April 1985 the Italian Bishops' Conference, in accordance with the requirements of canon 242, established a charter of priestly formation, including a complementary charter on theological studies. M. looks at the purpose and content of this latter document, and offers some reflections on the place and importance of theological studies in the formation of priests.

#### **247**

**AA XII (2005), 331-346: Ariel D. Busso: La homosexualidad y el Orden sagrado.** (Article)

See above, canon 241.

#### **250-256**

**QDE 19 (2006), 211-222: G. Paolo Montini: La formazione negli studi teologici.** (Article)

See above, canons 242-244.

**277**

**SC 39 1-2/05, 147-180: Edward N. Peters: Canonical Considerations on Diaconal Continence.** (Article)

An analysis of canon 277 indicates that two distinct obligations are imposed on clerics in the Latin Church: sexual continence and celibacy. Continence is presented as the more fundamental norm. While the obligation of celibacy is mitigated for permanent deacons, P. finds no lifting of the more basic obligation of continence for them in canon law. Testing this conclusion, he examines the Pio-Benedictine provisions on clerical celibacy and continence, post-conciliar norms by which the (permanent) diaconate was restored in the West, and the legislative history of the 1983 Code provisions in this area, and suggests that they support the maintenance of the obligation of continence for married permanent deacons. P. then examines the relatively few scholarly defences of the continued exercise of conjugal rights by married permanent deacons (chiefly, arguments based on canon 4) and concludes that, while they are potentially applicable to those ordained without knowledge of the law in this area, they are insufficient in themselves to accomplish a change in the traditional canonical obligation of continence reiterated in canon 277. P. invites the competent ecclesiastical authority either to articulate in canonically sound terms why the obligation of continence should not apply to married permanent deacons, or to take the steps necessary to bring permanent deacon formation programmes into line with the expectation of clerical continence so that candidates for ordination and their wives can make an informed decision about this matter.

**279**

**N XLII 5-6/06, 199-208: F. Arinze: La formazione liturgica nella vita del sacerdote.** (Address)

Cardinal Arinze begins the academic year at the Salerno seminary by speaking of the importance of clergy continuing their liturgical formation. Following the directives of the Church is important for avoiding arbitrariness, but so also is the light of understanding.

**281**

**LJ 154/05, 126-143: Cristiana Cianitto: The Maintenance of Clergy in the Italian Catholic Church.** (Article)

C. examines how in conformity with the Code, the Italian State channels revenue from taxation and tax-free donations through the diocesan and inter-diocesan institutions for the remuneration of the clergy. She indicates which groups of clergy are entitled to support in accordance with the particular law of



the Italian Episcopal Conference.

**281**

**QDE 19 (2006), 158-174: Carlo Azzimonti: Lavoro ecclesiale e normativa civile italiana: il contratto di lavoro.** (Article)

See above, canon 145.

**281**

**QDE 19 (2006), 175-184: Mauro Rivella: La remunerazione del lavoro ecclesiale.** (Article)

See above, canon 145.

**290**

**ACR LXXXIII 1/06, 82: Congregation for the Doctrine of the Faith: Notice: Rev. Malcolm J. Broussard.** (Document)

This undated notice (prot. no. 162/2003) indicates that Rev. Malcolm J. Broussard, a schismatic priest incardinated in the Archdiocese of Galveston-Houston (USA), and resident in the Diocese of Wollongong (Australia), has been dismissed *ex officio et pro bono Ecclesiae* from the clerical state by the Pope on 15 September 2005. No reasons are given in the notice, although Rev. Broussard is notorious in Australia for receiving episcopal consecration without a pontifical mandate in Germany in 2003, and presenting himself in various parts of Australia as a Catholic bishop and spiritual director of a sect. The Australian Bishops' Conference uses ACR as its organ of publication of decrees (cf. can 8 §2).

**290-291**

**Per VC 1/06, 69-107: Edward Lohse: The origin and nature of the suspension *ad cautelam* of article 4 of the 1980 *Normae procedurales* for dispensations from celibacy – part 2.** (Article)

Continuing his examination of the origins and nature of the suspension that forms part of the procedure for seeking a dispensation from celibacy (see *Canon Law Abstracts*, no. 96, p. 45), L. provides an overview of the Church's universal legislation in this area, from Vatican II to the most recent innovation introduced by Pope Benedict XVI in which competence for all such cases was transferred to the Congregation for the Clergy. As it evolved, one of the most striking

features of this procedure was the need to suspend from the exercise of ministry any priest seeking juridical relief from the obligation of celibacy.

### **290-291**

**Patricia M. Dugan (ed.): Advocacy Vademecum.** (Book)

See below, canons 1501-1670.

### **294-297**

**SC 39 1-2/05, 129-145: Dominique Le Tourneau: Le peuple propre de la prélatrice de l'Opus Dei.** (Article)

The presence of priests in the personal prelature of Opus Dei is a juridically established fact. Le T. first specifies the task which is incumbent upon these priests or, to employ a more technical term, the *canonical mission* assigned to them by the prelate for the service of the common priesthood of the lay faithful of Opus Dei. Then their role is discussed as cooperators of the prelate for the establishment of a true presbyterium of the prelature, designated for the service of a body of the faithful, that of Opus Dei, and to provide the corresponding responsibility for the care of souls. Moreover, the message of sanctification in and through professional work is addressed to all, but in the first place and primarily to the laity who constitute more than 98% of the Opus Dei faithful. There is good reason, therefore, to examine firstly their membership conditions, according to an organic cooperation that is, in itself, the *ratio apostolatus* which led the Roman Pontiff to erect the prelature, and, secondly, the jurisdiction exercised over these lay persons, a jurisdiction which extends to very specific matters and does not interfere in any way with the jurisdiction of the diocesan bishop.

### **294-297**

**Arturo Cattaneo: Unità e varietà nella comunione della Chiesa locale.** (Book)

See below, canon 368.

### **298-329**

**AA XII (2005), 183-216: Marcelo Colombo: Asociación de fieles: de la renovación al porvenir.** (Article)

In his introduction C. considers the nature and extent of the right of association

in the Church and reviews the pre-conciliar situation. The ecclesiology of Vatican II, especially in *Apostolicam Actuositatem* and *Presbyterorum Ordinis*, formed the basis for further development culminating in the right of association as formulated in the present Code. He examines that right under the following headings: plurality of persons; the ends or aims of the society/association; stability and organisation; the exercise of ecclesiastical authority. He looks at more recent Church teaching, in particular *Christifideles Laici* of Pope John Paul II. He questions the effectiveness of some traditional associations of the faithful which have become routine or fossilised in their attitudes and activities. He raises the question whether a canonically instituted association might also form part of a non-governmental organisation, subject therefore to State and civil legislation, without compromising its specifically Catholic ethos and aims. He finally touches on the possibility of further development of ecumenical associations of the faithful with participation of non-Catholics.

### **298-329**

#### **Lluís Martínez Sistach: Le associazioni di fedeli. (Book)**

This is the Italian version of the fifth edition of *Las asociaciones de fieles* (see *Canon Law Abstracts*, nos. 86, p. 29, and 93, p. 32). Whereas movements, groups and confraternities were once regarded with a certain suspicion by the hierarchy, associations of the faithful are now encouraged and favoured: in Rome the Pontifical Council for the Laity has been established, and the 1983 Code dedicates a significant number of canons to them. In the eight chapters which this book contains, M.S., Archbishop of Barcelona, deals with the right of association of the faithful; the concept and the different kinds of association of the faithful; the statutes of associations of the faithful; public associations of the faithful; private associations of the faithful; new ecclesial movements; confraternities and fraternity; and the criteria for identifying the various associations of the faithful. There are also two appendices, the first offering a selection of sample documentation in relation to statutes and the establishment of associations, the second setting out the relevant canons of the 1983 Code. (For bibliographical details see below, Books Received.)

### **310**

#### **Rosemary Smith / Warren Brown / Nancy Reynolds (eds.): Sponsorship in the United States Context: Theory and Praxis. (Book)**

See below, canons 1254-1298.

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

**331**

**Ang 83 (2006), 377-395: Ciro Tammaro: La giurisdizione degli ordini mendicanti durante il Medioevo: la disputa tra religiosi e secolari nell'Università di Parigi durante il XIII secolo. (Article)**

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

**331**

**RTL 37 (2006), 26-43: Joseph Famerée: Le ministère du pape selon l'Orthodoxie. (Article)**

The only basis for grasping the Orthodox view of Roman primacy is an ecclesiology of the fellowship of local sister Churches, each one being fully the Church of Christ in a place of communion with the others. In the Orthodox view the universal primacy of the local Church of Rome is at the service of the fellowship of local (regional) Churches in the apostolic faith and can only be exercised in a synodality or reciprocity with these other Churches. This primacy of the Church of Rome is reflected in its bishop (in a strict link with his local Church). As to the infallibility of the Pope's magisterium, it is only considered by the Orthodox to be acceptable if the bishop of Rome were to be the spokesman of the Petrine or apostolic faith of his local Church in strict fellowship with the whole Church.

**336**

**J 65 (2005), 241-267: Mary Pierre Jean Wilson / Mary Judith O'Brien: Provincial and Plenary Councils: Renewed Interest in an Ancient Institution. (Article)**

See below, canons 439-446.

**360-361**

**Ang 83 (2006), 397-449: Bruno Esposito: Il rapporto del Codice di Diritto canonico latino con il Diritto internazionale. Commento sistematico-esegetico al can. 3 del CIC/83. (Article)**

See above, canon 3.

### **362-365**

**REDC 62 158/05, 142-182: José Miguel Viejo-Ximénez: Posición jurídica de la iglesia católica en el orden internacional.** (Conference address)

See above, General Subjects.

### **362-367**

**Ang 83 (2006), 177-209: Carlo Fabris: La diplomazia pontificia come presenza della Santa Sede nella vita delle chiese locali, presso la comunità nazionale ed internazionale.** (Article)

F. looks at the role of papal legates, especially in the light of Paul VI's motu proprio *Sollicitudo omnium Ecclesiarum* (24 June 1969), which was the direct source of several of the canons in the 1983 Code. He analyses the legates' responsibilities *ad intra* – i.e. in relation to the local Churches – and *ad extra* – vis-à-vis the civil authorities. After outlining the historical background to these functions, he examines the juridical and ecclesiological basis of the diplomatic activity of the Holy See. The role of papal representatives, “the eyes and hands of the Vicar of Christ”, is not always clearly seen and recognised, even though it is essential in helping the Pope maintain the unity and cohesion of the Catholic Church and carry out his function of confirming the brethren in the faith; it is also an effective instrument for ensuring the presence of the Pope and the Holy See in the life of individual nations and in international relations.

### **368**

**Arturo Cattaneo: Unità e varietà nella comunione della Chiesa locale.** (Book)

Reflections on ecclesiology since Vatican II have helped bring about a better understanding of how the unity of the local Church is characterised by the Catholicity which is proper to the whole Church. In every local Church there are to be found plurality and diversification, which in the words of the Congregation for the Doctrine of the Faith “do not obstruct unity but rather confer upon it the characteristic of ‘communion’” (Letter *Communio Notio*, 1992, no. 15). “Unity in variety” is both a gift to the Church and at the same time a challenge, which it is for the Pastors to tackle, but which also involves every member of the faithful. This book, which brings together several recent studies by C., is divided into three parts. Part I, entitled “The Ecclesiological Foundations”, looks at the reasons why the unity of the local Church is not something “monolithic” but contains that diversity which gives rise to communion. Part II examines the reasons why the Church's mission requires an ever-greater flexibility in its pastoral structures; while Part III deals with the variety of forms of association (movements, institutes of consecrated life, etc.)

and how they act within the communion of the local Church. (For bibliographical details see below, Books Received.)

### **368-374**

**AnC 1/2005, 139-174: Jerzy Bednarz: Administratura apostolska personalna „Świętego Jana Marii Vianneya” (= The Personal Apostolic Administration “St Jean Marie Vianney”). (Article)**

B. examines the personal apostolic administration “St Jean Marie Vianney” in the diocese of Campos (Brazil). This new apostolic administration is assimilated *in iure* to a diocese and is directly subject to the Holy See. It was established in order to admit traditionalist faithful in the diocese of Campos to full communion with the Catholic Church, while at the same time helping to safeguard their liturgical and disciplinary patrimony. Never before had reasons of an “internal” nature in the Church justified the establishment of an apostolic administration: the causes had always been external to the community, and were principally political and ecumenical. Furthermore, this apostolic administration differs from others in that it is of a personal nature. But the “personal” criterion determining the members of the administration applies within the territorial ambit of the diocese of Campos. After manifesting their will in writing, the faithful may be admitted to the apostolic administration by means of an entry in a special register. In that register the names of those who are to be baptised in it may also be entered. Thus it can be said that this apostolic administration is a mixed circumscription – that is, it is partly personal and partly territorial. The apostolic administrator is *veluti* a proper Ordinary. His power is ordinary, personal, and cumulative with that of the diocesan bishop of Campos. Previously no administrator had held power with such characteristics. The apostolic administrator is assisted by proper clergy incardinated in the administration. The personal apostolic administration “St Jean Marie Vianney” has certain prerogatives as regards its internal organisation (governing council; the possibility of establishing its own seminary; institutes of consecrated life; societies of apostolic life; and its own tribunals), which give it stability and guarantee its special characteristics. This constitutes another difference vis-à-vis previous apostolic administrations, which were of a temporary nature.

### **370**

**IE XVIII 1/06, 293-295: Benedetto XVI: Lettera apostolica in forma di «Motu proprio» *L'antica e venerabile Basilica per la Basilica di San Paolo fuori le Mura e per il suo complesso extraterritoriale*, 31 maggio 2005. (Document)**

See below, canon 1213.

**370**

**IE XVIII 1/06, 297-304: Antonio S. Sánchez-Gil: Le nuove disposizioni pontificie riguardanti la Basilica di San Paolo fuori le Mura e le due Basiliche francescane di Assisi. (Commentary)**

See below, canon 1213.

**372**

**Arturo Cattaneo: Unità e varietà nella comunione della Chiesa locale. (Book)**

See above, canon 368.

**372**

**Luigi Sabbarese: Girovaghi, migranti, forestieri e naviganti nella legislazione ecclesiastica. (Book)**

From the pastoral point of view, *peregrini*, *vagi*, migrants, exiles, refugees, nomads and seafarers represent specific categories of faithful. Because of their “mobile” status they lose their stable reference to a territorial structure of the Church, so that it becomes necessary to establish different forms of pastoral care for them, organised on a “personal” basis, such as personal parishes for migrants of a certain language or nationality or for Eastern Catholics within Latin dioceses, etc. This book deals with the different aspects of the juridical personality of migrant faithful, and examines those factors which, in relation to their mobility, may affect their canonical status: their place of origin, domicile, quasi-domicile, and rite. S. also looks at the particular situation of Eastern Catholics who have domicile in territories where the parish priest is absent or where a proper Eastern hierarchy has not been established; and at other particular situations involving *vagi* which are not covered by any specific legislative provision. Migration, which is often thought of as involving cultural uprooting and the loss of individual, social and religious identity, can also be a factor of growth, with positive aspects from an anthropological and cultural perspective, as well as from the theological and pastoral standpoints. By being inserted into and by collaborating with a particular Church, migrants can contribute to a more universal development and an enrichment of the particular Church. (For bibliographical details see below, Books Received.)

**374**

**AnC 1/2005, 177-212: Piotr Majer: Kanoniczne zasady ustanawiania**

**parafii (= Canonical rules for the creation of parishes).** (Article)

See below, canons 515-516.

**381**

**Ang 83 (2006), 377-395: Ciro Tammaro: La giurisdizione degli ordini mendicanti durante il Medioevo: la disputa tra religiosi e secolari nell'Università di Parigi durante il XIII secolo.** (Article)

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

**381-402**

**AA XII (2005), 117-164: Alejandro W. Bunge: El nuevo Directorio para el Ministerio Pastoral de los Obispos, *Apostolorum Successores*.** (Article)

B. begins his study of the Directory for the Pastoral Ministry of Bishops (22 February 2004) by examining its historical and more recent antecedents (*Ecclesiae Imago*, 1973, and *Pastores Gregis*, 2001). He considers the nature of the Directory as one of the possible forms of general executory decrees (canon 31). The main part of his article is dedicated to a consideration of the content of the Directory with special attention given to the sources quoted in its footnotes. It is hardly surprising that the canons of the Code are the most quoted (a total of 437), followed by the documents of Vatican II and the teachings of Pope John Paul II. He goes on to speak about how the Directory deals with specific subjects: the Metropolitan, episcopal conferences, diocesan synods, the diocesan curia, diocesan councils, parishes, bishops *emeriti*, *sede vacante*. In his conclusion B. emphasises how much the Directory is firmly established on the ecclesiology of Vatican II and how valuable an instrument it is in helping bishops fulfil their role as servants of the Gospel.

**381-564**

**Arthur J. Espelage (ed.): CLSA Advisory Opinions 2001-2005.** (Book)

See above, canons 2-189.

**383**

**Luigi Sabbarese: Girovaghi, migranti, forestieri e naviganti nella legislazione ecclesiastica.** (Book)

See above, canon 372.



**391**

**REDC 62 158/05, 251-275: Federico R. Aznar Gil: Boletín de legislación canónica particular española 2004.** (Particular legislation)

See above, canon 29.

**394**

**Rosemary Smith / Warren Brown / Nancy Reynolds (eds.): Sponsorship in the United States Context: Theory and Praxis.** (Book)

See below, canons 1254-1298.

**439-446**

**J 65 (2005), 241-267: Mary Pierre Jean Wilson / Mary Judith O'Brien: Provincial and Plenary Councils: Renewed Interest in an Ancient Institution.** (Article)

Vatican II and Pope John Paul II hoped for collegiality of bishops. W. and O'B. examine the history of provincial and plenary councils in both the 1917 Code and that of 1983. They study the objectives, types, and membership, of collegiality.

**455**

**REDC 62 158/05, 251-275: Federico R. Aznar Gil: Boletín de legislación canónica particular española 2004.** (Particular legislation)

See above, canon 29.

**460-468**

**Joseph Galea-Curmi: The Diocesan Synod as a Pastoral Event. A Study of the Post-Conciliar Understanding of the Diocesan Synod.** (Doctoral thesis)

G.-C. explores the renewed understanding of the Catholic diocesan synod in the light of the Second Vatican Council, focusing on the period between the Council and the 1997 *Instruction on Diocesan Synods*. In the first Chapter he studies the sense in which one may speak of the Council as being a "turning point" for this renewed understanding. In Chapter Two he deals with post-Conciliar documents that refer to the diocesan synod, examining them in chronological order with the aim of tracing the development in thought. The 1983 Code itself gives a significant place to the diocesan synod within the structure of the particular

Church. Chapter Three deals with Pope John Paul II's contribution, as Pope, towards a renewed understanding of the diocesan synod, his Papal speeches and writings being linked to his speeches in the diocesan synod he himself had celebrated as Archbishop of Krakow in the 1970s. In Chapter Four G.-C. reflects, in the light of a world-wide survey carried out among episcopal conferences, upon the experiences of diocesan synods from the time of the Council up to the 1997 *Instruction on Diocesan Synods*; and in the fifth and final Chapter he offers some theological reflections. A short concluding section looks towards the future and deals with the difficulties and limitations that the diocesan synod has to face realistically. (For bibliographical details see below, Books Received.)

#### **469-494**

**For XVI 2/05, 479-491: P. Powers: Chancery and Administration Issues: Twenty Years after the Code.** (Paper)

This paper was given at the Canadian Canon Law Society Convention in Ontario in 2003. P. examines briefly the various offices and functions mentioned in the Code as part of the diocesan curia. He then considers additional elements that one might find today, and some of their implications: pastoral offices of various kinds; legal departments; need for increased revenues at a time of diminishing numbers; the employment costs of qualified lay people; ability of clergy to keep up with spiralling bureaucracy; complaints procedures; and mutual assistance between dioceses.

#### **476-479**

**SC 39 1-2/05, 243-273: Rose McDermott: *Apostolorum Successores* and the Episcopal Vicar for Consecrated Life.** (Article)

The office of episcopal vicar for consecrated life is examined within the framework of the 2004 Directory for the Pastoral Ministry of Bishops, *Apostolorum Successores*. The study further contrasts this office with the parallel provisions in the 1973 Directory for the Pastoral Ministry of Bishops, *Ecclesiae Imago*, to show its development in theory and practice over the past thirty years in the light of the 1983 Code of Canon Law and postconciliar documents. The duties of the vicar for consecrated life include: knowledge of the forms of consecrated life present within the particular Church, familiarity with the proper laws of each institute or society, and the monitoring of proposed new forms of consecrated life seeking canonical approval. Pastoral care such as meetings of the diocesan bishop with major superiors, visitation of *sui iuris* monasteries and houses of diocesan right, reviewing financial reports, promotion of apostolic service in the diocese, proposing contracts between the diocese and religious for apostolic works, as well as canonical assistance for

major superiors, are all part of the vicar's responsibilities as the representative of the diocesan bishop.

#### **494**

**QDE 19 (2006), 185-210: Matteo Visioli: *La nuova Istruzione in materia amministrativa della Conferenza Episcopale Italiana.* (Article)**

See below, canons 1254-1289.

#### **515**

**QDE 19 (2006), 25-40: Francesco Grazian: *Oltre il campanile: nuovi luoghi parrocchiali.* (Article)**

See below, canon 518.

#### **515**

**Arturo Cattaneo: *Unità e varietà nella comunione della Chiesa locale.* (Book)**

See above, canon 368.

#### **515-516**

**AnC 1/2005, 177-212: Piotr Majer: *Kanoniczne zasady ustanawiania parafii* (= **Canonical rules for the creation of parishes**). (Article)**

The concern of the diocesan bishop to organise pastoral structures, and above all to create parishes, is one of the most important features of his pastoral mission and responsibility. M. provides a commentary on the provisions, both within and outside the Code, concerning the establishment of parishes: the exclusive competence of the diocesan bishop, the obligation to consult the council of priests and other parties, the consequences of a failure to do so, the content of a decree of establishment, and the juridical personality of the parish. He sets out the criteria according to which the creation of parishes should be planned, in order to meet the requirements of the care of souls, while at the same time ensuring a suitable and effective distribution of sacred ministers. This should be carried out with a global perspective, taking into account demographic development and also the building and industrial programmes envisaged by the civil authorities. M. highlights the need to determine the limits of the parish accurately, bearing in mind the relationship between territory and the lawful and even valid administration of sacraments. Finally he looks at quasi-parochial

structures, which in practice in Poland often operate under different names and are not always established with canonical rigour and with well-defined competences.

### **515-518**

**Luigi Sabbarese: Girovaghi, migranti, forestieri e naviganti nella legislazione ecclesiastica.** (Book)

See above, canon 372.

### **517**

**For XVI 2/05, 436-458: Anne Asselin: The Laity: their service in the Church twenty years after the Code.** (Paper)

See above, canon 129.

### **517**

**SC 39 1-2/05, 109-127: Anne Asselin: Les agents de pastorale dans la structure actuelle des paroisses et quelques propositions pour l'avenir.** (Article)

It has now been several years since the laity first responded to a call for an increased involvement in Church ministry, whether because of a shortage of priests or in the context of the bishop's or the parish priest's new vision of lay ministry. But this new form of ministry was not meant to be a passing one; on the contrary, it has never stopped increasing throughout the years, regardless of the reasons for its origin, and we now realise that practices and situations for the lay minister vary greatly from parish to parish. A. starts by defining the proper identity of the priest, the deacon, and the lay ecclesial minister, in order to understand how these ministries may interact in symbiosis and in collaborative unity. Parishes have undergone a considerable transformation in these last decades and this phenomenon must be taken into account when defining the role of lay ministers. After a brief reminder of the canonical norms governing this ministry, A. looks at the lay ecclesial minister's responsibilities in the present situation and offers a few suggestions for the lay ministry of the future. Adequate parameters of formation and competence, a public commissioning, and thorough mandates and job descriptions must be developed if this ministry is to bear fruit and work collaboratively with other ministries.

### **518**

**QDE 19 (2006), 25-40: Francesco Grazian: Oltre il campanile: nuovi luoghi parrocchiali.** (Article)

G. aims to explore some of the new parish “places” which are arising in various parishes – community or cultural centres which offer opportunities for deepening in faith and ecclesial life – and considers the appropriate juridical forms for these “places”.

**519**

**Ang 83 (2006), 377-395: Ciro Tammaro: La giurisdizione degli ordini mendicanti durante il Medioevo: la disputa tra religiosi e secolari nell’Università di Parigi durante il XIII secolo.** (Article)

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

**533**

**QDE 19 (2006), 6-24: Giuliano Brugnotto: La parrocchia missionaria e i beni negli orientamenti dei vescovi italiani.** (Article)

See below, canons 1205-1213.

**535**

**Assemblée des Évêques catholiques du Québec: Guide canonique et pastoral au service des paroisses / Assembly of Quebec Catholic Bishops: Canonical and Pastoral Guide for Parishes.** (Book)

See below, canons 849-896.

**564-566**

**IC XLVI 91/06, 219-244: Francisca Pérez-Madrid: La asistencia religiosa penitenciaria en Cataluña: la Instrucción 1/2005 del dret a rebre atenció religiosa en el medi penitenciari.** (Article)

The Spanish Constitution of 1978 states that central government has total responsibility for legislating on prison issues, even though the execution of that law may be carried out by the autonomous regional governments. So far, Catalonia is the only territory to have taken advantage of this possibility and to have made provision for pastoral attention in penal institutions, by means of the Instruction 1/2005. P.-M. analyses the wording of this Instruction, and highlights some questionable points in relation to the protection of religious

freedom in prisons. She also looks at the system for appointing chaplains, the regulation of places of worship, the role of volunteers, and funding.

### **564-568**

**Luigi Sabbarese: Girovaghi, migranti, forestieri e naviganti nella legislazione ecclesiastica.** (Book)

See above, canon 372.

### **567**

**SC 39 1-2/05, 243-273: Rose McDermott: *Apostolorum Successores* and the Episcopal Vicar for Consecrated Life.** (Article)

See above, canons 476-479.

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

### **573**

**VC XLII 1/06, 32-44: P. Riva: Simposio nel 40° del *Perfectae Caritatis*.** (Article)

On 26 and 27 September 2005, a symposium was held to commemorate the fortieth anniversary of the promulgation of *Perfectae Caritatis*. A participant at the symposium, R. offers a brief synopsis of some of the interventions, before making observations on five fundamental points: the divine origin of consecrated life; its relationship with the Trinity; prophecy in consecrated life; its objective excellence; and the problem of vocations.

### **573**

**VC XLII 3/06, 285-302: Priamo Etzi: Vita consacrata e missione: il ruolo specifico della donna.** (Article)

In this article, E. considers the distinction between consecration and mission. For him, although these aspects of consecrated life may be distinguished, they are aspects of a radical unity. In the second half of the article, he examines the contribution of consecrated women to the mission of the Church.

## **573-709**

### **Rose McDermott: *The Consecrated Life. Cases, Commentary, Documents, Readings.* (Book)**

This book contains a total of 45 case studies on consecrated life. In each case McD., after setting out the circumstances, draws up a list of questions pertinent to the case, and the relevant legal provisions, before proceeding to her commentary. A list is then provided of references to help further study, together with some sample documents relevant to the case in question. This pattern is repeated systematically for each of the 45 cases, which range over virtually the whole of the common norms for institutes of consecrated life (canons 573-606) and the provisions relating specifically to religious institutes (canons 607-709). *Mutatis mutandis* the cases are also applicable to societies of apostolic life (canons 731-746). In each case McD. attempts to combine canonical expertise with a pastoral approach, convinced that canonists need to employ both for effective service to members of these institutes and societies as well as to those with authority over these stable forms of life within the Church. (For bibliographical details see below, Books Received.)

## **577**

### **VC XLII 3/06, 285-302: Priamo Etzi: *Vita consacrata e missione: il ruolo specifico della donna.* (Article)**

See above, canon 573.

## **579**

### **Arturo Cattaneo: *Unità e varietà nella comunione della Chiesa locale.* (Book)**

See above, canon 368.

## **579-740**

### **Arthur J. Espelage (ed.): *CLSA Advisory Opinions 2001-2005.* (Book)**

See above, canons 2-189.

## **586**

### **SC 39 1-2/05, 243-273: Rose McDermott: *Apostolorum Successores* and the Episcopal Vicar for Consecrated Life. (Article)**

See above, canons 476-479.

### **603-604**

**SC 39 1-2/05, 243-273: Rose McDermott: *Apostolorum Successores* and the Episcopal Vicar for Consecrated Life. (Article)**

See above, canons 476-479.

### **605**

**VC XLII 1/06, 59-74: A. Favale: *Sermig e la Fraternità della Speranza*. (Article)**

In a series about new forms of consecrated life emerging from ecclesial movements, F. writes about “Sermig” (*Servizio Missionario Giovani*), founded in Turin in 1964. In 1972 some of its members began to feel the need for a more fraternal way of life. This has given rise to the *Fraternità della Speranza* (the Fraternity of Hope), erected as a private association of the faithful by the Archbishop of Turin in 2004. This fraternity includes monks and nuns, married couples and young people.

### **615**

**SC 39 1-2/05, 243-273: Rose McDermott: *Apostolorum Successores* and the Episcopal Vicar for Consecrated Life. (Article)**

See above, canons 476-479.

### **627**

**Per VC 1/06, 37-68: Bruno Esposito: *La partecipazione del superiore religioso alle votazioni con il suo consiglio quando il diritto richiede il consenso: questione risolta*. (Article)**

See above, canon 127.

### **627**

**VC XLII 1/06, 6-31: P. L. Nava / G. Dal Piaz: *Il Superiore Maggiore e il suo Consiglio. Tra compiti tradizionali e nuove esigenze. In margine ad una recente indagine*. (Article)**

The Italian Conference of Major Superiors carried out a survey of the make-up



and functioning of provincial councils in Italy. This article follows on that survey and first considers the identity and role of the Provincial and then gives attention to the council. Before presenting their conclusions, N. and Dal P. focus on two points of reflection: the council as a team for the Provincial, and the importance of trust or confidence as the foundation of a shared responsibility.

### **630**

**SC 39 1-2/05, 243-273: Rose McDermott: *Apostolorum Successores* and the Episcopal Vicar for Consecrated Life.** (Article)

See above, canons 476-479.

### **631-633**

**RfR 65 1/06, 96-101: E. McDonough: Chapters and Other Meetings.** (Article)

McD. discusses the various meetings allowed for in religious congregations, whether these be formal chapters or community meetings. She draws attention to the fact that the rights of all should be respected when it comes to making arrangements.

### **634-635**

**Rosemary Smith / Warren Brown / Nancy Reynolds (eds.): Sponsorship in the United States Context: Theory and Praxis.** (Book)

See below, canons 1254-1298.

### **636**

**Per VC 2/06, 227-259: Robert Geisinger: Some ongoing considerations in Canon Law for Treasurers General of religious institutes.** (Article)

G. offers some considerations on a variety of issues that touch on the role of the general treasurer of a religious institute. The issues range from the establishment of autonomous pious foundations (public juridical persons) to very practical matters affecting individual members of the institute, e.g. wills, exclaustation, and definitive separation from the institute.

### **675**

**Rosemary Smith / Warren Brown / Nancy Reynolds (eds.): Sponsorship in the United States Context: Theory and Praxis. (Book)**

See below, canons 1254-1298.

**678**

**IC XLVI 91/06, 307-308: Carta Apostólica «motu proprio» del Papa Benedicto XVI con nuevas disposiciones sobre las Basílicas de San Francisco y Santa María de los Ángeles en Asís, 9.XI.2005. (Document)**

See below, canon 1213.

**678**

**IC XLVI 91/06, 309-312: Jesús Miñambres: Renuncia a la jurisdicción sobre las Basílicas de Asís por parte del Romano Pontífice. (Commentary)**

See below, canon 1213.

**731-746**

**Rose McDermott: The Consecrated Life. Cases, Commentary, Documents, Readings. (Book)**

See above, canons 573-709.

### **BOOK III: THE TEACHING OFFICE OF THE CHURCH**

**752-812**

**Arthur J. Espelage (ed.): CLSA Advisory Opinions 2001-2005. (Book)**

See above, canons 2-189.

**767**

**N XLI 11-12/05, 563-565: Congregatio de Cultu Divino et Disciplina Sacramentorum: Litterae Congregationis. (Letter)**

See below, canon 899.

### **773-777**

**QDE 19 (2006), 25-40: Francesco Grazian: Oltre il campanile: nuovi luoghi parrocchiali.** (Article)

See above, canon 518.

### **793**

**REDC 62 158/05, 185-216: Alejandro González Ibáñez: La enseñanza de la religión en las escuelas públicas españolas e italianas: la diferente interpretación jurisprudencial de situaciones semejantes.** (Article)

The aim of this article is to present and compare how Spanish and Italian legislation and jurisprudence have developed along different lines with regard to the teaching of religion in State schools. Both countries' Constitutions oblige such schools to offer education in the Catholic faith, while safeguarding the rights of pupils (or their parents) to withdraw for religious or conscientious reasons. In Italy no other religious group has requested the teaching of its particular religion in State schools, and pupils are free to leave not simply the classroom but the entire school premises for the duration of Catholic religion classes. In Spain schools must offer teaching not only of the Catholic religion but also of Protestantism, Islam and Judaism. Unlike in Italy where no obligatory alternative is imposed, in Spain if pupils do not take part in any of these religion classes they are obliged to take classes in human and cultural formation.

### **796-797**

**REDC 62 158/05, 185-216: Alejandro González Ibáñez: La enseñanza de la religión en las escuelas públicas españolas e italianas: la diferente interpretación jurisprudencial de situaciones semejantes.** (Article)

See above, canon 793.

### **807-821**

**Ang 83 (2006), 143-176: Bruno Esposito: L'adesione della Santa Sede al Processo di Bologna (periodo 2003-2005): sue conseguenze immediate e prospettive future per l'ordinamento degli studi nelle Università e Facoltà ecclesiastiche.** (Article)

In 2003, at a meeting in Berlin, the Holy See signed up to the "Bologna Process", which arose out of the 1997 Lisbon Convention and more importantly the 1998 Sorbonne Declaration in Paris, when ministers of education from

Germany, the UK, France and Italy prepared a joint document calling on the entire European Union to create a “European Higher Education Area” by the year 2010. In 1999, 29 countries meeting in Bologna signed a political declaration of intent. A total of 44 countries, in addition to the Holy See, currently participate in the Bologna Process. In this article, E. gives a broad outline of the steps taken so far towards implementation of the objectives of the Process. He points out that what lies behind the Process, at least in the minds of some European countries, is the desire for a fundamental overhaul of the traditional university system, which will now be characterised by a much greater diversity – to the extent that some have described it as a transformation of the university into a “multiversity”. After providing a description of the ways in which studies are currently structured in ecclesiastical universities and faculties, E. goes on to examine the steps taken by the Congregation for Catholic Education with a view to bringing ecclesiastical studies into line with the requirements of the Bologna Process. He considers that the Holy See has two options: either a partial reform of the ecclesiastical university system, so as to fulfil the basic minimum requirements of the Process; or else a substantial reordering of higher ecclesiastical studies, so that – without losing their specific character – these can be inserted into an international system of university studies. The indications to date are that the Holy See is inclining towards the first option, but in E.’s view this entails a number of serious drawbacks. He argues that it would be much better to opt for a substantial reform of higher ecclesiastical studies, which would allow such studies to take their place within the “European Higher Education Area”, while at the same time helping make clear the contribution which the sacred sciences make to the development of culture and knowledge.

**816**

**Ap LXXVII 1-2 (2004), 141-150: *Conventio* 19.11.2002.** (Document)

Text in German and Italian of the agreement between the Holy See and the Free State of Thüringen with reference to the Theological Faculty of Erfurt.

**823**

**Ap LXXVII 1-2 (2004), 9-14: *Congregatio pro Doctrina Fidei: De quodam scripto p. Jacobi Dupuis e Societate Iesu.*** (Document)

Text in Italian of a Notification from the Congregation for the Doctrine of the Faith criticising the writing of Fr Jacques Dupuis entitled *Verso una teologia cristiana del pluralismo religioso*. The notification was approved by Pope John Paul II on 19 January 2001.

**823-831**

**Assemblée des Évêques catholiques du Québec: Guide canonique et pastoral au service des paroisses / Assembly of Quebec Catholic Bishops: Canonical and Pastoral Guide for Parishes. (Book)**

See below, canons 849-896.

**BOOK IV: THE SANCTIFYING OFFICE OF THE CHURCH****834-839**

**John M. Huels: Liturgy and Law. Liturgical Law in the System of Roman Catholic Canon Law. (Book)**

See above, canons 2-145.

**835**

**AnC 1/2005, 95-108: Jan Dyduch: Udział świeckich w misji kapłańskiej Chrystusa w prawodawstwie powszechnym i polskim w latach 1983-2005 ( = The participation of the laity in the priestly mission of Christ in universal and Polish particular legislation in the years 1983-2005). (Article)**

The laity participate, in their own way, in the priestly *munus* of Christ. The competent ecclesiastical authority, in a supplementary and extraordinary manner, can entrust functions to the lay faithful which are normally carried out by ordained ministers and which do not require ordination: for example the extraordinary administration of Holy Communion, or the administration of Baptism.

**835**

**N XLII 1-2/06, 45-62: J. Medina Estévez: La Partecipazione alla Sacra**

**Liturgia. Riflessione sulla recente Istruzione *Redemptionis Sacramentum*.**  
(Article)

The concept of participation is based on Catholic ecclesiology. The use of the term “celebration” reflects this communitarian approach. M.E. then examines in some detail both the internal, spiritual requirements for “active” participation, and also the external requirements, focusing in particular on the role of liturgical ministers, including clergy and choir.

**835**

**N XLII 5-6/06, 209-219: F. Arinze: Importance of the Sacred Liturgy in the Life of the Church.** (Address)

The Cardinal addresses the Latin Rite Bishops of Ukraine on the importance of the liturgy, and in particular the different roles of bishops and priests.

**838**

**CLSN 143/05, 7-10: G. Read: Two Documents on the Liturgy from the Catholic Bishops’ Conference of England and Wales.** (Article)

In his article R. makes a brief comparison between the new *General Instruction of the Roman Missal* (GIRM) and the pastoral guide published to accompany it by the Bishops’ Conference of England and Wales, *Celebrating the Mass* (CTM), which seeks to explain the GIRM in a non-technical way for a general audience. R. points out some discrepancies between the provisions of the GIRM and CTM, and whilst welcoming the publication of both, expresses the concern that greater weight might be given to the guide rather than the text it seeks to elucidate.

**838**

**N XLI 7-8/05, 330-348: D. Sorrentino: Musica per la Liturgia. Situazione e prospettive.** (Article)

In the light of the chirograph of 22 November 2003, S. examines the development of the documents of the Magisterium on liturgical music from 1958 and some of the tensions that have been apparent, e.g. between the sacred and the artistic. He then reviews the current situation and the hopes for the future in an Italian context.

**838**

**N XLI 7-8/05, 349-358: A. Parisi: La musica liturgica oggi in Italia: situazione attuale e prospettive future.** (Article)

P. reports a certain weariness in the field of liturgical music in Italy, and a varied and at times contradictory situation. The National Liturgy Office had established a training course and completed a national repertory of liturgical chant. It had established statutes for diocesan schools of liturgical music and summer camps for young musicians. Some of the conflicts of the past have diminished, although there can still be difficulties, e.g. over the choice of music for weddings. In his view the focus for the future ought to be on the relationship between the prayer of the assembly and music, rather than tensions over different kinds of music.

**838**

**N XLI 7-8/05, 359-374: O. Sarr: Application du Concile: quelle musique pour la Liturgie? L'expérience du Sénégal: entre inculturation et modernité.** (Article)

S. evaluates the development of liturgical music in Senegal between 1963 and 2005. There were three stages: initial experimentation; then, building an African originality; but from 1980 also a hazardous and uncontrolled creativity. He then looks at what constitutes true sacred music.

**838**

**N XLI 7-8/05, 375-392: Bibliographica: La Musica Sacra nella Rivista "Notitiae".** (Article)

Bibliography of documentation and articles that have appeared on the subject of liturgical music in this periodical from its inception in 1965 to 2004.

**838**

**N XLII 3-4/06, 122-126: J. Sierra López: Situación actual del rito hispano.** (Article)

S.L. outlines the history and current situation of the Visigothic or Mozarabic Rite in Spain. A revised vernacular version was completed and approved in 1995.

## BOOK IV, PART I: THE SACRAMENTS

**840**

**AnC 1/2005, 109-138: Zbigniew Janczewski: Istota posługi szafarza sakramentów ( = The essence of the service of the minister of sacraments).** (Article)

In the light of Church law and teaching, and taking into account the differences between the various sacraments, J. studies what it is that constitutes the essence of the service of the minister of the sacraments.

**840-841**

**John M. Huels: Liturgy and Law. Liturgical Law in the System of Roman Catholic Canon Law.** (Book)

See above, canons 2-145.

**843**

**AnC 1/2005, 31-44: Tomasz Rozkrut: Ochrona Eucharystii a zakaz dopuszczania do Komunii świętej osób trwających z uporem w jawnym grzechu ciężkim ( = Safeguarding the Eucharist and the prohibition on admittance to Holy Communion of others who obstinately persist in manifest grave sin).** (Symposium presentation)

See below, canon 915.

**843-848**

**Arthur J. Espelage (ed.): CLSA Advisory Opinions 2001-2005.** (Book)

See above, canons 2-189.

**844**

**AnC 1/2005, 13-30: Elżbieta Szczot: Ochrona Eucharystii w normach dotyczących *communicatio in sacris* ( = Safeguarding the Eucharist in the norms concerning *communicatio in sacris*).** (Symposium presentation)

The topic of *communicatio in sacris* has a long history and is most recently linked with the Second Vatican Council. The vision adopted by the Council



Fathers involved a deepening in the mystery of the Church. The Church of Christ, according to Vatican II, is fully realised in the Catholic Church. However, outside the Church there are also Christian communities which have many ecclesial elements. This recognition of the elements of salvation in the non-Catholic Churches and Christian communities necessarily has consequences regarding *communicatio in sacris*. S. sets out the relevant norms in this regard, focusing especially on those concerning the Eucharist.

## 844

**Assemblée des Évêques catholiques du Québec: Guide canonique et pastoral au service des paroisses / Assembly of Quebec Catholic Bishops: Canonical and Pastoral Guide for Parishes. (Book)**

See below, canons 849-896.

### **BOOK IV, PART I, TITLES I & II: BAPTISM AND CONFIRMATION**

## 849-896

**Assemblée des Évêques catholiques du Québec: Guide canonique et pastoral au service des paroisses / Assembly of Quebec Catholic Bishops: Canonical and Pastoral Guide for Parishes. (Book)**

In 2003 the Assembly of Quebec Catholic Bishops agreed the text of an updated *Guide canonique et pastoral au service des paroisses*. At the request of chancellors of other Canadian provinces, it was decided to make adjustments to the Guide so that it could be used for dioceses outside Québec. The result is this publication (issued in separate French and English translations) which is now designed for use throughout the whole of Canada. The first six chapters of the book deal with the sacraments (other than Orders), in each case providing a brief introduction to the sacrament, followed by details of the manner in which it is celebrated, the minister, the recipient of the sacrament, special considerations applicable to the sacrament in question, and so on. A bibliography is provided at the end of each chapter. The remaining chapters of the book – again with an introduction and a bibliography in each case – are dedicated to Christian funerals, sacramentals, ecumenism, approval of writings, the keeping of parish registers, and liturgical books. A lengthy penultimate chapter gives a selection of sample forms; and the last chapter, Chapter XIV, provides the text of a Quebec statute and related commentary in respect of *fabriques*, i.e. ecclesiastical corporations whose object is to acquire, possess, hold and administer property for the practice of the Catholic religion. (For bibliographical details see below, Books Received.)

**851-883**

**Arthur J. Espelage (ed.): CLSA Advisory Opinions 2001-2005.** (Book)

See above, canons 2-189.

**861**

**AnC 1/2005, 95-108: Jan Dyduch: Udział świeckich w misji kapłańskiej Chrystusa w prawodawstwie powszechnym i polskim w latach 1983-2005** (= **The participation of the laity in the priestly mission of Christ in universal and Polish particular legislation in the years 1983-2005**). (Article)

See above, canon 835.

**BOOK IV, PART I, TITLE III: THE BLESSED EUCHARIST****897**

**N XLI 9-10/05, 406-435: Synodus Episcoporum: Relatio post disceptationem.** (Report)

The text of the report summarising the discussions of the Synod of Bishops held in Rome in 2005 on the subject of the Eucharist. The first part, on educating the People of God in Eucharistic Faith, looks at the following topics: the newness of Christian worship; Eucharist and the other sacraments; Eucharist and priestly people; Eucharist and mission. The second part focuses on the action of the Eucharist: the furrow of liturgical reform; structure of liturgical celebration; art of celebrating; active participation.

**897**

**N XLI 9-10/05, 436-469: Synodus Episcoporum: Elenco finale delle proposizioni.** (Report)

The text of the fifty propositions put forward by the Bishops at the Synod, broadly following the order of the reported discussion.

**897**

**N XLI 11-12/05, 612-624: X. Ureña Pastor: La Doctrina de la Eucaristía en el Concilio de Trento.** (Article)

U.P. examines briefly the Reformed theology of the Eucharist, their understanding of the Real Presence, reception under both kinds, and the Mass as

sacrifice. He then looks at the teaching of Trent on each of these points.

**897**

**N XLII 1-2/06, 33-44: F. Arinze: Centrality of the Holy Eucharist in the Christian Life.** (Lecture)

A. speaks of different aspects of the centrality of the Eucharist: as an article of faith; as the supreme act of worship; as the summit and centre of liturgical life. He considers the Eucharist in the context of the parish's Sunday worship, and also from the point of view of the individual Christian. It is also rightly used to celebrate milestones of personal and community life, and, as viaticum, the conclusion of our earthly pilgrimage.

**897**

**N XLII 3-4/06, 98-108: F. Arinze: The Eucharistic Mystery calls for our Response.** (Address)

In this address given at Westminster Cathedral, Cardinal Arinze speaks of the Eucharist as gift. He then looks at faith and adoration and how these are expressed, and the importance of observing liturgical norms. He closes with the theme of Eucharist as mission.

**897**

**N XLII 3-4/06, 109-114: O. de Saint-Martin: L'Eucharistie, sacrement de la Passion.** (Article)

The author considers how the Passion is sacramentally made present by the Liturgy, and the relationship between the sacrifice of Christ and the priestly ministry.

**897**

**N XLII 3-4/06, 115-121: E. Perrier: L'Eucharistie comme communion selon saint Thomas d'Aquin.** (Article)

P. looks specifically at Aquinas's teaching on union with Christ in charity, and the remission of sins through the Eucharist, and how we make use of the Sacrament.

**897-958**

**Assemblée des Évêques catholiques du Québec: Guide canonique et pastoral au service des paroisses / Assembly of Quebec Catholic Bishops: Canonical and Pastoral Guide for Parishes.** (Book)

See above, canons 849-896.

**898**

**ICST 8 (2006), 30-46: Ramon B. Villena: Eucharistic Reverence.** (Article)

V. was motivated to write this profound reflection on Eucharistic reverence by his concerns about the numerous liturgical abuses and irreverent practices that beset this Sacrament throughout the Catholic world. He believes that this irreverence, which is both individual and ecclesial, is the result of shallow knowledge and understanding, or even more worryingly, sheer ignorance of the Eucharist. This irreverence has spawned numerous ecclesial documents, including encyclicals and instructions, as well as articles, many of which underpin and inspire V.'s reflection. He acknowledges his indebtedness to two documents in particular: Pope John Paul II's encyclical *Ecclesia de Eucharistia* (2003), and an article by Cardinal Avery Dulles, SJ, *Eucharistic Church: The Vision of John Paul II* (2004).

**899**

**N XLI 11-12/05, 563-565: Congregatio de Cultu Divino et Disciplina Sacramentorum: Litterae Congregationis.** (Letter)

This letter is addressed to the leaders of the Neo-Catechumenal Movement and concerns certain liturgical practices at variance with the General Instruction. Members of the Neo-Catechumenate must take part in the parochial Sunday Mass at least once a month. The homily is reserved for priests and deacons. Other forms of instruction or witness given by lay people must not be confused with this. An occasional "dialogue" homily is envisaged in Masses with children, and would be possible. The special indult regarding the timing of the sign of peace may continue to be used for the time being. Within two years the Movement is to return to the traditional manner of receiving Communion rather than seated around a central table. They must also make use of the other Eucharistic Prayers, and not just the Second.

**899-945**

**Arthur J. Espelage (ed.): CLSA Advisory Opinions 2001-2005.** (Book)

See above, canons 2-189.

## 900

**AnC 1/2005, 13-30: Elżbieta Szczot: Ochrona Eucharystii w normach dotyczących *communicatio in sacris* (= Safeguarding the Eucharist in the norms concerning *communicatio in sacris*).** (Symposium presentation)

See above, canon 844.

## 900-911

**AnC 1/2005, 59-75: Andrzej Wójcik: Ochrona tajemnicy Eucharystii w normach wyznaczających szafarza Komunii świętej (= Safeguarding of the mystery of the Eucharist in the norms governing the minister of Holy Communion).** (Symposium presentation)

After setting out how the relevant norms developed in the period following the Second Vatican Council, W. addresses the question: What is it precisely that the norms are protecting, setting out as they do very detailed penalties for abuses, and determining the possibility of exercising the function of an extraordinary minister of Holy Communion? The question can be approached from two perspectives: on the one hand, the right of every member of the faithful to receive Holy Communion in an accessible and opportune manner; and on the other, the right of the faithful to receive Communion in a manner congruent with the integral meaning of the Eucharist Sacrifice. In view of this, the norms attempt to maintain the connection between the sacred gesture of distributing the Body and Blood of Christ, and the hands of the celebrating priest. The normative initiatives of the ecclesiastical legislator are aimed at achieving a reasonable balance between both of these rights of the faithful.

## 908

**AnC 1/2005, 13-30: Elżbieta Szczot: Ochrona Eucharystii w normach dotyczących *communicatio in sacris* (= Safeguarding the Eucharist in the norms concerning *communicatio in sacris*).** (Symposium presentation)

See above, canon 844.

## 910

**AnC 1/2005, 95-108: Jan Dyduch: Udział świeckich w misji kapłańskiej Chrystusa w prawodawstwie powszechnym i polskim w latach 1983-2005**

( = The participation of the laity in the priestly mission of Christ in universal and Polish particular legislation in the years 1983-2005). (Article)

See above, canon 835.

## 915

**AnC 1/2005, 31-44: Tomasz Rozkruit: Ochrona Eucharystii a zakaz dopuszczania do Komunii świętej osób trwających z uporem w jawnym grzechu ciężkim ( = Safeguarding the Eucharist and the prohibition on admittance to Holy Communion of others who obstinately persist in manifest grave sin).** (Symposium presentation)

Canon 915 refers exclusively to those upon whom a penalty of excommunication and interdict has been imposed or declared, and to others who obstinately persist in manifest grave sin. In contrast to the Pio-Benedictine Code, the 1983 Code and the 1990 CCEO do not establish any canonical sanction for the divorced and remarried. *Familiaris Consortio* reaffirms the praxis of not admitting the divorced and remarried to Eucharistic Communion, since their state and condition of life objectively contradict the union of love between Christ and the Church, signified and made present in the Eucharist. A declaration of the Pontifical Council for Legislative Texts on 24 June 2000 has confirmed the validity of the prohibition contained in canon 915, as against those who sustain that it would not be applicable to the divorced and remarried faithful. The prohibition in question stems from divine law and cannot be dispensed from by any authority.

## 915

**Ethics & Medics, 31, 5/06: Brian J. Welding / James B. Farnan: Denying Communion for Obstinate Sin.** (Article)

W. and F. raise a number of questions in connection with the denial of Communion to those who “obstinately persevere in manifest grave sin”, with particular reference to politicians who support abortion, and Catholics who vote for a pro-abortion political candidate. They look at the question of formation of conscience, what is meant by “obstinate sin”, and who it is that is required to make the denial, before offering some reflections on the pastoral judgment and responsibility of the diocesan bishop.

## 932

**N XLI 11-12/05, 563-565: Congregatio de Cultu Divino et Disciplina**

**Sacramentorum: Litterae Congregationis.** (Letter)

See above, canon 899.

**932**

**QDE 19 (2006), 6-24: Giuliano Brugnotto: La parrocchia missionaria e i beni negli orientamenti dei vescovi italiani.** (Article)

See below, canons 1205-1213.

**933**

**AnC 1/2005, 13-30: Elżbieta Szczot: Ochrona Eucharystii w normach dotyczących *communicatio in sacris* (= Safeguarding the Eucharist in the norms concerning *communicatio in sacris*).** (Symposium presentation)

See above, canon 844.

**934**

**N XLI 11-12/05, 607-611: I. Biffi: Il culto all'Eucaristia.** (Article)

B. looks briefly at the development of the worship of the Eucharist, and then the relevant provisions of *Redemptionis Sacramentum*.

**935**

**AnC 1/2005, 45-57: Józef Rapacz: Ochrona Eucharystii w prawie karnym (KPK, kan. 1367) (= Safeguarding the Eucharist in canon law: can. 1367 of the CIC 1983).** (Symposium presentation)

See below, canon 1367.

**945-958**

**AnC 1/2005, 77-92: Arnold Chrapkowski: Troska Kościoła o świętość Eucharystii w regulacjach dotyczących ofiar mszalnych (= The Church's concern for the sanctity of the Eucharist in the norms on offerings for the celebration of Holy Mass).** (Symposium presentation)

The ancient tradition of the Church of regarding the practice of giving an offering for the celebration of Holy Mass has always been defended by the competent ecclesiastical authorities. The current laws on this matter (the

lawfulness of offerings, their purpose, the prohibition on commerce of any kind, their application, the transfer of intentions) are set out in canons 945-958 of the 1983 Code. Apart from these norms, which are included in the Code as a sign of the care and vigilance of the Church authorities, account is also to be taken of the 1991 Decree of the Congregation for the Clergy *Mos Iugiter*, on so-called pluri-intentional Masses. The priest also has an important role to play in the matter of intentions. As minister, the priest is a servant of the Blessed Eucharist and has the duty to observe all the norms established by Church legislation, by means of which the Church safeguards the most precious gift She has received. The danger of regarding the Eucharist as an “object” can cause a weakening of the priest’s relationship with Christ, and thus the stipend for Holy Mass can come to be seen as a payment which he expects as of right.

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

### **959-991**

**Ap LXXVII 1-2 (2004), 47-55: John Paul II: Litterae Apostolicae motu proprio datae quibus de Sacramenti Paenitentiae celebratione quaedam rationes explicantur.** (Document)

Text in Latin of the motu proprio *Misericordia Dei* (7 April 2002) in which the Pope recalls and confirms the traditional teaching and practice of the Sacrament of Penance.

### **959-991**

**Ap LXXVII 1-2 (2004), 275-292: Domingo Andrés Gutiérrez: La confesión frecuente impulsada mediante la sensibilización del ministro. Un comentario al m.p. *Misericordia Dei*.** (Commentary)

A.G., in twelve headings, develops the implications of the motu proprio for the life of the Church.

### **959-997**

**Assemblée des Évêques catholiques du Québec: Guide canonique et pastoral au service des paroisses / Assembly of Quebec Catholic Bishops: Canonical and Pastoral Guide for Parishes.** (Book)

See above, canons 849-896.



**995**

**Ap LXXVII 1-2 (2004), 61-64: Paenitentiaría Apostolica: Decretum 29.06.2002 quo actus cultus in honorem Divinae misericordiae indulgentiis ditantur.** (Document)

Text in Latin of the indulgences attached to the devotion to the Divine Mercy.

**995**

**Ap LXXVII 1-2 (2004), 65-66: Paenitentiaría Apostolica: Decretum 29.06.2002.** (Document)

Decree granting to the appropriate hierarchs and bishops the right to give the Papal blessing with a plenary indulgence once a year in those churches that were formerly cathedrals – this without prejudice to the existing faculty of imparting the Papal blessing with indulgence attached three times in a year.

## **BOOK IV, PART I, TITLE V: THE SACRAMENT OF ANOINTING OF THE SICK**

**998-1007**

**Assemblée des Évêques catholiques du Québec: Guide canonique et pastoral au service des paroisses / Assembly of Quebec Catholic Bishops: Canonical and Pastoral Guide for Parishes.** (Book)

See above, canons 849-896.

**1003**

**For XVI 2/05, 333-338: Congregation for the Doctrine of the Faith: On the minister of the Anointing of the Sick (see also N XLI 9-10/05, 479-483: Congregatio pro Doctrina Fidei: Nota circa il Ministro del Sacramento dell'Unzione degli Infermi).** (Note)

The text of the Note from the Congregation for the Doctrine of the Faith reaffirming the traditional teaching that only priests, not deacons, can anoint the sick, and this as a doctrine to be held definitively. The Note is accompanied by a letter addressed to the Presidents of Episcopal Conferences explaining the theology and teaching documents that lie behind this.

### **1004-1005**

**Arthur J. Espelage (ed.): CLSA Advisory Opinions 2001-2005.** (Book)

See above, canons 2-189.

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

### **1008-1042**

**Arthur J. Espelage (ed.): CLSA Advisory Opinions 2001-2005.** (Book)

See above, canons 2-189.

### **1013**

**ACR LXXXIII 1/06, 82: Congregation for the Doctrine of the Faith: Notice: Rev. Malcolm J. Broussard.** (Document)

See above, canon 290.

### **1025**

**AA XII (2005), 9-61: Carlos Baccioli: La capacidad-incapacidad para el orden sagrado.** (Article)

After his introduction outlining that a vocation to Holy Orders is at the same time a divine call, a human response and a decision of the Church, B. describes the conditions required by the Church of candidates for Orders in earlier times and more recently since Vatican II. He deals extensively with the need for psychological and affective maturity, especially in personal relationships with the bishop, other members of the clergy and with lay people, and also sexual and emotional maturity. He describes some of the personality disorders which would constitute a bar from receiving Holy Orders. Another section speaks of the maturity required of those involved in the formation and evaluation of candidates. This process takes place at different stages between entry to seminary and final acceptance for ordination, or postponement or refusal of ordination. B. concludes his article with a consideration of some common post-ordination difficulties encountered by those in Holy Orders and how they can be helped to overcome them.

## **1025**

**AA XII (2005), 331-346: Ariel D. Busso: La homosexualidad y el Orden sagrado.** (Article)

See above, canon 241.

## **1025**

**N XLI 9-10/05, 470-471 & N XL 11-12/05, 561-562: Congregatio de Cultu Divino et Disciplina Sacramentorum: Litterae Congregationis.** (Letter)

The Prefect of the Congregation for Divine Worship wrote to the Bishop of San Cristóbal de Las Casas, Mexico, on 26 October 2005 concerning ordinations in his diocese to the permanent diaconate. This letter follows one written to the previous bishop five years earlier. Large numbers had been ordained, more on the basis of the call of the community than on a personal sense of vocation. The Congregation is concerned that this may give rise to unrealisable expectations of a married priesthood, and warns that this must stop.

## **1025**

**N XLII 5-6/06, 195-198: Congregatio de Cultu Divino et Disciplina Sacramentorum: Litterae Congregationis.** (Letter)

The Bishop of San Cristóbal de las Casas in Mexico evidently responded to the October letter of the Congregation (see preceding entry) by writing to the Holy Father. In this short reply the Congregation reiterates its stance, and attaches a further copy of the October letter.

## **1029**

**AA XII (2005), 9-61: Carlos Baccioli: La capacidad-incapacidad para el orden sagrado.** (Article)

See above, canon 1025.

## **1029**

**AA XII (2005), 331-346: Ariel D. Busso: La homosexualidad y el Orden sagrado.** (Article)

See above, canon 241.

## **1029**

**For XVI 2/05, 339-345: Congregation for Catholic Education: Instruction concerning the Criteria for the Discernment of Vocations with regard to Persons with Homosexual Tendencies in view of their Admission to the Seminary and to Holy Orders. (Instruction)**

This Instruction was published in the English edition of *L'Osservatore Romano* on 7 December 2005, and is dated 4 November 2005. Affective maturity is required for the ordained ministry. While those with homosexual tendencies must be respected, those who practise homosexuality, present deep-seated tendencies or support “gay culture” cannot be admitted to seminaries or Orders. A subjective sense of vocation is not sufficient. This must be discerned by the appropriate authorities in the Church.

## **1031**

**SC 39 1-2/05, 147-180: Edward N. Peters: Canonical Considerations on Diaconal Continence. (Article)**

See above, canon 277.

## **1036-1039**

**J 65 (2005), 217-240: Brian Dunn: When Should the Rite of Admission to Candidacy for Ordination to Diaconate and Priesthood be Celebrated? (Article)**

Paul VI abolished minor orders and the subdiaconate and established two lay ministries which were obligatory for those aspiring to the diaconate whether permanent or transitory. Pope Paul VI also introduced a rite of admission to candidacy for the diaconate or the priesthood. The candidacy was introduced to replace the rite of tonsure. Archbishop Bugnini is quoted for the “tortuous journey” to these changes due to the extensive consultation in their making. The “tortuous journey” seems to have persisted with a variety of opinions about when the candidacy should take place. D. gives his reasons for believing that the admission to candidacy should be the first rite celebrated for seminarians and then after a period of time the ministries of reader and acolyte should follow.

## **1037**

**SC 39 1-2/05, 147-180: Edward N. Peters: Canonical Considerations on Diaconal Continence. (Article)**

See above, canon 277.

#### **1042**

**SC 39 1-2/05, 147-180: Edward N. Peters: Canonical Considerations on Diaconal Continence.** (Article)

See above, canon 277.

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

#### **1055**

**CLSN 143/05, 60-77: D. Vidler: Statistics and what they can tell us about marriage, divorce and annulments 1851-2001.** (Article)

See above, General Subjects.

#### **1055**

**Per VC 2/06, 261-306: Luigi Sabbarese: Fede, intenzione e dignità sacramentale nel matrimonio tra battezzati.** (Article)

S. revisits the theme of the relationship between faith, intention and the sacramental dignity of marriage between baptised persons. He sees the secularisation of society as leading to a *de facto* de-christianising of many non-practising Christians. Beginning from the premise that every marriage contracted between baptised persons is a sacrament, he traces the ways in which a lack of faith and exclusion of the sacramental dignity of marriage have been dealt with by judges of the Roman Rota. In itself, he concludes, lack of faith has no relevance if one is certain of a right intention. But, from a procedural point of view, a lack of faith can be an indispensable element in the proof of an exclusion of sacramental dignity.

#### **1055**

**SC 39 1-2/05, 221-241: Anthony B. C. Chiegboka: Sanctions to Parents in Inter-Faith Marriages: A Reflection on the Nigerian Local Church Praxis.**  
(Article)

See below, canon 1366.

### **1055-1057**

**IE XVIII 1/06, 83-108: Jean-Pierre Schoupe: La protection du mariage et de la famille en droit européen des droits de l'homme: mythe ou réalité.**  
(Lecture)

The 1948 Universal Declaration of Human Rights adopted by the General Assembly of the United Nations states without more ado that the family is the natural and fundamental group unit of society, and affirms the heterosexual character of marriage. The agreed protection for family and marriage became juridically binding by the United Nations Pacts of 1966. S. studies corresponding texts in the documents issued by the Council of Europe, and in the jurisprudence of the European Court of Human Rights in Strasbourg. Two cases are considered, one concerning trans-sexuality, the other homosexuality: both ultimately affirm the principle of heterosexuality. He then turns to the Charter of Fundamental Rights of the European Union (2000) and the jurisprudence of the European Court of Justice in Luxemburg, and finds that it tends to follow the same line as Strasbourg.

### **1055-1057**

**SC 39 1-2/05, 271-288 (English translation), 289-308 (French translation): Apostolic Tribunal of the Roman Rota, *coram Pinto*, 9 June 2000.**  
(Jurisprudence)

See below, canon 1101.

### **1055-1057**

**SC 39 1-2/05, 309-330 (English translation), 331-351 (French translation): Apostolic Tribunal of the Roman Rota, *coram Civili*, 8 November 2000.**  
(Jurisprudence)

See below, canon 1101.

### **1055-1057**

**Gianfrancesco Zuanazzi: Psicologia e psichiatria nelle cause matrimoniali**

**canoniche.** (Book)

See below, canon 1095.

### **1055-1165**

**Assemblée des Évêques catholiques du Québec: Guide canonique et pastoral au service des paroisses / Assembly of Quebec Catholic Bishops: Canonical and Pastoral Guide for Parishes.** (Book)

See above, canons 849-896.

### **1057**

**REDC 62 158/05, 279-283: Tribunal de la Rota de la Nunciatura Apostólica, 15 de marzo de 2000: nulidad de matrimonio (defecto de discreción de juicio y falta de libertad interna), coram Juan José García Faílde.** (Decree of Ratification)

The interest in this decree of ratification lies in G.F.'s *in iure* section which deals mainly with the issue of psychological freedom. Genuine human freedom presupposes not only the capacity of deliberation and choosing but, as far as marriage consent is concerned, the actual production of a true act of deliberation and choice. He considers in more detail the relationship between the intellective and volitive aspects of consent and argues for "lack of psychological freedom" as an independent autonomous ground of invalidity based on canon 1057 §2, since canon 1095 §2 emphasises more the purely intellective elements of consent.

### **1057-1165**

**Arthur J. Espelage (ed.): CLSA Advisory Opinions 2001-2005.** (Book)

See above, canons 2-189.

### **1058**

**LJ 154/05, 27-30: Christopher Dyer: Royal Marriages and Human Rights.** (Article)

D. briefly examines the restrictions in UK law of the rights of the Royal Family to marry as they choose, and its wider implications.

## **1063**

**SC 39 1-2/05, 181-201: Fintan Gavin: Marriage Preparation as a Lifetime Journey.** (Article)

Canon 1063 envisages a pastoral care of marriage preparation that begins in infancy and spans a lifetime. G. explores the implications for how the Church should approach the pastoral care of marriage preparation, beginning with an examination of marriage preparation as presented in the 1917 Code, since it is in the light of this canon that the newness of canon 1063 can be appreciated. The canon is investigated through a series of questions and responses that arise from the canon itself. For example: who is responsible for the pastoral care of marriage preparation?; what is the nature of the obligation on those responsible?; and when and how is this obligation to be carried out? The responses are illustrated by means of research on the norms and policies for marriage preparation in Ireland, Korea, and with particular reference to Spain and the United States. Some of the canonical issues and difficulties that arise in the pastoral care of marriage preparation are then examined, such as faith and marriage preparation, pre-marriage courses and the right to marriage in the Church, and the juridical status of these guidelines and policies.

## **1084**

**Luigi Sabbarese (ed.): Coram Sabattani: decisiones ineditae (1955-1965).** (Book)

See above, Historical Subjects (*1917 Code*).

## **1095**

**AA XII (2005), 279-327: Hugo Adrián Ustinov: Miscelánea acerca de la discreción de juicio requerida para el consentimiento matrimonial válido.** (Article)

U.'s "miscellany" on canon 1095 quotes extensively from Papal allocutions to the Roman Rota and from Rotal sentences. He makes the point that while canon 1095 3° deals with the inability to assume the obligations and duties of marriage, all three paragraphs of the canon concern inability – the inability to give valid consent to marriage. He gives special attention to canon 1095 2° on grave lack of discretion and suggests that many cases judged on this particular ground should more accurately be considered under the heading of simulation due to the exclusion of marriage itself or some of its essential elements. He looks at some Rotal sentences touching on the lack of internal freedom and on affective immaturity. He underlines the need for professional psychological/medical reports in all cases covered by this canon except in truly exceptional cases where, as canon 1680 says, "this would obviously serve no



purpose". He lists numerous Rotal sentences to demonstrate that for an incapacitating grave lack of discretion there must be evidence of a serious form of some psychological anomaly or disorder.

## 1095

**CLSN 143/05, 11-68: A. Mendonça / P. S. Morris: Pathological Gambling and Marital Consent.** (Article)

This article originally appeared in *Studia Canonica* 36 1/02, pp. 59-127 (see *Canon Law Abstracts* no. 90, pp. 76-77). After a general introduction there is an examination of the clinical aspects of pathological gambling with reference to DSM. Then there is a review of three Rotal sentences: *coram* Pinto and *coram* Huber which returned negative decisions, and *coram* Sable which gave an affirmative. In their conclusion the authors point out that whereas gambling can be an enjoyable activity it can also become destructive when it becomes pathological. Pathological gambling generally is progressive in nature and is recognised by the behavioural sciences as a real mental disorder. However, due to the complexity of the issue, which cannot be ordinarily ascertained by one's own non-professional insights, it is necessary to have the use of experts in diagnosing such pathologies in order to shed light on its presence or absence at the time the marriage was contracted.

## 1095

**QDE 19 (2006), 93-104: Paolo Bianchi: L'incapacità psichica.** (Conference presentation)

In this lecture B. deals with the reasons why greater attention was paid to psychic incapacity in the latter half of the twentieth century; the kind of incapacity, and the specific types of incapacity, dealt with in canon 1095; the relationships between the types of incapacity specified by the legislator (with a consideration of whether there can be substantial conformity between these grounds within article 291 §2 of the Instruction *Dignitas Connubii*); subjective clinical criteria for determining incapacity (establishing incapacity through its cause); objective clinical criteria (establishing the object of the incapacity); and reflections on the theory of "moral impotence" in relation to canon 1095 3°, and on the notions of antecedence, perpetuity and relativity (in this regard B. considers that, although there may be certain arguments in favour of the notion of "relative incapacity", there are many more arguments against it, and he considers it unsafe to embrace such an approach). Finally B. examines the delicate juridical-pastoral problem of the *vetitum* in cases of incapacity.

## 1095

### **Gianfrancesco Zuanazzi: Psicología e psichiatria nelle cause matrimoniali canoniche.** (Book)

The 1983 Code of Canon Law incorporates a new or renewed conception of marriage which treats the *elementum amoris* as a good which pertains to the essence of marriage. Greater attention is now paid to the *totum humanum*, and one of the consequences of this is that recourse to psychiatric expertise in marriage nullity cases is now much more common. For its part, psychiatry has abandoned the narrow positivism of the past and now attempts to look at the human person in all the multiple dimensions of human existence, although this new approach is not without its problems. This book is divided into four parts. In Part I, Z. looks at some questions of an anthropological nature, which are essential for a correct interpretation of psychology and forensic psychiatry; he also deals with the concepts of normality and pathology. In Part II he presents a detailed analysis of the psychological and psychopathological aspects of matrimonial consent, paying particular attention to the psychic disturbances that may be encountered in cases under canon 1095, including schizophrenia, depression, anxiety, personality disorders, alcoholism, drug addiction, anorexia and bulimia nervosa, intellectual insufficiency, and states of dementia. The whole of Part III is dedicated to sexual deviations and dysfunctions; and Part IV provides a summary of the most important ways in which evidence is collected, presented and assessed in canonical processes. There is a short concluding section on the dialogue between canonists and expert witnesses, and an extensive bibliography. (For bibliographical details see below, Books Received.)

## 1095 2°

**REDC 62 158/05, 279-283: Tribunal de la Rota de la Nunciatura Apostólica, 15 de marzo de 2000: nulidad de matrimonio (defecto de discreción de juicio y falta de libertad interna), coram Juan José García Faílde.** (Decree of Ratification)

See above, canon 1057.

## 1095 2°-3°

**AA XII (2005), 413-423: Fernando Moreno Diehl: Introducción a la lectura de volumen 90 (XC) de las *Rotae Romanae Decisiones seu Sententiae*.** (Brief commentary)

See below, canons 1443-1444.

### 1095 2°-3°

**REDC 62 158/05, 285-296: Tribunal de la Rota Apostólica, 13 de marzo de 2000: nulidad de matrimonio (defecto de discreción de juicio e incapacidad para asumir las obligaciones), *coram* Santiago Panizo Orallo. (Decree of Ratification)**

The male petitioner in this case had already received a *non constat* in a previous trial on the ground of the respondent's grave lack of discretion. He made a new petition on the grounds of his own grave lack of discretion and inability to assume, which received an affirmative decision on the former ground alone and which was now being considered for ratification by the Tribunal of the Apostolic Rota in Madrid. In his *in iure* section P.O. emphasises that while every human act requires the proper exercise of reason and will, not all such acts demand the same degree of application of these faculties. Those actions, however, which will have long-lasting effects on a person's future life, such as consent to marry, require an exercise of reason and will proportionate to their importance. Concerning the grounds of inability to assume, while recognising the undoubtedly helpful contributions of modern psychology and psychiatry in this field he cautions against too ready an acceptance as proven conclusion of what may be simply one of various theories among competing schools of psychology. He goes on to reflect on how psychological problems which were already present at the time of consent (*matrimonium in fieri*) may not show themselves until the realities and pressures of married life (*matrimonium in facto esse*) make themselves felt, but at the same time he warns against a kind of "pan-psychologism" which claims to trace back all human failure to some distant psychological moment in childhood. Since the *ius connubii* is the natural right of all human beings the conditions for an invalidating inability to exercise that right must be clearly and firmly established. The decision of first instance was ratified based on the petitioner's obsession to escape from the excessively rigid and domineering control of his father.

### 1095 2°-3°

**REDC 62 158/05, 297-311: Tribunal Interdiocesano de Primera Instancia de la Archidiócesis de Sevilla, 7 de noviembre de 2000: nulidad de matrimonio (defecto de discreción de juicio e incapacidad para asumir las obligaciones), *coram* Francisco Gil Delgado. (Sentence)**

Although this marriage lasted for twenty years and produced three children, relations between the parties were marked by a constant and ongoing inability to achieve a level of true dialogue or mutual empathy. They did speak and communicate with each other, or more accurately, at each other, but utterly failed to appreciate the genuine feelings and wishes of the other, blaming each other for their constant arguments and confrontations. G.D. distinguishes the phenomenological manifestations, generally described by the witnesses as

“incompatibility of character”, from their underlying causes. These causes may vary greatly from the slight (e.g. lack of manners or formality) to the serious (e.g. some mental disturbance or psychological condition); it is the seriousness of the underlying cause which must be identified if a case for inability to assume the obligations of marriage is to be made. Among many possible psychological causes, recent canonical jurisprudence has come to accept the so-called qualified immaturity, that is an emotional, affective immaturity unconnected to biological (age-related) or transitional and situational circumstances but deriving rather from a permanent personality disorder or imbalance. In the present case neither party suffered from a grave lack of discretion of judgement – in fact both had good will towards the other and each in their own way tried to make the marriage work – but in fact in all their years together had found it impossible to create a genuine *consortium totius vitae* of their marriage. An affirmative decision was given on grounds of inability to assume due to causes of a psychological nature in both parties.

### **1095 2°-3°**

**REDC 62 158/05, 313-331: Tribunal de la Diócesis de Vitoria, 30 de octubre de 2001: nulidad de matrimonio (defecto de discreción de juicio e incapacidad para asumir las obligaciones), coram Félix Ruiz Larrinaga Escudero.** (Sentence)

The courtship lasted seven years and during most of that time the couple lived in different cities, each pursuing his/her own career. On the occasions they were together the relationship was characterised by constant arguments, disagreements and misunderstandings. After such a long courtship a kind of inertia had set in, yet despite all the warning signs the couple duly married. The honeymoon was marked by more discord and arguments. Married life lasted seven months, during which time the female respondent had left the marital home on a number of occasions to stay with her parents. The alleged nullity grounds were grave lack of discretion and inability to assume in both parties. Grave lack of discretion was easily shown by their failure to evaluate and realistically consider how their fractious and confrontational relationship over such a long period could ever serve as a foundation for a true partnership of life as a married couple. The ground of inability was based on the clear incapacity of this couple to establish any kind of mutual relationship of dialogue and understanding, a fact amply demonstrated from the early days of the courtship. What is of interest is that this was seen as a relational inability founded on their total mutual incompatibility which rendered them incapable of assuming the essential obligations of marriage, especially with regard to the good of the spouses and the establishment of a genuine *totius vitae consortium*. Each, however, might well be able to enter valid marriage with a different partner in different circumstances. A positive decision was given on all grounds.

### **1095 3°**

**REDC 62 158/05, 337-359: Tribunal de la Diócesis de Zamora, 18 de julio de 1998, nulidad de matrimonio (incapacidad para asumir las obligaciones), *coram* Vitaliano Alfageme Sánchez. (Sentence)**

This case concerns a marriage celebrated two years after the male petitioner's previous wife, daughter and parents-in-law had died in a car crash; only his son survived (the petitioner himself was not in the car). The new marriage lasted something over three years, the first year and a half of which was happy and without major problem. However, when his son then returned from college to live with his father and step-mother this became intolerable for her and her excessive dependence on her sister became increasingly obvious. The couple drifted further and further apart until the marriage came to an end. Apart from the inability to assume the obligations of marriage (the alleged nullity grounds in both parties) A.S.'s *in iure* section deals extensively with the procedural issue of ascertaining the reliability of witnesses' testimony, especially that given *in tempore suspecto* after they had discussed the issue with the petitioner, and the need to distinguish between witnesses' views and opinions as distinct from first-hand testimony as to facts and events. The examination of the evidence is long and detailed, concluding that there was no proof of inability to assume in either party.

### **1097**

**For XVI 2/05, 362-435: A. Mendonça: A doctrinal and jurisprudential analysis of canon 1097 on error of fact. (Article)**

In 1992 Pompedda rejected the expansion of the nature of the person adopted by Canals in 1970. A quality must be directly and principally intended, a position upheld in the 1993 Address to the Rota. M. explores the history of error of fact and the evolution of canon 1097 and its relationship with canon 126. He then moves on to explore the interpretation of canon 1097 in Rotal decisions. He looks first at those cases involving error of person, then error of quality. He identifies the following qualities that have been considered: marital status; social status; political affiliation; age; physical health; mental health; virginity; procreative capacity; religious belief; pregnancy; moral qualities. He is concerned about a tendency in some judges to elevate error about common qualities, rather than those that specifically individuate, into substantial errors and errors of person by virtue of the intention of the individual. He feels a clear distinction must be maintained between the two grounds.

### **1097**

**For XVI 2/05, 508-532: Metropolitan Tribunal of Malta: *coram* Lino Grech, August 29th, 2003: Nullity of Marriage: Error of Quality of Person.**

(Sentence)

This is an affirmative decision in the first instance on error of quality of person principally and directly intended. At issue were the respondent's initial refusal to allow intercourse open to conception, the discovery that he was sterile for medical reasons, and his refusal to adopt a child, when he knew how important a child was to the petitioner (they had in fact agreed prior to marriage on adoption if necessary). The law section draws heavily on a Rotal decision *coram* Erlebach dated 27 January 2000. Here the error concerned the procreative capacity of the respondent.

**1099**

**IE XVIII 1/06, 159-175: Tribunale della Rota Romana: Peoriensis. Nullità del matrimonio. Esclusione dell'indissolubilità. Sentenza definitiva, 4 febbraio 2005. McKay, Ponente.** (Sentence)

See below, canon 1101.

**1099**

**IE XVIII 1/06, 175-184: Héctor Franceschi F.: La relazione tra l'errore sull'indissolubilità e l'esclusione mediante un positivo atto di volontà.** (Commentary)

See below, canon 1101.

**1099**

**Per VC 2/06, 261-306: Luigi Sabbarese: Fede, intenzione e dignità sacramentale nel matrimonio tra battezzati.** (Article)

See above, canon 1055.

**1101**

**AA XII (2005), 425-447: Tribunal de la Rota Romana, coram R.P.D. Antonio Stankiewicz; de matrimonii nullitate ob exclusum bonum sacramenti et bonum prolis; sententia definitiva.** (Sentence)

This is the Latin text of a sentence in a case which had a tortuous procedural *iter* before reaching final judgement. At first instance both alleged grounds (fear on the petitioner's part and inability on the respondent's) received *non constat* decisions in 1987. The petitioner appealed to the Rota and a new ground was

introduced as at first instance, exclusion of *bonum sacramenti*. All three *capita nullitatis* received negative decisions in 1991. A new appeal was made on the only remaining available ground (*contra bonum sacramenti*) and another new ground of nullity added (*contra bonum prolis*). The present judgement (2003) overturns the decision of the previous Rotal *turnus* and pronounces for nullity on both grounds, thus bringing the case to a conclusion after some sixteen years. In his *in iure* section S. distinguishes in the concept of indissolubility three grades or elements: stability or permanence, excluded, for example, by an intention for a transitory, episodic relationship or a “trial marriage”; perpetuity, excluded by an intention to reserve for oneself the right to end the marriage at a determined or indeterminate time in the future; and indissolubility properly so-called, excluded by a radical intention to reserve for oneself the right to end the marriage whether by personal decision or recourse to the civil authority, the so-called “right to divorce”. He also draws out the very frequent co-existence of *exclusio boni prolis* where *exclusio boni sacramenti* is present: those who opt for an impermanent or transient marriage seldom wish to be burdened with children.

#### 1101

**AA XII (2005), 449-456: Nelson C. Dellaferrera: Comentario a la sentencia de A. Stankiewicz.** (Commentary)

D. offers a commentary on Stankiewicz’s sentence (see preceding entry).

#### 1101

**IE XVIII 1/06, 111-131: Tribunale della Rota Romana: Reg. Siculi seu Panormitana. Nullità del matrimonio. Sentenza definitiva, 25 aprile 2002. Stankiewicz, Ponente.** (Sentence)

The *in iure* section of this case begins with the statement that ecclesial law, based on the natural and positive law, declares that *indissolubility* is an *essential property of marriage*; indissolubility is not a simple effect of marriage but rather its proper mode of being, its natural configuration; sacramentality constitutes the ultimate foundation of marriage, but not the only one. On the basis of documents of the International Theological Commission, the 2001 address of John Paul II to the Rota, and the opinions of leading post-Conciliar canonists, S. gives a solidly articulate exposition of this doctrine.

#### 1101

**IE XVIII 1/06, 131-158: Anna Sammassimo: L’indissolubilità: proprietà del matrimonio in quanto istituto di diritto naturale.** (Commentary)

Classical and more modern authors such as Bellarmine, Suárez, Sánchez, Perrone, Navarrete and others argue that indissolubility is rooted in the sacramentality of marriage. Commenting on the Rotal sentence of 25 April 2002 referred to in the preceding entry, S. studies this matter as a theological premise and as founded on human nature. She then analyses conjugal love and the “ecclesial” and “metaphysical” approaches to the institution of marriage, and in the light of Pope John Paul II’s 2001 address to the Rota, she considers indissolubility’s natural character, its intrinsic-extrinsic distinction, and its three “degrees”, namely stability, perpetuity and indissolubility in the strict sense. She concludes that, given the present attitude to divorce, an authoritative intervention – at least from the Congregation for the Doctrine of Faith – is desirable.

### **1101**

**IE XVIII 1/06, 159-175: Tribunale della Rota Romana: Peoriensis. Nullità del matrimonio. Esclusione dell’indissolubilità. Sentenza definitiva, 4 febbraio 2005. McKay, Ponente.** (Sentence)

Around the time of the marriage, the male petitioner, a member of the Episcopalian Church, was admitted into his wife’s Baptist Congregation. He knew that Baptist doctrine holds marriage to be indissoluble except in the case of the wife’s adultery. The marriage did not last long and, indeed, the wife was unfaithful. Introduced under the heading of canon 1101 §2, error under canon 1099 was taken into account. The Rota did not find that his error, if at all genuine in the petitioner, determined the will.

### **1101**

**IE XVIII 1/06, 175-184: Héctor Franceschi F.: La relazione tra l’errore sull’indissolubilità e l’esclusione mediante un positivo atto di volontà.** (Commentary)

F.’s commentary on the sentence of 4 February 2005 (see preceding entry) is centred on the similarity between simulation in canon 1101 §2 and error in canon 1099. He studies the point at length in writings by P. A. Bonnet, A. Stankiewicz, and Pope John Paul II’s 2001 address to the Rota.

### **1101**

**Per VC 2/06, 261-306: Luigi Sabbarese: Fede, intenzione e dignità sacramentale nel matrimonio tra battezzati.** (Article)

See above, canon 1055.



**1101**

**SC 39 1-2/05, 271-288 (English translation), 289-308 (French translation):  
Apostolic Tribunal of the Roman Rota, *coram* Pinto, 9 June 2000.  
(Jurisprudence)**

The first instance decision in this case had been negative on the grounds of exclusion of the good of indissolubility and exclusion of the good of the spouses, and the second instance had overturned both sentences. The formula of doubt determined by the Roman Rota was exclusion of the good of the sacrament and exclusion of the good of the spouses on the part of the respondent. The law section refers to the “divorce mentality” which may lead to a more serious error, a rejection of the institution of marriage as intended by Christ, an error so deep-rooted that it affects the will. The *in iure* section touches upon the possibility of a person fostering two coexisting wills, one sincerely choosing the partner, and the other concealing the true inclinations of the mind, i.e. an implicit act of simulation on the part of the will. It reverses the first instance conclusion that had based its negative decision on the fact that there was no express confession, either judicial or extra-judicial, by the respondent that she intended to enter into a non-perpetual marriage for the good of the spouses. P. derives his moral certainty from the acts of the case, and the words and actions of the respondent before and after the marriage, that clearly indicated a deformed and perverse will on her part. Moreover, she had wanted to marry to obtain the petitioner’s property. The third instance decision was affirmative on both grounds.

**1101**

**SC 39 1-2/05, 309-330 (English translation), 331-351 (French translation):  
Apostolic Tribunal of the Roman Rota, *coram* Civili, 8 November 2000.  
(Jurisprudence)**

Because this marriage was celebrated during the *CIC/17* regime, the law section begins by looking at the notion of mutual assistance as the secondary end of marriage in canon 1013 §2, that is the complementary and interpersonal integration needed for a full union. In the light of more recent documents on the theology of marriage, it then provides a newer definition of the “good of the spouses”, two distinct but equal persons, a man and a woman, who do not complete each other but who work to establish a communion of life in complementarity with each other. One who means to exclude the good of the other, who has no respect for the dignity of the other, who intends by a positive act of the will not to recognise the fundamental rights of the other, excludes the good of the spouses. This case is also interesting because of the procedural difficulties at the first and second instance level tribunals, difficulties that the Rota decided to overlook because of the circumstances of the places and difficult living conditions in these countries. The respondent did not cooperate

with the tribunal, but the judges agreed to include in the acts of the case the depositions and documents gathered during the civil divorce proceedings. It was declared that given the respondent's cruelty, brutality and violence towards the petitioner, both before and all through the marriage, he was unwilling to establish a dual interpersonal relationship founded on the equal dignity of the spouses and that he had contracted invalidly.

### **1101**

**Luigi Sabbarese (ed.): Coram Sabattani: decisiones ineditae (1955-1965).**  
(Book)

See above, Historical Subjects (*1917 Code*).

### **1103**

**Luigi Sabbarese (ed.): Coram Sabattani: decisiones ineditae (1955-1965).**  
(Book)

See above, Historical Subjects (*1917 Code*).

### **1124-1127**

**SC 39 1-2/05, 221-241: Anthony B. C. Chiegboka: Sanctions to Parents in Inter-Faith Marriages: A Reflection on the Nigerian Local Church Praxis.**  
(Article)

See below, canon 1366.

### **1135**

**SC 39 1-2/05, 309-330 (English translation), 331-351 (French translation): Apostolic Tribunal of the Roman Rota, *coram Civili*, 8 November 2000.**  
(Jurisprudence)

See above, canon 1101.

### **1137-1138**

**Per VC 2/06, 307-342: Edward N. Peters: The canonical presumption of spousal paternity.** (Article)

P. examines the presumption in canon 1138 §1 that the father of the child is identified as the husband of the marriage. He explores the foundation of this

presumption and proposes amendments to canons 1137-1138 to help bring the provisions of the Code up to date with a variety of developments that can now provide a level of certainty not heretofore possible or available.

#### **1141-1155**

**QDE 19 (2006), 70-92: Eugenio Zanetti: Consulenza e introduzione di una causa di nullità matrimoniale.** (Conference presentation)

Z. deals with the topic of canonical consultation in respect of situations that may lead to an interruption of married life. He offers a series of considerations regarding the correct way of discerning whether separation of the spouses is the genuine Christian solution in a particular situation, or whether it simply represents an “easy way out”. He then goes on to examine when, how, and why to propose to individuals that they look into the possible nullity of their marriage, and in the case of a declaration of nullity, how to help them cope with their changed status in the Church. He then sets out and explains the technical provisions of the 1983 Code and of the Instruction *Dignitas Connubii* regarding the introduction of a cause of nullity.

#### **1148-1149**

**J 65 (2005), 268-336: Alan R. A. McCormack: A Commentary on the Norms for Favor of the Faith Cases.** (Article)

In the draft of the 1917 Code the expression *De divortio pleno* was dropped in favour of *De dissolutione vinculi*. No mention was made of the expression *in favorem fidei*. In 1934 and 1939 an instruction was circulated as “Internal Norms for Ecclesiastical Tribunals”, and not as part of the law of the Church. Later this was revised in two separate but related texts. In 2001 the “Norms” were published with a preface. McC. offers an extensive study from the petition that initiates the process through the canons of the 1983 Code on the dissolution of marriage *in favorem fidei*.

#### **1148-1149**

**J 65 (2005), 412-419: John T. Noonan, Jr: Privilege of the Faith: Divorce or Dispensation?** (Article)

N.’s problem is different from that of McCormack (see preceding entry). N. considers that the formula conveying the Papal decisions in such a case is ambiguous. Is the Pope giving a divorce or granting a dispensation? While neither alternative is beyond challenge he argues for “dispensation”.

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

### **1166**

**AA XII (2005), 63-116: José Bonet Alcón: Naturaleza de los sacramentales. (Reflexión teológico-canónica).** (Article)

B.A.'s theological reflection on the sacramentals of the Church is based on Aquinas's theology, especially in *Summa Theologiae*, III, q. 65, and his canonical reflections derive from the 1917 Code, the teaching of Vatican II, the present Code, the Code of the Canons of the Eastern Churches, and the Catechism of the Catholic Church. He sets the sacramentals in their general doctrinal context, showing their connection to different theological and doctrinal truths from which they derive their inherent suitability and fittingness. He discusses a possible definition of sacramentals in the light of their efficient, formal, final and material causes and considers the effects of sacramentals (actual graces, forgiveness of venial sins, limiting the power of evil, temporal benefits and the remission of temporal punishment) and their mode of causality (*ex opere operato*, *ex opere operantis*, and *ex opere operantis Ecclesiae*).

### **1166-1167**

**John M. Huels: Liturgy and Law. Liturgical Law in the System of Roman Catholic Canon Law.** (Book)

See above, canons 2-145.

### **1166-1185**

**Assemblée des Évêques catholiques du Québec: Guide canonique et pastoral au service des paroisses / Assembly of Quebec Catholic Bishops: Canonical and Pastoral Guide for Parishes.** (Book)

See above, canons 849-896.

### **1167**

**Ap LXXVII 1-2 (2004), 79: Congregatio de Cultu Divino et Disciplina Sacramentorum: Decretum, 14.09.2002.** (Document)

The sign of the Cross is to be made in imparting blessings even when no mention of such is made in the Roman Ritual.

**1168**

**J 65 (2005), 337-384: John M. Huels: The Ministers of the Sacramentals.** (Article)

In the 1917 Code the lawful ministers of the sacramentals were clerics. Now canon 1168 allows some lay persons to administer some sacramentals. H. follows this development. He also considers other involvement of deacons and priests and priest-office holders and bishops in sacramentals. He concludes with an appendix on delegated faculties necessary for priests to celebrate certain sacramentals.

**1169-1195**

**Arthur J. Espelage (ed.): CLSA Advisory Opinions 2001-2005.** (Book)

See above, canons 2-189.

**1184**

**Ang 83 (2006), 121-142: Edward N. Peters: Lest Amateurs Argue Canon Law: A Reply to Patrick Gordon's Brief Against Bp. Thomas Daily.** (Article)

Patrick Gordon, a common law attorney, published what purported to be a canonical criticism of the decision taken by Bishop Thomas Daily of Brooklyn to deny ecclesiastical funeral rites to a notorious American Mafia chieftain. In answer, P. points out numerous canonical errors in Gordon's arguments. These errors stem from a) a mishandling of basic canonical sources; b) an attempt to approach canon law as if it were common law; and c) a misinterpretation of the requirement in canon 1184 that the sinner must have given some sign of repentance before death if he is to be allowed an ecclesiastical funeral.

**BOOK IV, PART III: SACRED PLACES AND TIMES****1205-1213**

**QDE 19 (2006), 6-24: Giuliano Brugnotto: La parrocchia missionaria e i beni negli orientamenti dei vescovi italiani.** (Article)

The parish has always made use of "places" to fulfil its mission of proclaiming

the Gospel and celebrating the sacred mysteries. These “places” include the church building and the parochial house, as well as chapels, oratories, shrines, cemeteries, centres for educative or charitable activities, and so on. Theological and pastoral reflections over the last decade have tended to give little importance to “parish places”. The Italian bishops, however, stressing the missionary dimension of the parish, have addressed the issue in attempting to bring about a renewal of parish life in response to present-day cultural and social demands. B. studies some recent documents issued by the Italian bishops which provide pastoral directives and practical guidance regarding finances.

### **1213**

**IC XLVI 91/06, 307-308: Carta Apostólica «motu proprio» del Papa Benedicto XVI con nuevas disposiciones sobre las Basílicas de San Francisco y Santa María de los Ángeles en Asís, 9.XI.2005.** (Document)

Text in Spanish of the Pope’s apostolic letter transferring jurisdiction over the basilicas of Saint Francis and Our Lady of the Angels in Assisi to the local bishop.

### **1213**

**IC XLVI 91/06, 309-312: Jesús Miñambres: Renuncia a la jurisdicción sobre las Basílicas de Asís por parte del Romano Pontífice.** (Commentary)

Commentary on the document referred to in the previous entry. The main reason for the transfer of jurisdiction from the Pope to the bishop of the diocese is to ensure greater coordination between the activities of the Basilicas and the pastoral activities of the regional and national episcopal conferences.

### **1213**

**IE XVIII 1/06, 293-295: Benedetto XVI: Lettera apostolica in forma di «Motu proprio» *L’antica e venerabile Basilica per la Basilica di San Paolo fuori le Mura e per il suo complesso extraterritoriale*, 31 maggio 2005.** (Document)

This is the text of the Pope’s motu proprio establishing general norms on pastoral and administrative aspects of the complex at St Paul’s outside the Walls. It will allow the framing of statutes to determine the competences of the various office holders, both in the Basilica and in the Benedictine Abbey. From 7 March 2005, the Abbey is no longer a “territorial” circumscription; it will be known as the “Abbey of Saint Paul’s outside the Walls”.

### 1213

**IE XVIII 1/06, 295-297: Lettera apostolica in forma di «Motu proprio» *Totius orbis* contenente nuove disposizioni circa le Basiliche di San Francesco e di Santa Maria degli Angeli in Assisi, 9 novembre 2005.** (Document)

This is the text of the apostolic letter motu proprio *Totius Orbis*, which modifies the present juridical discipline as between the Basilicas of Saint Francis and Saint Mary of the Angels and the local diocese, as well as the pastoral activity promoted by the Episcopal Conference at regional and national levels.

### 1213

**IE XVIII 1/06, 297-304: Antonio S. Sánchez-Gil: Le nuove disposizioni pontificie riguardanti la Basilica di San Paolo fuori le Mura e le due Basiliche francescane di Assisi.** (Commentary)

The author offers a study on the similarities and differences in the canonical and pastoral changes affecting the Basilica of Saint Paul's outside the Walls in Rome and the two Basilicas in Assisi (see the two preceding entries).

### 1216

**N XLI 11-12/05, 579-587: M. Rupnik: Applicazione del Concilio: quale arte per la liturgia?** (Article)

Art is not simply the decoration of liturgical space but an integral part of worship. A purely subjective symbolism is not appropriate. R. sets out a number of fundamental principles that should guide liturgical art.

### 1216

**N XLI 11-12/05, 588-606: J. Bellavista: Arte y liturgia en el Concilio Vaticano II y en la Reforma Postconciliar.** (Article)

B. looks at the development of Chapter VII of *Sacrosanctum Concilium*, and how this is reflected in the norms of the General Instruction of the Roman Missal, and then at symbolism and eschatology in art. He focuses in particular on the use of images, both excess and iconoclasm. A balance is needed. He lists directories on liturgical art produced by a number of episcopal conferences.

### 1217-1245

**Arthur J. Espelage (ed.): CLSA Advisory Opinions 2001-2005. (Book)**

See above, canons 2-189.

## **BOOK V: THE TEMPORAL GOODS OF THE CHURCH**

**1254**

**LJ 155/05, 100-102: John Duddington: Discreet Festivity and Social Intercourse. (Article)**

D. examines the status of Church charities and their activities in UK civil law: what qualifies as “public benefit” so as to enjoy charitable status.

**1254**

**Assemblée des Évêques catholiques du Québec: Guide canonique et pastoral au service des paroisses / Assembly of Quebec Catholic Bishops: Canonical and Pastoral Guide for Parishes. (Book)**

See above, canons 849-896.

**1254-1258**

**Ap LXXVII 1-2 (2004), 357-414: A. Bucci: Le radice storiche della formazione giuridica del concetto di bene ecclesiastico. (Article)**

After an introduction B. surveys the Roman and Christian heritage from which his topic developed. He considers the Germanic contribution and follows this with a survey of the collection of laws and the *Corpus Iuris Canonici*. He reviews the Council of Trent and the Illuminist traditions leading to his conclusion of the modern domination of the State over the Church in material matters.

**1254-1289**

**IE XVIII 1/06, 187-197: Mauro Rivella: L'Istruzione in materia**



### **amministrativa 2005 della Conferenza Episcopale Italiana. (Article)**

The new *Istruzione in materia amministrativa* of the Italian Episcopal Conference was published on 1 September 2005. Its precedent of 1992 aimed at facilitating the application of the 1983 Code of Canon Law and the 1984 Agreement revising the Lateran Concordat, which was followed by the reform of norms regarding ecclesiastical entities and temporal goods as well as the subsistence of the clergy. R. presents the new document and explains the reasons why it needed to be updated. He foresees regional and diocesan initiatives for adapting the instruction to local needs.

### **1254-1289**

**IE XVIII 1/06, 199-216: Jesús Miñambres: Evoluzione nella prassi amministrativa della Chiesa in Italia: dalla «Istruzione in materia amministrativa» del 1992 a quella del 2005. (Commentary)**

M. presents a commentary on the 2005 *Istruzione in materia amministrativa* (see preceding entry) looking in detail at its novelty with respect to the 1992 norms; the nature of this type of document; its normative role in Italy; the various ecclesiastical entities; the Bishop's executive power in economic matters; Church finances; the administration of ecclesiastical goods; particular aspects of the "diocese" as a canonical entity; diocesan institutions for the support of the clergy; the parish as a canonical entity; and associations of the faithful.

### **1254-1289**

**IE XVIII 1/06, 305-306: Conferenza Episcopale Italiana. Decreto di promulgazione della Istruzione in materia amministrativa, 1 settembre 2005. (Document)**

Given here is the text of the decree of promulgation of the *Istruzione in materia amministrativa*, 1 September 2005.

### **1254-1289**

**QDE 19 (2006), 185-210: Matteo Visioli: La nuova Istruzione in materia amministrativa della Conferenza Episcopale Italiana. (Article)**

On 1 September 2005 the Italian Bishops' Conference promulgated a new Instruction dealing with various administrative matters, this document replacing the previous 1992 Instruction. V. looks at the background to the Instruction, its juridical nature and binding force, and its principal novelties. The main topics which it deals with are: the sources of administrative-patrimonial law;

ecclesiastical bodies and goods; the executive power of the bishop in relation to ecclesiastical goods; sources of financial support for the Church; ordinary and extraordinary administration; diocesan bodies; the diocesan institute for the support of the clergy; parochial bodies; places of worship; associations of the faithful; and foundations.

## **1254-1298**

### **Rosemary Smith / Warren Brown / Nancy Reynolds (eds.): Sponsorship in the United States Context: Theory and Praxis. (Book)**

In 2005 the CLSA Committee on Consecrated Life and Societies of Apostolic Life organized a symposium to discuss the subject of a research project they had undertaken on the topic of sponsorship. During the symposium it was agreed that for the purposes of their project, sponsorship of an apostolate or ministry meant “a formal relationship between a recognised Catholic organisation and a legally formed entity, entered into for the sake of promoting and sustaining the Church’s mission in the world”. In the light of this definition the papers which had been submitted prior to the symposium were revised and resubmitted, and after editorial revision they are collected together in this publication. The papers cover the following topics: reflections on sponsorship from one congregation’s perspective (Helen Marie Burns); the various types of sponsorship (Francis G. Morrissey); ownership, control and Catholic identity of institutional apostolates in the United States (John P. Beal); sponsorship by juridic persons (William J. King); incorporation and dissolution of the sponsorship relationship from civil and canon law perspectives (Patricia M. Dugan); sponsorship in higher education (Paul L. Golden); sponsorship between a public juridic person and a healthcare corporation in the United States (Melanie DiPietro); and mutual expectations of sponsored and sponsoring ministries (Patricia Smith). There is also a concluding section entitled “Learnings and Future Possibilities”. (For bibliographical details see below, Books received.)

## **1274**

### **LJ 154/05, 126-143: Cristiana Cianitto: The Maintenance of Clergy in the Italian Catholic Church. (Article)**

See above, canon 281.

## **1276-1304**

### **Arthur J. Espelage (ed.): CLSA Advisory Opinions 2001-2005. (Book)**

See above, canons 2-189.

## **1290**

**QDE 19 (2006), 141-157: Alberto Perlasca: Conferimento e cessazione dell'ufficio ecclesiastico. Problemi di rapporto con l'ordinamento civile.** (Article)

See above, canon 145.

## **1290**

**QDE 19 (2006), 158-174: Carlo Azzimonti: Lavoro ecclesiale e normativa civile italiana: il contratto di lavoro.** (Article)

See above, canon 145.

## **1290**

**QDE 19 (2006), 175-184: Mauro Rivella: La remunerazione del lavoro ecclesiale.** (Article)

See above, canon 145.

## **BOOK VI: SANCTIONS IN THE CHURCH**

### **1311**

**Ap LXXVII 1-2 (2004), 319-355: Artur Miziński: Il ruolo dell'Ordinario nell'ambito penale.** (Article)

M. presents the role of the Ordinary in the penal process by considering the following topics: competence; discretion in its various aspects; cessation of the penalty. M. concludes that the law gives a central position to the Ordinary in penal matters.

### **1321-1340**

**Patricia M. Dugan (ed.): Advocacy Vademecum.** (Book)

See below, canons 1501-1670.

### **1331**

**Ap LXXVII 1-2 (2004), 67-69: Congregatio pro Doctrina Fidei. Monitum, Propositio, Decretum excommunicationis quarundam mulierum, 10.07.2002, 05.08.2002. Dichiarazione (Monitum), 10.07.2002.** (Documents)

Text in Italian of various documents concerning the action taken by the Congregation for the Doctrine of the Faith as a result of the sacerdotal “ordination” of seven women.

### **1331**

**Ap LXXVII 1-2 (2004), 151-154: Congregatio pro Doctrina Fidei: Decretum, 21.12.2002. Recursus quarundam excommunicatarum mulierum reicitur.** (Document)

Text in Italian of the rejection by the Ordinary Session of the Congregation for the Doctrine of the Faith, approved in specific form by Pope John Paul, of the appeal against excommunication presented by the women who had received sacerdotal “ordination” from a schismatic bishop.

### **1341**

**Ap LXXVII 1-2 (2004), 293-317: Zbigniew Suchecki: La tutela penale della dignità della persona umana nei discorsi de Giovanni Paolo II al Tribunale della Rota Romana.** (Article)

Making use of extensive quotations from the addresses of John Paul II to the Rota, S. argues that the penal law of the Church underpins the dignity of the human person.

### **1342-1398**

**Arthur J. Espelage (ed.): CLSA Advisory Opinions 2001-2005.** (Book)

See above, canons 2-189.

### **1347**

**Ap LXXVII 1-2 (2004), 67-69: Congregatio pro Doctrina Fidei. Monitum, Propositio, Decretum excommunicationis quarundam mulierum,**

**10.07.2002, 05.08.2002. Dichiarazione (Monitum), 10.07.2002.** (Documents)

See above, canon 1331.

### **1347**

**Ap LXXVII 1-2 (2004), 151-154: Congregatio pro Doctrina Fidei: Decretum, 21.12.2002. Recursus quarundam excommunicatarum mulierum reicitur.** (Document)

See above, canon 1331.

### **1362-1395**

**Ap LXXVII 1-2 (2004), 15-17: Pope John Paul II: Litterae Apostolicae motu proprio datae quibus Normae de gravioribus delictis Congregationi pro Doctrina Fidei reservatis promulgantur.** (Document)

Text in Latin of the motu proprio *Sacramentorum Sanctitatis Tutela* (13 April 2001) establishing the reservation to the Congregation for the Doctrine of the Faith of the action to be taken over certain offences.

### **1362-1395**

**Patricia M. Dugan (ed.): Advocacy Vademecum.** (Book)

See below, canons 1501-1670.

### **1364**

**Ap LXXVII 1-2 (2004), 67-69: Congregatio pro Doctrina Fidei. Monitum, Propositio, Decretum excommunicationis quarundam mulierum, 10.07.2002, 05.08.2002. Dichiarazione (Monitum), 10.07.2002.** (Documents)

See above, canon 1331.

### **1364**

**Ap LXXVII 1-2 (2004), 151-154: Congregatio pro Doctrina Fidei: Decretum, 21.12.2002. Recursus quarundam excommunicatarum mulierum reicitur.** (Document)

See above, canon 1331.

### 1365

**AnC 1/2005, 13-30: Elżbieta Szczot: Ochrona Eucharystii w normach dotyczących *communicatio in sacris* (= Safeguarding the Eucharist in the norms concerning *communicatio in sacris*).** (Symposium presentation)

See above, canon 844.

### 1366

**SC 39 1-2/05, 221-241: Anthony B. C. Chiegboka: Sanctions to Parents in Inter-Faith Marriages: A Reflection on the Nigerian Local Church Praxis.** (Article)

This article considers the possible extension of the provision of canon 1366 in the pastoral practice of the Nigerian local Church that sanctions parents in inter-faith (mixed) marriages. C. proposes that there is no canonical basis for the application of the canon in this pastoral situation. This provision of particular law has been the cause of strained relationships within Nigerian culture and with other faiths in an obviously religiously-mixed community. Thus C. advises that the signing of the *cautiones* by families and the sanctioning of parents by denial of sacraments and funerals be reconsidered by the local hierarchy in Nigeria.

### 1367

**AnC 1/2005, 45-57: Józef Rapacz: Ochrona Eucharystii w prawie karnym (KPK, kan. 1367) (= Safeguarding the Eucharist in canon law: can. 1367 of the CIC 1983).** (Symposium presentation)

The Church considers the profanation of the Eucharist to be a grave offence of sacrilege. This offence can, according to canon 1367, be committed in three ways, each of which constitutes a crime in itself: “throwing away the consecrated species”, “taking away the consecrated species for a sacrilegious purpose”, and “retaining the consecrated species for a sacrilegious purpose”. Regarding the expression “throwing away the consecrated species”, the President of the Pontifical Council for Legislative Texts has clarified that “a grave offence of sacrilege against the Body and Blood of Christ is committed by anyone who takes away and/or keeps the Sacred Species for a sacrilegious (obscene, superstitious, irreligious) purpose, and by anyone who, even without removing them from the tabernacle, monstrance or altar, makes them the object of any external, voluntary and serious act of contempt ... Even when the Church is forced, as it were, to impose penalties, she is also moved by the need to safeguard the moral integrity of the ecclesiastical community and to seek the spiritual good and correction of the offenders, but in this case she does so, also and primarily, in order to safeguard the greatest Good she has received from the

divine mercy, i.e., Christ the Lord himself, who has become ‘the bread of eternal life’ (cf. Jn 6:27) in the most blessed Eucharist.”

**1395**

**ITQ 70 (2005), 367-374: Diarmaid Ó Catháin: When a Priest is Accused of a Crime.** (Article)

Ó C. outlines the procedures to be followed in the case of accusations of child sexual abuse made against clergy and religious as well as the dilemma faced by the respective bishop or religious superior. Also discussed is the complex (and tragic) situation of those who have been falsely accused.

**1395**

**REDC 62 158/05, 9-87: Federico Aznar Gil / J. Chong Águila: Abusos sexuales a menores realizados por clérigos: normas de los Obispos de los Estados Unidos de América (2002). Textos y comentario.** (Documents and commentary)

The authors provide several texts including the letter and decree of the Cardinal Prefect of the Congregation for Bishops to the U.S. Conference of Catholic Bishops granting *recognitio* for the *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*. The text of the *Essential Norms* is given in English with Spanish translation. There follows the text (Spanish version only) of the *Charter for the Protection of Children and Young People*, approved by the U.S. bishops in 2002 but not submitted for *recognitio*. Among other things the commentary considers what kinds of actions are covered by the term “sexual abuse of minors”, the penal process to be followed, and the normal praxis in this area of the Congregation for the Doctrine of the Faith. The historical antecedents of the *Essential Norms* are given, followed by a commentary on each of its thirteen norms, indicating how some of them are considerably more strict and rigorous than those envisaged by the Code itself. In their conclusions the authors raise the question of why the existing canonical norms were so often neglected, leading to outcry and scandal when so many concealed abuse cases came to public knowledge. They favour a more balanced approach than some of the recent norms advocate so that the rights of both the victim and the accused may be safeguarded. The person guilty of a single imprudent gesture should not be treated in the same way as a serial abuser. The authors add a bibliographical appendix of some seventy articles on this theme.

## **BOOK VII: PROCESSES**

## 1400

**Ap LXXVII 1-2 (2004), 415-453: Elena Di Bernardo: Il sillogismo giudiziale. Prerogative e limiti di applicabilità nel processo canonico.** (Article)

In five main headings (with many sub-divisions) Di B. develops her theme: 1. the role of logic in judicial reasoning; 2. the judicial syllogism and the structure of the decision; 3. the hypothetical advantages and limits of the judicial syllogism; 4. the characteristics of judicial reasoning and the limits of the syllogistic models in the *questio facti*; 5. the logical structure of a judgement on the facts. In conclusion it is necessary to find a way forward from a simple and abstract judicial syllogistic process or an illogical personalistic judicial approach.

## 1425-1747

**Arthur J. Espelage (ed.): CLSA Advisory Opinions 2001-2005.** (Book)

See above, canons 2-189.

## 1443

**Ap LXXVII 1-2 (2004), 155: Secretaria Status: Romanae Rotae iudicium muneris cessatio usque ad LXXVae expletum prolatur.** (Document)

By a decision of the Roman Pontiff the norms for the Rota are changed so that the office of Judge ceases on completion of their 75th year.

## 1443-1444

**AA XII (2005), 413-423: Fernando Moreno Diehl: Introducción a la lectura de volumen 90 (XC) de las Rotae Romanae Decisiones seu Sententiae.** (Brief commentary)

M.D. provides a commentary on volume 90 (for the year 1998) of Rotal sentences. Of a total of 141 sentences (only 73 are published) 77 are *pro vinculo*, 61 *pro nullitate*; of the remaining three, one does not concern marriage, one annuls the previous sentence and the third refuses acceptance of the case. M.D. gives a breakdown of the different grounds alleged. It is no surprise to learn that a majority of cases deal with canon 1095 2° and 3°. He has some concluding remarks on the use of expert psychological reports in these cases; all *pro nullitate* decisions on these grounds had one or more such reports.



## **1452**

**IC XLVI 91/06, 139-176: Joaquín Llobell: La modificación *ex officio* de la fórmula de la duda, la certeza moral y la conformidad de las sentencias en la Instrucción *Dignitas Connubii*.** (Conference presentation)

See below, canons 1513-1516.

## **1470**

**QDE 19 (2006), 41-64: Paolo Bianchi: I poteri disciplinari del giudice nel corso dell'udienza (can. 1470 §2).** (Article)

Canon 1470 §2 provides that the judge may take to task, with appropriate penalties, those who, during the trial, are gravely lacking in the reverence and obedience due to the tribunal, and also that he may suspend advocates and procurators from exercising their office in ecclesiastical tribunals. B. analyses the meaning of this canon by examining the background to the corresponding provision in the 1917 Code (canon 1640 §2), the developments that took place between the two Codes, the work of revision of the Code, the opinions of commentators on the 1983 Code, and the wording of the 2005 Instruction *Dignitas Connubii*. Significantly, article 87 of *Dignitas Connubii* omits any reference to “appropriate penalties”; it also treats the suspension of the advocates and procurators as being limited to the cause in question, and not as applicable to causes and tribunals generally. B. sets out a series of conclusions regarding the kinds of behaviour which are to be punished, the kinds of penalties that may be imposed, and the nature of the judge’s power in imposing penalties.

## **1481-1490**

**Patricia M. Dugan (ed.): Advocacy Vademecum.** (Book)

See below, canons 1501-1670.

## **1485**

**IC XLVI 91/06, 99-137: Rafael Rodríguez-Ocaña: La introducción de la causa y la cesación de la instancia en la Instrucción *Dignitas Connubii*.** (Conference presentation)

See below, canons 1501-1525.

## **1501-1516**

**QDE 19 (2006), 70-92: Eugenio Zanetti: Consulenza e introduzione di una causa di nullità matrimoniale. (Article)**

See above, canons 1141-1155.

**1501-1525**

**IC XLVI 91/06, 99-137: Rafael Rodríguez-Ocaña: La introducción de la causa y la cesación de la instancia en la Instrucción *Dignitas Connubii*. (Conference presentation)**

R.-O. describes the new features that are contained in the Instruction *Dignitas Connubii*. Firstly he deals with the introductory *libellus*: the requirements to be fulfilled, the presentation of the *libellus*, and its acceptance or rejection by the president of the collegiate tribunal. He then looks at the provisions of the Instruction relating to the citation of the respondent and the communication of the judicial acts. Finally he explains the various critical events that may occur during the course of a matrimonial nullity process: abatement, renunciation, suspension in the case of doubt over consummation, etc.; and the importance of these events according to whether they occur at first or second instance.

**1501-1670**

**Patricia M. Dugan (ed.): Advocacy Vademecum. (Book)**

This book consists of a series of articles, checklists and sample forms, which together provide a comprehensive handbook for those involved in penal advocacy. Four of the articles are by Fr Francis Morrissey, dealing with the advocate for the accused and the right of defence; new Roman documents complementing the 1983 Code in the area of penal law; recent jurisprudence and instructions on penal law; and procedures for the loss of the clerical state. Two articles are by Fr Stuart MacDonald, dealing with the use of psychological testing in the light of *Graviora Delicta* cases; and some reflections on legality and law. There are further articles by Charles Renati, on prescription in cases involving the sexual abuse of minors; Sr Victoria Vondenberger, who offers some personal reflections on her work as promoter of justice; and Patricia Dugan, who raises a number of questions that need to be answered if true justice or equity is to be achieved in penal cases. The checklists cover decrees, letters and documents needed for a trial; incidental causes; and the preliminary investigation (all of these checklists having been prepared by Fr Patrick Lagges); and there is another checklist compiled by Sr Vondenberger, dealing with the removal of a pastor. The section of sample forms, prepared by Patricia Dugan and J. Michael Ritty, includes a petition for dispensation from priestly obligations, a curriculum vitae, a confidentiality agreement, a retainer agreement, a mandate for procurator and canonical advocate, and

communication by an advocate with the Congregation for the Doctrine of the Faith. (For bibliographical details see below, Books Received.)

### **1513-1516**

**IC XLVI 91/06, 139-176: Joaquín Llobell: La modificación *ex officio* de la fórmula de la duda, la certeza moral y la conformidad de las sentencias en la Instrucción *Dignitas Connubii*.** (Conference presentation)

In the first part of his presentation L. argues that the judge can modify *ex officio* the object of the marriage nullity cause, even though this seems to be formally prohibited by canon 1514 of the 1983 Code, and now also by article 136 of the Instruction *Dignitas Connubii*. This approach helps to achieve the aim of arriving at a declaration of the truth as to the validity or nullity of a marriage, while avoiding formalistic and useless time-wasting. L. then considers the topic of “moral certainty”, which he says is not merely a subjective state on the part of the judge: it also contains a broad “objective” content, and must be based on the acts of the process. These acts need to be capable of providing justification for the decision taken by the judge (and for the reasons on which that decision is based); they also need to be capable of producing the same certainty at appeal level. Moral certainty is “judicial”. The judge cannot use a moral certainty “borrowed” from the experts or from the parties concerned. In the final part of his lecture L. looks at the question of the conformity of sentences. In order that two sentences *pro nullitate matrimonii* may allow a new celebration of marriage, there needs to be conformity between them, and *Dignitas Connubii* has incorporated the interpretation of “substantial conformity” as developed by the Roman Rota, where the ground of nullity in the first sentence differs from the ground in the second.

### **1526-1606**

**IC XLVI 91/06, 177-206: Feliciano Gil de las Heras: Las pruebas, las causas incidentales, la publicación y la conclusión de la causa en la Instrucción *Dignitas Connubii*.** (Conference presentation)

The Instruction *Dignitas Connubii* confirms the possibility of the judge admitting to proof matters that come to light in the course of his work of gathering evidence. The Instruction also obliges the judge to avoid an excessive number of witnesses; and he is entitled to exclude advocates during the declarations of the witnesses and experts when he considers that the procedure should be carried out in secret. In the gathering of proofs, any type of fraud, collusion or corruption must be avoided. Other points of special relevance in *Dignitas Connubii* are that the “judicial confession” is very clearly defined; and there are some very interesting provisions on the topics of preconstituted proof (proof deliberately prepared in advance, in order to be used some day at a

nullity trial), documentary proof, and that of expert witnesses. It is in relation to incidental causes that the Instruction adds the greatest number of clarifications. Also of interest are what it has to say in relation to the examination of the acts, the conclusion of the case and the pleadings.

### **1535-1536**

**Per VC 2/06, 343-363: Ciro Tammaro: Rilevanza delle ordalie e dei giudizi di Dio ed analisi strutturale e funzionale della *confessio iudicialis* nel sistema probatorio del processo canonico medievale *in re penali*.** (Article)

The importance of the judicial confession of the accused in the medieval penal process is examined by T. This confession was considered to be the “queen of proofs”; as such, it was the ultimate goal of the work of the Inquisition. The use of torture and force was justified in the circumstances as a means to help obtain such confessions. T. presents his considerations in an effort to dispel the excessive negative criticism of the Inquisition generated by the work of some contemporary scholars.

### **1574-1581**

**Gianfrancesco Zuanazzi: Psicologia e psichiatria nelle cause matrimoniali canoniche.** (Book)

See above, canon 1095.

### **1587-1595**

**IC XLVI 91/06, 99-137: Rafael Rodríguez-Ocaña: La introducción de la causa y la cesación de la instancia en la Instrucción *Dignitas Connubii*.** (Conference presentation)

See above, canons 1501-1525.

### **1600**

**IC XLVI 91/06, 139-176: Joaquín Llobell: La modificación *ex officio* de la fórmula de la duda, la certeza moral y la conformidad de las sentencias en la Instrucción *Dignitas Connubii*.** (Conference presentation)

See above, canons 1513-1516.

### **1607-1618**

**IC XLVI 91/06, 245-290: Paola Buselli Mondin: Osservazioni sull'esistenza giuridica della sentenza canonica.** (Article)

See below, canons 1620-1622.

### **1608**

**IC XLVI 91/06, 139-176: Joaquín Llobell: La modificación *ex officio* de la fórmula de la duda, la certeza moral y la conformidad de las sentencias en la Instrucción *Dignitas Connubii*.** (Conference presentation)

See above, canons 1513-1516.

### **1620-1622**

**IC XLVI 91/06, 245-290: Paola Buselli Mondin: Osservazioni sull'esistenza giuridica della sentenza canonica.** (Article)

On the basis of a comparison of canon law and secular legal systems, B. M. examines the notion of “legal existence”, both in relation to the possible invalidity of canonical acts in general, and also in its specific application to canonical sentences. After a summary of the positions adopted since the 1917 Code by authors and by jurisprudence, legal existence is identified in the convergence of the juridical theory of Olis Robleda and the personalist phenomenology of Karol Wojtyła. What comes to light within this convergence is a personalist subjectivity, which affects the entire range of the responsibility of the faithful for the juridical effects of their own actions. The canonical sentence is also seen to be an act whose effects are entirely the responsibility of the sentencing judge.

### **1636**

**IC XLVI 91/06, 99-137: Rafael Rodríguez-Ocaña: La introducción de la causa y la cesación de la instancia en la Instrucción *Dignitas Connubii*.** (Conference presentation)

See above, canons 1501-1525.

### **1639**

**IC XLVI 91/06, 139-176: Joaquín Llobell: La modificación *ex officio* de la fórmula de la duda, la certeza moral y la conformidad de las sentencias en**

**la Instrucción *Dignitas Connubii*.** (Conference presentation)

See above, canons 1513-1516.

#### **1641-1644**

**IC XLVI 91/06, 99-137: Rafael Rodríguez-Ocaña: La introducción de la causa y la cesación de la instancia en la Instrucción *Dignitas Connubii*.** (Conference presentation)

See above, canons 1501-1525.

#### **1641-1644**

**IC XLVI 91/06, 139-176: Joaquín Llobell: La modificación *ex officio* de la fórmula de la duda, la certeza moral y la conformidad de las sentencias en la Instrucción *Dignitas Connubii*.** (Conference presentation)

See above, canons 1513-1516.

#### **1658-1670**

**IC XLVI 91/06, 177-206: Feliciano Gil de las Heras: Las pruebas, las causas incidentales, la publicación y la conclusión de la causa en la Instrucción *Dignitas Connubii*.** (Conference presentation)

See above, canons 1526-1606.

#### **1671-1691**

**For XVI 2/05, 346-357: Pontifical Council for Legislative Texts: Press Conference for the presentation of the Instruction *Dignitas Connubii*, 8th February 2005.** (Presentation)

Three contributions are printed: Cardinal Herranz on the purpose of the Instruction, to help tribunals to handle their work better (pp. 346-351); Bishop De Paolis on how the Instruction provides a reliable explanation of the tribunal procedure (pp. 352-354); Mgr Stankiewicz on moral certainty and the search for objective truth (pp. 355-357).

#### **1671-1691**

**IC XLVI 91/06, 33-58: Frans Daneels: Una introducción general a la**

### **Instrucción *Dignitas Connubii*.** (Conference presentation)

This general introduction to the Instruction *Dignitas Connubii* (DC) is divided into three parts: 1) A short reference to the history of its drafting; the three Commissions involved in its preparation; and four projects, the last of which is DC itself. 2) This is followed by an explanation of what DC states about its own nature, objectives and approach. 3) Finally, five keys to a proper reading and evaluation of DC are suggested: a) the application of canon 1691 is fundamental, with the important clause *nisi rei natura obstet*. When it does not seem possible to harmonise an article of DC with what the Code states, it must be decided whether this situation is due to the obligation to take into account the proper and particular nature of marriage cases; b) DC bears in mind the great diversity of status and activity in the different tribunals; c) DC takes into account the Pope's addresses to the Roman Rota and the jurisprudence of the Apostolic Tribunals; d) the intention of DC is to give those who work in tribunals a sort of authoritative manual, and for this reason it is made up of quite heterogeneous material; e) DC wishes to combine both seriousness and speed of trial within the limits of the mandate conferred by Pope John Paul II.

### **1671-1691**

#### **IC XLVI 91/06, 59-97: Javier Otaduy: El principio de jerarquía normativa y la Instrucción *Dignitas Connubii*.** (Conference presentation)

The Instruction *Dignitas Connubii* raises similar problems to those which the Instruction *Provida Mater* had in its day. O. groups together a number of formal juridical queries: whether the document fits into the category of an Instruction according to canon 34; whether the manner of its appearance within the ecclesiastical legal system was correct; and whether its provisions have the status corresponding to an administrative norm. All these questions he answers in the negative. The Instruction completely reorders the laws relating to matrimonial processes, within the framework of a document which appears to be administrative, with all the problems this causes. Nor is the exact date of its promulgation known. However, the legal value of the document cannot be rejected unless a direct contradiction or incompatibility with the Code can be proven – something which *Dignitas Connubii* wishes to avoid.

### **1671-1691**

#### **IC XLVI 91/06, 209-218: Santiago Panizo Orallo: *Ratio iuris – ratio salutis*. Una tensión dialéctica en busca del equilibrio justo.** (Inaugural address)

In this *Lectio Brevis* to the Tribunal of the Rota of the Nunciature in Spain at the start of the 2005-2006 judicial year, P.O. points out how one of the aims of the Instruction *Dignitas Connubii* is to prevent or correct both legalistic formalism and an excessively subjective approach on the part of the judges in matrimonial

nullity cases. The purpose of the procedural law of the Church is to serve both justice and truth.

### **1671-1691**

**IC XLVI 91/06, 293-297: Discurso de Benedicto XVI a la Rota Romana, de 28.I.06.** (Address)

Text in Spanish of the Pope's 2006 Address to the Roman Rota.

### **1671-1691**

**IC XLVI 91/06, 299-306: Juan Ignacio Bañares: ¿Normas procesales vs. *charitas pastoralis* en la nulidad del matrimonio? El Discurso de Benedicto XVI al Tribunal de la Rota Romana de 28 de enero de 2006.** (Commentary)

B. points out how Benedict XVI, in his Address to the Rota of 28 January 2006, highlights an apparent conflict in connection with the Instruction *Dignitas Connubii*. Whereas the Fathers at the 2005 Synod on the Eucharist expressed the concern that those faithful who were not canonically married should have their marital situation regularised so as to be able to partake of the Eucharist, the spirit of the collection of norms in *Dignitas Connubii* seems to oppose this. However, the Pope goes on to explain that this approach conceals a false opposition between law and pastoral ministry. B. in his commentary shows how Benedict XVI tackles the main present-day objections to the very existence of the process as a suitable instrument for establishing the truth about marriage, while urging everyone to do all within their power to give those spouses who are in difficulties the help they require to overcome them.

### **1671-1696**

**QDE 19 (2006), 70-92: Eugenio Zanetti: Consulenza e introduzione di una causa di nullità matrimoniale.** (Conference presentation)

See above, canons 1141-1155.

### **1671-1696**

**QDE 19 (2006), 105-110: Eugenio Zanetti: Spirito e metodo richiesti ad un operatore pastorale e giuridico nell'accostarsi, nell'approfondire e nel valutare le vicende e le questioni matrimoniali.** (Conference presentation)

At the conclusion of a special residential course on matrimonial causes held in San Marino in 2005, Z. comments on the fundamental ideas that have emerged during the conference, especially regarding the spirit in which those who are



involved in matrimonial causes need to approach their task.

### **1675**

**IC XLVI 91/06, 99-137: Rafael Rodríguez-Ocaña: La introducción de la causa y la cesación de la instancia en la Instrucción *Dignitas Connubii*.** (Conference presentation)

See above, canons 1501-1525.

### **1681**

**IC XLVI 91/06, 99-137: Rafael Rodríguez-Ocaña: La introducción de la causa y la cesación de la instancia en la Instrucción *Dignitas Connubii*.** (Conference presentation)

See above, canons 1501-1525.

### **1684**

**IC XLVI 91/06, 139-176: Joaquín Llobell: La modificación *ex officio* de la fórmula de la duda, la certeza moral y la conformidad de las sentencias en la Instrucción *Dignitas Connubii*.** (Conference presentation)

See above, canons 1513-1516.

### **1684-1685**

**QDE 19 (2006), 93-104: Paolo Bianchi: L'incapacità psichica.** (Conference presentation)

See above, canon 1095.

### **1686**

**REDC 62 158/05, 333-336: Tribunal de la Archidiócesis de Madrid, 3 de marzo de 2005: nulidad de matrimonio (proceso documental), *coram* Francisco Mora Quintana.** (Sentence)

Recourse to the documentary process is a relatively rare occurrence. This sentence deals with such a case concerning the delegation or not by the parish priest to enable for another priest (friend of the groom) to conduct a wedding in the parish church. Canon 1686 stipulates that a marriage can be declared invalid on the basis of a document which proves with certainty the existence of a

diriment impediment, a defect of lawful form or the lack of a valid proxy mandate; the document must not be open to any contradiction or exception. This sentence is offered as an example of this seldom-used procedure. The validity of the marriage was upheld in the case in question.

### **1697**

**IC XLVI 91/06, 99-137: Rafael Rodríguez-Ocaña: La introducción de la causa y la cesación de la instancia en la Instrucción *Dignitas Connubii*.** (Conference presentation)

See above, canons 1501-1525.

### **1709**

**Ap LXXVII 1-2 (2004), 19-28: Congregatio de Cultu Divino et Disciplina Sacramentorum: Decretum quo *Regulae Servandae* ad nullitatem sacrae Ordinationis declarandam foras dantur.** (Document)

Text in Latin of the Norms issued by the Congregation for Divine Worship and the Discipline of the Sacraments on 16 October 2001, dealing with claims for nullity of ordination to sacred Orders. These norms replace those issued on 9 June 1931. The norms establish an administrative procedure, but require Ordinaries to have obtained a faculty to proceed from the Congregation.

### **1717-1731**

**Patricia M. Dugan (ed.): Advocacy Vademecum.** (Book)

See above, canons 1501-1670.

### **1733**

**QDE 19 (2006), 141-157: Alberto Perlasca: Conferimento e cessazione dell'ufficio ecclesiastico. Problemi di rapporto con l'ordinamento civile.** (Article)

See above, canon 145.

### **1740-1747**

**Patricia M. Dugan (ed.): Advocacy Vademecum.** (Book)

See above, canons 1501-1670.

## 1752

**SC 39 1-2/05, 203-220: Jean Paul Betengne: Équité canonique et *salus animarum*. (Article)**

In the reception of the Roman institute of *aequitas*, canon law has steadily transformed it in order to make it an essential instrument within the canonical system, notably in those matters which concern the contribution of the law to the economy of salvation. In surveying the various discussions on the specific nature of canonical equity, B. shows the intrinsic link that this juridic institution maintains with the *salus animarum*. His hypothesis is that the invocation of canonical equity must manifest the mystery of the Church whose dual dimensions of the temporal and spiritual are placed at the service of humanity and for the needs of better justice in this world, as well as in view of its eschatological destiny. In this dynamic, the *salus animarum* must shed light on recourse to canonical equity, always keeping in view that one can choose advisedly to soften a juridic norm, or, contrariwise, to apply it strictly. Finally, the relationship between canonical equity and the *salus animarum* translates concretely the pastoral dimension of the law of the Church. Thus, in the softening of the application of norms or the increasing of certain penalties, the spiritual well-being of persons is always kept in view.

## EXCHANGE PERIODICALS

- African Ecclesial Review
- Angelicum
- Annales Canonici
- Année Canonique
- Anuario Argentino de Derecho Canónico
- Apollinaris
- Archiv für katholisches Kirchenrecht
- Boletín Eclesiástico de Filipinas
- Claretianum
- Commentarium pro Religiosis et Missionariis
- Communicationes
- De Processibus Matrimonialibus
- Ephrem's Theological Journal
- Estudio Agustiniiano

- Estudios Eclesiásticos
- Folia Canonica
- Folia Theologica
- Forum
- Forum Iuridicum
- Idee
- Il Diritto Ecclesiastico
- Immaculate Conception School of Theology Journal
- Indian Theological Studies
- Intams
- Irish Theological Quarterly
- Ius Canonicum
- Ius Ecclesiae

- Jnanatirtha
- The Jurist
- Laurentianum
- Law and Justice
- Louvain Studies
- Memorias (Curso de Actualización Canónica)
- Periodica
- Philippiniana Sacra
- Praxis Juridique et Religion
- Proceedings of the Canon Law Society of America
- Quaderni di Diritto Ecclesiale
- Quaerens
- Review for Religious
- Revista Española de Derecho Canónico
- Revista Mexicana de Derecho Canónico
- Revue Théologique de Louvain
- Revue de Droit Canonique
- Salesianum
- Studia Canonica
- Studies in Church Law
- Studium Generale Marcianum
- Studium Ovetense
- Teología y Vida
- Theologische-praktische Quartalschrift
- Theologica Xaveriana
- Vida Religiosa

- Vidyajyoti

## LIST OF ABBREVIATIONS, PERIODICALS AND ABSTRACTORS FOR THIS ISSUE

AA	Anuario Argentino de Derecho Canónico, Buenos Aires. V. Rev. J. A. McGee (Ayr).
ACR	Australasian Catholic Record. V. Rev. I. B. Waters (Melbourne).
AnC	Annales Canonici, Krakow. (Abstracts supplied by publisher.)
Ang	Angelicum, Rome. Rev. P. Hayward (London).
Ap	Apollinaris, Rome. Bishop J. Jukes OFM Conv. (Huntly).
CLSN	Canon Law Society Newsletter, London. Rev. J. Conneely (London).
—	Ethics and Medics, National Catholic Bioethics Center, Barrington, RI, USA.
For	Forum, Valletta. Rev. G. Read (Colchester).
FT	Folia Theologica, Budapest. Rev. P. Hayward (London).
IC	Ius Canonicum, Pamplona. (Abstracts supplied by publisher.)
ICST	Immaculate Conception School of Theology Journal, Philippines. Sr Mary Lyons RSM (Galway).
IE	Ius Ecclesiae, Milan. Rev. J. D. Gabiola (London).
ITQ	Irish Theological Quarterly, Co. Maynooth, Co. Kildare. (Abstracts supplied by publisher.)
J	The Jurist. Rev. P. Corcoran SM (Dublin).
LJ	Law and Justice, Worcester. Canon C. J. Murtagh (Liphook, Hants).
N	Notitiae, Rome. Rev. G. Read (Colchester).
Per	Periodica, Rome. Rev. A. McGrath OFM (Dublin).
QDE	Quaderni di Diritto Ecclesiale, Milan. Rev. P. Hayward (London).
REDC	Revista Española de Derecho Canónico, Salamanca. V. Rev. J. A. McGee (Ayr).
RfR	Review for Religious, Baltimore. Sr I. MacPherson SND (Fort William).
RTL	Revue théologique de Louvain, Louvain-la-Neuve. (Abstracts supplied by publisher.)
SC	Studia Canonica, Ottawa. A. Asselin (Ottawa).
VC	Vita Consacrata, Rome. Rev. A. McGrath OFM (Dublin).

## BOOKS RECEIVED

- Assemblée des Évêques catholiques du Québec: *Guide canonique et pastoral au service des paroisses, Édition canadienne* (Gratianus series), Wilson & Lafleur Ltée, Montréal, 2006, 332pp., ISBN 2-89127-778-3 [see above, canons 849-896]
- Assembly of Quebec Catholic Bishops: *Canonical and Pastoral Guide for Parishes, Canadian Edition* (Gratianus series), Wilson & Lafleur Ltée, Montréal, 2006, 324pp., ISBN 2-89127-779-1 [see above, canons 849-896]
- Arturo Cattaneo (ed.): *L'eredità giuridica di San Pio X*, Marcianum Press, Venezia, 2006, 354pp., ISBN 88-89736-06-2 [see above, Historical Subjects (1917 Code)]
- Arturo Cattaneo: *Unità e varietà nella comunione della Chiesa locale*, Marcianum Press, Venezia, 2006, 334pp., ISBN 88-89736-05-4 [see above, canon 368]
- Patricia M. Dugan (ed.): *Advocacy Vademecum* (Gratianus series), Wilson & Lafleur Ltée, Montréal, 2006, 207pp., ISBN 2-89127-777-5 [see above, canons 1501-1670]
- Arthur J. Espelage (ed.): *CLSA Advisory Opinions 2001-2005*, Canon Law Society of America, 2006, 636pp., ISBN 1-932208-11-9 [see above, canons 2-189]
- Joseph Galea-Curmi: *The Diocesan Synod as a Pastoral Event. A Study of the Post-Conciliar Understanding of the Diocesan Synod*, Pontifical Lateran University, Rome, 2005, 426pp., ISBN 99932-0-393-9 [see above, canons 460-468]
- John M. Huels: *Liturgy and Law. Liturgical Law in the System of Roman Catholic Canon Law* (Gratianus series), Wilson & Lafleur Ltée, Montréal, 2006, 249pp., ISBN 2-89127-773-2 [see above, canons 2-145]
- Rose McDermott: *The Consecrated Life. Cases, Commentary, Documents, Readings*, Canon Law Society of America, 2006, 246pp, ISBN 1-932208-13-5 [see above, canons 573-709]
- Lluís Martínez Sistach: *Le associazioni di fedeli*, Edizioni San Paolo, Milano, 2006, 220pp., ISBN 88-215-5568-2 [see above, canons 298-329]

- Luigi Sabbarese: *Coram Sabattani: decisiones ineditae (1955-1965)*, Libreria Editrice Vaticana, 2006, 372pp., ISBN 88-209-7860-1 [see above, Historical Subjects (1917 Code)]
- Luigi Sabbarese: *Girovaghi, migranti, forestieri e naviganti nella legislazione ecclesiastica*, Urbaniana University Press, Città del Vaticano, 2006, 166pp., ISBN 88-401-4018-2 [see above, canon 372]
- Rosemary Smith, Warren Brown, Nancy Reynolds (eds.): *Sponsorship in the United States Context: Theory and Praxis*, Canon Law Society of America, 2006, 151pp., ISBN 1-932208-14-3 [see above, canons 1254-1298]
- Gianfrancesco Zuanazzi: *Psicologia e psichiatria nelle cause matrimoniali canoniche*, Libreria Editrice Vaticana, 2006, 384pp., ISBN 88-209-7843-1 [see above, canon 1095]