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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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GENERAL SUBJECTS

AKK 173 2/04, 497-513: Detlev Belling: Das Selbstbestimmungsrecht der Kirchen. (Article)

B. deals with the right of autonomy of the Churches, looking at the historical roots of ecclesiastical autonomy, how the right of autonomy is protected, the

content of Constitutional guarantees, and the limits on ecclesiastical autonomy.

AkK 174 1/05, 96-112: Rainer Siegel: Der Gemeinnützige Verein kirchlichen Zwecks. (Article)

S. comments on German taxation law insofar as it affects associations and organisations of public welfare. Tax benefits for organisations serving common welfare, charity or religion have a long tradition within the German tax system. Fundraising by such organisations is an indirect manner of public financing of Churches and religious communities, as donations to these organisations are tax-deductible. S. provides guidance as to how an organisation may attain charitable status.

AnC 2/2006, 163-177: Piotr KroczeK: Kiedy prawo kanoniczne jest efektywne? (= When is canon law effective?). (Article)

Canon law belongs to the reality of the Church. There is no Church without the law. Canon law should be effective, that is, useful, efficient and successful in influencing the life of the community for which it has been made. The effectiveness of canon law depends on the effectiveness of particular Church acts. It is the task of the lawgiver to produce effective Church acts. An examination of the effectiveness of canon law is a very difficult and complicated task. One of the reasons is that it is difficult to measure effectiveness as such. Nevertheless, one could at least single out and describe the factors that increase effectiveness. Beyond the *authority* of the Church lawgiver the basic factors that increase effectiveness are: *actuality, clarity, acceptance and reception*, and *popularity* of the Church act. In this article K. attempts to present all these aspects of effectiveness and to show how they are mutually interconnected.

AnC 2/2006, 51-65: Józef Krzywda: Postulat zorganizowanych form działalności charytatywnej (według nauki i wskazań encykliki Benedykta XVI *Deus caritas est*) (= Invitation to organised forms of charitable activities according to the teachings and indications found in Benedict XVI's encyclical *Deus caritas est*). (Article)

The first part of the Encyclical *Deus Caritas Est* is a profound reflection on the love of God, a love that finds human expression in the form of *caritas*. It is to *caritas* that the second part of the Encyclical is dedicated, under the subheading "The Practice of Love by the Church as a Community of Love". K. looks at forms of Church activities inspired by *caritas*, and at the need for love to be organised in order for it to be an ordered service to the community.

Ang 83 (2006), 515-532: Edward Kaczyński: Giovanni Paolo di fronte alle leggi delle democrazie liberali. (Article)

The Church of John Paul II was committed to the building up of an authentic, true and sound democracy. She opposed democracy constructed on the basis of relativism and ethical subjectivism, in which the only criterion for the promulgation of laws was the absolute freedom of the individual. K. therefore examines established laws and the various kinds of law, starting from the fact that law is based on truth, not authority. He then looks at the relationship between conscience and established laws: why is conscience alone not sufficient, and why the need for established laws? Why is the established law alone not sufficient, and why must recourse be had to conscience? The final part of the article deals with the attitude which the Church under Pope John Paul II proposed to Catholics in relation to laws that conflicted with the laws of conscience: on the one hand, positively contributing to the elimination of the causes and consequences of sins; and on the other, conscientious objection, including active and passive civil disobedience, as well as prophetic protest in the name of the laws of God. The Church, by defending an authentic democracy with just civil laws, proposes an attitude of understanding and dialogue, but at the same time forbids the use of force or violence even for the protection of life and justice.

Ang 83 (2006), 835-843: Sebastiano Villeggiante / Bruno Esposito: I diritti umani dei figli di Dio: pensieri di fine anno. Con un saluto a Mons. José M. Serrano-Ruiz. (Address)

In an end-of-year reflection, E. puts forward the view that the right to call oneself a child of God is the only true title by which, at the natural level, any person can claim authentic human rights, since this is the only title which in substance renders one person equal to another. E. expounds this in greater detail, before allowing V. to express fraternal greetings to Mgr. José María Serrano-Ruiz, together with an appreciation of his contributions to Rotal jurisprudence, especially in the area of the *consortium totius vitae*.

ELJ VIII 38 1/06, 323-332: Helen Costigane: Religious Orders and the Criminal Record Bureau. (Article)

Recent child abuse scandals have led to a desire to protect those to whom the Church ministers by screening out those unsuitable to work in this capacity. For the Catholic Church in England and Wales, the implementation of the Nolan Report has been a key part of this process, together with the setting up of the Catholic Office for the Protection of Children and Vulnerable Adults (COPCA). The Conference of Religious has also been involved in ongoing dialogue with diocesan bishops about how the recommendations of the Nolan Report might

best be implemented. At the same time, concerns have been raised about whether some of the measures being implemented compromise important principles of privacy and confidentiality. This discussion looks at this from the particular viewpoint of a female religious who does not work with children or vulnerable adults, and explores whether she is required to undergo checks by the Criminal Records Bureau simply by virtue of being a religious sister.

For XVII/06, 10-14: Pope Benedict XVI: Service to the faith is also a service to joy. (Address)

This address was given to the Plenary Session of the Congregation for the Doctrine of the Faith (CDF) on 10 February 2006. If the truth of the Faith is placed at the centre of Christian existence, human life is innovated and revived by a love that knows no bounds. Service to the Faith is also service to joy, and the role of the CDF is to serve the full diffusion of God's light in the world.

For XVII/06, 15-19: Pope Benedict XVI: Your life work helps you touch the 'hand of God'. (Address)

The Pope addresses a congress on the human embryo in the pre-implantation stage organised by the Pontifical Academy for Life. He speaks first of the unborn child in Scripture, while admitting that it does not teach explicitly on the very first days of life. God's love does not differentiate between the newly conceived infant in the mother's womb, and a child or adult. The sacred and inviolable character of life applies equally to every human life from conception until its natural end.

For XVII/06, 20-21: Pope Benedict XVI: Build a communion of love in the world of media. (Address)

The Pope urges participants in the Plenary Assembly of the Pontifical Council for Social Communication to be protagonists of truth and promoters of the peace that ensues from lives lived in accordance with that liberating truth, drawing attention in particular to the need to present young people with edifying models of human life and love.

For XVII/06, 22-25: Pope Benedict XVI: Key religious contribution: enlightening consciences. (Address)

The Pope speaks to members of the European Popular Party on the occasion of a study day on Europe. He mentions the importance of Europe's Christian roots, and of their role in combating the relegation of religious convictions to the

private sphere. When Churches or ecclesial communities intervene in public debate this does not constitute interference, but is aimed at enlightening consciences. He draws attention to several current issues: protection of life in all its stages; recognition and promotion of the natural structure of the family; and protection of the right of parents to educate their children.

For XVII/06, 33-35: Pope Benedict XVI: Inner freedom is needed to overcome selfishness. (Address)

The Pope speaks to the Pontifical Academy of Social Sciences on the importance of children and young people in a world where life expectancy is rising and the birth rate declining, relating this to his Encyclical *Deus Caritas Est*.

For XVII/06, 36-40: Pontifical Academy for Life: Final Declaration of the 12th General Assembly. (Declaration)

The Pontifical Academy draws a number of conclusions from its discussion of the question of the human embryo in its pre-implantation phase. It sets out the scientific arguments for human life beginning at conception, and then asks whether the embryo is already a person. This is clearly a philosophical interpretation of the scientific data that show that the embryo is a being of the human species; an individual being; and a being that possesses the finality to develop as a human person together with the intrinsic capacity to achieve this development. On this basis there is no significant reason to deny that the human embryo is at this stage a human person. This is fully consistent with the theory of immediate animation.

For XVII/06, 41-46: Pontifical Academy of Sciences & Pontifical Academy of Social Sciences: Education spurs hope, requires generosity. (Statement)

This statement was drawn up by participants in a workshop, but approved by the two Academies. Every generation needs to rethink the goals of education and the passing on of culture. Globalisation properly managed offers an opportunity in this area. The statement offers twelve conclusions on globalisation and education.

For XVII/06, 47-61: Javier Lozano Barragán: Looking at mental illness from a holistic perspective. (Address)

See below, canon 1095.

IC XLVI 92/06, 485-519: Eduardo Molano: La Teología del Derecho Canónico, nueva disciplina. (Article)

The recent reform of the programme of studies for Faculties of Canon Law has introduced a new subject into the second cycle of the licentiate, “Theology of Canon Law”. In examining the nature, content and methodology of this new subject, M. offers a critical commentary P. Gherro’s *Lezioni di Teologia del Diritto Canonico* (Lateran University Press, 2004), which was one of the first books to deal with these issues following the reform. M. then sets out his own views on the new subject, with the aim of clarifying its epistemological status. He studies the question of the relationship between theology and canon law within the context of the so-called sacred sciences, i.e. those disciplines that are based on Revelation and Faith. M. compares the material object of theology of canon law (the law of the Church) and its formal object *quod* (the perspective from which it is studied: *ratione Deitatis*) with those of canon law as such (i.e. the law of the Church, studied *ratione iuris*).

IC XLVI 92/06, 521-556: Paolo Gherri: Canonistica e Teologia: problemi circa il riferimento metodologico a von Balthasar. (Article)

In recent years there have been a number of unexpected references to the writings of the theologian Hans urs von Balthasar by canonists who believe that it is possible to extract methodological elements from his philosophical-theological reflections. G. analyses two fairly recent works in order to highlight the dangers that may ensue from a failure to exercise due caution in making methodological references to disciplines whose connections with canon law have not yet been sufficiently worked out. He is concerned above all with the way some canonists rely on systematic theology (*intellectus fidei* – “what the theologians think”) in preference to “positive” theology (*auditum fidei* – the *depositum fidei*), which has normative value for ecclesial life. A correct methodological approach is the key to avoiding unnecessary dangers.

IC XLVI 92/06, 581-622: José Ignacio Rubio López: La última aplicación de la doctrina norteamericana del «strict scrutiny» en el derecho de libertad religiosa: *Gonzales v. O Centra Espirita*. (Article)

“Strict scrutiny” refers to a standard of judicial review used by United States courts in reviewing Federal laws. On 21 February 2006 the United States Supreme Court decided its first case on religious liberty since John Glover Roberts, Jr., took over as Chief Justice in September 2005. In that case, the Court applied the doctrine of strict scrutiny in the context of the free exercise of religion and confirmed the Federal application of the 1993 Religious Freedom Restoration Act. However, the decision did not resolve the contradictory doctrines currently existing in the Supreme Court’s jurisprudence regarding the

free exercise of religion. It will be necessary to await another decision for the Court to choose between “strict scrutiny” and “formal neutrality”, overruling one or other of the existing precedents, and defining whether the “free exercise exemptions” are a legal or a constitutional matter.

IE XVIII 2/06, 529-540: Consiglio di Stato, Sezione VI: Sentenza, 13 febbraio 2006 (con nota di Fabio Vecchi: *Il Consiglio di Stato in tema di crocifisso: il simbolo confessionale esprime valori oggettivi e condivisi in una prospettiva di laicità «positiva»*). (Sentence and commentary)

The Italian *Consiglio di Stato*, on 13 February 2006, rejected an appeal brought by a Finnish citizen living in the Veneto Region who had requested a prohibition on crucifixes and religious symbols in school buildings, in view of the “laicity” of the State. In his commentary on the sentence, V. points out that in the mind of the Court, the Christian values expressed by the symbol of the crucifix are not exclusive to a religiously-oriented community, but can be shared also by others. As such they neither discriminate nor offend: on the contrary, they educate and unite. It would therefore be an error to consider that the display of such symbols in the classroom would be a confessional choice conflicting with the laicity of the State. V. goes on to study the changeable nature of the concept of laicity, and offers some considerations relating to a positive approach to this concept.

LJ 157/06, 39-52: Jacqueline Laing: The incoherence of moral scepticism and the foundation of human rights. (Article)

L. examines the question of human rights against a background of modern scepticism concerning concepts of morality and objective rights in general. She maintains that modern objections to objective norms are incoherent.

REDC 62 159/05, 589-624: José Luis Martín Delpón: Libertad religiosa y Fuerzas Armadas. (Article)

M.D.’s subject is the relationship between the principle of religious freedom enshrined in the Spanish Constitution and the obligations of those under military discipline. His main interest lies in the participation of military personnel in those military ceremonies which also contain a religious element, and in Spain specifically, a Catholic element. How is the right to religious freedom to be exercised by non-Catholic military in such circumstances? In some cases the religious service precedes the military ceremony, in which case the right to religious freedom should allow non-Catholic personnel to absent themselves. On other occasions when a military detachment is required to accompany or flank a religious procession or service, an objection to participation on religious grounds can be voiced immediately an individual is

nominated for such a duty. M.D.'s conclusion is that there is no fundamental opposition between the constitutional right to exercise religious freedom and Spanish military law which is flexible enough to adapt to circumstances.

REDC 62 159/05, 651-661: Mercedes Vidal Gallardo: Inclusión en el Régimen General de la Seguridad Social de los Clérigos de la Iglesia Ortodoxa rusa del patriarcado de Moscú. (Article)

The article contains the text of, and commentary on, the legislation regulating the inclusion of members of the clergy of the Russian Orthodox Church (Moscow Patriarchate) in the Spanish Social Security system. The legislation extends to them the same rights as to the clergy of the Catholic Church and Evangelical Churches and for the same reasons, namely, that they are classified as employees who provide a pastoral service to the community. The Moscow Patriarchate, like the other Churches, must assume the responsibilities and obligations the law establishes for employers.

REDC 62 159/05, 663-691: Carlos Salinas Araneda: El fracasado intento de reconocer el matrimonio religioso en la nueva ley chilena de matrimonio civil. (Article)

S.A.'s article deals with the recent civil marriage law in Chile (17 May 2004) which replaced the law of 1884. Among other restrictions the old law did not recognise canonical marriage for any civil effects. A second, civil, ceremony had to be celebrated, a state of affairs against which the Catholic Church vainly protested and attempted to have changed. It was hoped that the new law would remedy this situation, but to no avail. It accepts the celebration of a religious marriage rite conducted by the appropriate religious entity but this marriage must be ratified and registered before a civil magistrate in a ceremony which includes the renewal of marriage consent. No civil effects flow from the religious celebration; they arise only from the moment of the civil ceremony. This failure to give effect to canonical marriage was mainly due to the increasingly secular nature of Chilean society and the influence of non-Catholic (mainly evangelical) religious communities with a completely different and non-sacramental understanding of marriage.

SC 40 1/06, 117-136: Catherine E. Clifford: The Collaboration of Theology and Canon Law in Light of Lonergan's Theory. (Article)

The "Peter and Paul Seminar" is a group of canonists and theologians who engage in systematic reflection on the reception of Vatican II into the structures of the Church, especially from the perspective of canon law. The *modus operandi* of the Seminar can be understood through the work of Bernard

Lonergan as presented in his work *Method in Theology*. In this article, C. considers the work of the Seminar and seeks to articulate more completely its operative suppositions as applied to the relationship between theology and canon law. She divides her article into three parts. First, she provides a description of the work of the Seminar. Second, she considers recent studies on the relationship between theology and canon law, with a further consideration and application of Lonergan's empirical method. Third, she offers a tentative proposal for understanding the operative methodology as reflected in the Seminar in the light of Lonergan's functional specialities. C. concludes that there is a need for a fuller systematic study of the interplay between theology and canon law, as well as the need for institutionalised structures for this dialogue and collaboration.

SC 40 1/06, 5-30: Hervé Legrand: Communion Eucharistique et Communion Ecclésiale. Une Relecture de la Première Lettre aux Corinthiens. (Article)

The relationship between Eucharistic communion and ecclesial communion is the focus of L.'s reflections. He begins with a consideration of 1 Cor 11:17-34 on the Lord's Supper and Paul's response to the abuses which were encountered in Corinth during the celebrations. An examination of this text is very instructive for a deeper understanding of the Eucharistic assembly today. With the emphasis of Vatican II upon the Eucharistic assembly, L. holds that the Catholic Church needs to deepen the relationship between the Church and the Eucharistic assembly beyond theoretical and spiritual affirmations. Several fundamental pastoral and ecumenical questions are raised, among them the current praxis of intercommunion in the Catholic Church. L. believes that the most important challenge is a recovery of the central place of the Eucharistic assembly on the Lord's Day as the full assembly of the People of God.

Javier Hervada: Critical Introduction to Natural Law. (Book)

For H., the foundation of all law is to be found in man's dignity, so that outside of the respect for what man is and what he represents, there is no proper law, but rather arrogance and injustice, albeit in the form of a sanctioned statute. Legality is not created by power or by society, but stems from the human person. In this introduction to the study of the natural law, H.'s approach is to start, not from the point of view of "laws" (*leges*) or the social order, but rather from that of the key concept of "what is just" in a "realist" sense: the *res iusta*, to use the classical term. He focuses therefore on the art of law, whose purpose is to say what is just: the art or practical science of what is just or what is unjust: *iusti atque iniusti scientia*. In this connection there is a precise concept of justice, upon which rests the concept of law (*ius*) as the art of what is just: giving to each his own. To speak of natural law is to speak of the juridical

expression of the value and dignity of man; and to speak of the relationship between natural law and positive law is to speak of the relationship between human laws and the dignity of the human person for whom they are intended. (For bibliographical details see below, Books Received.)

HISTORICAL SUBJECTS

First millennium

FT 17 (2006), 227-237: Szabolcs Anzelm Szuromi: The Importance of the Councils of Toledo of the 6th – 8th Centuries in the Spanish and in the Universal Canonical Discipline of the Church. (Article)

The canonical material from the Councils of Toledo held from the sixth to the eighth centuries, which came to be included in various canonical collections (most notably the *Collectio Hispana*), exercised a significant influence on Spanish ecclesiastical discipline. Moreover it became the basic source of the most significant canonical collection of the Early Middle Ages, the *Decretales Pseudo-Isidorianae*, through which it was included in the *Decretum Burchardi Wormatiensis* which was widespread in eleventh-century Europe. It also influenced the Gregorian collections and the *Decretum Gratiani*.

IC XLVI 92/06, 623-636: Ciro Tammaro: La giurisprudenza episcopale nel'Alto Medioevo. Riflessioni sul principio «un solo Vescovo per città» sancito dal can. VIII del Concilio di Nicea I (325). (Article)

T. carries out a legal-historical examination of the administration of the sacrament of Holy Orders in the early Middle Ages. In the Apostolic era and immediately afterwards, the territorial limits of the organisational structures of the Church were not clear or defined in today's sense, and the power of the bishop was expressed as being, not over a physical territory as such, but rather over the people and things entrusted to him by the consecration he had received and the corresponding pastoral commission. The need for an orderly exercise of episcopal power, linked to specific governmental practice, appears to be the only basis for the provisions contained in canon VIII of the First Council of Nicea, which laid down the rule that there should be “only one bishop per city”.

In analysing canon VIII, T. explains that the key principle in relation to episcopal power was always the Apostolic principle of *discretio potestatis*; and as in Apostolic times, it was the bishop who had exclusive competence over those faithful who were entrusted to his pastoral care.

J 66 (2006), 1-336: The Relation between Bishop and the Local Church: Old and New Questions in Ecumenical Perspective. (Symposium proceedings)

See below, canon 381.

LJ 157/06, 7-16: Clarence Gallagher: Marriage in Eastern and Western Canon Law. (Article)

See below, canon 1055.

Classical period

AC 47 (2005), 145-154: Laurent Villemin: Conséquences théologiques du non-usage de la distinction entre pouvoir d'ordre et pouvoir de juridiction. (Article)

See below, canon 129.

AkK 173 2/04, 353-383: Christina Deutsch: Illegale Eheschließungen und gültige Ehen. (Article)

In this article D. deals with illegal and valid marriages in the light of the marriage statutes of Salzburg Church Province. She presents the constitutions and statutes between 1215 and 1515, and studies the themes of laws and juridical practice in the Salzburg Church Province, marriage law and jurisdiction, and the legality and validity of marriages.

AkK 174 1/05, 75-95: Markus Graulich: Die Vakanz des Apostolischen Stuhls und die Wahl des Bischofs von Rom – Zwei Rechtsinstitute in der Entwicklung. (Article)

See below, canons 331-335.

AkK 174 1/05, 113-118: Waltraud Kozur / Karin Miethaner-Vent / Martin Petzolt: Kanonistische Editionen der Anglo-Normannischen Schule des 12.Jahrhunderts. (Project presentation)

The authors give details of a project currently being carried out jointly by the Universities of Munich and Würzburg in regard to canon law manuscripts of the Anglo-Norman School in the High Middle Ages.

AnC 2/2006, 17-36: Waclaw Uruszczak: Dwunastowieczna polemika w sprawie zawarcia małżeństwa (= A polemic concerning the conclusion of marriage in the twelfth century). (Article)

In the twelfth century the canonical doctrine on marriage was in the process of formation. U. analyses the opinions presented by two anonymous scholars, known only by their initials (*magister A.* and *magister G.*), who lived in the Archdiocese of Reims in the latter half of the twelfth century. They exchanged three letters which are preserved to this day in the *Codex Ottobonianus* 284 in the Vatican Library. In the opinion of *magister A.* the promise of marriage – at that time the betrothal (*sponsalia*) – was a contract which brought with it the obligation of concluding the marriage. He maintained that a sworn betrothal (*sponsalia jurata*) knew no law of divorce. This was more the view of a jurist representing a “Romanist” orientation than the opinion of a theologian.

ELJ VIII 38 1/06, 266-288: Philip Barrett: Episcopal Visitation of Cathedrals in the Church of England. (Article)

This article is a shortened version of B.’s LLM dissertation with the same title, edited posthumously by Peter Atkinson. The article, like the dissertation upon which it is based, serves as an introduction to the law of episcopal visitation of cathedral churches as it developed in England from the early thirteenth century.

ELJ VIII 38 1/06, 307-322: Oswald Clark: The Ancient Office of Parish Clerk and the Parish Clerks Company of London. (Article)

C. attempts to trace the origins of the parish clerk from monastic beginnings to its emergence in the thirteenth century as a canonically recognised office – probably the oldest unordained office at parochial level in the English Church and a vestigial survivor of minor orders. In parallel, he develops the story of the coming together of the London parish clerks as a unique guild or fraternity, radically different from the merchant, craft and service guilds, and of the grant to that fraternity of *clerici et literati* in its original Royal Charter. The duties and activities of mediaeval parish clerks and the constitution of their Company are considered, along with its possessions, especially its Bede Roll. C. examines the

changes in the clerk's role following the Reformation.

For XVII/06, 98-132: Pierre Allard: An Essay in Law and History. A Sixteenth Century Man of Law: Thomas More. (Article)

There are many books and articles on Thomas More, but relatively little detailed study has been done on his legal career. A. sets out to rectify this by first outlining his career as barrister, judge and Lord Chancellor, before turning his attention to a couple of case studies. The first involved adjudicating ownership of a ship belonging to the Pope that had been confiscated in the name of the King for entering an English port without permission. More tempers the strict application of common law with equity, allowing for necessity arising from bad weather, awarding ownership to the Pope. The second case involved his second wife's acquisition of a cat claimed by a poor woman to be her missing pet. He held the cat and told both of them to call it. The cat went to the poor woman.

J 66 (2006), 483-491: Michael Milgate: The Politics of Sodomy and the Legal Process. R. v. Pons Hugh de Asturias. (Article)

Formerly the crime of sodomy was closely identified with the canonical crime of heresy. The man in this story (thirteenth-century Spain), Pons Hugh de Asturias, was accused of sodomy when he had been dead some time. His successor in the Pons lands had given the king James more trouble, and the prosecution for sodomy "begins to make sense in a perverse sort of way". It would allow the king to take possession of the lands of the deceased Pons Hugh. Something similar was used in France against the Templars.

16th-18th centuries

EE 81 (2006), 673-698: Estanislao Olivares D'Angelo: La *salus animarum* y el proceso canónico matrimonial. (Article)

See below, canon 1752.

ELJ VIII 39 7/06, 425-437: Aidan McGrath: A Question of Interpretation: The Roman Rota and the Theology of Marriage. (Article)

See below, canon 1084.

INT 12 1/06, 2-13: Inge Mager: "‘Ich bin dein und du bist meyn’, das ist die

ehe”; Martin Luthers Eheauffassung und ihre ethischen und rechtlichen Nachwirkungen. (Article)

M. looks at Martin Luther’s contribution to a re-evaluation of marriage at the time of the Reformation. Luther regarded marriage – to which, he believed, there should be few canonical impediments – as non-sacramental; though arguing for indissolubility he accepted divorce in some circumstances. M. points to the influence that the acceptance of Luther’s view by the Reformed Evangelical law has had on the concept of modern civil marriage.

1917 Code

AkK 174 2/05, 456-477: Norbert Lüdecke: Kirchenrechtliche Ordnung und Verortung des „Allgemeinen Cäcilien-Verbands für Deutschland (ACV)“. (Article)

See below, canons 298-329.

Second Vatican Council and revision of the CIC

EE 81 (2006), 673-698: Estanislao Olivares D’Angelo: La salus animarum y el proceso canónico matrimonial. (Article)

See below, canon 1752.

J 66 (2006), 339-373: James A. Coriden: The Holy Spirit and Church Governance. (Article)

C. regrets the “canonical deficit” of silence on the Holy Spirit in the Code of Canon Law. He maintains that Vatican II went some of the way to remembering the Holy Spirit. He points out five exclusions of the Holy Spirit in the process of making the 1983 Code. This was to meet requests from bishops to make the Code less theological and more juridical. He points to more than eighty references to Christ in the Code.

CODE OF CANONS OF THE EASTERN CHURCHES

AkK 174 2/05, 353-379: Helmuth Pree: Par cum pari. Rechtliche Implikationen des ökumenischen Dialogs. (Article)

See below, canon 755.

AnC 2/2006, 229-247: Paweł Mielecki: Posługa diakona w sprawowaniu sakramentów (= Service of the deacon in administering sacraments). (Article)

See below, canon 861.

Ang 83 (2006), 845-870: Lorenzo Lorusso: Estensione della potestà patriarcale e sinodale in diaspora: designazione dei Vescovi, erezione di circoscrizioni ecclesiastiche, clero uxorato. (Article)

According to CCEO, canon 78 §2, the power of the patriarch is exercised validly only within the confines of the territory of the patriarchal Church, unless the nature of the matter, or the common or particular law approved by the Roman Pontiff, establish otherwise; the same applies to synods of bishops of the patriarchal Church by virtue of CCEO, canon 147. L. discusses the difficulties which this limitation of jurisdiction causes for the patriarchs and synods *in diaspora*, highlighting three particular problem areas: the election of bishops, the exercise by married priests of their ministry, and the establishment of circumscriptions (exarchates, eparchies and parishes), outside the patriarchal territory. The article ends with a table of Eastern ecclesiastical circumscriptions outside the patriarchal territories, and a glossary of terms.

J 66 (2006), 1-336: The Relation between Bishop and the Local Church: Old and New Questions in Ecumenical Perspective. (Symposium proceedings)

See below, canon 381.

J 66 (2006), 374-389: George D. Gallaro: The Bishop Emeritus: An Ecclesial Consideration. (Article)

See below, canon 402.

LJ 157/06, 7-16: Clarence Gallagher: Marriage in Eastern and Western Canon Law. (Article)

See below, canon 1055.

SCL II (2006), 61-84: Sharon Holland: Canonical Dismissal from Institutes of Consecrated Life and Societies of Apostolic Life. (Article)

See below, canons 694-704.

SCL II (2006), 125-146: John D. Faris: The Synod of Bishops and Council of Hierarchs in the *Code of Canons of the Eastern Churches*. (Article)

After setting out briefly the status and membership of the different Eastern Catholic Churches, F. looks first at the convocation and legislative role of the synod of bishops of the patriarchal and major archiepiscopal Churches. He then considers their role as tribunals and in the election of patriarchs and bishops. After this he examines the council of hierarchs of metropolitan Churches. Only two *sui iuris* Churches fall into this category, the Ethiopian/Eritrean and the Ruthenian Church in the United States. The Council's role is much more restricted than that of the synod. Again F. looks at its convocation, electoral, legislative, judicial and administrative roles.

Arturo Cattaneo (ed.): L'esercizio dell'autorità nella Chiesa. Riflessioni a partire dall'esortazione apostolica «Pastores gregis». (Book)

See above, canon 381.

Dimitrios Salachas: La vita consacrata nel Codice dei Canonici delle Chiese Orientali (CCEO). (Book)

Christian monastic life arose in the East with the Desert Fathers. Later on, Basil and Benedict provided the great monastic rules of East and West respectively. Vatican II encouraged Catholics to avail themselves of the spiritual riches of the Eastern Fathers (cf. *Unitatis Redintegratio*, 15). This invitation refers especially to the Eastern Catholic Churches, in which the initial flourishing of the monastic life was gradually transformed into consecrated life committed to apostolic life. Starting from monastic life in the canonical sources of the ancient Eastern Churches, S. comments on the canonical norms currently in force, which he inserts into the line of the ancient *sacri canones* that governed the life of monks and nuns and the functioning of monasteries. After a preface by Cardinal Tomáš Špidlík, the eight principal chapters of the book deal with monastic life in the ancient canonical sources; the reception of the *sacri canones* in the Eastern Code; general canons on monks and other religious; monasteries; orders and congregations; societies of common life *ad instar religiosiorum*; secular institutes; and other forms of consecrated life and societies of apostolic life. There are four appendices dealing with a draft particular law for Title XII of the CCEO (on monks, other religious, and members of other institutes of

consecrated life); the particular law of the Syro-Malabar Church on secular institutes; the particular law of the Syro-Malabar Church on societies of apostolic life; and the Congregation for the Oriental Churches, and religious institutes. (For bibliographical details see below, Books Received.)

BOOK I: GENERAL NORMS

2

QDE 19 (2006), 364-391: Elena Lucia Bolchi: *La ricomparsa dell'ordo virginum e la sua configurazione canonica tra normativa universale e normativa della Chiesa particolare.* (Article)

See below, canon 604.

11

AkK 174 1/05, 3-18: Heinrich J. F. Reinhardt: *Kanonistische Aspekte des ökumenischen Dialogs, vor allem im Hinblick auf die Altkatholiken.* (Article)

The decisions of the Second Vatican Council (especially the Dogmatic Constitution *Lumen Gentium* and the Decree on Ecumenism *Unitatis Redintegratio*) state the principles for ecumenical dialogue with the Old Catholics. They allow, for example, sacramental sharing, on the condition that there is the same appreciation of the sacrament. This condition is fulfilled by the Old Catholic Churches associated in the Union of Utrecht. However, for many Old Catholic priests and faithful who had been Roman Catholic before, canon 11 of the 1983 Code is a “barrier” insofar as they are still bound by the laws of the Roman Catholic Church and its penal law. Can this barrier be overcome by bilateral agreements with regard to a partial communion with the Catholic Church?

19

AkK 174 2/05, 353-379: Helmuth Pree: Par cum pari. Rechtliche Implikationen des ökumenischen Dialogs. (Article)

See below, canon 755.

19

PCF VIII (2006), 65-106: Vicente R. Uy: The Principle of Equity in the Code of Canon Law. (Article)

There is no one particular canon that specifically treats the principle of equity in the Code of Canon Law, but the noun *aequitas*, the adjective *aequus* and the adverb *aeque* appear explicitly some twenty-three times in strategic canons. In Section I of this article, U. presents the theological-juridical bases of equity in the Code of Canon Law, namely, the *novus habitus mentis* of the Second Vatican Council, the “third principle” of the 1967 Synod of Bishops, incorporating as it does the “ten principles” for the revision of the Code, especially that of equity, and the Papal directives of Popes Paul VI and John Paul II. In the second section, U. analyses the term *aequitas* as it occurs in the text of the canons. Then he presents the seven pertinent canons (19, 221 §2, 271 §3, 686 §3, 702 §2, 1148 §3 and 1752) together with an exegetical commentary on each canon. The emphasis which the Code of Canon Law and the Papal pronouncements place on *aequitas canonica* indicates that, without canonical equity, the demand of the salvation of souls cannot be realised juridically.

29-34

SCL II (2006), 33-59: John M. Huels: New Eucharistic Discipline in the Instruction *Redemptionis Sacramentum* and the Need for a Reform of Canons 29-34. (Article)

See below, canon 838.

34

AnC 2/2006, 67-80: Tomasz Rozkrut: Come celebrare oggi il sinodo diocesano? (Article)

See below, canons 460-468.

34

IE XVIII 2/06, 317-342: Frans Daneels: Una introduzione generale

all'istruzione *Dignitas Connubii*. (Lecture)

This is the Italian text of a lecture given in Pamplona on 24 October 2005. D. first gives a few data concerning the preparation and drafting of *Dignitas Connubii*, and then briefly deals with its nature, purpose and outline. As an Instruction it is subject to the laws currently in force, and D. draws specific attention to canons 1671-1691, especially the clause *nisi rei natura obstet* in canon 1691. He stresses that the document is addressed to tribunals which vary greatly in status and activity. As the Preface to *Dignitas Connubii* states, after the promulgation of the Code it was appropriate to allow time to pass before issuing a new Instruction, in order that the contributions of the Pontifical Council for Legislative Texts and the jurisprudence of the Signatura and Roman Rota could be taken into account. The purpose for which Pope John Paul II established the Commission to prepare the Instruction was “to encourage an even better administration of justice from both the substantive and the procedural standpoint.” Mention is also made of the document’s intention to speed up the process.

34

IE XVIII 2/06, 343-370: Joaquín Llobell: La natura giuridica e la recezione ecclesiale dell’istr. *Dignitas connubii*. (Lecture)

See below, canons 1671-1691.

34

Patricia M. Dugan / Luis Navarro (eds.): Studies on the Instruction *Dignitas Connubii*. Proceedings of the Study Day Held at the Pontifical University of the Holy Cross, Rome, January 19, 2006. (Book)

See below, canons 1671-1691.

35

IC XLVI 92/06, 557-580: Jorge Miras: El objeto del recurso contencioso-administrativo en el Derecho canónico vigente. (Conference presentation)

See below, canons 1732-1739.

57

IC XLVI 92/06, 557-580: Jorge Miras: El objeto del recurso contencioso-

administrativo en el Derecho canónico vigente. (Conference presentation)

See below, canons 1732-1739.

62-63

EE 81 (2006), 699-723: Carmen Peña García: La disolución pontificia del matrimonio *in favorem fidei*: Cuestiones sustantivas y procesales. (Article)

See below, canon 1141-1150.

87

EE 81 (2006), 673-698: Estanislao Olivares D'Angelo: La *salus animarum* y el proceso canónico matrimonial. (Article)

See below, canon 1752.

113-123

AkK 174 2/05, 417-455: Heribert Schmitz: Veränderungen der Pfarreienstruktur. Kanonistische Streiflichter. (Article)

See below, canon 515.

119

RfR 65 4/06, 427-432: Elizabeth McDonough: The Q.O.T. Principle. (Article)

McD. explains that canon 119 of the Code, with its three subsections, contains a significant principle from Roman Law, commonly referred to as the Q.O.T. principle. This stands for the Latin words *quod omnes tangit*, from the Roman law principle *quod omnes tangit ab omnibus probari debet* – “what touches all must be approved by all”. McD. develops the history of the application of this principle with particular reference to the college of bishops, college of consultors and general chapters of religious institutes.

127

PCF VII (2005), 91-112: Elias L. Ayuban, Jr: Non-Collegial Acts in Religious Institutes: A Study of Canons 127 and 665 §1. (Article)

Concerned about the “serious lack of understanding” which he has discovered

still prevails concerning non-collegial acts, whether consultative or deliberative, in religious institutes, A. presents a thorough exploration of canons 127 and 665 §1. His starting point is a definition of various terms such as “superior”, “religious superior”, “council”, and “deliberative” and “consultative” acts. He endeavours to clarify the role of the superior and the participation of consultors in non-collegial acts of governance. He explains how the canons are to be applied in specific circumstances. He identifies a failure to recognise the significant difference between collegial and non-collegial acts as the root cause of the confusion and misunderstandings that frequently arise.

129

AC 47 (2005), 145-154: Laurent Villemin: Conséquences théologiques du non-usage de la distinction entre pouvoir d'ordre et pouvoir de juridiction. (Article)

V. deals with some questions raised in his *Pouvoir d'ordre et pouvoir de juridiction. Histoire théologique de leur distinction*. He holds that Gratian's distinction between *potestas* and *executio potestatis* without reference to later theological developments is unhelpful.

129-196

Juan Ignacio Arrieta: Governance Structures within the Catholic Church. (Book)

See below, canons 330-572.

177

SCL II (2006), 275-296: Supreme Tribunal of the Apostolic Signatura: Removal of a Parish Priest from Office: Decision *coram* Cacciavillan, 28 June 2003 (India). (Sentence)

See below, canons 1740-1747.

198

AC 47 (2005), 7-36: Velasio De Paolis: Les bien temporels au regard du Code de Droit Canonique. (Article)

See below, canons 1254-1310.

BOOK II, PART I: CHRIST'S FAITHFUL

204-223

AkK 174 2/05, 353-379: Helmuth Pree: Par cum pari. Rechtliche Implikationen des ökumenischen Dialogs. (Article)

See below, canon 755.

208-223

For XVII/06, 77-97: Roland Jacques: The rights and obligations of the faithful: some historical considerations. (Paper)

This is a slightly adapted text of a seminar given to the 2004 Canadian Canon Law Society Convention. To understand the law it is not sufficient to pore over the text of the Code. One must also look at underlying principles. The trade of the canonist is the practice of the virtue of justice. J. looks at the concept of rights and obligations – exemplified in ownership, slavery, and freedom from arbitrary process – from Roman law, through Gratian, to the 1983 Code. He then considers the development of individual rights in civil society from the Magna Charta to the Universal Declaration of Human Rights, and finally the emergence of human rights in the Church from the time of John XXIII.

211

AC 47 (2005), 119-144: Philippe Greiner: Activités d'évangélisation de l'église catholique et prosélytismes. (Article)

The Second Vatican Council's Decree on Ecumenism *Unitatis Redintegratio* stated that "the spirit of charity" should exclude any form of rivalry between Churches (no. 18) and called on Catholics to refrain from any imprudent zeal that could damage progress towards Christian unity (no. 24). The Decree on the Missionary Activity of the Church *Ad Gentes* stated that "insofar as religious conditions permit, ecumenical action should be encouraged, so that, while avoiding every form of indifferentism or confusion or senseless rivalry, Catholics might collaborate with their separated brethren" (no. 15). The Decree on Religious Freedom *Dignitatis Humanae* called for the avoidance of any action that smacked of "coercion or dishonest or unworthy persuasion" (no. 4) in the sphere of evangelisation. A 1970 Mixed Commission distinguished between proselytism and common witness. A 1980 Mixed Commission held that "common witness" did not rule out the distinctive witness of each Church. A case before the European Court of Human Rights (1993) held that the freedom

to practise one's religion includes the right to try to convince one's neighbour.

218

AC 47 (2005), 167-194: Emmanuel Boudet: Liberté d'expression et magistère ecclésiastique. (Article)

The duty of the faithful to preserve their communion with the Church (canon 209) and to show Christian obedience to what the sacred Pastors "declare as teachers of the faith" (canon 212) is the context in which "freedom of expression" must be seen. The mind of the Church in regard to "freedom to research" (canon 218) is clarified in the 1990 Instruction on the Ecclesial Vocation of the Theologian *Donum Veritatis*. The motu proprio *Ad Tuendam Fidem* (1998) modified canons 750 and 1371. B. sees an oath of fidelity (cf. the text issued in 1989) as a duty of self-control in regard to freedom of expression. B. also analyses the procedures of the Congregation for the Doctrine of the Faith in regard to breaches of Church discipline in the area of doctrine.

220

SCL II (2006), 147-172: Victor D'Souza: The Right to Privacy of Candidates to Priesthood and Religious Life. (Article)

The author examines the development of canon 220, the right to privacy in the Church, and the significance of this canon being placed among the fundamental rights of the faithful. He then asks how the qualities required in candidates for priesthood or religious life are to be assessed, and how to balance the rights of the candidate and superior in the area of psychological testing and assessment. The use of psychology has a positive role in formation as well as in selection, and it is important that the candidate understand the reasons for its use. No one has a right to admission or acceptance. On the other hand consent to testing or assessment must be freely given; otherwise it is useless from a psychological point of view, as well as contravening the rights of the individual. D'S. looks in some detail at the morality of different kinds of tests, and the way in which the information gathered may be shared and used. He considers briefly other privacy issues such as confidentiality of correspondence, choice of spiritual director and confessor, and the separation between external and internal forum.

221

PCF VIII (2006), 65-106: Vicente R. Uy: The Principle of Equity in the Code of Canon Law. (Article)

See above, canon 19.

225

AC 47 (2005), 119-144: Philippe Greiner: Activités d'évangélisation de l'église catholique et prosélytismes. (Article)

See above, canon 211.

229

IC XLVI 92/06, 445-484: Jorge Otaduy: Relación jurídica de los profesores de religión en España. La dimensión canónica. (Article)

See below, canons 793-814.

230-231

For XVII/06, 133-149: Anne Asselin: Lay Ecclesial Ministers in the Present Parish Structure and Some Suggestions for the Future. (Paper)

This is a revised text of a paper given to the 2005 Canadian Canon Law Society Convention. A. looks first at the relationship between priest, deacon and lay parish minister, and then specifically at lay ministry in the parish, not only according to the 1983 Code, but also in local contexts, specifically Canada and Belgium. She compares and contrasts the ordained ministry with that of all the faithful arising from baptism, and what she calls the "ordered" ministry of lay people, where they are officially commissioned with specific responsibilities. The parish community presumed by the Code has changed dramatically. Realistically it is much more a clientele to be served than a homogeneous community, and perhaps this needs to be recognised by greater use of alternative structures such as personal parishes, e.g. for young people. Similarly one should think more broadly than simply using lay ministry to prop up an out-dated system, e.g. city centre evangelisation centres.

241

SCL II (2006), 19-25: Congregation for Catholic Education: Instruction Concerning the Criteria for the Discernment of Vocations with Regard to Persons of Homosexual Tendencies in View of Their Admission to the Seminary and to Holy Orders. (Instruction)

This document does not tackle more general questions of affectivity and sexuality but the specific issues relating to admission to seminary and orders. Deep-seated homosexual orientation hinders such persons from relating correctly to men and women. Even less-rooted tendencies need to have been clearly overcome at least three years before admission to the diaconate. The

Instruction identifies particular elements of importance in the discernment process.

241

SCL II (2006), 147-172: Victor D'Souza: The Right to Privacy of Candidates to Priesthood and Religious Life. (Article)

See above, canon 220.

265-272

EE 81 (2006), 789-803: Rufino Callejo de Paz: La exigencia de la incardinación y las posibles acefalías. (Article)

The incardination of clerics required by canon law can create a conflict in the case of priests who are members of institutes of consecrated life or societies of apostolic life, and who ask to leave the institute, or are expelled from it, but wish to continue exercising their ordained ministry. The different situations of conflict are studied and possible canonical solutions suggested.

271

PCF VIII (2006), 65-106: Vicente R. Uy: The Principle of Equity in the Code of Canon Law. (Article)

See above, canon 19.

281

AC 47 (2005), 37-50: Philippe Greiner: Les biens des paroisses dans le contexte des diocèses français. (Article)

See below, canon 1274.

285

PCF VII (2005), 229-235: Jaime Achacoso: The Participation of Priests in Politics. (Article)

A. describes how the Church in the Philippines has developed a mature approach to political involvement in the context of the universal law of the Church, Papal teaching, and the Synod of Bishops (1971). Basically, the law prohibits priests from holding any public office that requires the exercise of

civil power. It does allow for exceptional circumstances with the consent of the bishop after consultation with his council of priests and perhaps the episcopal conference. Pope John Paul II categorically forbade any involvement in partisan politics. The Synod of Bishops (1971) reiterated the official teaching of the Church, but stated that bishops and priests could take part in non-partisan types of political activity in the interest of human rights, the promotion of full human development, and justice and peace. While respecting the universal law, the Church in the Philippines, true to its traditions, continues to see it has a role to play in the evangelisation of every aspect of human life, and that includes the renewal of the political order.

287

PCF VII (2005), 229-235: Jaime Achacoso: The Participation of Priests in Politics. (Article)

See above, canon 285.

294-297

PCF VII (2005), 29-64: Jaime Achacoso: The Hierarchical Nature of Personal Prelatures. (Article)

A. argues that it is reasonable and realistic, when studying the nature of personal prelatures as regulated by canons 294-297, to do so by reference to the only personal prelature that has been established to date, the Prelature of Opus Dei. In the first part of his article he refers to the foundational charism of Opus Dei (which involves fostering the awareness that ordinary Christians are called by God to holiness and apostolate in the middle of the world, in their professional work and the fulfilment of their ordinary Christian duties, with the mission to sanctify the world from within) and to its juridical configuration (which needs to be such as to safeguard the unity of the organisation, the secular character of its members, and the hierarchical nature of the institution stemming from the interplay of the common and ministerial priesthoods); and he points out that these two elements – charism and institution – are not related in a merely pragmatic way. Rather, the personal prelature is the juridical form that best suits the reality of Opus Dei, and provides the most natural and direct channel for its expression and effective action. In the second part of the article A. clarifies a number of difficulties in the understanding of personal prelatures in general, by looking at the case of Opus Dei in particular. He explains how personal prelatures came to be placed under Title IV of Part I of the Code; and why personal prelatures are neither associative phenomena (even if they involve voluntary inscription), nor clerical institutions, as the participation of the lay faithful is “organic”, i.e. inseparable from the “body” of the personal prelature. Of particular interest is the interpretation of all these points given by Pope John

Paul II in a discourse in 2001.

298-329

AkK 173 2/04, 465-478: Heribert Schmitz: Der Päpstliche Rat für die Laien und die Internationalen Vereinigungen von Gläubigen. (Article)

See below, canon 360.

298-329

AkK 174 2/05, 353-379: Helmuth Pree: Par cum pari. Rechtliche Implikationen des ökumenischen Dialogs. (Article)

See below, canon 755.

298-329

AkK 174 2/05, 456-477: Norbert Lüdecke: Kirchenrechtliche Ordnung und Verortung des „Allgemeinen Cäcilien-Verbands für Deutschland (ACV)“. (Article)

The *Allgemeinen Cäcilien-Verbands für Deutschland (ACV)* [General Association of St Cecilia for Germany] is a canonical organisation, rich in tradition, for the cultivation of sacred music. L. deals with aspects of the organisation's canonical and historical development since its foundation in 1868, and offers an analysis of its ecclesiological standing according to the Code of Canon Law and its statutes. This analysis forms the basis for reflections on the organisation's statutes.

298-329

EE 81 (2006), 761-788: Teodoro Bahillo Ruiz: La adhesión a las nuevas formas asociativas eclesiales desde los diversos estados de vida. (Article)

At present the Church's newest associative forms – new communities, movements and Church families – are distinguished by the fact that they gather people from the different states of life – laity and clergy, consecrated persons, married, even non-Catholics – who embrace certain commitments of a collective charism which involve their whole life. Some or all of the members of these associative forms may make a consecration of their life embracing the evangelical counsels. But for every state of life there are certain requirements regarding admission to such groups. The degree of incorporation and participation cannot be the same for everyone. In the present study B.R. focuses

on the difficulties and implications of the incorporation of priests, consecrated persons, married persons and non-Catholics in these forms of association. The problems are of different natures and cannot be resolved by current legislation because they involve a new charismatic phenomenon. In the light of experience and the ideas expounded by various authors on the subject, B.R. attempts to lay the foundations that will help avoid conflicts arising out of dual membership, and that will defend both the identity of the movement and the state of life of the various members. The statutes of each association must guarantee the rights and duties of people from different states of life who belong to the same association.

303

QDE 19 (2006), 406-415: Sergio La Pegna: Le associazioni di fedeli unite agli istituti religiosi (can. 677 §2). (Article)

See below, canon 677.

303

VC XLII 5/06, 497-510: Sergio La Pegna: Le associazioni di laici legate agli Istituti religiosi. L'approvazione e le fasi degli inizi. (Article)

Many religious institutes have associations of the faithful connected with them in some structured way. La P. considers three different types of such associations: private associations without juridical personality, private associations with juridical personality, and public associations. An essential feature of these associations is the existence of statutes. La P. provides some reflections on the fundamental elements to be included in the statutes.

304

AkK 174 2/05, 380-416: Heribert Hallermann: Seelsorgliche Raumplanung als Teil der bischöflichen Hirten Sorge. (Article)

See below, canons 791-792.

311

QDE 19 (2006), 406-415: Sergio La Pegna: Le associazioni di fedeli unite agli istituti religiosi (can. 677 §2). (Article)

See below, canon 677.

314

AkK 174 2/05, 380-416: Heribert Hallermann: Seelsorgliche Raumplanung als Teil der bischöflichen Hirten Sorge. (Article)

See below, canons 791-792.

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

330-572

Juan Ignacio Arrieta: Governance Structures within the Catholic Church. (Book)

A. presents the canonical institutions – principally *potestas regiminis* and ecclesiastical offices – which form the backbone of the entire governance structures within the Catholic Church, from the Roman Pontiff to the parish priest. The book contains chapters on pastoral ministry; the pastoral function and *potestas regiminis*; the pastoral function and hierarchical communities in the Church; ecclesiastical offices; the Supreme Authority of the Church; the consultative organs of the Roman Pontiff; the executive organs of the Roman Pontiff; ecclesiastical circumscriptions; the office of bishop and the episcopal see; active and consultative organisations in the particular Church; the parish and parochial offices; and supradiocesan organisations. (For bibliographical details see below, Books Received.)

331

SC 40 1/06, 01/06, 95-116: Susan K. Wood: “Primacy”: Sorting Out the Terms of Dialogue. (Article)

The function of primacy has assumed various expressions, especially in response to various theological and political contexts. The practical exercise of primacy is closely related to the canonical category of jurisdiction, a concept which is also deeply rooted in theological categories and is subject to

interpretation and ambiguity. This article is a review of the relevant literature on the various functions of primacy. Such a discussion may prove helpful to ecumenical dialogue, especially as the Orthodox-Roman Catholic Theological Consultation examines the categories of primacy and conciliarity. It is important to know which understandings of primacy are mutually acceptable and those which might be divisive.

331

Arturo Cattaneo (ed.): L'esercizio dell'autorità nella Chiesa. Riflessioni a partire dall'esortazione apostolica «Pastores gregis». (Book)

See below, canon 381.

331-335

AKK 174 1/05, 75-95: Markus Graulich: Die Vakanz des Apostolischen Stuhls und die Wahl des Bischofs von Rom – Zwei Rechtsinstitute in der Entwicklung. (Article)

G. looks at the historical and juridical aspects of the vacancy of the Apostolic See and the election of the Bishop of Rome. He first studies the possibility of, and the reasons for, declaring the Apostolic See impeded. He then sets out the history of the legislation on the election of the Bishop of Rome, and discusses various elements presented in the Apostolic Constitution *Universi Dominici Gregis* (1996), including the electors of the Roman Pontiff, the place of the election, and the election procedure.

342-348

ACR LXXXIII 4/06, 422-427: Thomas Williams: The Special Assembly of the Synod of Bishops for Oceania 22 November – 12 December 1998. (Article)

W., Cardinal and Emeritus Archbishop of Wellington, New Zealand, provides a concise overview of this regional assembly of the Synod of Bishops of which he was a participant. The area is vast and unique, containing one-third of the earth's surface, twenty-six nations, and only 0.06% of the world's population. W. notes the special adjustments from normal synod process, local pastoral preparation, scandalised Curial officials disapproving of inculturation of the liturgy in St Peter's Basilica, and the formulation of forty-eight propositions. Unfortunately a meeting of some Australian bishops and heads of some Vatican dicasteries produced a minor but most controversial document, *Statement of Conclusions*, a week before the Synod, and the media focused on it and ignored the Synod. W. reviews the outcomes positively, including a genuine experience

of *communio* and collaboration, discernment of pastoral priorities, and young dioceses showing the universal Church freshness, youthfulness, lay involvement, and inculturation. Social justice is reflected to those parts of the Church immersed in the colonial, economic and militaristic powers. The post-synodal Apostolic Exhortation *Ecclesia in Oceania* responded to the Synod's concerns, including *communio*, inculturation, evangelisation, the Eucharist, and justice and peace. Pastoral outcomes have included an eighteen-month national programme of reflection and discussion in Papua New Guinea, and diocesan synods in various places.

343

IE XVIII 2/06, 343-370: Joaquín Llobell: La natura giuridica e la recezione ecclesiale dell'istr. *Dignitas connubii*. (Lecture)

See below, canons 1671-1691.

360

AkK 173 2/04, 465-478: Heribert Schmitz: Der Päpstliche Rat für die Laien und die Internationalen Vereinigungen von Gläubigen. (Article)

S. looks at the Pontifical Council for the Laity, including its historical development, and at various international organisations of the Christian faithful.

362-367

SCL II (2006), 27-31: Congregation for the Evangelization of Peoples: Index of Faculties Granted to Pontifical Legates in Mission Territories. (Document)

Listed in Latin, with an unofficial English translation, are various faculties granted to Papal legates in mission territories. These include dispensations with regard to a new bishop taking possession of his diocese, the appointment of provicars or pro-prefects, dispensations during a vacancy, permission to alienate, to oversee collection and disbursement of subsidies, to remit unfulfilled Mass obligations, to trinate on weekdays, and say four Masses on Sundays, dispensation in liturgical law, extending faculties, the visitation of religious, and granting Papal blessings.

368

Ang 83 (2006), 873-884: Angelo Amato: L'ecclesiologia di comunione e la Lettera *Communiois Notio* della Congregazione per la Dottrina della Fede.

(Conference presentation)

After setting out some preliminary considerations regarding the Second Extraordinary Assembly of the Synod of Bishops (1985) and the true meaning of *communio*, A. comments on the 1992 Letter of the Congregation for the Doctrine of the Faith *Communio in Notio*, which deals with five main themes: the Church as a mystery of communion; the relationship of the universal and particular Churches; the communion of Churches, Eucharist and episcopate; unity and diversity in ecclesial communion; and ecclesial communion and ecumenism. The Letter is complemented by the 2000 Declaration *Dominus Iesus*, issued by the same Congregation.

371

SCL II (2006), 27-31: Congregation for the Evangelization of Peoples: Index of Faculties Granted to Pontifical Legates in Mission Territories.

(Document)

See above, canons 362-367.

374

AkK 173 2/04, 384-408: Heribert Hallermann: Seelsorgliche Raumplanung als Teil der bischöflichen Hirten Sorge. (Article)

H. deals with the plan for the pastoral division of the diocese as part of the bishop's pastoral leadership. After introducing the problems, the author looks at canons 374 §1 and 515 §2 of the 1983 Code as well as the Pastoral Directory for Bishops. He concludes with a look into the future.

374

AkK 174 2/05, 417-455: Heribert Schmitz: Veränderungen der Pfarrenstruktur. Kanonistische Streiflichter. (Article)

See below, canon 515.

375

Arturo Cattaneo (ed.): L'esercizio dell'autorità nella Chiesa. Riflessioni a partire dall'esortazione apostolica «Pastores gregis». (Book)

See below, canon 381.

381

IC XLVI 92/06, 623-636: Ciro Tammaro: La giurisprudenza episcopale nel'Alto Medioevo. Riflessioni sul principio «un solo Vescovo per città» sancito dal can. VIII del Concilio di Nicea I (325). (Article)

See above, Historical Subjects (*First millennium*).

381

IC XLVI 92/06, 639-659: Antonio Viana: El gobierno de la diócesis según Derecho en el directorio *Apostolorum Successores*. (Commentary)

V. comments on the Directory for the Pastoral Ministry of Bishops *Apostolorum Successores* published by the Congregation for Bishops on 22 February 2004 and approved *in forma communi* by Pope John Paul II. After describing the document in general terms, he considers the importance of canon law as an element in the bishop's pastoral function, and as an instrument of unity; the personal responsibility of the bishop in governing the diocese; the fostering and respecting of collegiality in the government of the diocese; respect for the rights, liberties and competences of others; and the bishop's spirit of service towards those whom he governs. Obviously the Church does not expect the bishop to be a professional canonist, but *Apostolorum Successores* does confirm the need for canon law in the life of the diocese, so that there should always be canonists who can help the bishop in his governmental responsibilities. The correct and necessary application of the law is not possible without the virtues proper to a good governor, including those of prudence, fortitude, and above all, charity.

381

J 66 (2006), 1-336: The Relation between Bishop and the Local Church: Old and New Questions in Ecumenical Perspective. (Symposium proceedings)

This volume of *The Jurist* contains the proceedings of a 2005 symposium held in Rome, entitled "The Relation between Bishop and the Local Church: Old and New Questions in Ecumenical Perspective", and consisting of the following: Editor's Introduction (pp. 1-3); Address of Welcome from Joseph Agius OP, host of the symposium (pp. 4-7); Vittorino Grossi, OSA: "*Episcopus in Ecclesia: The Importance of an Ecclesiological Principle in Cyprian of Carthage*" (pp. 8-29); Christopher Hill: "My Experience and Questions as an Ecumenically Involved Bishop" (pp. 30-38); Paul-Werner Scheele: "The Bishop in the Church and the Church in the Bishop: My Experience and Questions as an Ecumenically Involved Bishop" (pp. 39-47); His Eminence Jérémie, an Orthodox Metropolitan: "The Bishop Is in the Church and the Church Is in the

Bishop” (presenting Orthodox difficulties in ecumenism) (pp. 47-53); Eero Houvinen, Bishop of Helsinki: “How Can One Be and Serve as a Bishop?” (pp. 54-69); Hervé Legrand, OP: “The Bishop Is in the Church and the Church Is in the Bishop” (looking at the impact of collegiality and examining Orthodox difficulties with the theology of the Bishop at Vatican II) (pp. 70-92); Jacques Schlosser: “The Ministry of the Episkope” (studying the term in the New Testament) (pp. 93-113); Georg Schöllgen: “From Monepiscopate to Monarchical Episcopate: The Emergence of a New Relationship between Bishop and Community in the Third Century” (pp. 114-128); Jacques-Noël Pérès: “The *Episkopos* in Ancient Syriac Christianity: A Matrix of ‘Monarchical’ Episcopate?” (pp. 129-143); Michel-Yves Perrin: “The Relationship *Episkopos/Ekklesia* in the Church of the Roman Empire of the IVth Century” (pp. 144-163); Adolf-Martin Ritter: “The Figure of the Hierarch as Sanctifier in the Corpus Dionysiacum and Its Ecclesiological Outcome: Some Comments” (pp. 164-173); Crispino Valenziano: “The Image of the Bishop in Early Christian Art: From Symbolism to Reality (and Vice Versa)” (pp. 174-184); Dimitrios Salachas: “The Early Church Tradition and Ecumenical Demands: The Impact on Current Canon Law: East and West Compared” (pp. 185-210); Myriam Wijlens: “Bishops and Their Relationship to a Local Church: A Canonical Perspective” (pp. 211-241); Geoffrey Wainwright: “Episcopacy and the Reintegration of Ecclesial Unity” (pp. 242-263); André Birmelé: “*Episkopos, Episkopè*: Catholicity and the Constitution of the Church: Important Challenges for the Reformation Churches” (pp. 264-284); Liliane Voyé: “The Bishop and the Church” (pp. 285-297); Walter Cardinal Kasper: “Petrine Ministry and Synodality” (pp. 298-309); Peder Nørgaard-Højen: “The Symposium on the Relationship between the Bishop and the Local Church: Lutheran Conclusions” (pp. 310-313); William Henn, OFM Cap: “Concluding Reflections to the Symposium” (pp. 314-319); Arturo Cattaneo: “The Bishop and the Local Church: Reflections from an Ecumenical/Canon Law Point of View” (pp. 320-328); Francesco Compagnoni OP: “The Bishop and the Local Church” (pp. 329-332); James F. Puglisi, SA: Afterword (pp. 333-336).

381

Arturo Cattaneo (ed.): L'esercizio dell'autorità nella Chiesa. Riflessioni a partire dall'esortazione apostolica «Pastores gregis». (Book)

This book contains the proceedings of the first conference organised by the recently established *Istituto di Diritto Canonico San Pio X* in Venice on 12 May 2004. The conference centred on the post-synodal Apostolic Exhortation *Pastores Gregis* (16 October 2003) on the ministry of the bishop. The principal contributions focused on the episcopal ministry in the light of the ecclesiology of communion (Marcello Semeraro, pp. 11-21); pastoral government and diocesan communion (Velasio de Paolis, pp. 23-52); the collegial dimension of the episcopal ministry at local level (Giorgio Feliciani, pp. 53-61); the

relationship of episcopal authority and the Supreme Authority (Arturo Cattaneo, pp. 63-80); the meaning of subsidiarity (José Ramón Villar, pp. 81-97); the principle of subsidiarity as applied to the relationship of the Supreme Authority and the diocesan authority (Juan Ignacio Arrieta, pp. 99-108); the episcopate as the fullness of the sacrament of order (Gabriel Richi Alberti, pp. 109-116); the responsibility of the bishop in the administration of ecclesiastical goods (Luigi Mistò, pp. 117-120); the ordinary diocesan tax as an instrument of government (Jesús Miñambres, pp. 121-135); the question of Authority in relation to the obedience and freedom of the baptised (Giorgio Zannoni, pp. 137-147); the pastoral care of Eastern rite faithful in Latin dioceses (Luis Okulik, pp. 149-159); and aspects of Eastern canon law in connection with *Pastores Gregis* (Davide Venturini, pp. 161-167). The entire text of *Pastores Gregis* is given in Italian on pp. 169-266. (For bibliographical details see below, Books Received.)

383

AC 47 (2005), 119-144: Philippe Greiner: Activités d'évangélisation de l'église catholique et prosélytismes. (Article)

See above, canon 211.

386

AnC 2/2006, 3-15: Jan Dyduch: Udział biskupów w posłudze prorockiej Kościoła w świetle dyrektorium *Apostolorum successores* (= The participation of the bishops in the prophetic mission of the Church in the light of the Directory *Apostolorum successores*). (Article)

The Apostolic Exhortation *Pastores Gregis*, and linked to it the Directory *Apostolorum Successores*, recall the duty of the bishops to evangelise. The whole Episcopal College is responsible for carrying out the prophetic ministry of the Church. In the diocese entrusted to his pastoral care the bishop is the first preacher and catechist, not simply as the one who organises the preaching and catechising, but as the one who himself guides the evangelisation in the schools and universities, as well as through the mass media.

391

AnC 2/2006, 133-145: Jerzy Adamczyk: Przestrzenie legislacyjne powierzone władzy ustawodawczej biskupa diecezjalnego przez *Kodeks Prawa Kanonicznego* z 1983 roku w zakresie *munus regendi* (= The scope for legislation afforded to the diocesan bishop by the 1983 Code of Canon Law in the area of the *munus regendi*). (Article)

An essential dimension of the pastoral power of the diocesan bishop, in addition to his executive and judicial power, is that of legislation. In virtue of their power, “bishops have the sacred right and the duty before the Lord to make laws for their subjects, to pass judgement on them and to moderate everything pertaining to the ordering of worship and the apostolate” (*Lumen Gentium*, 27). A. looks at the legislative functions of the bishop within the particular Church, focusing on areas to do with pastoral administration.

402

J 66 (2006), 374-389: George D. Gallaro: The Bishop Emeritus: An Ecclesial Consideration. (Article)

The term *emeritus* is currently applied to anyone who is “retired”. G. points out that the term as applied to retired bishops has an important meaning for bishops *emeriti*. In the Latin and Eastern Codes they have specific duties in relation to the Pope and other bishops. There have been provisions by the Holy See since the publication of the Latin and Eastern Codes. G. provides an appendix for the retirement of the bishops of the USA.

418

SCL II (2006), 371-379: Victor D’Souza: Cessation of Office of a Vicar General and Episcopal Vicar: Toward Refinement of Canon 481 §1. (Article)

See below, canon 481.

455

QDE 19 (2006), 228-243: Davide Salvatori: La competenza e i criteri della CEI nell’adattamento del Rito del matrimonio. (Article)

See below, canon 838.

460-468

AnC 2/2006, 67-80: Tomasz Rozkrut: Come celebrare oggi il sinodo diocesano? (Article)

R. comments on the 1997 Instruction of the Congregation for Bishops and the Congregation for the Evangelisation of Peoples *De synodis dioecesis agendas instructio*, which deals with various aspects of the diocesan synod: its nature and purpose, its composition, how it is convoked and prepared, the procedure of

the synod, and synodal declarations and decrees. R. sees the Instruction as complementing the vision of the diocesan synod in the 1983 Code. It is also evidence of the Holy See's desire to underline the importance and value of this institution, in response to suggestions that the diocesan synod was in decline because of the emergence of new structures such as the pastoral council and the council of priests, which share broadly similar aims.

479

REDC 62 159/05, 625-649: Roberto Serres López Guereñu: La figura del vicario para la vida consagrada: aspectos canónicos. (Article)

S.L.G.'s theme is the canonical/juridical figure of the episcopal vicar for consecrated life. He briefly comments on the different sources and documents from which it originates, from Vatican II's *Christus Dominus* to *Apostolorum Successores* (2004). He then examines the exercise of jurisdictional power in relation to the diocesan bishop, vicar general, and other vicars episcopal. He emphasises the difference between an episcopal vicar and an episcopal delegate for consecrated life: the former's jurisdiction comes directly from the office and is expressed in the Code, whereas the latter's depends on the will of the bishop and the conditions imposed in delegating to him a share in his power but without giving him an office. The competences of the episcopal vicar for consecrated life will vary according to the differing nature and autonomy of each institute.

481

SCL II (2006), 371-379: Victor D'Souza: Cessation of Office of a Vicar General and Episcopal Vicar: Toward Refinement of Canon 481 §1. (Article)

This article addresses the situation of vicars general or episcopal who are priests, not auxiliary bishops, and focuses on the vacancy of the see. Acts remain valid until there is certain knowledge of the death of the bishop, a question that might remain open if he disappears through kidnapping or in times of persecution. Communication is also required in the case of transfer or deprivation, but with simple resignation this becomes effective the moment it is accepted by the Pope. A difficulty arises with regard to transfer. The see does not become vacant until the bishop takes possession of the new diocese, but canon 418 §2 ascribes to him the authority of diocesan administrator in the diocese *a qua* in the interim period, although he is no longer diocesan bishop. How does this affect vicars? According to canon 418 §2 they lose their authority when certain news of the transfer is received. He suggests canon 481 §1 should be amended to refer to canon 418 §2.

486-491

RfR 65 3/06, 323-327: Elizabeth McDonough: Archives of Religious Communities. (Article)

See below, canon 573.

503-510

AkK 173 2/04, 409-440: Wolfgang F. Rothe: Das Kollegiatkapitel: Organ des Verfassungs-oder Institut des Vereinigungsrechts? Eine kritische Analyse der einschlägigen Gesetzeslage im CIC von 1983. (Article)

This article is a critical analysis of the collegiate chapter. Looking at canons 503-510 of the 1983 Code, which deal with chapters of canons, R. introduces the present problems connected with the chapter, and explains the concept and its origins. He then examines the constitution of the chapter of canons: membership, organisation, right of autonomy, etc. He explains its functions, taking into account the solemn liturgy, the priests' community life, and the meaning of diocesan *presbyterium*. Lastly he considers the special nature of the cathedral chapter.

511-514

PCF VIII (2006), 189-204: Agustin T. Opalalic, Jr.: Pastoral Councils in the 1983 Code of Canon Law. (Article)

This article is organised in three parts. Part I presents the teaching of the Church on pastoral councils as provided by the ecclesial documents, including those of Vatican II, post-conciliar documents, the provisions of the 1983 Code of Canon Law, and post-Code documents of the Magisterium. Part II defines and describes the nature, purpose, competence, composition, and other juridical elements of both diocesan and parish pastoral councils. Part III draws conclusions and makes some recommendations relative to the issues discussed in the article. O. also includes a brief note on finance councils (canons 492, 493, 537). He cautions against identifying these with pastoral councils. They are different ecclesial structures and, while finance councils are mandatory, pastoral councils, although strongly recommended, are optional.

515

AkK 173 2/04, 384-408: Heribert Hallermann: Seelsorgliche Raumplanung als Teil der bischöflichen Hirten Sorge. (Article)

See above, canon 374.

515

AKK 174 2/05, 417-455: Heribert Schmitz: Veränderungen der Pfarreienstruktur. Kanonistische Streiflichter. (Article)

In relation to changes in parish structure in German dioceses, S. looks at the question of whether, rather than amalgamating two or three parishes, they should first be abolished. In this context canon 515 §2 of the 1983 Code only addresses questions of jurisdiction. Since according to canon 515 §3 the parish possesses juridical personality by virtue of the law itself, canon 121 (dealing with the amalgamation of aggregates of persons or things which are public juridical persons, and the rights and duties which are acquired by the resulting aggregate) is also relevant. A comparison of canon 121 with its predecessor, canon 1419 1° of the 1917 Code, leads to the conclusion that it is possible to merge parishes through consolidation – *coniunctio (unio per fusionem)* – without formally abolishing them. In this process the civil law for the Church must also be observed. S. goes on to look at the practicalities of implementation based on examples from the dioceses of Trier and Essen.

524

SCL II (2006), 381-398: Augustine Mendonça: The Requirement of “Hearing” the Vicar Forane before Appointing a Parish Priest. (Opinion)

M. considers what is meant by “hearing” the vicar forane before appointing a parish priest, and whether failure to do so renders the appointment invalid. Hearing the vicar forane is a method of assessing suitability for the office. The vicar in question is clearly that of the parish to which the appointment is to be made, although hearing the vicar where the priest currently exercises ministry is not precluded. Authors do not agree on whether failure to fulfil this requirement leads to invalidity of the appointment. M. examines the arguments, and schemata of the Code, concluding that the choice of *audiatur* rather than *consulere debet* suggests that it does not lead to invalidity, but that in any case, as the law is doubtful the bishop is not bound by it, and the acts of the priest would be valid by virtue of common error.

536

PCF VIII (2006), 189-204: Agustin T. Opalalic, Jr.: Pastoral Councils in the 1983 Code of Canon Law. (Article)

See above, canons 511-514.

536

SCL II (2006), 275-296: Supreme Tribunal of the Apostolic Signatura: Removal of a Parish Priest from Office: Decision *coram* Cacciavillan, 28 June 2003 (India). (Sentence)

See below, canons 1740-1747.

537

AC 47 (2005), 37-50: Philippe Greiner: Les biens des paroisses dans le contexte des diocèses français. (Article)

See below, canon 1274.

553

AC 47 (2005), 89-110: Alphonse Borras: Vicaires forains, archiprêtres et doyens. Les vicissitudes actuelles de la fonction décanale. (Article)

The scarcity of priests has led to new situations, e.g., a priest can have the pastoral care of a deanery. The 1983 Code allows the bishop to set up deaneries by decree, if he judges it opportune. The role of dean is to exercise oversight in regard to the material, moral and spiritual wellbeing of the clergy; to coordinate activities and projects in the deanery, as well as movements, associations, schools and Catholic institutions; and to exercise oversight in regard to administrative activities and the liturgical life of the deanery (cf. *Imago Dei* [1973] and *Apostolorum Successores* [2004]). B. reflects on the practical difficulties with this role today, noting that a council of deans, where it exists, can undermine the council of priests. Could such a council be integrated into the council of priests?

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

573

AnC 2/2006, 147-162: Arnold Chrapkowski: Zakonnicy – osoby konsekrowane po Soborze Watykańskim II (= Consecrated persons after the Second Vatican Council). (Article)

C. looks at the development of the notion of consecrated life in the 1917 Code, the 1947 Apostolic Constitution *Provida Mater Ecclesia*, the Second Vatican Council, the 1983 Code, and the 1996 Apostolic Exhortation *Vita Consecrata*, before looking at new forms of consecrated life which the Holy Spirit has

inspired and which do not always fit easily within existing categories.

573

CpR LXXXVI 3-4/05, 249-273: Ángel Pardilla: Prospettiva biblica, teologica e canonica del messaggio di Giovanni Paolo II al Congresso internazionale sulla Vita Consacrata. (Article)

P. presents a commentary on the address of 26 November 2004, given by John Paul II to the joint meeting of the *Unione dei Superiori Generali* and the *Unione Internazionale delle Superiore Generali*. Consecrated life is lived in faithfulness to the Gospel; the citations used in the address show a radically Christological emphasis. The theological centre of consecrated life is Christ, and the traditional understanding of the following of Christ provides a key to the nature of the call. The canonical language used to describe consecrated life points to the special divine vocation of the consecrated person, lived out in a life of chastity, poverty, obedience and community.

573

CpR LXXXVII 1-2/06, 7-64: Ángel Pardilla: Orientamenti biblici, teologici e canonici del Cardinale J. Ratzinger e di Benedetto XVI sulla vita consacrata. (Article)

P. reviews four significant presentations of Joseph Ratzinger, before and after his election to the papacy as Benedict XVI: his intervention at the Synod of Bishops concerning the consecrated life (11 October 1994), his proposal on the prophetic dimension of the consecrated life at that same Synod (28 October 1994), his message to the *plenarium* of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (27 September 2005), and his discourse to consecrated persons in Rome (10 December 2005). Each section contains the original text, followed by P.'s commentary, providing the biblical, theological and canonical background to Ratzinger's statements. In the first two sections, P. includes sections from John Paul II's Apostolic Exhortation *Vita Consecrata* (25 March 1996) and identifies what he believes to be Ratzinger's influence on that document.

573-746

RfR 65 3/06, 323-327: Elizabeth McDonough: Archives of Religious Communities. (Article)

As there are no canons concerning archives in the section of the Code on institutes of consecrated life and societies of apostolic life, McD. uses canons 486-491 which deal with archives in the diocese. These consider all aspects of

archiving so that a good record is preserved in each diocese. McD. goes into some detail about the practical implications of the process for religious congregations.

577

AnC 2/2006, 147-162: Arnold Chrapkowski: Zakonnicy – osoby konsekrowane po Soborze Watykańskim II (= Consecrated persons after the Second Vatican Council). (Article)

See above, canon 573.

579

CpR LXXXVII 1-2/06, 131-147: Julio García Martín: La consulta previa a la Santa Sede para erigir un instituto de derecho diocesano según el can. 579. (Article)

While a diocesan bishop is competent to erect an institute of consecrated life within his territory by means of a decree, prior consultation with the Apostolic See is required. G.M. reviews the stages in the drafting of this canon (the schemata of 1977, 1980, 1982, and the promulgated text), and comes to the conclusion that “prior consultation” in fact means that the consent of the Apostolic See is required before the necessary decree can be issued. The roles of the diocesan bishop, the Apostolic See and, in the schemata, the episcopal conference, are reviewed and clarified.

586

AnC 2/2006, 81-112: Wiesław Wenz: Kanoniczność wzajemnych relacji między biskupami diecezjalnymi i wspólnotami osób konsekrowanych (= The canonical nature of the mutual relations between diocesan bishops and communities of consecrated persons). (Article)

The need to foster reciprocal relations of a canonical nature between diocesan bishops and communities of consecrated persons, and especially between the pastors of the Church and the superiors of religious institutes, arises out of the very nature of the ecclesial community, and also the evolution of the norms worked out during the historical development of these institutions. The Church recognises the presence of the Holy Spirit not only at the moment when a religious institute initially comes into being but also throughout the time the institute fulfils its proper charism. The authorities within the particular Church cannot ignore the outpouring of the gifts of the Holy Spirit: to do so would be tantamount to mutilating the organism of the particular Church, and could

adversely affect the interior life of the religious community. Harmonious collaboration and cooperation on the part of the bishops and the community leads to a more perfect development of the Church and permits the experiencing of the enriching power of the Holy Spirit.

591

CpR LXXXVI 3-4/05, 317-346: O. Manzo: L'esonazione degli Istituti di Vita Consacrata. (Article)

M. reviews the differing views of ten canonists on the nature of the religious exemption described in canon 591, and then proceeds to distinguish between autonomy of life and the subjection of an institute directly to the Roman Pontiff. Exemption is directed toward the protection of the proper charism of each institute, and is essentially a transfer of jurisdiction from the local Ordinary to the Roman Pontiff, not simply for the good of the institute, but for the common good – the good of the Church. The current law, in contrast to the 1917 CIC, extends the possibility of exemption to any institute of consecrated life, including not only religious institutes, but also secular institutes, new forms of consecrated life, and (with canon 732, and by analogy) also societies of apostolic life. The act of exemption, which essentially withdraws an institute from the jurisdiction of the local Ordinary, does not make the institute “more autonomous” insofar as the institute’s dependence on the authority of the Church remains unchanged and is simply transferred by the Roman Pontiff to himself or to some other ecclesiastical authority.

604

QDE 19 (2006), 354-362: Silvia Recchi: La vergine consacrata nella Chiesa particolare. Responsabilità ecclesiale e corresponsabilità personale. (Article)

The *ordo virginum* is a special way of living consecrated life in the Church, which in fact allows a widening of the concept of consecrated life itself. R. sets out the fundamental characteristics and juridical aspects of the *ordo virginum*, highlighting in particular its relationship with the diocesan bishop, and the relationship of consecrated virgins among themselves. The 1983 Code dedicates only one canon to the *ordo virginum*, and R. explains that this is deliberately so, as an excess of regulation would hinder the development of this form of consecrated life which allows the expression of an original synthesis of those elements common to all forms of consecrated life.

604

QDE 19 (2006), 364-391: Elena Lucia Bolchi: La ricomparsa dell'ordo

***virginum* e la sua configurazione canonica tra normativa universale e normativa della Chiesa particolare.** (Article)

B. presents a historical outline of the *ordo virginum*: it was present at the start of the Church, but over the course of the centuries it merged with the coenobitic and cloistered forms of life, and gradually lost its proper autonomy. Recent decades, however, have seen a reflowering of the *ordo virginum*. B. sets out the main canonical features of the *ordo virginum*, in which the consecrated virgins live an institutional form of consecrated life by belonging not to an institute but precisely to an ecclesial *ordo*. Canon 604 makes reference to an “approved liturgical rite”, and in this connection reference should be made to the *Ordo consecrationis virginum* which the Sacred Congregation for Divine Worship promulgated by special mandate of Pope Paul VI on 31 May 1970. Included in the *Praenotanda* of that document (which retains the force of universal law by virtue of canon 2) are specific provisions for the *ordo virginum*, which B. examines in some detail, before going on to look at pastoral guidelines for the *ordo virginum* which have been drawn up by a number of episcopal conferences.

604

QDE 19 (2006), 392-405: Alberto Perlasca: L’uscita dell’*ordo virginum*. (Article)

P. looks at the various ways of leaving the *ordo virginum*: voluntary request (whether or not in connection with a transfer to another institute of consecrated life); dismissal by the ecclesiastical authority (P. discusses who the “competent ecclesiastical authority” is – in his view it is the diocesan bishop); and marriage (in this connection P. rejects the view of those who argue that the *sanctum propositum* of the consecrated virgin is an impediment to marriage). He also deals with the questions of how and where to record the fact of the virgin’s departure from the *ordo*, and of readmission to the *ordo* after lawful departure.

605

AnC 2/2006, 147-162: Arnold Chrapkowski: Zakonnicy – osoby konsekrowane po Soborze Watykańskim II (= Consecrated persons after the Second Vatican Council). (Article)

See above, canon 573.

605

CpR LXXXVII 1-2/06, 65-76: Domingo J. Andrés: Nuove forme di vita

consacrata. Statuto teologico-canonico secondo il Codice. (Article)

The 2005 *Annuario Pontificio* includes six “other institutes” of pontifical right (originating in five countries) coming under canon 605. A. comments on and interprets this canon, with special attention paid to the role of the diocesan bishop and the Apostolic See in the approval of these new forms. An extensive bibliography is included.

607-608

CpR LXXXVI 3-4/05, 211-248: Bernarda Horvat: La vita fraterna in comune negli istituti religiosi. (Article)

The consecration of religious life springs from an act of incorporation in a fraternal community, in such a way that the members, united in the love of Christ, form a single family in which they seek to realise their vocation, consecration and mission. H. presents a theological and juridical consideration of the nature of fraternal life in community, beginning with its fundamental familial base: this base requires affective maturity, vocational maturity, and relational maturity. The familial common life becomes present in the reciprocal acceptance of diversity, dialogue and forgiveness, and sharing meals and common recreation. There is also a liturgical and spiritual dimension, in the community’s celebration of the sacraments (principally the Eucharist and Penance) and the spiritual bonds of the community (unity in the Word of God, common prayer, and the veneration of the Blessed Virgin Mary). See also the following entry.

607-608

CpR LXXXVII 1-2/06, 77-129: Bernarda Horvat: La vita fraterna in comune negli istituti religiosi. (Article)

See preceding entry. H. presents three more dimensions of the life in common in religious institutes, with specific applications. In each religious community the practice of the common life in its economic dimension contains two elements: the work of each member, and the community of goods (both material and spiritual); to this is added the communal testimony of poverty. In the disciplinary dimension, common life is characterised by norms for cloister and the habit (as a sign of consecration and a testimony to poverty). There are what H. refers to as the “irregular dimension”, i.e. obstacles to common life, such as tendencies to individualism and communitarianism, to tension and conflict, and incomplete belonging; these can lead to a material or even formal break in common life (particularly through authorised or unauthorised absences and exlaustration).

609-616

AnC 2/2006, 81-112: Wiesław Wenz: Kanoniczność wzajemnych relacji między biskupami diecezjalnymi i wspólnotami osób konsekrowanych (= The canonical nature of the mutual relations between diocesan bishops and communities of consecrated persons). (Article)

See above, canon 586.

620

PCF VIII (2006), 163-188: Elias Ayuban: Duties and Rights of Provincial Superiors in Clerical Religious Institutes in the Light of the *Tria Munera* of the Church. (Article)

Section I of this article deals with the office of provincial superiors in clerical religious institutes. A. describes the qualifications (length of time professed); modes of designation (election, appointment after consultation); term of office; re-election; and cessation of office (removal, transfer). Bearing in mind the general norms of canons 190-195, the proper law of the institute must provide the specifications. Section II deals with the duties of provincial superiors as they pertain to the *munus regendi*, the *munus docendi* and the *munus sanctificandi*. Following the format of Section II, Section III classifies the rights and faculties of provincial superiors in areas such as transfer, removal from office, formation, the pastoral works of the institute, associations linked to the institute, and the administration of temporal goods. In sum, the provincial superior is like the Good Shepherd in the sense that he knows, serves, and ministers to all his subjects, especially the old, the weak, and the fragile, with love and compassion.

630

EE 81 (2006), 725-760: José-Luis Sánchez-Girón Renedo: Sentido y finalidad de un privilegio relativo al c. 630. (Article)

For religious, manifestation of conscience to one's superior means letting the superior know certain aspects about oneself and one's life which are considered to belong to one's own intimacy. Canon law forbids religious superiors to induce (let alone oblige) their subjects in any way to make a manifestation of conscience to them. The religious may voluntarily manifest his conscience to the superior, but the latter cannot without the consent of the subject reveal to anyone else what he has come to learn in this manner; nor can he take it into account in his government. However, in the Society of Jesus this practice is compulsory; and the superior – although bound by the obligation of secrecy unless the Jesuit releases him from it – may always make use of this knowledge

in his government. Some characteristics of the Society's charism and way of governing may provide the reasons behind this.

632

RfR 65 3/06, 244-254: Rachel M. Harrington: A New Way of Meeting. (Article)

H. describes the experience of a mid-chapter meeting held by the Sisters of Notre Dame de Namur. She outlines the preparations, the programme and the manner of participation for this international assembly.

636

CpR LXXXVI 3-4/05, 293-316: Eutimio Sastre Santos: L'affidamento dell'economia di un istituto religioso a persona estranea. (Article)

A woman religious asks whether it is possible to entrust the position of finance officer in a religious institute to a person who does not belong to that institute (not having made perpetual profession or vows). The author reviews the basic sources, giving particular attention to the financial administration of the "new institutes" of women religious at the beginning of the twentieth century. Of particular importance to the answer is the social and spiritual nature of economic matters in a religious institute as a "religious family" (rather than a "mere society"). The proper law of the institute should provide juridical protection for the poverty of the institute, and may provide other principles to answer this question. S. gives several possible reasons for naming a non-member as finance officer (convenience, lack of necessary training among members, burden of work), but concludes that such an appointment would create more problems than it would solve: difficulties created in the governance of the institute, in its daily life, and in its manifestation of poverty.

642

SCL II (2006), 147-172: Victor D'Souza: The Right to Privacy of Candidates to Priesthood and Religious Life. (Article)

See above, canon 220.

654

SCL II (2006), 399-402: Augustine Mendonça: Living Religious Life without Temporary Vows. (Opinion)

If, through oversight, a religious fails to renew temporary vows, does that person cease to be a member of the institute, and does the procedure for readmission set out in canon 690 have to be followed? M. points out that canon 690 applies only to legitimate departure. Expiry of temporary vows has certain juridical effects, but does not automatically terminate membership unless the law of the institute so provides.

659-661

AnC 2/2006, 195-210: Bogdan Węgrzyn: Istota, cel i motywy formacji ciągłej (= The concept and foundations of permanent monastic formation).
(Article)

The elements which create formation are: the person, the group, the influencing institution, the person being influenced, and the rapport of the influence, which is mutual, even if in differing proportions. In the process of formation the recipient is active since he or she assesses best the needs of his or her own development and individual character. For this reason, formation is the action that accompanies and stimulates the person's development. It simplifies self-realisation and provides objective patterns of self-assessment. Formation constitutes the basis for family and educational upbringing, priesthood, education, social relations and psychotherapy. A constructive condition of moral assessment of formation is the individual treatment of the person who is being influenced, and its aim is his or her wide-ranging intellectual development and moral and internal freedom. Formation takes place with the agreement and knowledge of the person being influenced. In general terms "formation" can be seen as a synonym of "education". However, whereas education liberates potential and leads to freedom of action, formation means giving shape to what is still disorganised. Thus education and formation complement each other. Formation is based on education, but in fact goes beyond it. The aim of formation, as Pope John Paul II pointed out in the Apostolic Exhortation *Vita Consecrata*, is the whole human person, called at each stage of life to seek God and love Him. This love of God and of others is enormous strength, which may be an inexhaustible source of inspiration on the way to maturity and faithfulness.

665

PCF VII (2005), 91-112: Elias L. Ayuban, Jr: Non-Collegial Acts in Religious Institutes: A Study of Canons 127 and 665 §1. (Article)

See above, canon 127.

674-678

PCF VIII (2006), 141-162. Sugawara Yuji: Relationship between Bishops and Religious Institutes in the Context of the Church in Asia. (Article)

In keeping with the teaching of the Second Vatican Council, a theme common to several ecclesial documents since then has been the recommendation that “consecrated persons must work for the good of the local Churches according to their particular charism (cf. *Christus Dominus*, 33a), and bishops as persons responsible for local Churches must coordinate all the apostolic works in the dioceses.” With particular reference to the Church in Asia, Y. explores this theme from the point of view of religious who, mindful of their charisms and aware of their obligations and limitations, make their gifts available to the local Church. He explores it too from the point of view of bishops whose duty it is to evaluate the specific charisms as they discern how they may use them effectively in the overall pastoral plan of the dioceses. He identifies the potential tensions that can arise when boundaries are ignored. The ideal is to unite the gifts of the “various components in the Church” and thus achieve a harmonious collaboration that will energise and promote the Church’s mission.

677

QDE 19 (2006), 406-415: Sergio La Pagna: Le associazioni di fedeli unite agli istituti religiosi (can. 677 §2). (Article)

Canon 677 §2 deals with the relationship between religious institutes and associations joined to them, and needs to be seen in conjunction with canons 303 (dealing with third orders) and 311 (which refers to all associations that are in some way joined to an institute of consecrated life). La P. looks at the background to canon 677 §2, and explains how in recent years it has borne fruit in that many religious institutes have come to realise that their charism can be shared with lay people. There are different forms which associations joined to religious institutes can take, ranging from third orders to associations without juridical personality. The relationship of the religious institute and the association joined to it is not merely one of collaboration in the work and activity of the institute, but is also a manifestation of the Spirit which inspires people to live their lay vocation according to a particular spirituality, within a single “charismatic Family”.

677

VC XLII 5/06, 497-510: Sergio La Pagna: Le associazioni di laici legate agli Istituti religiosi. L’approvazione e le fasi degli inizi. (Article)

See above, canon 303.

678-683

AnC 2/2006, 81-112: Wiesław Wenz: Kanoniczność wzajemnych relacji między biskupami diecezjalnymi i wspólnotami osób konsekrowanych (= The canonical nature of the mutual relations between diocesan bishops and communities of consecrated persons). (Article)

See above, canon 586.

686

PCF VIII (2006), 65-106: Vicente R. Uy: The Principle of Equity in the Code of Canon Law. (Article)

See above, canon 19.

690

SCL II (2006), 399-402: Augustine Mendonça: Living Religious Life without Temporary Vows. (Opinion)

See above, canon 654.

692-693

EE 81 (2006), 789-803: Rufino Callejo de Paz: La exigencia de la incardinación y las posibles acefalías. (Article)

See above, canons 265-272.

694-704

SCL II (2006), 61-84: Sharon Holland: Canonical Dismissal from Institutes of Consecrated Life and Societies of Apostolic Life. (Article)

H. sets out the procedural requirements for dismissal from institutes of consecrated life, where necessary referring to the differences between Latin and Eastern Law, and points in particular to clerics. She looks first at *ipso iure* dismissal and then mandatory dismissal, a provision for which there is no equivalent in the Eastern Code. She then examines in some detail facultative dismissal, first in the Latin Code, then in the Eastern. Finally there are brief sections on societies of apostolic life and secular institutes.

701

EE 81 (2006), 789-803: Rufino Callejo de Paz: La exigencia de la incardinación y las posibles acefalías. (Article)

See above, canons 265-272.

702

PCF VIII (2006), 65-106: Vicente R. Uy: The Principle of Equity in the Code of Canon Law. (Article)

See above, canon 19.

710-730

CpR LXXXVI 3-4/05, 275-292: Giulietta Bodrito: Missione e consiglio evangelico di povertà negli Istituti di Vita Consacrata Secolari Laicali. (Article)

B. seeks to distinguish the poverty characteristic of the consecration undertaken by members of lay secular institutes from that of members of religious institutes. Since members of secular institutes are consecrated in their secularity, they retain the basic right to the products of their industry and bear witness to the dignity of work. Poverty in these institutes is lived according to the spirit of the institute, and in furtherance of its mission.

713

PCF VIII (2006), 141-162. Sugawara Yuji: Relationship between Bishops and Religious Institutes in the Context of the Church in Asia. (Article)

See above, canons 674-678.

727-729

EE 81 (2006), 789-803: Rufino Callejo de Paz: La exigencia de la incardinación y las posibles acefalías. (Article)

See above, canons 265-272.

738

PCF VIII (2006), 141-162. Sugawara Yuji: Relationship between Bishops

and Religious Institutes in the Context of the Church in Asia. (Article)

See above, canons 674-678.

743-746

EE 81 (2006), 789-803: Rufino Callejo de Paz: La exigencia de la incardinación y las posibles acefalías. (Article)

See above, canons 265-272.

BOOK III: THE TEACHING OFFICE OF THE CHURCH

753

AnC 2/2006, 3-15: Jan Dyduch: Udział biskupów w posłudze prorockiej Kościoła w świetle dyrektorium *Apostolorum successores* (= The participation of the bishops in the prophetic mission of the Church in the light of the Directory *Apostolorum successores*). (Article)

See above, canon 386.

755

AkK 174 2/05, 353-379: Helmuth Pree: Par cum pari. Rechtliche Implikationen des ökumenischen Dialogs. (Article)

In the first part of his article P. tries to find a common legal basis that will serve to join all the Christian Churches to one another, focusing on baptism, the general principles of law, and seven specific ecumenical principles, such as mutual respect for Church autonomy and the prohibition of proselytism. In the second part he analyses the obligation to promote Christian unity as a legal duty in canon law, and tries to interpret the juridical structure and quality of the most important types of ecumenical activities, such as common declarations, interconfessional agreements, interconfessional or ecumenical associations, ecumenical commissions, and so on.

758

PCF VIII (2006), 141-162. Sugawara Yuji: Relationship between Bishops

and Religious Institutes in the Context of the Church in Asia. (Article)

See above, canons 674-678.

761-782

AnC 2/2006, 3-15: Jan Dyduch: Udział biskupów w posłudze prorockiej Kościoła w świetle dyrektorium *Apostolorum successores* (= The participation of the bishops in the prophetic mission of the Church in the light of the Directory *Apostolorum successores*). (Article)

See above, canon 386.

791-792

AKK 174 2/05, 380-416: Heribert Hallermann: Seelsorgliche Raumplanung als Teil der bischöflichen Hirten Sorge. (Article)

Since 2005 a renewed statute has been in force for the Pontifical Missionary Societies; the renewal can be understood as an up-to-date revision of the 1980 statute. H. comments on the new statute and highlights the development of some individual regulations concerning public associations in the Church, comparing the current norms with those of 1980. The concept of mission nowadays is both comprehensive and integrated; the lawful autonomy of the Pontifical Missionary Societies is emphasised, as is their priority over other missionary initiatives. These clarifications lay the foundations necessary for the Pontifical Missionary Societies to fulfil their specific tasks, in collaboration with the particular Churches, the episcopal conferences, and the Holy See.

793

For XVII/06, 41-46: Pontifical Academy of Sciences & Pontifical Academy of Social Sciences: Education spurs hope, requires generosity. (Statement)

See above, General Subjects.

793-806

AKK 173 2/04, 441-464: Matthias Pulte: Ökumenischer Religionsunterricht? – Möglichkeiten und Grenzen aus der Perspektive von Kirchenrecht und Staatskirchenrecht. (Article)

P. deals with possibilities and limitations of ecumenical religious teaching from the perspective of canon law and civil ecclesiastical law. He studies the

problems this involves, and the basis of the law on religious teaching in schools. He also looks at religious teaching in interconfessional dialogue, ecumenical religious teaching in the future, and areas of cooperation between different confessions.

793-814

IC XLVI 92/06, 445-484: Jorge Otaduy: Relación jurídica de los profesores de religión en España. La dimensión canónica. (Article)

The new Spanish law on education, dated 3 May 2006, deals *inter alia* with the status of religion teachers, but in the opinion of some its content may conflict with the 1979 Agreement between the Spanish Government and the Holy See. O. attempts to interpret the new law in such a way as to harmonise it with the Agreement. In so doing he analyses the canonical nature of the relationship between the teacher and the diocesan bishop, founded on the mandate (canons 229 and 812), which is not limited to higher levels of studies but can also be extended to primary and secondary levels. (The reason why there is no mention in the Code of the mandate for the lower levels of education is that the dependence of the teacher on the ecclesiastical authority at those levels is much greater.) O. studies the civil implications of these canonical aspects in relation to the hiring, appointing and dismissal of staff.

802-804

AnC 2/2006, 3-15: Jan Dyduch: Udział biskupów w posłudze prorockiej Kościoła w świetle dyrektorium *Apostolorum successores* (= The participation of the bishops in the prophetic mission of the Church in the light of the Directory *Apostolorum successores*). (Article)

See above, canon 386.

807-821

For XVII/06, 26-29: Pope Benedict XVI: The ‘anthropological question’ cannot ignore God. (Address)

The Pope addresses participants in a seminar on the cultural heritage and academic values of the European university and the attractiveness of the European higher education area, part of the “Bologna Process”. He reflects on the Church’s contribution through monasteries and the development of universities in the Middle Ages. The question for today is whether the role of the university is to serve the narrow, materialistic interests of individuals, or to open people out to the search for the true meaning of existence. The role of a

university is not just about specialisations.

810-812

AkK 174 1/05, 19-49: Rafael M. Rieger: Juniorprofessuren in der Katholischen Theologie. (Article)

R. studies the provisions regarding “junior professorships” in Catholic theology in Germany. He looks at the canonical requirements for these professorships, which were introduced only in the last few years. He highlights certain areas of difficulty, and possible future developments.

822

For XVII/06, 30-32: Pope Benedict XVI: Friendship with Jesus opens us up to others. (Address)

The Pope speaks to 5000 university students at a gathering organised by Opus Dei. Their topic for study was culture and the means of social communication. He speaks of the importance of friendship with Jesus, who opens us up to friendship with others.

822

PCF VII (2005), 205-228: Oscar V. Cruz: Canon Law on Media. (Article)

Because the Church values and recognises the significance for her pastoral role of the modern media of communication, she has seen fit to enshrine it in her legislation. She is concerned that it be used properly so that it may prove to be an effective instrument of evangelisation. While acknowledging its power and influence, C. cautions that the media should always be at the service of the faithful and he highlights a number of important values that the community should expect from it, among which truth, integrity, veracity and probity are paramount. C. then follows with a detailed analysis of canon 822 and concludes that the Church must avail herself of whatever help she can get in order to evangelise not only the faithful but media practitioners. Finally, C. outlines how the Church in the Philippines is developing its role in the humanisation and Christianisation of the media of social communications to the benefit of the Church’s evangelising mission in that country.

BOOK IV: THE SANCTIFYING OFFICE OF THE CHURCH

835

QDE 19 (2006), 244-260: Francesco Grazian: Competenze dell'ordinario, del parroco e dei nubendi nella celebrazione del matrimonio. (Article)

See below, canon 838.

838

AkK 173 2/04, 479-496: Heribert Schmitz: Eucharistie-Liturgisches Disziplinarrecht. (Comment)

S. comments on the Instruction *Redemptionis Sacramentum* of the Congregation for Divine Worship and the Discipline of the Sacraments (25 March 2004). Here he critically examines the document.

838

N XLIII 9-10/06, 441-458: Congregatio de Cultu Divino et Disciplina Sacramentorum: Litterae Circulares. (Letter)

The Congregation publishes the letter sent to presidents of episcopal conferences on 17 October 2006 requiring the formula in the Eucharistic Prayer *pro multis* to be translated in future vernacular editions precisely as “for many” and not “for all”, and for suitable catechesis over the next one to two years. The letter is published in Italian (stated to be the official text), English, Spanish, French, Portuguese, German and Polish.

838

QDE 19 (2006), 228-243: Davide Salvatori: La competenza e i criteri della CEI nell'adattamento del Rito del matrimonio. (Article)

On 19 March 1990 the second typical edition of the *Ordo celebrandi matrimonium* was promulgated in Latin by the Congregation for Divine Worship and the Discipline of the Sacraments. The Italian translation of the *Ordo* came into force on 28 November 2004. S. examines first of all the competence of a bishops' conference to introduce adaptations to a Ritual; and after setting out some general criteria for such adaptation, he looks at the most significant factors inspiring the numerous innovations in the Italian translation,

which aims to be a true work of “inculturation”.

838

QDE 19 (2006), 244-260: Francesco Grazian: Competenze dell’ordinario, del parroco e dei nubendi nella celebrazione del matrimonio. (Article)

The 2004 Italian Rite of Marriage attributes specific competences in the celebration of marriage to the Ordinary, the parish priest, and the spouses themselves. After some general considerations on the liturgical celebration, G. looks at the provisions of the Code and of the 2004 Rite referring to each of these parties. The Ordinary has the task of ensuring that the fundamental objectives of the Rite are achieved; to this end he is to issue general decrees and instructions when necessary. The parish priest has the task of helping the spouses to celebrate their marriage fruitfully and to benefit from the sacramental gift. The Rite reflects the principle that primary responsibility for marriage preparation, and for the actual celebration, falls on the spouses themselves, although there are many areas where the celebrant and spouses are to work in harmony. The whole ecclesial community is also involved in some way in the preparation and celebration of the marriage.

838

SCL II (2006), 33-59: John M. Huels: New Eucharistic Discipline in the Instruction *Redemptionis Sacramentum* and the Need for a Reform of Canons 29-34. (Article)

The main thrust of this article is an analysis of the Instruction *Redemptionis Sacramentum* of 2004. H. takes a thematic approach, looking first at items touching fundamental principles: what is meant by “public” celebration of the Eucharist, the hierarchy of lay ministries (instituted, temporary, other lay ministries), Sunday celebrations in the absence of the priest, Latin or vernacular. He then considers new preceptive and prohibitive norms, newly articulated rights and obligations, grave abuses and reprobated practices. He suggests that certain norms are contrary to universal law, and tries to harmonise them, e.g. the apparent contradiction between the prohibition on weekday Communion services and the provision of a rite to distribute the Eucharist outside of Mass. He concludes that, as is often the case, the Instruction has certain characteristics that more properly belong to a legislative text than a simple Instruction. In his view canons 29-34 do not adequately reflect reality, and need to be recast. He offers a possible amended text.

BOOK IV, PART I: THE SACRAMENTS

840-841

Ang 83 (2006), 685-704: Sebastiano Vileggiate: Il discorso di S.S. Benedetto XVI del 28 gennaio 2006 alla Rota apre la porta al nuovo processo matrimoniale canonico? (Conference presentation)

See below, canons 1671-1691.

844

AkK 174 1/05, 3-18: Heinrich J. F. Reinhardt: Kanonistische Aspekte des ökumenischen Dialogs, vor allem im Hinblick auf die Altkatholiken. (Article)

See above, canon 11.

844

AkK 174 2/05, 353-379: Helmuth Pree: Par cum pari. Rechtliche Implikationen des ökumenischen Dialogs. (Article)

See above, canon 755.

BOOK IV, PART I, TITLE I: BAPTISM

849

AkK 174 2/05, 353-379: Helmuth Pree: Par cum pari. Rechtliche Implikationen des ökumenischen Dialogs. (Article)

See above, canon 755.

861

AnC 2/2006, 229-247: Paweł Mielecki: Posługa diakona w sprawowaniu

sakramentów (= Service of the deacon in administering sacraments).
(Article)

M. deals with various aspects of the role of the deacon in administering the sacrament of baptism, distributing Communion, and witnessing marriages, highlighting a number of differences between the Latin Church and the Eastern Churches.

868

AnC 2/2006, 113-132: Zbigniew Janczewski: Dopuszczanie do chrztu niemowląt aspekcie odpowiedzialności za Kościół (= Admission to baptism of infants and responsibility for the Church). (Article)

The practice of baptising infants dates from the earliest times of Christianity. The requirement for such baptism was deep faith on the part of the parents. At the start of the twenty-first century the practice in Poland and in Europe in general is sometimes to baptise children of Catholic parents who have minimal faith, or no faith at all. Canon 868 states that for a child to be baptised lawfully there should be a well-founded hope that the child will be brought up in the Catholic religion; and that if such hope is truly lacking, the baptism is to be deferred, in accordance with the provisions of particular law. J. states that the parish priest or the minister of the sacrament cannot admit to baptism those children whose parents have no faith. The ministers are responsible for the future of the Church. Future canonical norms should more accurately define the conditions relative to the question of the faith and Christian life of parents who want their children baptised.

868

PCF VIII (2006), 253-264: Javier González: May Children of Unmarried Parents be barred from Baptism? (Consultation)

A parish priest raises a question concerning the implementation of a vicariate policy, which requires, “as a matter of discipline and for pastoral reasons”, that children of parents who are not canonically married may not receive the sacrament of baptism. Apparently, the local bishop has now advised the vicar forane to “relax on the implementation of the said policy”, which, however, is still in effect in the vicariate. G. first reviews three basic issues related to this topic: the stand of the Church on the practice of baptising children; the possible reasons for delaying or even refusing an infant baptism; and whether the children of unmarried parents may be legitimately barred or not from baptism. He then proceeds to offer his observations on the “no marriage, no baptism” policy. While he agrees with the delay of infant baptism in the cases cited, he

does not agree with a systematic refusal.

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

889

AC 47 (2005), 111-118: Jean Passicos: Rapports droit général et particulier: l'admission d'une fidèle adolescente au sacrement de confirmation. Une contribution diocésaine imposée aux paroisses confiées à des religieux. (Article)

P. comments on an appeal against a bishop's refusal to confirm a young girl (in accordance with diocesan policy). The Congregation for Divine Worship and the Discipline of the Sacraments decreed that regulations laid down for the common good must cede to the right of a young person to receive confirmation when she is appropriately instructed and well disposed. See also below, canon 1263.

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

897

SCL II (2006), 33-59: John M. Huels: New Eucharistic Discipline in the Instruction *Redemptionis Sacramentum* and the Need for a Reform of Canons 29-34. (Article)

See above, canon 838.

910

AnC 2/2006, 229-247: Paweł Mielecki: Posługa diakona w sprawowaniu sakramentów (= Service of the deacon in administering sacraments). (Article)

See above, canon 861.

BOOK IV, PART I, TITLE VI: ORDERS

1008-1009

IC XLVI 92/06, 661-674: Juan González Ayesta: *El diaconado: evolución y perspectivas*. Una relectura desde el Derecho canónico del documento de la Comisión Teológica Internacional. (Commentary)

G.A. comments on the 2003 document of the International Theological Commission on the diaconate, highlighting those sections of the document which refer to the functions of the deacon, the sacramentality and sacramental character of the diaconate, and the relationship of the diaconate to the episcopal ministry.

1009

ELJ VIII 39 7/06, 406-424: Norman Doe: *Ordination, Canon Law and Pneumatology: Validity and Vitality in Anglican Roman Catholic Dialogue*. (Article)

D. sets out to examine alongside each other the ritual elements of the liturgy for the ordination of priests in both the Anglican and Catholic Churches in their respective canonical contexts. He proposes the value of a pneumatological approach for possible Catholic recognition of the vitality of Anglican orders.

1031-1032

N XLIII 9-10/2006, 459-462: *Congregatio de Cultu Divino et Disciplina Sacramentorum: Litterae Congregationis*. (Letters)

The text is given of two letters from the Congregation for Divine Worship to the bishop of San Cristóbal de las Casas in Mexico, dated 26 October 2005 and 26 September 2006 respectively (see also *Canon Law Abstracts* no. 97, p. 74). Both the diocesan pastoral plan and the diocesan directory for the formation of permanent deacons are ruled out of order for proposals to advance permanent deacons to the priesthood after suitable formation.

1041

SC 40 1/06, 31-42: William H. Woestman: *Sexual Abuse of a Minor as an Irregularity for Orders. A Magic Bullet?* (Article)

The clerical sexual abuse of minors has precipitated new proposals for a

canonical response to these tragic situations. Since the *ius vigens* does not always provide for an adequate response, there is a need for the Church to adapt her legislation in order to respond to new pastoral challenges and needs. It has been proposed that when a cleric offends against the sixth commandment of the Decalogue with a minor under eighteen years, an irregularity both for the reception and the exercise of orders is an expeditious response to this crisis. W. seeks to contribute to this discussion by identifying the disadvantages which would result from such proposals for new irregularities for orders. He believes that these proposals would not produce a positive result.

1044

SC 40 1/06, 31-42: William H. Woestman: Sexual Abuse of a Minor as an Irregularity for Orders. A Magic Bullet? (Article)

See above, canon 1041.

1051-1052

SCL II (2006), 19-25: Congregation for Catholic Education: Instruction Concerning the Criteria for the Discernment of Vocations with Regard to Persons of Homosexual Tendencies in View of Their Admission to the Seminary and to Holy Orders. (Instruction)

See above, canon 241.

BOOK IV, PART I, TITLE VII: MARRIAGE

1055

AkK 174 1/05, 50-74: Elisabeth Kandler-Mayr: Rechtliche Fragen im Zusammenhang der Eheschließung zwischen Muslimen und Katholiken – Aus der Praxis des Kirchengengerichtes. (Article)

An important new dimension of Christian-Moslem relations is the growing presence of Moslem immigrants in the traditionally Christian Western countries. This has become a major challenge to the Church in these countries, where there are Moslems from many different parts of the world. Regarding interreligious marriages, both Catholics and Moslems recognise the risks involved in attempting to establish a good and peaceful union based on mutual respect and a

recognition of the rights of both parties: there is always the danger of losing one's own faith, or worse, experiencing pressure to leave one's faith. After showing the different religious concepts of Christian and Moslem marriage, as well as the position of husband and wife in marriage and the family, K.-M. refers to the laws of different States, based on the ideas of the Koran. Finally she sets out various tribunal experiences which show the possible relevance of these different concepts of marriage.

1055

AnC 2/2006, 211-227: Andrzej Wójcik: *Covenant marriage law – cywilne prawo małżeńskiego przymierza w Stanach Zjednoczonych* (= A covenant marriage law in the United States). (Article)

W. describes the civil legislative initiative in the United States known as *Covenant Marriage Law*, which introduces a new kind of civil marriage, not so easily dissoluble as the existing type. He also sets out the position adopted by the Catholic Church in the State of Louisiana regarding the civil formalisation of canonical marriage: a position which allows Catholics the possibility of freely choosing between the old and new forms of marriage. In the second part of the article W. attempts to evaluate both the new initiative and the position adopted by the Church within the context of the canonical concept of marriage and the relationship between the civil and canonical legal orders, taking into account especially the non-existence in the civil order of an absolutely indissoluble form of marriage.

1055

Ang 83 (2006), 835-843: Sebastiano Villeggiante / Bruno Esposito: *I diritti umani dei figli di Dio: pensieri di fine anno. Con un saluto a Mons. José M. Serrano-Ruiz*. (Address)

See above, General Subjects.

1055

INT 12 1/06, 2-13: Inge Mager: “‘Ich bin dein und du bist meyn’, das ist die ehe”; Martin Luthers Eheauffassung und ihre ethischen und rechtlichen Nachwirkungen. (Article)

See above, Historical Subjects (*16th-18th centuries*).

1055

INT 12 1/06, 15-23: Jorge Splott: Die evangelischen Räte in der Ehe?
(Article)

S. argues that the spirit of the counsels of poverty, chastity and obedience can be lived out in married life, the first by living a simple life, and by a lifelong sharing with each other and with family; the second by a deep thankfulness for the other and by seeking that other's good; the third by listening to, and valuing, the other person. This way of life would curb a desire for possessions, love or power which can be destructive.

1055

INT 12 1/06, 25-36: Frans J. H. Vosman: Can the Church Recognize Homosexual Couples in the Public Sphere? (Article)

V. sets out the moral teaching of the Church in regard to homosexuality. He argues that, within that moral and pastoral context, the Church could acknowledge homosexuals in the public area and recognise the values, such as justice, care and mutual support, which they contribute to society. What is a good, he says, should be accepted for what makes it a good.

1055

LJ 157/06, 7-16: Clarence Gallagher: Marriage in Eastern and Western Canon Law. (Article)

G. discusses the canon law on marriage as reflected in the canonical legislation of the first millennium, based on two fundamental collections. He contrasts Eastern and Western approaches as to the nature of Christian marriage, divorce and remarriage, and mixed marriages.

1055

QDE 19 (2006), 272-294: Eugenio Zanetti: La versione italiana del nuovo Rito del matrimonio alla luce della dottrina e disciplina cattolica. (Article)

Z. offers some theological and canonical considerations on the Italian version of the *editio altera* of the Rite of Marriage. He focuses in particular on the changes and adaptations introduced in respect of the ministers of the sacrament, the "constitutive cause" of the marriage (the consent of the spouses), and the socio-cultural circumstances in which marriages take place today.

1055

SC 40 1/06, 43-70: Augustine Mendonça: Exclusion of the *Bonum coniugum*: A Case Study. (Article)

See below, canon 1101.

1055

SCL II (2006), 297-321: Apostolic Tribunal of the Roman Rota: Exclusion of *Bonum coniugum*: Decision *coram* Turnaturi, 13 May 2004 (Italy). (Sentence)

See below, canon 1101.

1055-1056

QDE 19 (2006), 416-436: Massimo Mingardi: L'esclusione della sacramentalità matrimoniale. (Article)

See below, canon 1101.

1057

QDE 19 (2006), 272-294: Eugenio Zanetti: La versione italiana del nuovo Rito del matrimonio alla luce della dottrina e disciplina cattolica. (Article)

See above, canon 1055.

1060

SCL II (2006), 323-370: Apostolic Tribunal of the Roman Rota: Non-Existence of Marriage: Decision *coram* De Angelis, 3 June 2005 (Portugal). (Sentence)

See below, canon 1116.

1063-1064

QDE 19 (2006), 244-260: Francesco Grazian: Competenze dell'ordinario, del parroco e dei nubendi nella celebrazione del matrimonio. (Article)

See above, canon 838.

1084

ELJ VIII 39 7/06, 425-437: Aidan McGrath: A Question of Interpretation: The Roman Rota and the Theology of Marriage. (Article)

McG. examines the case of Apostolic Brief *Cum frequenter*, issued by Pope Sixtus V on 27 June 1587. The document responded to a very specific query concerning the capacity for marriage of men who had been castrated. The interpretation (and, McG. argues, misinterpretation) of the letter defined the Church's concept of marriage in general and its understanding of the impediment of impotence for four centuries. In the twentieth century, several judges and canonists refused to take at face value the conclusions offered by other judges and learned authors, and decided to carry out their own analysis of the document in question. This resulted in a complete reversal of the way in which marriage cases were considered by the Roman Rota, and contributed to the emergence of a much richer and more integrated theology of marriage.

1086

AkK 174 1/05, 50-74: Elisabeth Kandler-Mayr: Rechtliche Fragen im Zusammenhang der Eheschließung zwischen Muslimen und Katholiken – Aus der Praxis des Kirchengengerichtes. (Article)

See above, canon 1055.

1086

AkK 174 2/05, 502-509: Heribert Schmitz: Kirchenaustritt als „actus formalis“. Zum Rundschreiben des Päpstlichen Rates für die Gesetzestexte vom 13. März 2006 und zur Erklärung der Deutschen Bischofskonferenz vom 24. April 2006. (Commentary)

S. comments on a circular letter of the Pontifical Council for Legislative Texts dated 13 March 2006, and a statement of the German Bishops' Conference dated 24 April 2006, which deal with the canonical term “defection from the Catholic faith by a formal act”, and the consequences of leaving the Church according to civil law.

1086

AnC 2/2006, 179-194: Piotr Steczkowski: Wystąpienie z Kościoła katolickiego aktem formalnym w świetle dokumentu Papieskiej Rady ds. Tekstów Prawnych z 13 marca 2006 r (= Abandonment of the Catholic Church by a formal act in the light of the document of the Pontifical

Council for Legislative Texts of 13 March 2006). (Article)

On 13 March 2006 the Pontifical Council for Legislative Texts published a notification aimed at clarifying the concept of *actus formalis defectionis ab Ecclesia catholica*. This notification, with the approval of Pope Benedict XVI, was immediately transmitted to all presidents of episcopal conferences, as an official document to be applied in the local Churches. In the first part of his article, S. sets out the structure and content of the notification, which consists of a short introductory section, seven points which make up the central body of the text, and a concluding reference to the pastoral value of the provisions of the document. S. then goes on to examine the doctrinal and juridical significance of the document, focusing in particular on the concept of “formal act” from a doctrinal as well as a juridical-formal viewpoint. He makes a number of criticisms of the text, especially where he considers it to be somewhat ambiguous and lacking in clarity; and he ends with the proposal that the formula *actus formalis defectionis ab Ecclesia catholica* should be suppressed from the Code.

1086

QDE 19 (2006), 261-271: Alessandro Giraud: Rito del matrimonio tra una parte cattolica e una parte catecumena o non cristiana. (Article)

The 2004 Rite of Marriage prepared by the Italian Bishops’ Conference includes provision for the celebration of “interreligious” marriages, where the appropriate dispensation from the impediment of disparity of cult has been obtained. In analysing the Rite, G. looks briefly at the pastoral praxis and documentation which should precede the celebration, before going on to compare the Italian edition to the *editio typica latina altera* of 1990.

1086

SCL II (2006), 15-17: Pontifical Council for Legislative Texts: Notification on *actus formalis defectionis ab Ecclesia catholica*. (Notification)

Through this notification directed to all presidents of episcopal conferences, and approved *in forma communi*, the Pontifical Council seeks to clarify the meaning of an “act of formal defection”. For such an act to be verified there must be: the internal decision to leave the Catholic Church; the realisation and external manifestation of that decision; and the reception of that decision by the competent ecclesiastical authority. It supposes an act of apostasy, heresy or schism, not a purely administrative measure, placed freely and in the external forum by one canonically capable, and manifested in written form before the Ordinary or proper pastor. Only in such a case should the baptism register be

annotated with a mention of formal defection.

1095

AkK 174 2/05, 478-501: Wilfried Ruff: Psychische Eheunfähigkeit. Ihre psychoanalytische Beurteilung und Begutachtung. (Article)

The interpersonal way of looking at marriage that prevailed at Vatican II is a fundamental precondition for the psychological appraisal of a mental impediment to marriage, which may have manifested itself before the marriage or become apparent in the course of married life. Based on his twelve years' experience as an expert for various marriage tribunals, R. investigates the difficulties that result from such applications, as well as from judgements of mental inability to live married life. R., a psychiatrist and specialist in psychosomatic medicine, discusses the problems mainly in psychoanalytical terms, because such an approach has not yet been used in German literature.

1095

For XVII/06, 47-61: Javier Lozano Barragán: Looking at mental illness from a holistic perspective. (Address)

Cardinal Barragán gave this address to a conference in Adelaide to mark the World Day of Prayer for the Sick. First he provides some health care data with regard to mental illness, and the frequency of occurrence of different kinds of conditions. He then looks briefly at different ways of thinking about mental illness from Taoism and Greek culture, through the Renaissance, before moving on to the specific questions of neuronal synapses and their functions, and a more holistic understanding of the soul. His third section addresses what can be done, from the perspective of mental illness in Christian thought and theology, and practical care for those who are mentally ill.

1095

IE XVIII 2/06, 370-386: Antoni Stankiewicz: Indicazioni circa il can. 1095 nell'Istruzione *Dignitas connubii*. (Lecture)

In the canonical judicial system, procedural norms regulate the fulfilment of the content of the substantive norms; thus they not only determine the form and order which the process is to follow, but they also protect substantive rights. S. directs his thoughts towards five norms in *Dignitas Connubii* that have to do with the incapacity formulated in canon 1095. *Dignitas Connubii*'s concern with this consensual incapacity is due not only to the quantitative increase in cases of nullity before the tribunals, but also to the objective complexity of canon 1095 itself. S. deals with the duties of the defender of the bond, the task of the *periti*

and the criteria for their appointment, the object of the petition as presented in article 209 of the Instruction, and finally the consequences of a finding of consensual incapacity. An English translation of the lecture appears in Patricia M. Dugan / Luis Navarro (eds.): *Studies on the Instruction "Dignitas Connubii"* (see canons 1671-1691, below).

1095

J 66 (2006), 390-435: Vincent Pereira: Christian Anthropology and the Adjudication of Marriage Nullity Cases in the Light of Canon 1095. (Article)

In the 1970s Rulla's *Anthropology of Christian Vocation* took Lonergan's philosophical insights to explain the dimensions of personality. Cormac Burke brought personalist ideas which made their way into the *consortium totius vitae, bonum coniugum* and *humano modo*. The effects of personality disorders have been analysed in Rotal jurisprudence since 1980. Canon 1095 has a central position in Christian anthropology.

1095

Patricia M. Dugan / Luis Navarro (eds.): Studies on the Instruction Dignitas Connubii. Proceedings of the Study Day Held at the Pontifical University of the Holy Cross, Rome, January 19, 2006. (Book)

See below, canons 1671-1691.

1095 2°

REDC 62 159/05, 694-718: c. Santiago Panizo Orallo: Tribunal de la Rota de la Nunciatura Apostólica: nulidad de matrimonio (miedo grave, defecto de discreción de juicio, falta de libertad interna, incapacidad para asumir las obligaciones), 18 de marzo de 2000. (Sentence)

The families of both the petitioner and the respondent had been extremely close to each other for many years in social contacts, religious values and political convictions. The male petitioner's family was a rigid and disciplined one where "freedom was given but controlled", where what was expected of one (but unsaid) was to be done. He himself was a particularly introverted and shy young man who knew that the expectation of both families was that he would marry the respondent, thus bringing the families even closer together. The marriage lasted less than four years. A *non constat* was given at first instance on the ground of reverential fear and the secondary grounds of grave lack of discretion and lack of internal freedom, all in the petitioner. The appeal court had now added the ground of his inability to assume. The *ponens* in his *in iure* gives a

well structured treatment of reverential fear, and lack of internal freedom. The decision was negative on reverential fear but the evidence showed that at the time of consent the petitioner was in effect a passive subject, carried along by the unspoken but very clear expectations of both families, compounded by his own natural and willing submissiveness. At that time he was incapable of exercising genuine self-determination or autonomy. A positive decision was given under canon 1095 2° based on his lack of internal freedom.

1095-1103

SCL II (2006), 85-124: Augustine Mendonça: Substantive and Procedural Jurisprudence of the Roman Rota as Reported in Its *Relazione Annuale* 2005. (Article)

See below, canons 1400-1691.

1095 2°

For XVII/06, 196-217: Metropolitan Tribunal of Malta: *coram* Said Pullicino, August 26, 2005: Lack of Discretion of Judgement. (Sentence)

This case concerned a male petitioner who had suffered from his early teens from serious kidney disease. His condition deteriorated rapidly after the wedding, with the result that he needed dialysis, and eventually a kidney transplant. Following this his whole personality was transformed: he became sexually demanding, was unfaithful, and abandoned his wife. In view of the clear medical evidence and circumstances his case was heard out of sequence (canon 1458), and without further expertise. There is detailed argumentation about the potential psychological impact of kidney failure on the various systems of the body, but especially neurologically. Blood poisoning can lead to cognitive and motor impairment and alterations of character, the symptoms including speech impairment, deterioration of memory, depression and paranoia. These are often intermittent at first and most noticeable immediately after dialysis. Global dementia can set in, followed by death between six and fifteen months later. The key to this case was not only the medical history prior to the wedding, but also the sudden transformation after the transplant. The decision was affirmative. A veto was imposed requiring a nephrological assessment as well as psychological testing.

1095 2°

SC 40 1/06, 211-244: Apostolic Tribunal of the Roman Rota: Decision *coram* Defilippi, 19 January 2004 (Dublin). (Sentence)

The couple married after a three-year courtship. Within a few months, there

were difficulties in the marriage. The wife began new employment in a different city and lived in the marital home at weekends only, and the husband became very absorbed with athletics. Thirteen months after the wedding, the wife became attracted to another man and left her husband. The husband lodged a complaint of nullity at the Dublin tribunal on the ground of grave lack of discretion of judgement on the part of both parties. The respondent refused a psychological interview. A negative sentence was issued on both alleged grounds of nullity. The petitioner lodged an appeal, which was accepted on the ground of lack of due discretion on the part of both the petitioner and respondent. An affirmative decision was reached on both alleged grounds. The defender of the bond appealed to the Roman Rota.

The law section reflects upon the jurisprudence of grave defect of discretion of judgement, noting the necessity of a harmonious functioning of both will and intellect. When applied to discretion of judgement, there is not only a speculative judgement about the conjugal partnership, but also a practical evaluation, which involves a realistic view of the human person. Defect of judgement can be admitted when one of several criteria is verified: sufficient intellectual knowledge about marital consent is lacking; the contractant has not reached the sufficient evaluation proportionate to the conjugal contract; or the contractant lacks internal freedom to deliberate sufficiently the motives and also the autonomy of the will from any internal impulse (citing Pompedda). The defect of discretion of judgement must be “grave”. The role of the court expert is also discussed, with a reminder that it is the judge who makes the decision.

The Rotal decision reflects at length on the proposed grounds on the part of both the man and the woman. The court also considered whether the parties made a practical judgement about their future marriage. It was not made in a hasty manner and they both believed they could enjoy a happy conjugal life. The opinions of several experts were also incorporated into the proceedings. The court did not find any proof of defect of discretion of judgement on the part of either party. A negative decision was delivered.

1095 2°-3°

QDE 19 (2006), 318-322: Luigi Barolo: Cause psichiche e nullità del matrimonio. II. Il disturbo bipolare. (Article)

B. looks at the effect that bipolar disorder – traditionally known as manic-depressive illness – has on an individual’s capacity to contract valid marriage. After a brief description of the illness he studies the development of Rotal jurisprudence in this area. He concludes that a person who is suffering seriously from bipolar disorder at the moment of giving marital consent is incapable of taking a decision that is the fruit of sufficient interior freedom and ponderation. Bipolar disorder, being an “endogenous” condition (one that originates from within rather than from external causes), never disappears. Nevertheless, there

may be true periods of remission of the symptoms, which allow the individual to recover a state of substantial normality. If the marriage takes place in such a period of remission, it may well be that there was a free and pondered decision. Bipolar disorder may also be relevant in connection with canon 1098: a sufferer who is aware of the illness prior to the wedding must inform the other spouse, as silence in such an important matter could be taken as indicating a desire to deceive the other party concerning a quality which could seriously disrupt conjugal life. More complex is the question of how bipolar disorder may affect a person's capacity to assume the essential obligations of marriage, especially in situations in which the individual is "in denial" regarding his or her condition.

1095 2°-3°

REDC 62 159/05, 719-732: c. Francisco Gil Delgado: Tribunal interdiocesano de Primera Instancia de la archidiócesis de Sevilla, nulidad de matrimonio (defecto de discreción de juicio e incapacidad para asumir las obligaciones), 4 de enero de 2003. (Sentence)

The courtship lasted eight years, the marriage six months. The male petitioner, a long-distance truck driver, who was absent for work reasons much of the time, was an excessively submissive and passive type of individual. The respondent was quite the opposite, aggressively assertive in the relationship yet very much under the control and influence of her family. Rather than a courtship leading to genuine love the couple simply kept company together. In his *in iure* section G.D. deals with the situation concerning the essential obligations of marriage arising not from some psychological incapacity but from an act of will in a normal and balanced personality, imposing on the marriage characteristics which subvert and undermine the essential content of true marriage. Such was the case here where the respondent saw the marriage simply as a way of gaining independence from her family and lording it over her submissive husband. Both also suffered from long-standing, constitutive emotional immaturity. A positive decision for nullity was delivered on both grounds and for both parties.

1095 2°-3°

REDC 62 159/05, 733-757: c. Celestino Carrodegua Nieto: Tribunal de la archidiócesis de Toledo, nulidad de matrimonio (defecto de discreción de juicio e incapacidad para asumir las obligaciones), 28 de noviembre de 2005. (Sentence)

The courtship lasted three years, the first two of which were spent by the female petitioner in a children's home until her eighteenth birthday because of a broken home (father alcoholic, mother chronically ill). On leaving the children's home she went to stay with her mother (separated now from her husband) but as this arrangement was unsustainable she decided to marry the respondent. The

marriage lasted two years. C.N. examines the concept of psychological immaturity in the context of grave lack of discretion, emphasising that not every lack of discretion provides grounds for nullity but only that which deprives marriage consent of its true content. In dealing with inability to assume he also points out that as well as properly-called mental illnesses, personality problems may render marriage invalid if they are serious enough to make a true partnership of life impossible. The decision in this case was for nullity on both alleged grounds.

1095 2°-3°

SC 40 1/06, 183-210: Apostolic Tribunal of the Roman Rota: Decision *coram* Ferreira, 12 October 2001 (Bogotá). (Sentence)

See below, canon 1101.

1095 3°

For XVII/06, 150-195: Apostolic Tribunal of the Roman Rota: *coram* Stankiewicz October 25 2001: Reverential Fear, Exclusion of Indissolubility, Inability to Assume. (Sentence)

See below, canon 1103.

1098

PCF VII (2005), 55-90. Augustine Mendonça: Recent Rotal Jurisprudence on the Ground of Deceit. (Article)

The ground of deceit does not feature widely among the grounds most frequently pleaded in marriage nullity cases. Nevertheless, there has been a sufficient number judged at the Roman Rota since the promulgation of the 1983 Code to provide a foundation on which to explore the complexities of canon 1098 and its application in these cases. M. selects five cases, summarises them, and then analyses them for their unique features in the context of the norms of canon 1098.

1098

QDE 19 (2006), 318-322: Luigi Barolo: Cause psichiche e nullità del matrimonio. II. Il disturbo bipolare. (Article)

See above, canon 1095 2°-3°.

1101

For XVII/06, 150-195: Apostolic Tribunal of the Roman Rota: *coram* Stankiewicz October 25 2001: Reverential Fear, Exclusion of Indissolubility, Inability to Assume. (Sentence)

See below, canon 1103.

1101

J 66 (2006), 436-468: Lynda Robitaille: Defective Validations of Marriages Lacking Canonical Form: An Interpretation of Total Simulation. (Article)

See below, canon 1160.

1101

PCF VIII (2006), 107-140: Augustine Mendonça: Exclusion of *Bonum Coniugum*: A Case Study. (Article)

A very complex case was presented to a first instance tribunal, pleading the grounds of total simulation and exclusion of the *bonum coniugum* on the part of the respondent. The first instance court gave an affirmative decision on the ground of exclusion of *bonum coniugum*. The appeal tribunal overturned this decision and dismissed the ground of total simulation with a negative decision. The petitioner appealed to the Rota, which decreed that the respondent had, by a positive act of the will, excluded the “communion of life and of conjugal love”, i.e., the *bonum coniugum*. The Rotal sentence, *coram* Turnaturi, identified and analysed the juridical principles applicable to this ground, provided a critical analysis of the facts of the case, and addressed some of the issues raised by the defender of the bond and the second instance court. M. analyses this sentence in detail, agrees that the decision is to be considered just and equitable, and concludes that, despite the complexities of the case, the sentence consolidates the juridical principles already developed in other Rotal sentences on the ground of exclusion of the *bonum coniugum*.

1101

QDE 19 (2006), 416-436: Massimo Mingardi: L'esclusione della sacramentalità matrimoniale. (Article)

M. takes as his starting point the 2003 address to the Roman Rota in which Pope John Paul II, dealing with the sacramentality of marriage, stated that “an attitude on the part of those getting married which does not take into account the supernatural dimension of marriage can render it null and void only if it

undermines its validity on the natural level”, and that “alongside natural marriage, one cannot describe another model of Christian marriage with specific supernatural requisites”. M. first examines the *status quaestionis* of the various views as to whether or not exclusion of sacramentality invalidates marriage, and then outlines some of the theological considerations that underpin the position set out by the Pope – a position which, while strongly supported by the teachings of the Second Vatican Council, is in fact very much in accordance with the view commonly held by canonists prior to the Council. M. ends his article with a quotation from Mgr Cormac Burke to the effect that natural marriage does not involve a “lesser” degree of commitment or self-giving than sacramental marriage: what sacramentality does is to enrich the marriage with special help from above to enable the spouses to achieve the happiness which marriage promises.

1101

REDC 62 159/05, 759-813: c. Juan Agustín Sendín Blázquez: Tribunal de la diócesis de Plasencia, nulidad de matrimonio (defecto de discreción de juicio, falta de libertad interna, incapacidad para asumir las obligaciones, exclusión de la prole, de la indisolubilidad y de la fidelidad), 2 de abril de 2001. (Sentence)

This long sentence (it runs to fifty-four pages) deals with a case in which the respondent, months before the wedding, fell in love with another woman. However as the wedding was imminent and all was prepared in lavish style he could not bring himself to disappoint the families or his fiancée. The marriage was duly celebrated but he fully intended to continue his extra-marital relationship. Although other grounds of nullity were alleged (grave lack of discretion, lack of internal freedom, inability to assume, intention *contra bonum prolis* and *contra bonum sacramenti*) S.B. concentrates in his *in iure* section on intention *contra bonum fidei* as this was the only ground providing a firm basis for a positive decision of nullity. He quotes extensively from Rotal jurisprudence on all aspects of the *bonum fidei* and the requirements for proof of its exclusion.

1101

REDC 62 159/05, 816-832: c. José Joaquim Almeida Lopes: Tribunal de la diócesis de Oporto, nulidad de matrimonio (defecto de discreción de juicio, exclusión del matrimonio o de algunas de sus propiedades esenciales y miedo grave), 27 de marzo de 1998. (Sentence)

The male respondent, baptised into the Catholic Church in infancy, had abandoned the Faith and joined a pseudo-philosophical Gnostic sect. Even though he married in the Church for the sake of the petitioner and her family he

understood and accepted marriage only on the basis of his own sect's ideas and teachings. He completely refused to have sexual intercourse since he believed orgasm and ejaculation would diminish his "life energy" and he therefore also excluded the possibility of having children. A positive decision was returned for nullity on his intention *contra bonum prolis*. The other grounds (grave lack of discretion and fear) were not proven. The text of the sentence is in Portuguese.

1101

SC 40 1/06, 43-70: Augustine Mendonça: Exclusion of the *Bonum coniugum*: A Case Study. (Article)

This article is an analysis of the decision *coram* Turnaturi (13 May 2004) which was decided on the ground of the exclusion of the *bonum coniugum*. This is the third case heard by the Rota on this ground since the promulgation of the 1983 Code. The case relates interesting psychological and interpersonal dynamics in the life of the parties, sometimes with contradictory testimony. This Rotal sentence is interesting because it offers an in-depth analysis of the juridical principles applicable to the exclusion of the *bonum coniugum* and provides a critical analysis of the facts of the case. M. concludes that the sentence certainly consolidates the jurisprudential principles already developed in other Rotal sentences on the ground of exclusion of *bonum coniugum*. It reaffirms the principle that the *bonum coniugum* is no longer to be viewed as juridically irrelevant to the covenant of marriage. The present sentence of Turnaturi certainly strengthens the possibility for local tribunals to consider marriage nullity cases on the ground of intention contrary to the *bonum coniugum*.

1101

SC 40 1/06, 183-210: Apostolic Tribunal of the Roman Rota: Decision *coram* Ferreira, 12 October 2001 (Bogotá). (Sentence)

After a two-year friendly engagement, the couple married at the vehement persistence of the woman. The couple separated one year after the wedding. No children were born. The wife presented a petition to the Regional Matrimonial Tribunal. The principal grounds were grave defect of discretion of judgement of the man concerning the essential duties and rights of marriage and/or the incapacity of the man to assume the essential obligations of marriage for causes of a psychic nature. The subordinate ground was exclusion of the good of fidelity on the part of the man. A negative decision on all proposed grounds was received.

The petitioner appealed to the Higher Ecclesiastical Tribunal which issued an affirmative decision on the sole ground of exclusion of the good of fidelity on the part of her husband. The petitioner then appealed to the Roman Rota and the

doubt was formulated to determine whether there was proof of nullity on the ground of exclusion of fidelity, as in canon 1101 §2, on the part of the man. The law section reflects upon the exclusion of some essential property of marriage or intrinsic “good” which is inherent in the natural covenant. More recent Rotal jurisprudence, especially since the 1963 decision *coram* De Jorio, demonstrates that it is sufficient “that the obligation of maintaining fidelity is rejected”. The Rotal decision identifies various forms of the manifestation of the exclusion of the good of fidelity, emphasising also that a positive act of the will is necessary in order to effect an invalidating exclusion, with direct and immediate/historical proof.

The Rota explored whether the respondent had excluded the good of fidelity. The petitioner’s testimony that the respondent continued to seek the company of women he knew prior to the marriage was not convincing to the judges, since it showed no certain exclusion of this good. Even the fact that a certain woman lived in the same house as the parties does not constitute a sign of simulation by the husband. The respondent denied any marital affairs with other women and testified to his desire to enter into a Catholic marriage with his wife. Although the man’s behaviour was disruptive to the marriage, there did not appear to be evidence that married life was seriously affected. The Rota concluded that there was no proof of simulation, and that the husband did understand essentially the obligation of fidelity. The third instance decision was negative.

1101

SCL II (2006), 297-321: Apostolic Tribunal of the Roman Rota: Exclusion of *Bonum coniugum*: Decision *coram* Turnaturi, 13 May 2004 (Italy). (Sentence)

T. considers what is meant by “the good of spouses”, adducing a decision of Stankiewicz to the effect that it refers to those obligations which contribute substantially to the establishment and perpetual sustenance of conjugal communion through mutual psychosexual integration. He then examines what “ordering” towards this means, and the elements of proof. Exclusion of the ordering towards the good of the couple destroys the essence of the conjugal covenant. Marriage to gain control of the other person’s possessions does not of itself exclude the other goods but does not give rise to an equal and interpersonal relationship. There must be clear evidence of the rejection of communion of life. In this case the persistence of the wife’s demands that the house should be registered in her own name was symptomatic of her whole approach. The decision was affirmative.

1103

For XVII/06, 150-195: Apostolic Tribunal of the Roman Rota: *coram*

Stankiewicz October 25 2001: Reverential Fear, Exclusion of Indissolubility, Inability to Assume. (Sentence)

A ten-year courtship was brought to a rapid conclusion when pregnancy led to hastened marriage arrangements. However married life was of short duration, the male petitioner leaving after the baptism of the child. The respondent objected to the case being judged on appeal by the Spanish Rota, and appealed to the Pope, who through the Secretary of State transferred the case to the Roman Rota. S. sets out the classic doctrine on reverential fear in some detail, but observes that in today's society it is more the case that parents are dependent on their children than the reverse, and so such fear is not easily proved. Moreover, it is more than simply a question of marrying to please one's parents. Aversion with regard to the spouse is an important element in proof. Fear can also lead to exclusion of marriage itself or indissolubility, but there must be a positive act of will. The law section on canon 1095 3° concentrates on rebutting theories of mutual incapacity. Incapacity must reside in the individual. Both the first two grounds were given a negative decision, but S. argues that the relationship between the petitioner and his father was indicative of an affectively immature, dependent, egocentric and aggressive individual. The decision was affirmative on the petitioner's inability to assume, and a veto was imposed.

1103

REDC 62 159/05, 694-718: c. Santiago Panizo Orallo: Tribunal de la Rota de la Nunciatura Apostólica: nulidad de matrimonio (miedo grave, defecto de discreción de juicio, falta de libertad interna, incapacidad para asumir las obligaciones), 18 de marzo de 2000. (Sentence)

See above, canon 1095 2°.

1103

REDC 62 159/05, 749-757: c. Adrián González Martín: Tribunal del Arzobispado de Mérida-Badajoz, nulidad de matrimonio (miedo grave), 29 de mayo de 1998. (Sentence)

This is an unusual case to be considered under canon 1103, based as it is not on reverential fear or external force but on excessive compassion. The marriage took place in Mozambique. The petitioner had a particularly weak and passive personality, having been brought up in an orphanage with no father-figure and no affective relationships to enable him to mature normally. He became very close to and dependent on the father of the respondent whom he was courting at the time. When the father died leaving his widow and six children in a state of the utmost poverty his natural feeling of pity for their situation was greatly

compounded and manipulated by the widow to induce him to marry the daughter and so provide some security and income for the family. By this time he had broken off with the respondent because of well-founded rumours about her relationships with other men. Nevertheless he consented to marry her, moved by the family's plight and the entreaties and manipulation of the mother. The decision for nullity was based on the ground of the petitioner's fear of an ongoing and intense sense of guilt if he did not marry. This was so especially given his weak personality which rendered this prospect a genuine source of great fear for him from which he saw no other means of escape but marriage. Yet his aversion to the marriage was seen in his earlier decision to end the relationship and his continued discontent for the duration of the marriage itself.

1108

AnC 2/2006, 229-247: Paweł Mielecki: Posługa diakona w sprawowaniu sakramentów (= Service of the deacon in administering sacraments). (Article)

See above, canon 861.

1108

LJ 157/06, 7-16: Clarence Gallagher: Marriage in Eastern and Western Canon Law. (Article)

See above, canon 1055.

1116

SCL II (2006), 323-370: Apostolic Tribunal of the Roman Rota: Non-Existence of Marriage: Decision *coram* De Angelis, 3 June 2005 (Portugal). (Sentence)

This most unusual case concerned a couple who were living together and were thought by many relatives to be married. They made plans to marry, but a few days beforehand the man was taken ill and died. The woman claimed that they had contracted marriage on his death-bed according to the extraordinary form of marriage. Inheritance matters depended on whether or not they were married, a fact disputed by members of the man's family. Unlike a petition for nullity, which cannot be considered after the death of one of the spouses, the question of whether or not a marriage actually took place can be. Marriage only enjoys the favour of the law if it can be shown to have taken place. There were conflicting accounts of the man's last hours. The criteria for the use of the extraordinary form of marriage were examined, and the judges were satisfied

that these were met. There was no doubt that both parties wanted to be married. What was not proven was that the man was aware of the seriousness of his condition, and that his words were expressions of consent *de praesenti* rather than *de futuro*. The judges found that the existence of the marriage was not proved, but ordered the heirs to honour the dead man's will and make financial provision for the woman in accordance with it.

1116

QDE 19 (2006), 272-294: Eugenio Zanetti: La versione italiana del nuovo Rito del matrimonio alla luce della dottrina e disciplina cattolica. (Article)

See above, canon 1055.

1117

AkK 174 2/05, 502-509: Heribert Schmitz: Kirchenaustritt als „actus formalis“. Zum Rundschreiben des Päpstlichen Rates für die Gesetzestexte vom 13. März 2006 und zur Erklärung der Deutschen Bischofskonferenz vom 24. April 2006. (Commentary)

See above, canon 1086.

1117

AnC 2/2006, 179-194: Piotr Steczkowski: Wystąpienie z Kościoła katolickiego aktem formalnym w świetle dokumentu Papieskiej Rady ds. Tekstów Prawnych z 13 marca 2006 r (= Abandonment of the Catholic Church by a formal act in the light of the document of the Pontifical Council for Legislative Texts of 13 March 2006). (Article)

See above, canon 1086.

1117

SCL II (2006), 15-17: Pontifical Council for Legislative Texts: Notification on *actus formalis defectionis ab Ecclesia catholica*. (Notification)

See above, canon 1086.

1124

AkK 174 2/05, 502-509: Heribert Schmitz: Kirchenaustritt als „actus

formalis“. Zum Rundschreiben des Päpstlichen Rates für die Gesetzestexte vom 13. März 2006 und zur Erklärung der Deutschen Bischofskonferenz vom 24. April 2006. (Commentary)

See above, canon 1086.

1124

AnC 2/2006, 179-194: Piotr Steczkowski: Wystąpienie z Kościoła katolickiego aktem formalnym w świetle dokumentu Papieskiej Rady ds. Tekstów Prawnych z 13 marca 2006 r (= Abandonment of the Catholic Church by a formal act in the light of the document of the Pontifical Council for Legislative Texts of 13 March 2006). (Article)

See above, canon 1086.

1124

SCL II (2006), 15-17: Pontifical Council for Legislative Texts: Notification on *actus formalis defectionis ab Ecclesia catholica*. (Notification)

See above, canon 1086.

1125-1129

QDE 19 (2006), 261-271: Alessandro Giraud: Rito del matrimonio tra una parte cattolica e una parte catecumena o non cristiana. (Article)

See above, canon 1086.

1134

SC 40 1/06, 183-210: Apostolic Tribunal of the Roman Rota: Decision *coram* Ferreira, 12 October 2001 (Bogotá). (Sentence)

See above, canon 1101.

1141

TyV XLVII 4/06, 405-422: J. Silvio Botero G.: El cónyuge abandonado sin culpa: Algunas pistas de solución. (Article)

B. looks at the problem of the innocent abandoned spouse, setting out certain “analogies” from Church history, law, and theological reflection, that might help

in the search for a solution, and suggesting possible new approaches based on the ethical conscience of the human person.

1141-1150

EE 81 (2006), 699-723: Carmen Peña García: La disolución pontificia del matrimonio *in favorem fidei*: Cuestiones sustantivas y procesales. (Article)

The Instruction *Potestas Ecclesiae* of the Congregation for the Doctrine of the Faith (30 April 2001) contains the new procedural norms to be observed in the administrative process for the pontifical dissolution of a non-sacramental marriage. P.G. analyses this process, excluded from the Code of Canon Law, trying to solve some difficulties and questions caused by the new Norms: what are the conditions needed for the validity of the dissolution? Can the non-sacramental matrimonial bond be dissolved without the intention to celebrate a new marriage? What are the effects of the pontifical rescript?

1141-1150

REDC 62 159/05, 425-457: Juan Goti Ordeñana: El proceso para la disolución del vínculo matrimonial en favor de la fe. (Article)

G.O. provides the Latin text of the *Normae de conficiendo processu pro solutione vinculi matrimonialis in favorem fidei* followed by his detailed commentary. He briefly considers the requirements for the Pauline Privilege, based on 1 Cor 7:15, to which further developments were introduced in the sixteenth century for certain territories; these regulations were extended to the universal Church in the 1917 Code. Most of his commentary deals with the so-called Petrine Privilege, the dissolution of marriage in certain circumstances by the Roman Pontiff. This is based on the principle that the *lex suprema Ecclesiae salus animarum* and that accordingly a naturally valid but non-sacramental marriage may be dissolved to allow one of the spouses to enter a new sacramental marriage, or that the dissolution of the marriage of two non-baptised persons may be undertaken for the spiritual benefit of a third baptised party. G.O. comments on the conditions, requirements and norms for each of the eventualities arising. The decision is neither judicial nor administrative (although the presentation of the case now follows a clearly defined administrative process) but a favour, a grace granted by the Roman Pontiff using his vicarious power in matters of divine law.

1148

PCF VIII (2006), 65-106: Vicente R. Uy: The Principle of Equity in the Code of Canon Law. (Article)

See above, canon 19.

1160

J 66 (2006), 436-468: Lynda Robitaille: Defective Validations of Marriages Lacking Canonical Form: An Interpretation of Total Simulation. (Article)

R. takes two recent Rotal decisions, one by Boccafola in 1998, the other by Turnaturi in 2002. There is a difference between the two sentences. The decision by Boccafola holds that marriages lacking canonical form are to be considered inexistent, and because they are inexistent they are not invalid. So-called “validation” is a fiction. The consent exchanged in the validation is, in reality, a first exchange of consent. Traditionally jurisprudence considers defect of consent not only under the ground of defective validation (canon 1160), but primarily as total simulation (canon 1101) which requires proof of a positive act of the will. R. has a lengthy section on terminology and an extended account of the ongoing debate on the issue.

BOOK V: THE TEMPORAL GOODS OF THE CHURCH

1254-1310

AC 47 (2005), 7-36: Velasio De Paolis: Les bien temporels au regard du Code de Droit Canonique. (Article)

Church-State conflicts led the 1917 Code to stress Church rights vis-à-vis the State. Given the classical terminology – *personae, res, actiones* – temporal goods fell into the category of *res*. Book V of the 1983 Code must be read in the light of Vatican II and the principle of subsidiarity. “Temporal goods” is the area of canon law that reflects the human dimension of the Church. What makes goods “ecclesiastical” is their ownership and the supernatural purpose to which they are dedicated. Only those goods that belong to public juridical persons are “ecclesiastical”. Though such entities obtain civil recognition this does not change their canonical character and the jurisdiction that canon law has in their regard. The civil law must be observed out of prudence. De P. notes that canon law, unlike civil law, requires good faith, that is, the absence of sin, for prescription to be valid (canon 198).

1257

AC 47 (2005), 51-62: Olivier Échappé: Les “biens” des associations d’église. (Article)

To refer a private juridical person (in France) to its “own statutes” is, in practice, to leave the matter to civil law, which sees associations as

constitutional, private and, once recognised, as enjoying moral personality. Since 1905 Catholic schools, which in canon law are public juridical persons, are vested civilly in associations. How to reconcile the civil and canonical status of associations is a moot point.

1263

AC 47 (2005), 111-118: Jean Passicos: Rapports droit général et particulier: L'admission d'une fidèle adolescente au sacrement de confirmation. Une contribution diocésaine imposée aux paroisses confiées à des religieux. (Article)

A group of superior generals appealed against the decree of an archbishop imposing a levy of ten per cent on all income of parishes, including those assigned to religious. In a decree of 8 February 2000 the Pontifical Council for Legislative Texts upheld the decision of the archbishop, noting however that personal Mass offerings are not subject to a levy. See also above, canon 889.

1263

Arturo Cattaneo (ed.): L'esercizio dell'autorità nella Chiesa. Riflessioni a partire dall'esortazione apostolica «Pastores gregis». (Book)

See above, canon 381.

1274

AC 47 (2005), 37-50: Philippe Greiner: Les biens des paroisses dans le contexte des diocèses français. (Article)

Given the poverty of many parishes and demographic changes, pastoral activities and their financial support are the duty of the deanery; to ensure equity, some dioceses have set up interparochial arrangements; some opted for a centralised financial structure; others opted for more parochial autonomy. Many French dioceses have a common fund for Mass offerings at parish, deanery or diocesan level, in order to ensure a fair share of income. There are various ways of paying the salaries of pastoral workers; in Angers the parish pays two thirds and the diocese one third. While the *Guide juridique et administrative à l'usage des diocèses et des paroisses de France* (1998) contains norms for the administration of Church property, dioceses also have statutes. In some dioceses, duties of the parish priest (for example, the signing of cheques) can be delegated to a lay member of the parish finance council. Nantes has norms for arbitration in the event of conflict. Dioceses also have norms for interparochial solidarity.

1276

Arturo Cattaneo (ed.): L'esercizio dell'autorità nella Chiesa. Riflessioni a partire dall'esortazione apostolica «Pastores gregis». (Book)

See above, canon 381.

1292

AC 47 (2005), 63-74: Giorgio Feliciani: La notion de bien culturel en droit canonique. (Article)

F. traces the development of the term “cultural goods”, from Cardinal Pacca’s 1820 decree and canon 1492 §2 of the 1917 Code. *Gaudium et Spes*, 56, uses the broad concept of “cultural goods”; *Regimini Ecclesiae Universae* (1967) and a 1971 circular letter of the Congregation for Clergy refer to “artistic patrimony”. The 1983 Code refers to things “which are precious by reason of their artistic or historical importance” (canon 1292 §2). *Pastor Bonus* 99-104 offers no definition. The motu proprio *Inde a pontificatus nostri initio* (1993), art. 4, uses “cultural goods”. This topic is covered in Concordats with individual States in recent decades.

BOOK VI: SANCTIONS IN THE CHURCH

1389

IE XVIII 2/06, 524-527: Arcivescovo Moderatore del Tribunale Ecclesiastico Regionale: Decreto di ammonizione di un avvocato, 29 giugno 2006. (Document)

See below, canons 1717-1719.

1391

IE XVIII 2/06, 524-527: Arcivescovo Moderatore del Tribunale Ecclesiastico Regionale: Decreto di ammonizione di un avvocato, 29 giugno 2006. (Document)

See below, canons 1717-1719.

1395

SC 40 1/06, 31-42: William H. Woestman: Sexual Abuse of a Minor as an

Irregularity for Orders. A Magic Bullet? (Article)

See above, canon 1041.

BOOK VII: PROCESSES

1400-1691

SCL II (2006), 85-124: Augustine Mendonça: Substantive and Procedural Jurisprudence of the Roman Rota as Reported in Its *Relazione Annuale 2005*. (Article)

M. gives brief reports on the decisions reported in the annual report of the Rota. Substantive jurisprudence covers cases in the following areas: grave lack of discretionary judgement; inability to assume; error of quality directly and principally intended; deceit; simulation, total and partial, including the good of the spouses and sacramental dignity, as well as the three traditional goods; condition; force and fear. M. then looks more briefly at those cases ratified after a previous affirmative decision, and those placed on the full process. A number of procedural points are also mentioned: admission or rejection of the petition; new grounds; new hearing before the Rota; admissibility of recourse; complaint of nullity; execution of sentence; equivalent conformity; new proposal; and reinstatement. There are also miscellaneous other decrees.

1400-1691

SCL II (2006), 173-273: Augustine Mendonça: What is New? A Brief Analysis of Selected Themes Found in *Dignitas connubii*. (Article)

M. selects the following themes for analysis: the juridical nature of the Instruction *Dignitas Connubii*; its scope; laws governing the marriages of non-Catholics; competence to judge marriages of non-Catholics; canonical form; acceptance of civil declarations of nullity; administrative procedure in judging marriage cases; oral process; first instance tribunals – competence, ministers and officials, change of grounds, publication, pronouncements of the judge, publication of the sentence; appeal court – pre-appeal issues, abbreviated process, new ground, equivalent conformity.

1427

PCF VIII (2006), 163-188: Elias Ayuban: Duties and Rights of Provincial Superiors in Clerical Religious Institutes in the Light of the *Tria Munera* of

the Church. (Article)

See above, canon 620.

1438

PCF VIII (2006), 163-188: Elias Ayuban: Duties and Rights of Provincial Superiors in Clerical Religious Institutes in the Light of the *Tria Munera* of the Church. (Article)

See above, canon 620.

1442

IE XVIII 2/06, 500-503: Indirizzo di omaggio della Rota Romana, S.E. Mons. Antoni Stankiewicz, al Santo Padre in occasione dell'inizio del Nuovo Anno Giudiziario, 28 gennaio 2006. (Address)

See below, canons 1671-1691.

1445

IC XLVI 92/06, 557-580: Jorge Miras: El objeto del recurso contencioso-administrativo en el Derecho canónico vigente. (Conference presentation)

See below, canons 1732-1739.

1446

SC 40 1/06, 71-93: William L. Daniel: The Ethical Dimension of the Role of the Ecclesiastical Judge in the Rotal Allocutions of John Paul II. (Article)

In his annual addresses to the Roman Rota, Pope John Paul II gave considerable attention to the role of the ecclesiastical judge. Building upon his own legislation, he developed a theologically and canonically enriched characterisation of the profile of the judge, pointing to various moral qualities which each judge should possess. Also, he showed how the judge's function is at the service of the mission of the Church and of human rights and how it also fosters eternal salvation. Therefore, the *munus* of the judge has a moral dimension; it is not merely juridical. As a significant aspect of his canonical legacy, the Pope described the ethical content of the judge's role: it refers always to God and to the judge's own conscience. It demands fidelity to the law. It allows procedural law to be truly at the service of the rights of parties. Also it recognises the primacy of the truth; and it reveres the sanctity of the sacrament

of marriage.

1448-1457

SC 40 1/06, 137-182: Lynda Robitaille: Through the Lens of *Dignitas Connubii*: The Judge's Active Role in Marriage Nullity Cases. (Article)

The active role of the judge in marriage nullity cases is explored in this article, especially as directed by the 1983 Code and the 2005 Instruction *Dignitas Connubii*. L. identifies the specific stages in the process where the judge must assume an active role. The judge accepts the *libellus*, establishes the grounds, interviews the parties and witnesses, determines the questions to be asked, and evaluates the evidence in order to come to a just decision, and thus is involved in the process of arriving at the truth. When these duties of the judge are not fulfilled, there may be consequences in the pursuit of truth. L. also identifies provisions in the 1917 Code and the 1935 Instruction *Provida Mater* as a means to understand more fully the *ius vigens*. It is the responsibility of the judge to ensure that the nullity of the marriage is fully investigated.

1458

For XVII/06, 196-217: Metropolitan Tribunal of Malta: *coram Said Pullicino*, August 26, 2005: Lack of Discretion of Judgement. (Sentence)

See above, canon 1095 2°.

1481-1490

For XVII/06, 62-76: Agostino Vallini: La funzione pastorale del Supremo Tribunale della Segnatura Apostolica. (Paper)

This is a paper given by the Cardinal Prefect of the Signatura to those completing a diploma in jurisprudence organised by the Maltese Tribunal. After outlining the general role of vigilance exercised by the Signatura in accordance with *Pastor Bonus*, V. focuses on the particular area of abuses on the part of advocates and procurators, e.g. use of fictitious domiciles, negligence, falsified documents, unauthorised leaking of documents or their use before civil tribunals, failure to inform parties of how to challenge sentences, excessive fees, bribery and corruption. He indicates the measures that can be taken in such cases.

1487

QDE 19 (2006), 295-317: G. Paolo Montini: Il giudice può respingere

L'avvocato e il procuratore (can. 1487). (Article)

Canon 1487 provides that for a grave reason the procurator and advocate can be removed from office (*repelli*) by the judge. M. examines the meaning of *repellere* in this context, looking at a number of instances where it has been applied (e.g. threatening behaviour on the part of an advocate; an advocate or procurator acting in situations in which there could be a conflict of interest; etc.). He then looks at the reasons behind canon 1487, in which he sees a certain parallel with the provisions in canons 1448-1451 dealing with *recusatio* and *exceptio suspicionis*. M. then undertakes an exegesis of the various elements of canon 1487: the procurator or advocate who may be removed; the “grave cause” that is required; the nature of the judge’s decree of removal; the effects of removal; and the possibility of recourse against the decree.

1488

IE XVIII 2/06, 524-527: Arcivescovo Moderatore del Tribunale Ecclesiastico Regionale: Decreto di ammonizione di un avvocato, 29 giugno 2006. (Document)

See below, canons 1717-1719.

1513

IE XVIII 2/06, 417-438: Paolo Moneta: La determinazione della formula del dubbio e la conformità della sentenza nell’istr. *Dignitas connubii*. (Lecture)

Commenting on the Instruction *Dignitas Connubii*, M. examines the question of the joinder of the issue: procedural rules, content, and conformity between the joinder of the issue and the sentence. In all three aspects, he underlines the advantages of a wide and comprehensive approach. It is good for the judge to enjoy a certain amount of autonomy to obtain the most correct framing of the case within the juridical sphere. In this respect it is opportune to consider that the *caput nullitatis* in the joinder of the issue can always be modified by a new decree of the judge *ad instantiam partis*. M. then deals with conformity of sentences in the Instruction. See also canon 1641, below.

1530-1538

Patricia M. Dugan / Luis Navarro (eds.): Studies on the Instruction *Dignitas Connubii*. Proceedings of the Study Day Held at the Pontifical University of the Holy Cross, Rome, January 19, 2006. (Book)

See below, canons 1671-1691.

1565

IE XVIII 2/06, 524-527: Arcivescovo Moderatore del Tribunale Ecclesiastico Regionale: Decreto di ammonizione di un avvocato, 29 giugno 2006. (Document)

See below, canons 1717-1719.

1608

IE XVIII 2/06, 387-416: Miguel Ángel Ortiz: Le dichiarazioni delle parti e la certezza morale. (Lecture)

The reference made by the Synod on the Eucharist to the pastoral care of remarried divorcees leads O. to examine the question of moral certainty regarding objective truth. He studies the 1936 Instruction *Provida Mater* and the call by Pius XII to unity of action, which was again proposed by John Paul II with the warning that verification of truth is not something that can be waived. According to the 1983 Code the parties' declarations can be taken as full proof, but not automatically so; and O. looks at the credibility of the parties and the fallibility of the intellect regarding self-knowledge. In this context, he also points out the unsuitability of the term "confessions" to refer to the declarations of the parties. When looking at "moral certainty", he deals with article 247 of the Instruction *Dignitas Connubii* and comments on the distinction between moral certainty and quasi-certainty or probability. He brings forward arguments of authority, such as article 247 §2, which rejects the proposal that the judge should render his decision on the basis of the "preponderance of evidence". An English translation of the lecture appears in Patricia M. Dugan / Luis Navarro (eds.): *Studies on the Instruction "Dignitas Connubii"* (see below, canons 1671-1691).

1608

Patricia M. Dugan / Luis Navarro (eds.): Studies on the Instruction *Dignitas Connubii*. Proceedings of the Study Day Held at the Pontifical University of the Holy Cross, Rome, January 19, 2006. (Book)

See below, canons 1671-1691.

1611-1614

PCF VII (2005), 15-53: Allan Roy E. Remo: Proposed Solutions to the

Problems Surrounding the Publication of the Sentence. (Article)

Publication of the sentence frequently poses problems for tribunals. The dilemma usually hinges on the writing of a sentence in such a way that it respects the parties' right to know, and at the same time protects from harm other persons who have been involved in the case. R. examines the difficulties and proposes a number of practical solutions.

1619-1644

IE XVIII 2/06, 439-463: Grzegorz Erlebach: L'impugnazione della sentenza e l'invio "ex officio" della causa al tribunale di appello nell'istr. *Dignitas connubii*. (Lecture)

Within the proposed scope of his commentary on the Instruction *Dignitas Connubii*, E. looks at all aspects of the cause subsequent to the pronouncement of the sentence. This covers chapters XI and XII of the Instruction, as well as certain articles from the preceding titles. He follows the order of matters as dealt with in the Instruction, and changes slightly the order in which they are dealt with in the Code. He looks at the plaint of nullity; the transfer *ex officio* of the cause to the appeal tribunal and its processing; the appeal itself; and finally the *nova causae propositio* in the case of conforming judgements. E. points out that the Instruction does not limit itself simply to repeating the norms already contained in the Code, but also takes into account the jurisprudence of the Roman Rota and Apostolic Signatura as well as the issues that have emerged from the praxis of ecclesiastical tribunals. An English translation of the lecture appears in Patricia M. Dugan / Luis Navarro (eds.): *Studies on the Instruction "Dignitas Connubii"* (see below, canons 1671-1691).

1619-1644

Patricia M. Dugan / Luis Navarro (eds.): Studies on the Instruction *Dignitas Connubii*. Proceedings of the Study Day Held at the Pontifical University of the Holy Cross, Rome, January 19, 2006. (Book)

See below, canons 1671-1691.

1641

IE XVIII 2/06, 417-438: Paolo Moneta: La determinazione della formula del dubbio e la conformità della sentenza nell'istr. *Dignitas connubii*. (Lecture)

See above, canon 1513. Conformity of two sentences given by tribunals at different instances is, M. thinks, one of the points where the Instruction *Dignitas*

Connubii, apart from making more specific the dispositions of the Code, attributes to them a content that does not seem to arise from a literal reading of the Code. It is quite clear that the Instruction gives a guiding interpretative orientation to the 1983 Code, supported by Rotal jurisprudence. M. separately studies at length article 291 and the two definitions of the concept *duplex sententia conformis* presented in article 290: “formal” conformity and “equivalent” or “substantial” conformity. In the final part of his lecture he looks at canonical equity in cases of substantial conformity. An English translation of the lecture appears in Patricia M. Dugan / Luis Navarro (eds.): *Studies on the Instruction “Dignitas Connubii”* (see below, canons 1671-1691).

1641-1644

REDC 62 159/05, 459-500: José Francisco Castelló Colomer: El doble grado de jurisdicción y la doble sentencia conforme. (Article)

See below, canons 1681-1685.

1649

REDC 62 159/05, 501-585: Donato Miguel Gómez Arce: Normas de los Tribunales eclesiásticos españoles: aspectos económicos. (Article)

This is an adapted extract from a chapter of G.A.’s doctoral thesis, defended in Salamanca in June 2004, entitled *Ecclesiastical Tribunals in Spain: administrative organisation*. It examines and compares the different regulations and norms of Spanish tribunals, especially the arrangements for the economic aspects of their canonical work in the setting of fees, while maintaining the provision of free legal aid for those cases which require it, based on canon law and also with an eye to Spanish civil law. Clear and open publication of tribunal regulations in these matters helps to avoid misunderstandings by those wishing to avail themselves of the Church’s courts and prevents ill-informed accusations and attacks against them.

1671-1691

Ang 83 (2006), 685-704: Sebastiano Villeggiante: Il discorso di S.S. Benedetto XVI del 28 gennaio 2006 alla Rota apre la porta al nuovo processo matrimoniale canonico? (Conference presentation)

S. considers Pope Benedict XVI’s 2006 Address to the Roman Rota to have revealed the “true face” of the canonical matrimonial process. In a few words, he says, the Pope succeeds in setting out the very essence of the matrimonial process, highlighting the special nature of such a process, not as a trial *against* another party (as in the case of the ordinary contentious process), but as a

“service to the truth”. The Pope’s statement that “in its twofold natural and sacramental dimension, marriage is not a good that the spouses can dispose of, nor, given its social and public nature, can any kind of self-declaration be conjectured”, is also entirely in keeping with canons 840-841. S. laments the fact that the Instruction *Dignitas Connubii* does not, in his opinion, reflect the “true face” of the matrimonial process, since it continues to make use of the old norms relating to the ordinary contentious process.

1671-1691

For XVII/06, 5-9; also SCL II (2006), 9-13: Pope Benedict XVI: Address to the Roman Rota: Love for truth links the canonical and pastoral. (Address)

In his Address to the Roman Rota of 28 January 2006 Pope Benedict picks up the theme of the dangers inherent in seeing the nullity process simply as a means to the pastoral end of enabling people to receive the Eucharist. Rather it is a means of ascertaining the truth, as is the case with all trials. This search for the truth itself has a pastoral value. It is not an abstract truth but one rooted in the human and Christian journey of every member of the faithful.

1671-1691

IE XVIII 2/06, 317-342: Frans Daneels: Una introduzione generale all’istruzione *Dignitas Connubii*. (Lecture)

See above, canon 34.

1671-1691

IE XVIII 2/06, 343-370: Joaquín Llobell: La natura giuridica e la recezione ecclesiale dell’istr. *Dignitas connubii*. (Lecture)

L. deals with two themes: the normative value of *Dignitas Connubii*, and the use of the judicial process in matrimonial cases in the light of the reports of the Synod of Bishops of 2005. With regard to the first aspect, he recalls that an Instruction cannot modify the law, but can clarify legal prescriptions and make the manner of following the law more precise. L. considers that the Instruction does not “innovate” anything with respect to the Code, except in matters that are perfectly compatible with a true Instruction. In the second part of his lecture, L. deals with the importance of the process as an objective method of recognising marital nullity, and the need to avoid false “pastoral” approaches that give rise to “easier” declarations of nullity but do not really investigate the objective truth of the marriage. In this regard he makes reference to Pope John Paul II’s 1990 address to the Rota and some comments of Pope Benedict XVI to priests of the Aosta Diocese on 25 July 2005. He concludes with a comment on canon 343 on

the function of the Synod of Bishops. An English translation of the lecture appears in Patricia M. Dugan / Luis Navarro (eds.): *Studies on the Instruction "Dignitas Connubii"*, referred to below.

1671-1691

IE XVIII 2/06, 370-386: Antoni Stankiewicz: Indicazioni circa il can. 1095 nell'Istruzione *Dignitas connubii*. (Lecture)

See above, canon 1095.

1671-1691

IE XVIII 2/06, 387-416: Miguel Ángel Ortiz: Le dichiarazioni delle parti e la certezza morale. (Lecture)

See above, canon 1608.

1671-1691

IE XVIII 2/06, 497-500: Benedetto XVI: Discorso alla Rota Romana, 28 gennaio 2006. (Address)

Text in Italian of Pope Benedict XVI's address to the Roman Rota on 29 January 2006, in which the Pope makes clear that the purpose of the matrimonial process is the declaration of the truth by an impartial third party.

1671-1691

IE XVIII 2/06, 500-503: Indirizzo di omaggio della Rota Romana, S.E. Mons. Antoni Stankiewicz, al Santo Padre in occasione dell'inizio del Nuovo Anno Giudiziario, 28 gennaio 2006. (Address)

Text in Italian of the address of the Dean of the Roman Rota to the Holy Father on the occasion of the inauguration of the Judicial Year of the Apostolic Tribunal. Referring to the Instruction *Dignitas Connubii*, the address refers to judicial procedures in nullity cases as being at the service not only of truth, but also of charity.

1671-1691

IE XVIII 2/06, 503-523: Massimo del Pozzo: Nella verità, la giustizia. Considerazioni a margine della prima Allocuzione benedettina alla Rota.

(Commentary)

Del P. describes the address of the Holy Father to the Rota as the sign of a pontificate at the service of truth within today's ecclesial context. He then points out the importance given to the Instruction *Dignitas Connubii* by the Pope in his address. Extended sections follow on other aspects, including the pastoral nature and importance of the matrimonial process

1671-1691

PCF VII, 7-10: Pope John Paul II: Address to the Members of the Tribunal of the Roman Rota 2005. (Document)

The essential relationship between the investigation process and the search for objective truth is at the heart of Pope John Paul II's message to the members of the Tribunal of the Roman Rota. He insists that bishops, by virtue of their judicial role, must take particular responsibility for this by ensuring that tribunal personnel are suitable for the work; familiar with Church teaching; abide by canon law, correctly interpreted; make their decisions in accordance with right doctrine; and never be motivated by feelings of false compassion. While people have a right to expect timely justice, the Pope cautions against unseemly haste which does no favours to the truth, and is seriously unjust.

1671-1691

Patricia M. Dugan / Luis Navarro (eds.): Studies on the Instruction *Dignitas Connubii*. Proceedings of the Study Day Held at the Pontifical University of the Holy Cross, Rome, January 19, 2006. (Book)

This book includes the proceedings of a Study Day (19 January 2006) on the Instruction *Dignitas Connubii* organised by the Pontifical University of the Holy Cross in Rome. The perspective taken by the lecturers was that set forth by Pope John Paul II in his Address to the Rota in 2005, when he stressed the intrinsic connection between juridical norms and Church doctrine. The presentations were the following: Mgr. Joaquín Llobell: "The Juridical Nature of the Instruction *Dignitas Connubii* and Reaction to It in the Church" (pp. 1-31); His Excellency Antoni Stankiewicz, Dean of the Rota: "Some Indications About Canon 1095 in the Instruction *Dignitas Connubii*" (pp. 33-49); Rev. Prof. Miguel Ángel Ortiz: "The Declarations of the Parties and Moral Certitude" (pp. 51-89); Prof. Paolo Moneta: "Determination of the Formulation of the Doubt and Conformity of the Sentence" (pp. 91-113); and Very Rev. Mgr. Grzegorz Erlebach: "The Challenge of the Sentence and the Transmission of the Cause *Ex Officio* to the Appeal Tribunal" (pp. 115-139). The proceedings also include the Address of Pope John Paul II to the Rota in 2005, as well as the first Address of Pope Benedict XVI to the same Tribunal, underlining the importance the

Instruction. (For bibliographical details see below, Books Received.)

1672

PCF VIII (2006), 205-230: Artemio Baluma: “An Act to Legalise Church Decisions of Nullity of Marriage for Civil Effects and Other Purposes”. (Study)

There is in the Philippines a felt need for government recognition of nullity decisions by ecclesiastical courts. With a declaration of nullity, parties are free to remarry unless there is a *vetitum* or prohibition. However, they are still married under civil law and should one party remarry in the Church, he/she could face a charge of bigamy by the other party. In an attempt to address this anomaly, the Canon Law Society of the Philippines appointed an *ad hoc* committee to propose an alternative bill to the current House Bill 3124, proposed by Rep. Josefina M. Joson to the 13th Congress of the Republic of the Philippines. The committee took the late Mgr Baluma’s paper as its starting point and the proposed alternative Bill is referred to in this article as the “Baluma Bill”. The arguments in favour of Government recognition of Church declarations of nullity are clearly reasoned and presented. B. identifies the historical, sociological, political, constitutional, practical, and procedural reasons. He examines the relevant canon and civil law, the experience of some of the countries that have concordats with the Holy See, and the effects of judgements given by tribunals of foreign countries. His conclusion is that this proposed alternative merits acceptance.

1677

SCL II (2006), 411-417: Augustine Mendonça: Correct “Formula of Doubt” in a Marriage Nullity Case. (Opinion)

The grounds put forward must be precisely formulated. It does not suffice to have something entirely generic, e.g. “The consent does not meet the requirements of marriage as set out in canon 1055 read in conjunction with canon 1057 §2.”

1681-1685

REDC 62 159/05, 459-500: José Francisco Castelló Colomer: El doble grado de jurisdicción y la doble sentencia conforme. (Article)

After an introduction on the historical development in civil law of dual level jurisdiction (first and second instance courts) the main part of C.C.’s article consists of an exposition of this system in both Italian and Spanish civil law. There are arguments against the system: it can be seen as devaluing the

judgement of the lower court; it is not a guarantee that the judgement of the higher court reaches a more just decision than the lower, nor is it a constitutional requirement. In its favour is the argument that it enhances the decision of first instance, that it responds to a natural human instinct to require a second examination before a definitive judgement is reached, that it provides a procedural guarantee for the attainment of justice; although it is not explicitly guaranteed in the Italian constitution, the right of defence certainly is, and the first and second instance system is part of that right. Spanish civil law does not require automatic consideration by a court of second instance but only if an appeal is made, which can be a limited one (*revisio prioris instantiae*) examining the same evidence as presented to the lower court, or a *novum iudicium* in which new facts and evidence can be taken into consideration which bear directly on the object of judgement. The main difference between the civil and canonical systems is that canon law requires a double conforming sentence and is therefore directed more *ad favorem veritatis* than the civil law preference *ad certitudinem iuris*. The search for truth and moral certainty works in favour of marriage (the vast majority of canonical cases) by either affirming the validity of a marriage or declaring its nullity, thereby allowing a valid marriage to take place. C.C. ends his article with a short comment on formal conformity of sentence and equivalent or substantial conformity.

1682

IE XVIII 2/06, 439-463: Grzegorz Erlebach: L'impugnazione della sentenza e l'invio "ex officio" della causa al tribunale di appello nell'istr. *Dignitas connubii*. (Lecture)

See above, canons 1619-1644.

1689

PCF VIII (2006), 205-230: Artemio Baluma: "An Act to Legalise Church Decisions of Nullity of Marriage for Civil Effects and Other Purposes". (Study)

See above, canon 1672.

1692

PCF VIII (2006), 205-230: Artemio Baluma: "An Act to Legalise Church Decisions of Nullity of Marriage for Civil Effects and Other Purposes". (Study)

See above, canon 1672.

1717-1719

IE XVIII 2/06, 524-527: Arcivescovo Moderatore del Tribunale Ecclesiastico Regionale: Decreto di ammonizione di un avvocato, 29 giugno 2006. (Document)

This is the text of a decree imposing a penalty on a Rotal advocate after three charges made against him in relation to his preparation of a marriage nullity case were found to have been substantiated. The charges were that he inserted heads of nullity in the petition which did not correspond to the truth; that he induced the petitioner and witnesses – to whom questions were supplied in advance – to declare falsehoods; and that he charged excessive fees for his services. The text of the decree is preceded by an account of the steps taken in connection with the preliminary investigation prescribed by canons 1717-1719.

1720

J 66 (2006), 469-482: Ruud G. W. Huysmans: The Inquisition for which the Pope did not Ask Forgiveness. (Article)

H. points to the apologies that Pope John Paul II made for mediaeval faults, especially those of the Inquisition. But, he argues, the Pope elevated a sub-tradition of punishment by Church superiors to a normal means of punishment. The 1983 Code introduced the special procedures of canon 1720. The bishop himself may now impose punishment by way of an extrajudicial decree.

1732-1739

IC XLVI 92/06, 557-580: Jorge Miras: El objeto del recurso contencioso-administrativo en el Derecho canónico vigente. (Conference presentation)

The contentious-administrative recourse is applicable to singular administrative acts which emanate from or are approved by dicasteries of the Roman Curia, whenever it is contended that the act in question violated some law either in the decision itself or in the procedure used (cf. Apostolic Constitution *Pastor Bonus*, art. 123). A correct interpretation of this norm is necessary to ensure that the recourse properly fulfils the very broad protective role for which it was established. M. first of all analyses the canonical concept of administrative act, and concludes that no singular juridical act of the executive power should be excluded from the recourse for purely formal reasons. He then studies the degree to which administrative acts of the Roman dicasteries are challengeable, and refers to certain problems arising out of the laws on administrative silence. Finally he discusses the meaning of “violation” of a law as a ground for the recourse, and in this regard he sets out the limits of competence of the Apostolic Signatura.

1740-1747

SCL II (2006), 275-296: Supreme Tribunal of the Apostolic Signatura: Removal of a Parish Priest from Office: Decision *coram* Cacciavillan, 28 June 2003 (India). (Sentence)

The bishop removed a parish priest from office for refusal over many years to implement the diocesan pastoral plan, particularly with regard to establishing a parish pastoral council. The priest affected had recourse to the Congregation for the Evangelisation of Peoples, which upheld the bishop's decision, and then to the Signatura. He alleged a number of procedural flaws: one of the assessors had not formally accepted his election; the alleged cause for removal was not serious and did not impede his fruitful ministry; his request for revision of the bishop's decision was rejected without reasons being given, and this decision had been described as provisional, not definitive; the Congregation had not adequately considered the reasons for his recourse. The Apostolic Signatura rejected all these arguments as ill-founded or not supported by evidence. It was true that the assessor had not formally accepted his election, but there was no evidence that he had been formally notified by the council of priests. The bishop was not at fault. In any case it was clear that he considered himself to have been elected and had accepted the role. Any shortcomings were insufficient to invalidate the process. It was also clear that the bishop had adequate reasons to remove the parish priest. He had every right to insist on the establishment of a parish council, something that had been resisted for ten years. Moreover the parish priest frequently criticised the bishop and his initiatives, reducing the effectiveness of other priests' ministry as well as his own.

1752

EE 81 (2006), 673-698: Estanislao Olivares D'Angelo: *La salus animarum* y el proceso canónico matrimonial. (Article)

As indicated in the final words of the 1983 Code, the *salus animarum* is the supreme law of the Church. This is also true of matrimonial procedural law. Already in the Middle Ages the Clementine decretal *Saepe Contingit* suppressed a number of formalities in marriage trials. In 1599 Alfonso de la Vera Cruz sustained that in marriage processes involving natives of the New World all procedural norms which were not strictly necessary should be dispensed with, a proposal with which Tomás Sánchez agreed. Following that line of simplification, from the nineteenth century onwards the current documentary process began to develop, applicable only to a few cases. However, matrimonial causes were excluded from the oral process, and procedural laws are excluded from the faculty which the diocesan bishop has to dispense from universal laws, on the basis that such procedural laws do not refer directly to the good of souls. But O.D'A. argues that the current procedural laws do in fact harm souls in poorer countries which lack the resources to set up tribunals and observe the

procedural norms.

1752

PCF VIII (2006), 65-106: Vicente R. Uy: The Principle of Equity in the Code of Canon Law. (Article)

See above, canon 19.

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
- Philippine Canonical Forum
- 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**

AC	L' Année Canonique, Paris. Bishop J. McAreavey (Dromore).
ACR	Australasian Catholic Record. V. Rev. I. B. Waters (Melbourne).
AkK	Archiv für katholisches Kirchenrecht, Mainz. Rev. M. Vattappalam (Palai).
AnC	Annales Canonici, Krakow. (Abstracts supplied by publisher.)

Ang	Angelicum, Rome. Rev. P. Hayward (London).
CpR	Commentarium pro Religiosis, Rome. Rev. W. Becket Soule OP (Washington).
EE	Estudios Eclesiásticos, Madrid. (Abstracts supplied by publisher.)
ELJ	Ecclesiastical Law Journal, London. P. Barber (London).
For	Forum, Valletta. Rev. G. Read (Colchester).
FT	Folia Theologica, Budapest. Rev. P. Hayward (London).
IC	Ius Canonicum, Pamplona. (Abstracts supplied by publisher.)
IE	Ius Ecclesiae, Milan. Rev. J. D. Gabiola (London).
INT	Intams, Belgium. Mrs M. Foster (Lancaster).
J	The Jurist, Washington. Rev. P. Corcoran SM (Dublin).
LJ	Law and Justice, Worcester. Canon C. J. Murtagh (Liphook, Hants).
N	Notitiae, Rome. Rev. G. Read (Colchester).
PCF	Philippine Canonical Forum, Manila. Sr Mary Lyons RSM (Galway).
QDE	Quaderni di Diritto Ecclesiale, Milan. Rev. P. Hayward (London).
REDC	Revista Española de Derecho Canónico, Salamanca. V. Rev. J. A. McGee (Girvan, Ayrshire).
RfR	Review for Religious, St Louis, Missouri. Sr I. MacPherson SND (Fort William).
SC	Studia Canonica, Ottawa. Rev. P. Cogan SA (Ottawa).
SCL	Studies in Church Law, Bangalore. Rev. G. Read (Colchester).
TyV	Teología y Vida, Santiago de Chile. (Abstract supplied by publisher.)
VC	Vita Consacrata, Rome. Rev. A. McGrath OFM (Dublin).

BOOKS RECEIVED

- Juan Ignacio Arrieta: *Governance Structures within the Catholic Church* (Gratianus series), Wilson & Lafleur Ltée, Montréal, 2000, 304pp., ISBN 2-89127-518-7 [see above, canons 330-572]
- Arturo Cattaneo (ed.): *L'esercizio dell'autorità nella Chiesa. Riflessioni a partire dall'esortazione apostolica «Pastores gregis»*, Marcianum Press, Venezia, 2005, 271pp., ISBN 88-89736-01-1 [see above, canon 381]
- Patricia M. Dugan / Luis Navarro (eds.): *Studies on the Instruction*

“Dignitas Connubii”. *Proceedings of the Study Day Held at the Pontifical University of the Holy Cross, Rome, January 19, 2006* (Gratianus series), Wilson & Lafleur Ltée, Montréal, 2006, 156pp., ISBN 2-89127-782-1 [see above, canons 1671-1691]

- Javier Hervada: *Critical Introduction to Natural Law* (Gratianus series), Wilson & Lafleur Ltée, Montréal, 2006, 178pp., ISBN 978-2-89127-776-1 [see above, General Subjects]
- Dimitrios Salachas: *La vita consacrata nel Codice dei Canonici delle Chiese Orientali (CCEO)*, Dehoniane, Bologna, 2006, 324pp., ISBN 88-10-40880-2 [see above, Code of Canons of the Eastern Churches]