

BENEDICT XVI

AN APOSTOLIC LETTER GIVEN MOTU PROPRIO

OMNIUM IN MENTEM

BY WHICH CHANGES ARE MADE IN THE CODE OF CANON LAW

The Apostolic Constitution *Sacrae disciplinae leges*, promulgated on January 25, 1983, reminded everyone that the Church, insofar as she is both a spiritual and a visible and hierarchically-organized community, needs juridical norms “so that her exercise of the gifts [*munera*] divinely entrusted to her, especially her sacred power and administration of the sacraments, be properly regulated.” Through these norms the unity of theological teaching and canonical legislation must, on the one hand, be clearly seen, but also, on the other hand, the pastoral usefulness of the rules, by which the ecclesiastical institutes are ordered to the good of souls.

In order to safeguard this necessary doctrinal unity as well as this pastoral purpose, at times, the supreme authority of the Church, after careful assessment, decides to make opportune changes or additions to canonical norms. This is the reason that has motivated Us to write this Letter, which addresses two questions.

First of all, in canons 1008 and 1009 of the Code of Canon Law, regarding the sacrament of Holy Orders, the essential distinction between the priesthood of all believers and the ministerial priesthood is confirmed, and the difference between episcopate, presbyterate, and diaconate. After he heard from the fathers of the Congregation for the Doctrine of the Faith, our venerable predecessor John Paul II decided that the text of number 1581 in the Catechism of the Catholic Church needed to be changed, so that it would suitably reflect the teaching of the Dogmatic Constitution *Lumen gentium* (n. 29) of the Second Vatican Council about the diaconate. Now we think it necessary to improve the canonical norm that touches on that subject. Therefore, having heard the opinion of the Pontifical Council for Legal Texts, we determine that the language of these canons shall be modified as provided below.

Since the sacraments are the same for the entire Church, it falls upon the supreme authority to approve and define those things that are required for each sacrament’s validity, and to discern those things to be observed in the celebration of each sacrament (see c. 841). This applies for the form in which the sacrament of Marriage is to be celebrated, if at least one of the parties has been baptized in the Catholic Church. (see cc. 11 and 1108).

Currently the Code of Canon Law provides that those believers, who “by a formal act” [*actu formalis*] have defected from the Church, are not bound by the ecclesiastical laws concerning the canonical form of Marriage (confer Canon 1117), concerning dispensation from the impediment of disparity of cult (confer c. 1086), or concerning the permission

required to enter into a mixed marriage (confer c. 1124). The reason for this exception to the general norm of canon 11 was to avoid the nullity of marriages contracted by those faithful due to defective canonical form or the disparity of cult impediment.

The experience of recent years has shown, to the contrary, that this new law has created more than a few pastoral problems. First of all, the determination and practical evaluation of whether a formal act of defection from the Church has occurred seems difficult to make in individual cases. This may be due to the theological substance of the canon, or else due to the canonical view of the same. Many difficulties have certainly arisen not only in pastoral ministry but also for the tribunals. In fact, out of the new law there seems to have arisen, at least obliquely, an advantage or even incentive to commit apostasy for those in places where faithful Catholics are few in number, or where unjust marriage laws are in force that discriminate against citizens on account of their religion. The new law also made return [to the Church] difficult especially for those baptized who fervently wanted to contract a new canonically valid marriage after the failure of a prior one. Finally (skipping over other points), many of these marriages became *de facto* for the Church so-called “clandestine” marriages.

Having taken all those things into account, and having carefully considered the opinions of the fathers of the Congregation for the Doctrine of the Faith and of the Pontifical Council for Legal Texts, as well as the opinions of the Episcopal Conferences that were consulted as to the pastoral utility of keeping or abrogating this exception from the general norm of canon 11, it seems necessary to abolish this rule that was introduced into the body of canonical laws currently in force.

Thus we declare that the following words in the same Code of Canon Law must be removed: “and has not by a formal act defected from it” [*neque actu formali ab ea defecerit*] from c. 1117; “and has not by a formal act defected from it” [*nec actu formali ab ea defecerit*] from c. 1086 § 1; and “and [who] has not defected from it by a formal act” [*quæque nec ab ea actu formali defecerit*] from c. 1124.

And so, having heard from both the Congregation for the Doctrine of the Faith and the Pontifical Council for Legal Texts regarding this issue, and also having sought the opinion of our Venerable Brethren, the Cardinals of the Holy Roman Church, in charge of the Dicasteries of the Roman Curia, we decree the following:

Art. 1. The text of c. 1008 of the Code of Canon Law is so changed that from now on it simply says:

“By divine institution some among Christ’s faithful are, through the sacrament of Holy Orders, marked with an indelible character and are thus constituted sacred ministers; thereby they are consecrated and deputed so that, each according to his own position, may be devoted to the People of God under a new and particular title.”

Art. 2. Canon 1009 of the Code of Canon Law will now have three paragraphs, of which the first two will remain the same as the text of the current canon, but the new text of the third is redacted so that c. 1009 § 3 simply says:

“Those who are ordained in the episcopate or presbyterate receive the mission and faculty of acting in the person of Christ the Head. Deacons, however, [receive] the power [*vim*] of serving the People of God in the ministry [*diakonia*] of the liturgy, the word, and charity.”

Arti. 3. The text of c. 1086 § 1 of the Code of Canon Law is thus altered:

“A marriage is invalid when of the two persons was baptized in the Catholic Church or received into it, and the other was not baptized.”

Art. 4. The text of c. 1117 of the Code of Canon Law is thus altered:

“The form prescribed above is to be observed if at least one of the parties contracting marriage was baptized in the Catholic Church or received into it, without prejudice to the provisions of c. 1127 § 2.”

Art. 5. The text of c. 1124 of the Code of Canon Law is thus altered:

“Without the express permission of the competent authority, marriage is prohibited between two baptized persons, one of whom was baptized in the Catholic Church or received into it after baptism, the other of whom belongs to a Church or ecclesial community not in full communion with the Catholic Church.”

Everything that has been decided by Us in this Apostolic Letter ([which was] given *Motu Proprio*), we decree to be settled and in force, anything to the contrary notwithstanding, even if worthy of special mention, and We establish that it be promulgated in the official commentary of the *Acta Apostolicae Sedis*.

Given in Rome, at St. Peter, on the 26th day in the month of October in the 2009, the fifth year of Our Pontificate.

POPE BENEDICT XVI

(c) English translation by Paul Haverstock (pmhaverstock@stthomas.edu). Translations of canons were taken, when possible, directly out of the *Code of Canon Law Annotated* (2nd ed.).