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Apostolic Letter "Motu Proprio"

Omnium in Mentem

Of The Supreme Pontiff Benedict XVI
On Several Amendments To The Code Of Canon Law

The Apostolic Constitution Sacrae Disciplinae Leges, promulgated on 25 January 1983, reminded everyone that the Church, as a community which is at once spiritual and visible, and also hierarchically structured, requires juridical norms, "so that the exercise of the tasks divinely entrusted to her, especially the exercise of sacred power and of the administration of the sacraments, may be properly organized". The norms ought to reflect, on the one hand, the unity between theological doctrine and canonical legislation, and, on the other, the pastoral usefulness of the prescriptions whereby ecclesiastical ordinances are directed to the good of souls.

The more effectively to safeguard this necessary doctrinal unity and pastoral purpose, the Church’s supreme authority, after careful deliberation, decides, from time to time, to make suitable changes or to introduce additions to the canonical norms. This is the reason that has led me to promulgate the present Letter, which concerns two issues.

First, in can. 1008 and can. 1009 of the Code of Canon Law, on the sacrament of Holy Orders, the essential distinction between the common priesthood of the faithful and the ministerial priesthood is reaffirmed, while the difference between the episcopate, the presbyterate and the diaconate is made clear. Inasmuch as my venerable Predecessor John Paul II, after consulting the Fathers of the Congregation for the Doctrine of the Faith, ordered that the text of n. 1581 of the Catechism of the Catholic Church be modified in order better to convey the teaching on deacons found in the Dogmatic Constitution Lumen gentium of the Second Vatican Council (n. 29), I have determined that the canonical norm concerning this subject should likewise be adjusted. Consequently, after hearing the view of the Pontifical Council for Legislative Texts, I decree that the words of the aforementioned canons are to be modified as set forth below.

Since the sacraments are the same for the entire Church, the supreme authority of the Church alone is competent to approve or define what is required for their validity and to determine the rites to be observed in their celebration (cf. can. 841). All this is equally applicable to the form to be observed in the celebration of marriage, if at least one of the parties has been baptized in the Catholic Church (cf. canns. 11 and 1108).

The Code of Canon Law nonetheless prescribes that the faithful who have left the Church "by a formal act" are not bound by the ecclesiastical laws regarding the canonical form of marriage (cf. can. 1117), dispensation from the impediment of

The Code of Canon Law Celebrating a Quarter of a Century: Some Reflections

Rev. Ian Waters

This article commences with observations about four theological matters that some believe are not definitively settled, and how they are dealt with in the current Code of Canon Law. Then - under twelve headings - there are observations about some merely ecclesiastical laws, with suggestions for refinement. There is no suggestion that this list of topics is exhaustive, as the reader could add further headings.

Codification of Theology

First of all, some unresolved theological issues are raised from time to time among canonists and others in Australia - whether they are actively involved in study or research in a theological discipline, or are practitioners of some sort, normally in a parish.

Power of Governance

It is clear that can. 129, as formulated in the 1983 Code, is a compromise. Many erudite persons have written about sacra potentia, minus regendi and potentias jurisdictionis. In Australia & New Zealand, cooperation with the power of governance does not raise any concerns with the vast majority of Catholics - clerical or lay - provided that is restricted to membership of parish pastoral councils, parish finance committees and parish education boards. However, only three dioceses in Australia and three in New Zealand have held a diocesan synod since 1983, there have been no provincial or plenary councils, and only fourteen of the twenty-eight Australian Latin Church dioceses have a diocesan pastoral council. The declared policy in some dioceses is that there must be a parish priest for every parish, even though that means in practice parish priests being parish priest of two or three parishes. Many bishops simply refuse to allow the lay pastoral leaders of parishes described in can. 517 §2.

Minister of the Anointing of the Sick

In recent decades, some have questioned the prescription of can. 1003 that the minister of Anointing of the Sick is omnis et solus sacerdos, and it has been asked why deacons or even laypersons cannot administer the sacrament.

However, contemporary theologians and canonists continue to debate. The Council of Trent stated that the priest is the minister proprius of the sacrament, without stating whether a deacon could or could not anoint. Evidence from the first millennium suggests that not only did non-priests anoint, but there had even been self-anointing. The use of the word solus in the present can. 1003 precludes deacons and other non-priests, and consequently the current juridical conclusion must be that such anointments are null. However, this is unlikely to stop the question being raised periodically, and it is also unlikely that the Holy See will change its current position.

Documents from the Holy See in 1997 and 2005 have reiterated that only a sacerdos can administer the sacrament of Anointing of the Sick, and that anointing by a non-priest would constitute simulation of a sacrament.

Diaconate Reserved to Males

Can. 1024 states that only a baptised man (i.e. male human being) can validly receive sacred ordination. The call for ordination of women is as loud in Australia & New Zealand among certain groups as elsewhere; and a few women have left the Catholic Church over this issue and been ordained in other denominations. Current canon law correctly expresses the historical theological position and current solemn magisterial teaching as regards the priesthood being reserved to males. It is difficult to see it can support that position as regards the diaconate, as there are strong historical precedents in some parts of the Church in the first millennium for female deacons, and some Orthodox churches have ordained female deacons during the second millennium.

When the declaration Inter Insigniores about the question of admission of women to the priestly ministry was issued by Congregation for the Doctrine of the Faith in 1976, CDF asked an expert theologian to prepare a commentary, and recommended that the commentary be read by those who sought an adequate understanding of Inter Insigniores. Inter alia, that commentary by the anonymous expert theologian stated that in the Middle Ages, and even in the seventeenth and eighteenth centuries, some

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3 Trent, sess. XIV, de extremaunctione, 25 November 1551, cap. 3, can. 4.
5 John Paul II, Apostolic letter, Ordinatio Sacerdotalis, 22 May 1994 (AAS, 86 [1994], 545-8).

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2 This article is an edited and abridged version of a keynote address delivered on 5 November 2008, at the Forty-Third Annual Convention of the Canadian Canon Law Society, at Québec City, Que. Canada. It is published here at the gracious permission of the Canadian Canon Law Society.
3 Vatican II, Dogmatic constitution, Lumen gentium [LG], 21 November 1964, n21, 27 & 33; Decree, Apostolic constitution, de la prudencia in christo, 23 November 1965, 4; Comminicaciones, 14(1982), 169-9; 23(1991), 219-21.
theologians were hesitant to state that it was theologically certain or proximate to faith that ordination was restricted to males, because in the past there had been deaconesses. The expert continued, "In any case, it is a question that must be taken up by a study of the texts without any preconceived ideas; hence the Sacred Congregation for the Doctrine of the Faith has judged that it should be kept for the future and not touched upon in the present document."

While there have been calls that the matter of women being ordained deacons be examined, there seems to be no evidence that CDF has studied the matter further.⁷

The Sacramentality of Marriage

Can. 1055 states that a marriage between two baptised persons is automatically a sacrament. There are in Australia & New Zealand persons baptised in infancy in Protestant churches which do not accept the sacramentality of marriage, who have never been involved in a worshipping community of any kind, and who married with only civil rites. Yet can. 1056 declares such marriages to be sacramental unions, where indissolubility acquires a distinctive firmness. In contrast, can. 1108 declares that, if one or both of the baptised are Catholics and attempt to marry without the canonical form, the marriage is not a sacrament and is invalid. This is difficult for many to understand.

In summary, no changes are possible to current canon law, because it reflects - correctly - the current theological position. There is no relaxation on any of these theological positions at the Holy See.

Merely Ecclesiastical Law

As regards the current Code, some in Australia & New Zealand see lacunae in the law, or need for amended expanded legislation.

Privacy

Can. 241 §1 requires that a bishop admit to his seminary only those whose psychological health permits permanent dedication to sacred ministry. Can. 220 requires that no one may unlawfully harm the good reputation which a person enjoys, or violate the right of every person to protect his or her privacy. There are very few references to the right to privacy in canon law. In fact, the only use of the word "intimitas", translated as privacy in the current Code, is in can. 220.⁹ In general, the implied references in canon law to privacy concern the tension surrounding the privacy of individual conscience in spiritual direction and the confessional, and in relation to the suitability of candidates for seminaries and institutes of consecrated life.¹⁰ Can. 630 §2 specifically forbids a religious superior to induce a member of the institute to make a manifestation of conscience.

Intimitas has a very specific meaning. It is not the same as solitudo (privacy in the sense of solitude or being alone), or privatius (privacy in the sense of a private individual or person or meeting). Its etymology is intimus, the superlative comparative adjective of interior meaning inner or interior. Therefore it means interior privacy, and is best translated in the sense that is refers to conscience. Therefore can. 220 requires that no one may violate the right of a person to protect the inner privacy of his or her conscience. Consequently, can. 220 indicates that it is absolutely wrong to force a person to do things such as reveal his or her private sins, or undergo psychological assessment, or reveal his or her private diaries or correspondence. Some have been surprised and unnerved on occasion to learn of the number of seminary priests who have access to the files of seminarians in certain seminaries, and what is contained therein. For example, a dispensation is needed and granted from an occult irregularity for orders and the record placed in the seminarian's personnel file which, at this ordination, becomes his diocesan personnel file. Even a report of an investigation into a suspected irregularity, which produces a negative result, could be placed in such a file, causing wonderment to those who read it, whether they be seminary priests or diocesan officials after ordination. It can also be questioned whether we have been somewhat too cavalier in the "encouragement" we have given to some plaintiffs seeking declarations of nullity of marriage at our tribunals to be psychologically tested, and whether sufficient care has been exercised in the use of the resulting psychological reports. Privacy legislation in both Australia and New Zealand - rather than canon law - will ensure some care in the future.¹¹ In the Code there needs to be more than the present can. 220, specifically dealing with the collection, retention and destruction of confidential information.

The Impeded Holy See

While the current Code has suitable provisions at cann. 412-15 for the impeded episcopal see, there are no provisions in the Code, or any other published provisions, should the Holy See become impeded. It was last impeded when Napoleon

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⁷ Commentary on the Declaration of the Sacred Congregation for the Doctrine of the Faith on the Question of the Admission of Women to the Ministerial Priesthood (OR-Eng, 3 February 1977, 10).
⁸ The Canon Law Society of America (CLSJA) has made a very thorough and balanced study of this matter (CLSJA, The Canonical Implications of Ordaining Women to the Permanent Diaconate: Report of an ad hoc committee of the Canon Law Society of America, Washington, DC, 1995, 53 p.).
¹⁰ Cen. 240, 489, 630, 682 & 584-5.
imprisoned Pope Pius VII. Of course, it could easily have been impeded when Pope John Paul II was shot in 1981, if the Pope’s injuries had been much more severe. There were failed assassination attempts on Pope Paul VI in Manila in 1970 and Pope John Paul II in Portugal in 1982. Speculation embraces theories of written instructions from the current Pope in the event of him being impeded, and the role of the Camerlengo. However, the absence of published law could cause chaos with the potential of great harm should such an eventuality occur, and consequently this is a serious lacuna in the law.

The Appointment of Bishops

As regards can. 377 §§2-4 for the appointment of bishops (§§1 & 5 have no relevance for Australia & New Zealand); little objection can be raised to §§2 & 3 as written, but there is a lot of unrest as to the practical application, especially the role of the papal legate (the apostolic nuncio).

Can. 377 §2 prescribes the normal process for presenting suitable candidates for the episcopacy in general to the Holy See. Thus, the Holy See has a dossier from each ecclesiastical province, kept up to date by being renewed every three years, on possible candidates for the episcopacy, should a candidate be required. The value of this dossier is that the information in it would normally be gathered removed from the pressures and politicking associated with a vacant diocese. In Australia and New Zealand, this is done on the level of the ecclesiastical province, not the episcopal conference. The legislation of 1937 plenary council requires bishops to consult some of their priests singly and under grave obligation of secrecy before such meetings, but it appears very few bishops do that now. If the primary source of nominations for episcopal candidates is the current bishops, there must be a real threat of inbreeding.

The practice in Australia is that the apostolic nuncio then sends a document headed Questionnaire for Episcopal Candidates to carefully selected people (mainly bishops and priests) sounding out their views as to the suitability of specified priests for the episcopacy, under the rubric sub secreto pontificio. The words sub secreto pontificio are not in the Code, and do not seem to frighten most people. One very recent strident criticism of the questionnaire described it as a totally inadequate way of choosing candidates for the episcopate. It included, “So much is left out, including God, Christ and the Holy Spirit! There is no mention of the Scriptures and not a single quotation from the Word of God. The whole emphasis is on loyalty to the Pope, the Vatican and the Holy See.”


13 P. Collins and F. Purcell, Circular letter, 15 October 2008 (Archives of CLSANZ, Correspondence: 2008); see also The Tablet, 1 November 2008, 34.

14 From 1887 until 1938, the clergy, as well as the bishops of the province (in Australia & New Zealand) had the right to present names to the Holy See when a diocesan bishop or coadjutor bishop was required. In 1885, the First Plenary Council of Australia legislated that, whenever a diocesan or coadjutor bishop was required, the diocesan consultants and irremovable rectors of the diocese were to meet under the presidency of the metropolitan or a suffragan bishop designated by him, and by secret ballot to draw up a list of three clerics considered suitable. This list was to be sent directly to the Holy See, and a copy to the bishops of the ecclesiastical province who were to send to the Holy See comments on the names. The bishops could replace the names with others, provided they gave reasons for doing so. If the see was an archdiocese, the opinions of the metropolitans on the names were also to be sent to the Holy See (Acta et decreta Concilii plenarii Australasiae, habitu apud Sydney A.D. 1885, a Sancta Sedae recognitum, decr. 25-3). The legislation was modified in 1983 by the Second Plenary Council of Australia. It required that, in dioceses where the diocesan consultants and irremovable rectors numbered fewer than ten, all parish priests and administrators who had served in the diocese for seven years could vote (Acta et decreta Concilii plenarii Australiensis II, habitu apud Sydney A.D. 1895, a Sancta Sedae recognitum, decr. 22-4). Identical modification of the legislation was made in 1899 by the First Provincial Council of Wellington (Acta et decreta Concilii provincialis print Wellingtonensis habitu in ecclesia Sancti Josephi Wellingtone in Nova Zelanda, die 21 Ianuarii et subsequibus usque ad die 29 Ianuarii anno 1899, decr. 22-24). In 1937, the Fourth Plenary Council of Australia & New Zealand derogated the 1885-95-99 provisions and replaced them with legislation that provided no participation by priests in the selection of bishops (CP4, decr. 4, 83-4). For the reason for this radical change, see I. Waters, The Fourth Plenary Council of Australia & New Zealand, 457, 461, 464-5 (Annuario Historiae Conciliorum, 39(2006), 451-66).
Theological bent as their auxiliary without intense scrutiny, so that they can be later promoted.

**The Synod of Bishops**

In 1965, Pope Paul VI established the Synod of Bishops, a group of bishops representing the entire Catholic episcopate, its purposes being to maintain close union and collaboration between the Pope and the bishops, to see that direct and true information be given, and to facilitate the concordance of views on points of doctrine and life. In the *motu proprio* Apostolica sollicitudo, establishing it, Paul VI called it *stabile episcoporum consilium* (a permanent consultative body of bishops), and determined that it was to be *institutum ecclesiasticum centrale* (a central ecclesiastical institution). The Code, however, describes it in can. 342 as a *cetus* (a group), and the words *institutum guidem centrale* in the schema *De Populo Dei* of 1977 were deleted by the Code Commission in 1980 on the ground that they were fashionable and superficial (*elegante e superficie*). So the Synod is at present codified as a mere *cetus*, which was not what Paul VI intended, and what the fathers of the Second Vatican Council had called a *consilium*, and *stabile Episcoporum consilium pro ecclesia universa*. It is suggested that the Synod of Bishops will only become effective if it becomes an *institutum*.

**Particular Councils**

While Australia was one ecclesiastical province, there were two provincial councils, and since the division of the original province in 1874 there have been four plenary councils and one provincial council, the last in 1937. The New Zealand bishops have held only one provincial council - in 1899; and they were summoned to the Australian plenary councils of 1885 and 1937. In 1968, the Australian bishops considered celebrating a new plenary council, but decided in 1970 that such a council should not be celebrated until after the revision of the Code had been completed.

**Episcopal Conferences**

The Code does use the words *institutum permanens* in can. 447 to describe episcopal conferences. Australia was a nation that pioneered episcopal conferences. There was an annual meeting of the archbishops from 1890 until 1921, and from then on all the bishops met regularly despite the apostolic delegate consistently claiming in the 1920s and 1930s that they could only meet with permission of the Holy See and under his chairmanship. The Holy See gave way in the 1950s, so there was an Australian conference with a constitution and annual meetings in place well prior to the Second Vatican Council. It certainly is an *institutum permanens*, with a functioning bureaucracy. While *Apostolos Suos* was of academic interest in Australia, it does not seem to have affected the functioning of ACBC. However, a growing concern over the last decade is that the actual Conference appears to many as an exclusive gentlemen’s club. In camera meetings occur for a week or more twice a year, and the minutes are confidential to the bishops. From 1973 until 2001, a bulletin was published once or twice a year, sent to every priest and some others in Australia. It provided a concise summary record of discussions and decisions. That

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15 Communications, 14(1982), 92.  
16 Vatican II, *Decretum* *Cursus Domini* [=CD], 28 October 1965, 5.  
18 The report of the secretary general on 6 Oct. 2008 to the General Assembly of the Twelfth Ordinary General Assembly of the Synod of Bishops reveals some sobering facts, including only 82.3% of episcopal conferences and 68% of the dicasteries of the Roman Curia submitted responses to the preliminary *lineamenta*; of the five special councils of the general secretariat, one “seems to have run its course” because of disagreements amongst its members, while another has decided that the next meeting will be its last at its current format; of the 243 participating bishops, 23% were either Papal nominees or heads of Vatican dicasteries (Report of the Secretary General for the Synod of Bishops, OR-Eng., 15 October 2008, 9-13).  
21 The Code of Canon Law Celebrating a Quarter of a Century

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21 In the early years of ACBC, summaries of the business of the conference would be communicated to priests by the individual diocesan bishops. In October 1973, *Newsletter for Priests* was issued by the secretary, and was followed in February 1984 by *Newsletter*, presumably because the circulation included others besides priests. At first this newsletter was
no longer occurs, and the official line is that anything of significance or importance is posted on the Conference’s website. The de facto reality is that for several weeks each year, all the bishops are closeted together, and the vast majority of priests, lay Catholics and others are unaware and do not really care. Can. 458 requires the secretariat to communicate the acts and decrees to the members and to neighbouring bishops’ conferences. There is no requirement that they be communicated to the clergy and the lay faithful.

Religious Law

While the current canons concerning consecrated life are a vast improvement to those of 1917, and rightly leave much to particular legislation, the current law of the Code is written from a monastic or conventual perspective and presumes that the permanent religious house complete with superior, oratory, Mass, community, and horarium is the norm, bolstered by governance from a supreme moderator, and in most cases from a provincial superior. In fact, many religious, the vast majority in Australia & New Zealand, live alone, or in twos or threes; they do not experience a traditional monastic or conventual religious house. For them, the local superior is usually someone who coordinates the various members and arranges that they meet at stated intervals; and for some others the primary community and superior are the province and provincial leader. A canonical concern with such arrangements is whether there would be proper avenues of recourse against a decision of a superior.

There is much discussion and many meetings about what is called reconfiguration, as those of institutes that are worldwide deal with a generalate in distant Rome or some other part of Europe, that wishes to “tidy up” its distant provinces with only a few members. There are no canonical obstacles to this occurring. However, creating one province out of say three (that may have been for Australia, New Zealand, and the Pacific) can make direct communication with one’s major superior very difficult.

Cann. 647-8 of those dealing with the novitiate presuppose a monastic formation, especially as regards absences. There will always be a tension between the needs of an individual and the needs of the group of novices. Can. 646 correctly states that novices are to experience the manner of life of the institute and form their minds and hearts in its spirit. Many religious in Australia & New Zealand are engaged in apostolates which are specialised and individualistic. If the constitutions state that the novitiate can be extended toinclude apostolic activity performed outside the novitiate community, it needs to be clear how much of the time of the second year of the novitiate is required for the validity of the religious profession.

Issued twice a year, but in the 1980s settled down to an annual issue. In 1988, there was a change of title to Annual Report for 1987, this annual report on the previous year being issued each January, until the last, Annual Report for 1991, was issued in January 1992. In April 1992, a new publication entitled Conference Bulletin was published by ACBC, to be issued at least twice yearly. It was issued once or twice each year until 2001, when it ceased publication.

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Onions: 603-604 need to be expanded. The number of consecrated virgins is increasing. All too frequently, these are former members of religious institutes, consecrated without special formation by thoughtless bishops. There need to be canons specifying their formation, discernment of suitability, accountability and ways of serving the Church. Similarly with hermits, so that it is clear to all how they lead their life under the guidance of the diocesan bishop, and that the difference between a hermit and an eccentric pious recluse is quite patent.

Catholic Health Care

A glaring lack in the Code is the failure to mention, much less deal with, Catholic health care. There are many Catholic hospitals, nursing homes and aged care facilities which have been established, owned and operated by religious institutes. There are even some public hospitals, which have been entrusted by State authorities in Australia to be operated by religious institutes skilled in nursing care. In recent decades, the actual management and day-to-day operation of such facilities have been done by lay persons, after the manner that Catholic schools are operated by lay principals and teachers, rather than by professed religious. In practice, the principles contained in cann. 803-806 dealing with the control, Catholicity, and governance of Catholic schools are used mutatis mutandis with Catholic health care. A number of new public juridical persons (PJP’s) have been established to receive Catholic health care entities from religious institutes now unable to operate them because of diminishing and aged membership. While cann. 113-23 have been satisfactory, in so far as they provide the parameters for establishing such entities, a refinement or revision of those canons would be most helpful, in particular the canons that imply that the initiative to establish public juridical persons comes from the “competent authority”, whereas in reality it comes from the religious institute wishing to divest its health care apostolate. Other issues needing treatment are the accountability of the PJP, and the rights or role of the local diocesan bishop towards the health care facility when he is not the competent authority. It could be somewhat “unhealthy” and not in accord with the principle of subsidiarity, when religious institutes request the Holy See to establish a PJP, either because they wish to distance themselves from interfering bishops, or from bishops who are ignorant of or disinterested in the healing ministry of Jesus. For much of the last millennium many religious institutes made use of the principle of exemption from episcopal governance when they acquired pontifical status. Hopefully, religious institutes acquiring pontifical status and exemption did so to facilitate their apostolate internationally, and not primarily to escape episcopal governance.

Means of Social Communication

It is widely held that in Australia at present the average household has nine screens (including TV’s, computers, PDAs, MP3 players and mobile phones) and that 70% of Australians spend at least three hours daily in front of some sort of screen. Cann. 822-32 legislate for books and other written material, but are silent about electronic
communication, and its effects on the Church, and on the faith and morals of the faithful.

General Absolution

These are some brief comments, classified here under ecclesiastical law - not theological principles. There was much use of the so-called Third Rite of Penance from the mid-1970s until the Holy See in the late 1990s insisted on it being curtailed. There were many and varied reasons for its popularity, including fewer available confessors, vast distances, no choice of confessor, revised liturgical rites, and the communal aspect.

In any examination of the canonical requirements that should order the sacrament, we should ask what are the essentials. The Council of Trent taught that the form of the sacrament consists of the words of the minister: I absolve you, etc., and the quasi-matter is the acts of the penitent, namely contrition, confession and satisfaction, and contrition holds the first place among these acts of the penitent. The 1944 instruction on general absolution seems to prioritise contrition and absolution. The present stress appears to be on confession. Some moral theologians ask about the place of satisfaction, especially whether a hurried, anonymous, private confession, and some private prayers as penance, are appropriate in cases where a community has been severely harmed by a sin such as multiple pedophilia, and where the sinner reconciled privately to God via the First Rite - is never reconciled with the faith community.

Canons should try to help bishops understand the meaning of technical words such as diu and congruum tempus in can. 961. They should be able to assist bishops to determine what can be legitimate uses of general absolution, in contrast to illegitimate uses. And, if the canons are ever to be amended or revised, careful consideration should be given to why general absolution cannot be given to those not conscious of grave sin, and how to deal with persons who find it morally impossible - in contrast to physically impossible - to confess.

Procedural Law

In another address, the writer has discussed the procedural matters of the competent forum (can. 1673), the order of the hearing (can. 1458), the publication of the acts (can. 1598), the number of judges (can. 1425), the publication or notification of the judgement (can. 1615), and the second instance examination (can. 1682). To those reflections, the following is added.

When the Australian bishops were asked by the Holy See in 1968 to send recommendations about the revision of the Code, one suggestion - after seeking advice of the Canon Law Society of Australia - was a regional rota. It is doubtful that this would ever be permitted in the foreseeable future, despite the patent inability of the Roman Rota to deal with the few cases directed to it from Australia and New Zealand within any concept of reasonable time. There are at present stable third instance tribunals in Hungary, Poland, and Spain, and the Roman Rota provides a third instance tribunal within Italy. Thirteen percent of Catholic sees are within

24 For a thorough discussion of General Absolution by the writer, see I. Waters, General Absolution - Where are We At? (ACR, 83(2008), 131-147).
26 Trent, sess. XIV, de panaetia, 25 Nov. 1551, cap. 3-4, can. 3-4.
27 Sacred Apostolic Penitentiary, Instruction, 25 March 1944 (AAS, 36(1944), 155-6).
28 Can. 989 oblige the faithful to confess only their grave sins. There is no obligation to confess merely venial sins. The Council of Trent taught that all mortal sins must be enumerated in confession. The same council taught that the confessing of venial sins may be omitted without guilt, and that they can be expiated by many other remedies (Trent, sess. XIV, de panaetia, 25 November 1551, cap. 5 & can. 7).
29 LG, 27; CD, 8.
34 Pius XII, Motu proprio, Apostolico Hispaniarum Nuntii, 7 April 1947 (AAS, 39(1947), 155-63).
The Spirituality of the Priest in the 1983 Code

Kevin Matthews*

In 1984, Father Frank Harman addressed the Canon Law Society of Australia and New Zealand in Perth on the spirituality of the New 1983 Code.¹ Although the year for priests has concluded, it is still opportune to take a deeper look at what the Code presents for the spirituality of priests.²

In the midst of a vocations crisis, an ageing crisis and a sexual abuse crisis and with theologians attempting to reconfigure or deconstruct our understanding of priesthood,³ it is fitting to take another look at the underlying spirituality proposed by the current code.

Bishop David Walker wisely says that “It is necessary to distinguish presence and function.”⁴ So, what we are looking at here is fundamental to the life of every priest despite the variety of functions and lifestyles each might be called to live in changing times. The 1983 Code should be the guide for every priest seeking to live his priesthood to the full.

The 1983 Code is different in that it puts into law the theology of the Second Vatican Council.

For priests, Can. 276 §1 sets the tone of the canons that are to follow:

1. Clerics need to be aware of their special consecration to a life of holiness because of the reception of the sacrament of orders.
2. As stewards of the mysteries of God, they are especially challenged to a deeper union with the source they represent, and finally,
3. Because they are called to be stewards of these mysteries in the service of God’s people.

The canon is simply reflecting the Vatican Document, Presbyterorum Ordinis, [=PO] which states:

Clerics have a special obligation to seek holiness in their lives, because they are consecrated to God by a new title through the reception of orders, and are stewards of the mysteries of God in the service of His people.

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² In this presentation, I am indebted to an unpublished article by Fr James Conn S.J.

³ Richard Lennan, “Deconstructing the Priesthood”, in Australian Catholic Record, [=ACR] 87/2, 162-177.