

studia canonica

Revue canadienne de droit canonique
A Canadian Canon Law Review



Faculté de droit canonique
Université Saint-Paul

Faculty of Canon Law
Saint Paul University

Ottawa, Canada

Vol. 42/2 2008

THE ORDINATION OF MEN BEREFT OF SPEECH AND THE CELEBRATION OF SACRAMENTS IN SIGN LANGUAGE

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RÉSUMÉ L'arrivée récente d'un clergé sourd exige l'examen de plusieurs questions, y inclus le mutisme comme obstacle à la réception des ordres sacrés, et plus fondamentalement, la célébration valide des sacrements en langue des signes. Plusieurs opinions d'érudits s'opposent à l'ordination d'hommes muets et rejettent les tentatives de célébrer les sacrements sans le langage parlé. Cet article s'appuie sur des développements récents dans la compréhension des langages visuels-gestuels pour démontrer que la proclamation par signes de la forme sacramentelle rencontre toutes les exigences du sens et de l'expression, qui, selon les auteurs plus anciens, ne pouvaient être satisfaites que par le langage auditif-oral. Il maintient qu'il est licite d'ordonner des hommes pour qui la langue des signes est le langage pastoral primordial, voire le seul.

Introduction

The recent admission of Deaf men to holy orders brings unprecedented opportunities for ministry among deaf and hard-of-hearing persons, but it also occasions some significant canonical, sacramental, and pastoral questions.¹

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¹ Important recent studies of some issues pertaining to Deaf ministry include my own "Canonical and cultural developments culminating in the ordination of Deaf men during the twentieth century," in *Josephinum Journal of Theology*, 15 (2008), pp. 427-443 [hereafter PETERS, "Developments"]; Michael NDURUMO and Esther Njeri KIARITHA, "The Deaf and hard of hearing: an implication for Church leaders," in *African Ecclesial Review*, 48 (2006), pp. 187-202; Charles DITTMEIER, "Deaf people and Catholic liturgy," in *Pastoral Music*, (June-July 2006), pp. 19-21; Marcel BROESTERHUIZEN, "Faith in Deaf culture," in *Theological Studies*, 66 (2005), pp. 304-329 [hereafter BROESTERHUIZEN, "Faith"]; Anne BAMBERG, "Sourds et silences liturgiques," in *Gregorianum*, 85 (2004), pp. 689-698; Marcel BROESTERHUIZEN, "The Gospel preached by the deaf: conversation as complete form of language in pastoral ministry with the deaf," in *Louvain Studies*, 27 (2002), pp. 359-375; Anne BAMBERG, "Passion autour des

Here, I consider two especial issues: first, whether “mutism” (as distinct from deafness, with “mutism” being understood as a permanent inability to produce oral speech with sufficient clarity for stranger-understanding)² is an obstacle to holy orders such that, despite the elimination of physical defect as an irregularity,³ the ordination of men bereft of speech remains illicit;⁴ and second, whether clergy can validly offer sacraments solely in sign

signes et confession du sourd: enquête à partir de manuels de morale en tradition atolique,” in *Praxis Juridique et Religion*, 15 (1998), pp. 97-155; Gwyn RICHARDS, “Deaf people, the pre-nuptial inquiry, and annulments,” in *Canon Law Society of Great Britain and Ireland Newsletter*, n. 113 (March 1998), pp. 58-63; and Anne BAMBERG, “Sourds et malentendants: question de communication pour l’Église,” in *Praxis Juridique et Religion*, 14 (1997), pp. 191-122.

² The understanding of “mutism” proposed here summarizes, I suggest, what earlier scholars had in mind when they discussed the ordination of men bereft of speech in terms of ordaining the “mute” or the “dumb.” See, e.g., the case outlined in Felix CAPPELLO, *Tractatus canonico-moralis de sacramentis iuxta Codicem juris canonici*, vol. IV, *De Ordine*, 2nd ed., Rome, Marietti, 1947, [hereafter CAPPELLO, *De Ordine*] pp. 354-355, n. 474. I must caution, however, that terms such as “mute” and “dumb” have been used inaccurately of, and discriminatorily against, deaf and hard-of-hearing persons over time, and are today viewed as labels of disparagement by many within the Deaf community. See, e.g., Paul HIGGINS, *Outsiders in a Hearing World: a Sociology of Deafness*, Thousand Oaks, CA, Sage, 1980, pp. 135-136.

³ Compare 1917 CIC c. 984, 2°, setting out criteria by which physical anomalies impeding ordination could be identified, with 1983 CIC c. 1041, wherein it is self-evident that physical disabilities no longer impede men from orders. See PETERS, “Developments,” pp. 438-440. Canonical texts herein are from: *Codex Iuris Canonici, Pii X Pontificis Maximi, iussu digestus, Benedicti Papae XV, auctoritate promulgatus*, in *AAS*, 9/2 (1917), pp. 11-521, as corrected and amended; English translation Edward PETERS, *The 1917 Pio-Benedictine Code of Canon Law in English Translation with Extensive Scholarly Apparatus*, San Francisco, Ignatius Press, 2001, and *Codex Iuris Canonici, auctoritate Ioannis Pauli PP. II promulgatus*, in *AAS*, 75/2 (1983), pp. 1-320, as corrected and amended; English translation *Code of Canon Law, Latin-English Edition, New English Translation*, prepared under the auspices of the CANON LAW SOCIETY OF AMERICA, Washington, Canon Law Society of America, 1999.

⁴ Irregularities impact only the liceity, not the validity, of ordination. See, e.g., Bernard LEEING, *Principles of Sacramental Theology*, rev. ed., Westminster, Longmans, 1963, [hereafter LEEING, *Principles*] p. 270. John HICKEY, *Irregularities and Simple Impediments in the New Code of Canon Law*, Canon Law Studies, 7, Washington, The Catholic University of America Press, 1920, [hereafter HICKEY, *Irregularities*] p. 25, asserted that some scholars held the ordination of men bereft of speech to be invalid, although, after expressing disagreement with the suggestion, he offered no citations to such authors. Wernz-Vidal conceded the *capacity* of deaf men and those bereft of speech to be ordained, but called such ordinations “undoubtedly illicit and worthy of reprobation.” See Franciscus WERNZ and Petrus VIDAL, *Ius Canonicum ad Codicis Normam Exactum*, tom. IV, *De Rebus*, Rome, Gregoriana, 1934, p. 262, n. 206 (“...indubitanter est illicita et reprobanda”).

language, that is, without any enunciation of spoken words for sacramental form.⁵

Under normal circumstances, one might be tempted to respond to both questions by simply pointing to the *praxis Ecclesiae* which, over the last thirty years, has welcomed Deaf clergy into the ranks of the ordained and which clearly regards sign language celebrations of the sacraments as valid and licit.⁶ But over-hasty resort to a *praxis Ecclesiae* argument might be dangerous here. Consider: the suddenness with which Deaf clergy have arrived on the pastoral scene after centuries of *de facto* and even *de jure* exclusion from holy orders took academe quite by surprise.⁷ Thus, the kind of intellectual and pastoral ferment that preceded and helped prepare the Church for, say, the liturgical reforms of Vatican II, did not occur with regard to ordained ministry by the Deaf. It is therefore possible that, as a consequence of so little scholarly attention having been paid to some important issues in Deaf ministry before the advent of Deaf

⁵ If a cleric celebrates a sacrament in sign language while simultaneously pronouncing the form orally (even though this is not as simple as many assume), the issue of the *signed* celebration of the sacraments is not cleanly raised. As a matter of fact, no one challenges the validity of sacraments celebrated in sign *and* speech, and any challenges that might be offered would have to overcome not only the arguments set out below in regard to the sufficiency of sign language for sacramental form, but additionally, Pope Paul VI’s express approval of the simultaneous use of sign language and oral speech by priests celebrating Mass. See CONSILIIUM FOR THE IMPLEMENTATION OF THE CONSTITUTION ON THE LITURGY, “Private Reply,” 10 December 1965, in *Canon Law Digest*, vol. VI, New York, Bruce Publishing Co., 1969, pp. 552-553. See also PETERS, “Developments,” p. 437. In any event, here we will face squarely the question of whether sacraments and sacramentals can be celebrated *solely* in sign language, that is, without *any* oral pronouncement of the form.

⁶ A survey of the *praxis Ecclesiae* would reveal that, over the past three decades, Deaf priests (and some hearing priests competent in sign and celebrating sacraments for predominately Deaf congregations) have offered thousands of Masses and heard untold numbers of sacramental confessions. They have administered anointing of the sick, occasionally conferred Confirmation, and, along with Deaf permanent deacons, have celebrated hundreds of baptisms, witnessed scores of weddings, and performed a wide range of sacramentals. The great majority of these rites were celebrated—and generally could not have been celebrated otherwise—in sign language, without vocalization. PETERS, “Developments,” esp. pp. 441-443.

⁷ Only during the twentieth century did long-standing canonical and cultural barriers to the ordination of Deaf clergy begin to crumble; it was not until 1970 that Cyril Axelrod, a Jewish convert in South Africa, became the first culturally Deaf man to be ordained to priesthood and immediately assigned to active ministry. Since 1977, more than a dozen Deaf men have been ordained to priesthood or permanent diaconate in the United States, and Deaf clergy now serve in Great Britain, Spain, France, Brazil, and South Korea. See generally PETERS, “Developments,” pp. 427 and 429.

ordinations, some developments therein could have occurred at odds with canonical and sacramental principles.

1 — Acknowledging Traditional Objections From Academe

More specifically, several weighty canonical commentators and sacramental authors, including the Spanish Jesuit Eduardo Regatillo, German Capuchin Heriberto Jone, American Dominican Nicholas Halligan, and the Roman/Italian Jesuit Felix Cappello (regarded by many as the greatest sacramental lawyer writing under the Pio-Benedictine Code)⁸ did, in fact, posit a *divine* law barrier to the ordination of men bereft of speech and,⁹ similarly, argued against the sufficiency of sacramental form without oral speech.

For example Cappello, in discussing lack of speech as an obstacle to holy orders, wrote: "A mute who is in no way able to speak is not only irregular, but by divine law is forbidden the clerical state, such that the [Roman] Pontiff in no way can dispense him for hierarchical orders."¹⁰ Likewise Jone: "Mutes who are unable to speak are not only irregular, but by divine law are forbidden the clerical state."¹¹ And Bouscaren and Ellis wrote: "A person who cannot speak at all is not only irregular but is forbidden the clerical state by divine law."¹²

⁸ On the place of Cappello in canonistics, see, e.g., Lawrence WRENN, "In diebus illis: Some Canonical Giants in Days of Yore," in *Studia canonica*, 35 (2001), pp. 512-514.

⁹ Once again, to be clear, these authors did not so much argue here a divine law obstacle to orders based on *deafness*, but rather, a divine law obstacle to orders based on *mutism*. See PETERS, "Developments," p. 438. Lack of speech can arise from several factors besides deafness (see, e.g., "Speech Disorders," in C. CLAYMAN [ed.], *The American Medical Association Encyclopedia of Medicine*, New York, Random House, 1989, p. 926), but today, the question of ordaining men bereft of speech is encountered only in the context of considering deaf or severely hard-of-hearing candidates for orders.

¹⁰ "Mutus, qui nullo modo loqui valet, non solum est irregularis, sed ipso iure divino a statu clericali arceatur, adeo ut R. Pontifex nullatenus possit cum eo dispensare pro ordinibus hierarchicis" (CAPPELLO, *De Ordine*, p. 354, n. 474).

¹¹ "Muti, qui minime loqui valent, non solum sunt irregulares, sed ipso iure divino a statu clericali arcentur." Heriberto JONE, *Commentarium in Codicem Iuris Canonici*, vol. 2, Paderborn, Officina Libraria F. Schönigh, 1950-1955, [hereafter JONE, *Commentarium*] p. 193.

¹² Lincoln BOUSCAREN, Adam ELLIS, and Francis KORTH, *Canon Law: A Text and Commentary*, 4th ed., Milwaukee, Bruce, 1966, p. 443. The names of those opposed to ordaining men bereft of speech could be multiplied: see, e.g., John ABBO and Jerome HANNAN, *The Sacred Canons: A Concise Presentation of the Current Disciplinary Norms of the Church*, vol. 2, St. Louis, Herder, 1952, p. 123, and Stephanus SIPOS and L. GÁLOS, *Enchiridion Iuris Canonici*, 6th ed., Rome, Orbis Catholicus-Herder, 1954, [hereafter SIPOS, *Enchiridion*] p. 391.

In similar terms, canonical commentators and sacramental authors held for the use of oral speech in celebrating the sacraments. For example, Regatillo, in the opening pages of his treatise on sacramental law, wrote: "Pronunciation. The form must be pronounced *for validity*: a) *vocally*; b) *in a consecratory manner*, that is, as an executory act, and not as an historical recitation or a promise. *For liceity*: a) *reverently*; b) *without repetition*, unless reasonable cause directs."¹³ The French dogmatician J. M. Hervé held: "For the *validity* of form it is required that the words (1) be pronounced *sensibly* and *audibly*; mere mental recitation or reading the words does not suffice...."¹⁴ And the Austrian Jesuit H. Noldin agreed: "Conditions required in regard to form. Pronunciation of the form must be vocal ... in that, the form of the sacraments must be pronounced by the organs destined for speaking in such a way that the minister can hear himself: that pronunciation is not considered sensible which in no way can be perceived by hearing, or which can be examined only by the eyes; a sacrament might be exposed to the danger of nullity if the form was not sensible."¹⁵

Moreover, the necessity of vocalizing the form of the sacraments in general was reiterated in commentaries on specific sacraments. Cappello, for example, discussing sacramental confession, wrote: "Not only for *liceity*, but for *validity*

¹³ "Pronuntiatio. Forma pronuntianda est, *ad valorem*: a) *vocaliter*; b) *modo consecratorio*, i.e., *executivo*, non *historico* aut *promissorio*. *Ad liceitatem*: a) *reverenter*; b) *sine repetitione*, nisi *rationabilis causa excuset*." Eduardo Fernández REGATILLO, *Ius sacramentarium*, 4th ed., Santander, Sal Terrae, 1964, [hereafter REGATILLO, *Ius*] p. 7. Original emphasis. See also Iosepho D'ANNIBALE, *Summula Theologiae Moralis*, vol. 3, 4th ed., Rome, Propaganda Fide, 1896-1897, [hereafter D'ANNIBALE, *Summula*] pp. 213-216, nn. 235-238.

¹⁴ "Ad *validitatem* formae requiritur ut verba: 1) modo *sensibili* et *audibili* pronuntientur; non sufficit mente tantum ea legere aut oculis percurrere...." J. M. HERVÉ, *Manuale Theologiae Dogmaticae*, vol. III, 19th ed., Westminster, MD, Newman, 1943, p. 434, no. 406. Original emphasis.

¹⁵ "*Condiciones ex parte formae requisitae*. Pronuntiatio formae debet esse *vocalis*... i.e. forma sacramentorum organis ad loquendum destinatis ita pronuntiarum debet, ut minister se possit audire: illa enim pronuntiatio non est *sensibilis* quae nulla ratione auditu percipi potest, si v.g. solum oculis perlustratur; sacramentum autem periculo nullitatis exponeretur, si pronuntiatio formae non esset *sensibilis*." Emphasis restored. H. NOLDIN, A. SCHMITT, and G. HEINZEL, *Summa Theologiae Moralis*, vol. 3, 33rd ed., Oeniponte, Feliciani Rauch, 1960, pp. 10-11, n. 16. Again, the list of those generally demanding that sacramental form be expressed orally could be lengthened: see, e.g. John MCHUGH and Charles CALLAN, *Moral Theology: A Complete Course*, vol. 2, New York, Wagner, 1929, pp. 626-627, wherein: "As the matter must be visible or otherwise sense-perceptible, so the form must be audible ... for a sacrament is a *sensible* sign ... The form is changed substantially when it is so modified that *to a listener* it no longer conveys the sense intended by Christ." Emphasis added.

it is required that sacramental absolution be put forth by mouth."¹⁶ Similarly Halligan, discussing the form for celebrating the Eucharist, stated: "The dignity of this sacrament wherein the priest speaks in the person of Christ Himself requires that the words of consecration be spoken with the greatest care and reverence. At the same time, they are to be said in a truly and normally human manner, without scruples as one speaks important words."¹⁷ It would, in short, be irresponsible to pretend that such weighty assertions against the ordination of men bereft of speech and the celebration of sacraments without oral pronunciation of form did not exist.

Nevertheless, despite the considerable academic objections offered to ordaining men who are unable to speak and to countenancing the celebration of sacraments solely in sign language, I believe that the modern *praxis Ecclesiae* is correct and that the ordination of men bereft of speech and the celebration of sacraments solely in sign is valid and licit. I will now set about making that argument.

2 — Ordaining Men Bereft of Speech

Under the Johanno-Pauline Code, it would be very difficult to challenge the liceity of the ordination of a baptized man bereft of speech solely on the grounds that the man is bereft of speech. Against the backdrop of Canon 10,¹⁸ it is clear that Canon 1024 holds only females and non-baptized males as *incapable* of ordination.¹⁹ Even Canon 1029, which directs that a candidate's physical characteristics be considered during formation, not only suggests no basis for questioning the validity of the ordination of a man on the basis of his

¹⁶ "Non solum ad liceitatem, verum etiam *ad valorem* absolutionis sacramentalis requiritur, ut ore proferatur" (Felix CAPPELLO, *Tractatus canonico-moralis de sacramentis iuxta Codicem juris canonici*, vol. 2, *De Poenitentia*, 4th ed., Rome, Marietti, 1944, p. 65, n. 68). Original emphasis.

¹⁷ Nicholas HALLIGAN, *The Administration of the Sacraments*, Staten Island, N.Y., Alba House, 1963, [hereafter HALLIGAN, *Administration*] p. 103. Discussing confession, Halligan made this same point in more detail: "By the will and institution of Christ absolution to be *valid* must be oral, even in the greatest necessity, and this is the perpetual practice. Although not of faith, it is theologically certain and in practice all expressions of absolution other than in words must be considered invalid. The words need not be heard by the penitent (or even by the minister), but they must of themselves be audible" (HALLIGAN, *Administration*, p. 178). Original emphasis, citations omitted.

¹⁸ 1983 CIC c. 10. Only those laws must be considered invalidating or disqualifying which expressly establish that an act is null or that a person is unqualified.

¹⁹ 1983 CIC c. 1024. A baptized male alone receives sacred ordination validly.

physical characteristics, it directs that ordination assessments be undertaken with a view toward an assessment of the whole person and in light of all the relevant circumstances.²⁰ Surveying other canons that could be construed as legal obstacles to ordination,²¹ because none of them contain express requirements for licit ordination associated with a man's abilities in regard to oral speech, the imputation of an obstacle for holy orders would have to rest on theologically and canonically certain, even if merely implied, grounds.²² We may ask, do such grounds exist?

Turning first to Pio-Benedictine legislation, no canon therein erected a barrier to holy orders expressly based on speech impairments, but Canon 984, 2°, as is well-known, generally impeded "those impaired in body who cannot safely because of the deformity, or decently because of the deformity, conduct ministry of the altar."²³ Now, as stated earlier, while most Pio-Benedictine commentators did not read Canon 984 as reflecting a divine law barrier to orders based purely on *deafness*, within that canon some scholars thought they saw a divine law barrier to orders, if only in regard to liceity, based on a candidate's *speech impairment*. How exactly this barrier arose is not clear for, in the canonical commentators and sacramental authors I consulted, none actually explained *what* about mutism stood in the way of holy orders, only that mutism did somehow stand in the way.²⁴ But one may, I think, hazard a good guess as to what their concern was.

²⁰ 1983 CIC c. 1029. Only those are to be promoted to orders who, in the prudent judgment of their own bishop or of the competent major superior, all things considered, have integral faith, are moved by the right intention, have the requisite knowledge, possess a good reputation, and are endowed with integral morals and proven virtues and the other physical and psychic qualities in keeping with the order to be received.

²¹ As examples of such norms, see canon 1025, § 2 on the importance of verifying that a given candidate will be beneficial to the ministry of the Church, or canon 1033 on the requirement of receiving confirmation prior to ordination. See also 1983 CIC cc. 1040-1042.

²² Such grounds can be postulated *pro arguendo*, of course, in that a *divine* law obstacle to ordination (or, for that matter, to any number of other contemplated ecclesiastical actions) would not need to have been expressly incorporated into the 1983 Code in order to bind ecclesiastical officials and prevent the effects of the proposed action from arising. That said, it must be immediately added that the burden of proof for such an obstacle would rest on the one asserting it.

²³ See generally PETERS, "Developments," pp. 427-429. Note that 1917 CIC c. 984, 3° impeded, among others, epileptics.

²⁴ Sipos, for example, simply offered the unsatisfying observation that mutism impedes "because of the nature of the thing." SIPOS, *Enchiridion*, p. 391 (irregulares sunt . . . muti, ex natura rei).

Canon 984, 3^o, the primary Pio-Benedictine norm on physical disabilities, strove to eliminate threats to proper exercise of ordained, specifically cultic, ministry at the altar of sacrifice. While no specific list of physical defects impacting service at the altar was provided by the Legislator (doubtless because there were too many possibilities to contemplate) canonical commentators and sacramental authors, in discussing physical obstacles to holy orders, invariably discussed Canon 984 situations in light of their impact on liturgical, specifically sacred, duties.²⁵ Thus, for example, many scholars opposed even the ordination of stutterers (*balbutientes*) because, it was feared, their *service at the altar* would occasion consternation or even mockery by the faithful.²⁶ But the concerns raised in regard to ordaining men bereft of speech, as opposed to ordaining men who were deaf, I suggest, went deeper than concerns for priestly public image: canonical commentators and sacramental authors, I suggest, seem to have concluded that men bereft of speech could not validly celebrate the sacraments or sacramentals because, it was thought, such men could not convey their form. We are now ready to face the fundamental question of sacraments and sacramental being offered solely in a sign language.

3 — Sacramental Form and Sign Language

As is well-known, Christ the Lord willed the sacraments to consist of *res* (matter) and *verbum* (word or form).²⁷ The “word” of a sacrament (e.g., “I baptize you, etc.” or “This is my Body, etc.”), when expressed simultaneously with the matter (e.g., washing with water at Baptism, or the bread and wine of the Eucharist), is what gives *sacramental* meaning to the matter. Consequently, if the *verbum* of a sacrament is missing or notably defective, the *res* remains

²⁵ See, e.g., CAPPELLO, *De Ordine*, p. 347, n. 464; JONE, *Commentarium*, p. 192; and HICKEY, *Irregularities*, esp. pp. 23-24. From time to time, some earlier scholars spoke of Canon 984 as protecting “ecclesiastical ministry,” a term that, today at least, sounds broader than simply cultic duties, but such references were never offered in place of the primary focus of Canon 984 on service at the altar.

²⁶ See, e.g., CAPPELLO, *De Ordine*, p. 354, n. 474; JONE, *Commentarium*, p. 193; and SIPOS, *Enchiridion*, p. 391. HALLIGAN, *Administration*, p. 377, suggested rather gratuitously that stuttering might reflect a deeper psychological problem. One may, in any event, regret that concerns about such markedly unchristian behavior by lay faithful needed to be aired at all.

²⁷ See, e.g., *Catechism of the Catholic Church*, 2nd ed., Rome, Libreria Editrice Vaticana, 2000, n. 1084; LOUIS BOUYER, “Sacrament,” in L. BOUYER (ed.), *Dictionary of Theology*, C. Underhill Quinn (trans.), New York, Desclée, 1965, pp. 392-395, at 394; LUDWIG OTT, *Fundamentals of Catholic Dogma*, P. Lynch (trans.), St. Louis, Herder, 1957, [hereafter OTT, *Fundamentals*] p. 327; and LEEMING, *Principles*, pp. 385-431.

equivocal and ineffective,²⁸ and the sacrament is not effected regardless of the sufficiency of the matter, the adequacy of the minister’s and recipient’s qualifications or the correctness of their intentions, or the desires of the community.²⁹ The question (or perhaps better, questions, as *two* issues are closely bound here), then, is whether the form of a sacrament can be conveyed in something other than orally pronounced words, and if so, whether men without speech could convey that form. Pre-conciliar canonical commentators and sacramental authors answered that question (or questions) with No, but then, they could hardly have thought otherwise based on what little was known about sign languages at the time.

Prior to the publication in 1960 of William Stokoe’s seminal essay demonstrating the linguistic character of sign language,³⁰ secular academe and Catholic pastoral leadership³¹ were utterly unaware of the linguistic character of American Sign Language and of many other sign languages in general. As

²⁸ Felix CAPPELLO, *Tractatus canonico-moralis de sacramentis iuxta Codicem juris canonici*, vol. 1, *De Sacramentis in Genere*, 4th ed., Rome, Marietti, [hereafter, CAPPELLO, *De Sacramentis*] p. 13, n. 14. See also D’ANNIBALE, *Summula*, p. 213, n. 235, wherein: “Forma igitur sunt verba quibus id, quod materia sub obscure demonstrat, apertius significatur.”

²⁹ See, e.g., OTT, *Fundamentals*, p. 327; and DOMINICUS PRÜMMER, *Handbook of Moral Theology*, 5th ed., G.W. Shelton (trans.), Cork, Mercier Press, 1956, p. 241, wherein “The matter and form are absolutely *essential* to the validity of the sacraments and they cannot be changed even accidentally without grave reason; any *substantial* change of either would render the entire sacrament invalid.” Original emphasis. See also JOANNES GURY, *Compendium Theologiae Moralis*, vol. 2, 5th ed., Eugenius Pontificius, 1910, p. 117, wherein “Materia et forma omnino sunt necessariae ad sacramenti validitatem: idcirco, alterutra deficiente, sacramenta confici nequeunt. . . . *De fide est.*” Original emphasis.

³⁰ See WILLIAM STOKOE, “Sign Language Structure: an Outline of the Visual Communication System of the American Deaf,” in *Studies in Linguistics, Occasional Papers*, 8, Buffalo, University of Buffalo, 1960. For most of his academic career, Stokoe was a hearing linguist teaching at the world’s only liberal arts college for the deaf, Gallaudet College in Washington, D.C. Stokoe followed this work with a number of reinforcing studies, including *A Dictionary of American Sign Language on Linguistic Principles* in 1965. See PETERS, “Developments,” pp. 434-435.

³¹ The lack of awareness of the linguistic character of sign languages among Catholic pastoral leaders is noteworthy because it stands in some contrast to the earlier interest the Church had shown in evangelizing the Deaf, beginning not later than Abbé Charles-Michel de L’Epeé’s decision to learn what is now recognized as an early French sign language and using it to instruct the deaf and hard-of-hearing around Paris in the mid-18th century. See HARLAN LANE, *When the Mind Hears: a History of the Deaf*, New York, Vintage Books, 1989, pp. 42-66. Others trace ecclesiastical contributions to deaf education back to the 16th century. See MARILYN DANIELS, “The Benedictine Roots in the Development of Sign Language,” in *American Benedictine Review*, 44 (1993), pp. 396-398.

Stokoe's thesis was examined by (hearing) scholars over the next several years, however, its persuasiveness became obvious. As I have noted elsewhere:

For deaf people no less than hearing, the ability to receive and express complex and abstract ideas is essential to personal interaction and social organization. The primary mode of communication between most persons is, of course, oral speech, but this observation requires refinement. To be precise, we must say that complex communication between human persons is accomplished by exchanges not in speech *per se*, but by exchanges in a *mutually understood language*. The capacity for *language* is, of course, one of the cardinal characteristics of human beings so, while hearing loss can have a major impact on the acquisition of *speech*, it does not deprive one of the natural ability to acquire *language*. The fact that most languages are, of course, oral obscures this point for hearing people, but it is crucial for our discussion to be clear that what is necessary for sophisticated human communication is *not* speech, but *language*.³²

As people came to realize that nothing about human nature required that human languages be oral-auditory phenomena, and that true languages could be manual-visual, the question of whether this signing system or that one was a *language* was no longer theoretical, but rather empirical. Stokoe's essay triggered an avalanche of studies demonstrating that sign languages (specifically American Sign Language, though the linguistic analysis of ASL has since been applied to dozens of sign languages now documented around the world), are not simply manual representations of a spoken languages, but rather, are independent authentic human languages sharing all of the essential characteristics and power of spoken or oral languages.³³ Again, as I noted elsewhere,

The visual language ASL displays all of the essential characteristics of an oral language such as English, including but not limited to: *productivity* (ASL can produce an infinite number of content-rich sentences), *expandability* (ASL acquires

³² PETERS, "Developments," p. 435, paraphrased, omitting citations. In this context, one might also consider Aristotle's observation that spoken words are simply symbols of mental experiences, and that while words vary from language to language, the mental experiences they convey are common to all human beings. See ARISTOTLE, *On Interpretation*, in R. McKEON (ed.), *The Basic Works of Aristotle*, New York, Random House, 1941, p. 40, n. 1. Aristotle went on to note that written words are themselves symbols of (spoken) words; by implication, then, written words are twice removed from the mental concept they intend to convey. Note, in fact, that some earlier sacramental authors considered, but (correctly in my opinion) rejected, writing as a way to express sacramental form. See, e.g., D'ANNIBALE, *Summula*, p. 213, n. 235. Sign language, in contrast to writing, is not a *secondary* representation of mental concepts, but rather, an *immediate* presentation of same. As an aside, I may add that Aristotle's teacher Plato made reference to the deaf communicating with one another in sign language. See, e.g., PLATO, "The Cratylus," in E. HAMILTON and H. CAIRNS (eds.), *The Collected Dialogues of Plato*, Princeton, Princeton University Press, 1982, p. 457, n. 422e.

³³ PETERS, "Developments," pp. 434-435.

or produces new vocabulary items and discards obsolete terms), *displacement* (ASL can spontaneously discuss past or future events and matters that are not immediately present), and *unrestricted domains* (ASL can address any topic proposed in human thought). As is true for all authentic languages, ASL can be used by the entire host community (and not just by a professional cadre within the group), is monitored by that community for correctness of use, and can be used to analyze the language itself. The linguistic nature of sign languages makes possible complex, immediate, accurate, real-time communication between any two or more persons who know the language.³⁴

The linguistic character of sign language, then, is the crucial datum that escaped canonical commentators and sacramental authors writing hardly more than a generation ago, that is, before competent studies in linguistics had established the authenticity of manual-visual languages. Because, I suggest, the only languages these earlier ecclesiastical authors *knew of* were oral-auditory languages, they could not imagine the satisfaction of sacramental form being accomplished in any way other than through a *spoken* language.³⁵ These scholars reasoned (and, at the formal level, at least, correctly reasoned) that, because Christ willed the simultaneity of present matter and expressed form in sacramental rites, a priest who wanted to celebrate a sacrament *had* to express the form orally. But, if these redoubtable authors had known about the *language* character of sign languages, their assertion of a specific "vocalization" requirement (as opposed to, say, a "proclamation" or "expression" requirement) for sacramental form would have been much harder to defend.

Consider: In the eighth article of Question 60 of the Third Part of the *Summa Theologica*, St. Thomas, expounding on the nature of a sacrament, asks "Whether it is lawful to add anything to the words in which the

³⁴ *Ibid.*, p. 435, paraphrased, omitting citations. As noted therein, I drew generally on, *inter alia*, C. VALLI, et al., *Linguistics of American Sign Language: An Introduction*, 4th ed., Washington, Gallaudet University, 2005, and Jerome SCHEIN and David STEWART, *Language in Motion: Exploring the Nature of Sign*, Washington, Gallaudet University, 1995.

³⁵ For example, HALLIGAN, *Celebration*, p. 14, wrote "...the formula must be pronounced vocally ... and *not mentally only*." Emphasis added. It seems clear from his use of the phrase "and not mentally only" that Halligan could imagine no alternative to oral expression of sacramental form other than some sort of mental recollection of the form, and on that supposition he demanded the use of the voice in sacramental form because it was the only means he knew of *to express* the sacramental form. It was, to be sure, prudent of these earlier authors to advise the safer route then known on so weighty a topic as sacramental form and consequently to hold for oral expression of form as a requisite for validity. Advising the safer (*tutior*) of two alternatives in regard to sacramental matter or form be utilized is common among conscientious canonical commentators and sacramental authors. See, e.g., HALLIGAN, *Administration*, p. 8-10, and CAPPELLO, *De Sacramentis*, pp. 16-31, nn. 15-32, and fn. 41 below.

sacramental form consists?" In replying to the second objection—which objection had alleged that the addition or subtraction of any words alters (and thus destroys) the sacrament—St. Thomas makes the following point: "Words belong to a sacramental form by reason of the sense signified by them. Consequently any addition or suppression of words which does not add to or take from *the essential sense*, does not destroy the essence of a sacrament."³⁶

It is important first to realize what St. Thomas is *not* saying: he is not saying that ministers are free to vary sacramental form as circumstances, in their opinion, suggest.³⁷ Nor is he opining that just any form which seems to convey the essence of the sacramental meaning actually does so upon closer inspection.³⁸

But outside of those concerns, St. Thomas' position seems to be that a wide variety of *verba* could be used to convey the sense of the sacrament, provided that the *verba* convey the sense of the sacrament accurately without significant addition or elimination. This is eminently reasonable. The first time Christian clergy took the form of the Eucharist out of the Hebrew or Aramaic in which Christ the Lord had celebrated the Last Supper, and put

³⁶ St. Thomas AQUINAS, *Summa Theologica, First Complete American Edition*, vol. 2, Blackfriars' trans., New York, Benziger, 1947, p. 2352, or Pars III., Q. 60, art. 8, reply obj. 2, emphasis added. That St. Thomas' focus on the *sense behind* a "word" is crucial for meaning, see also *ST*, Pars I, Q. 34, *ibid.*, vol. I, pp. 177-181, esp. 177 ("Therefore it follows that, first and chiefly, the interior concept of the mind is called a word; secondarily, the vocal sound itself, signifying the concept, is so called."), noted generally in W. CHAFE, "Language: Science of Language," in *New Catholic Encyclopedia*, vol. VIII, New York, McGraw-Hill, 1967, pp. 365-373, and more specifically by R. MCINERNEY, "Language: Philosophy of Language," *ibid.*, pp. 373-376, esp. 374. See also D'ANNIBALE, *Summula*, pp. 214-216, nn. 236-238.

³⁷ See 1983 CIC cc. 838, § 1, 841, and 846 § 1.

³⁸ Examples of such variations in form resulting in failure of the sacrament might include questions about changing the form of baptism from "I baptize you in the name of the Father, and of the Son, and of the Holy Spirit" (CCC 1240) to "I baptize you in the name of the Trinity." While conceptually the referents in both formulae might be the same, the alterations are considered as introducing concepts foreign to the sense of the sacrament or as eliminating concepts essential to the sense of the sacrament. See Dominicus PRÜMMER, *Manuale Theologiae Moralis*, vol. 3, 10th ed., St. Louis, Herder, 1946, p. 85 (rejecting baptism in the name of the Trinity). But see P. PALAZZINI, "Baptismus" in P. PALAZZINI (ed.), *Dictionarium Morale et Canonicum*, vol. 1, Rome, Officium Libri Catholici, 1962-1968, [hereafter DMC] pp. 404-410, at 406, and OTT, *Fundamentals*, pp. 353-354, for historical evidence of some modified forms still being valid.

it into one or more versions of Greek, and later from Greek into one or more versions of Latin, the Church confirmed that the *language* in which a sacrament was celebrated did not belong to its essence, but rather, that the *meaning* of the form employed in the celebration, did.³⁹ Granted, during the many centuries of Latin hegemony in western liturgy there was little need to recall that *meaning*, not *language*, was what counted in sacramental form, but the post-conciliar explosion in the number of vernacular languages used in the liturgy today has made the more fundamental point important to recall once again.⁴⁰ Today, then, one must be aware that what is crucial is not the language the minister uses, but rather the ability of that language to express or communicate the divinely-willed sense of the sacramental form. Recognizing that sign languages are fully human languages, today we can say that what is required for sacramental form is the direct *expression* or *communication* of the form,⁴¹ not its "orality," and that discoveries regarding the linguistic capacity

³⁹ See, e.g., I. H. DALMAIS, *Introduction to the Liturgy*, R. Capel (trans.), Baltimore, Helicon, 1961, pp. 150-151.

⁴⁰ See SACROSANCTUM OECUMENICUM CONCILIUM VATICANUM II, *Constitutio de Sacra Liturgia Sacrosanctum Concilium* (4 decembris 1963) n. 36, published in *AAS*, 56 (1964), pp. 97-138, or *Idem.*, *Constitutiones, Decreta, Declarationes*, Rome, Typis Polyglottis Vaticanis, 1966, pp. 3-69; English translation in A. FLANNERY (ed.), *Vatican Council II: The Conciliar and Post-Conciliar Documents*, Catholic Book Publishing, 1975, pp. 1-37. A full discussion of the technicalities of liturgical translation (issues anticipated by 1983 CIC c. 838, among others) is beyond the scope of this article, whose purpose is simply to demonstrate that sacramental forms translated into sign languages suffice for validity. See also f. 42. As an aside, some Deaf have indicated that the introduction of the vernacular Mass contributed, however ironically, to their sense of exclusion from the liturgy of the Church. When Mass was in Latin, hearing and deaf alike experienced a sense of language separation between themselves and the liturgy. With the introduction of the vernacular, however, hearing people no longer experienced the separation that resulted from a foreign language being used, while the Deaf, except in rare signed Masses, still do. See George CROUTER, "The Mass in Sign Language," in *Catholic Digest*, (May 1972), pp. 66-69, and Mandy ERICKSON, "A parish where the Deaf come first," in *St. Anthony Messenger*, (March 1999), p. 13. This observation reinforces the argument that Deaf clergy, who are typically native signers, fulfill an important, and easily-overlooked, pastoral mission. See PETERS, "Developments," p. 441.

⁴¹ Perhaps the most recent authoritative reiteration of the importance of *communicating* or *expressing* the form of a sacrament came from Pope Pius XII when, in his 1956 remarks to the International Congress of Pastoral Liturgy (the Assisi Conference), he stated that concelebrating priests must pronounce the words of institution along with the principal celebrant if they intended to concelebrate effectively. See PIUS XII, alloc. "Vous Nous avez demandé," 22 Sept. 1956, in *AAS*, 48 (1956), pp. 717-718; English trans. in *The Assisi Papers*, Collegeville, Liturgical Press, 1957, p. 230. See also SUPREMA SACRA CONGREGATIO S. OFFICII, *Responsa ad dubium*, 23 May 1957, in *AAS*, 49 (1957), p. 370, English trans. in *CLD*, IV, pp. 256-257, French trans. in *Documentation Catholique*, 54 (1957), p. 736.

of sign languages leave no doubt as to their fundamental ability to express or communicate the form of the sacraments and sacramentals.⁴²

4 — *Application of Modern Insights to Earlier Objections*

Considered, then, in the light of the linguistic character and powers of expression inherent in sign languages, the concerns of canonical commentators and sacramental authors regarding sufficiency of the expression of sacramental form without spoken words are answered. For example, Noldin's worry that a sacrament could be exposed to the danger of nullity "if the form were not sensible" is resolved: sacramental form conveyed in sign language is perfectly sensible to anyone who knows sign language, just as sacramental form in Latin is perfectly sensible to anyone who knows Latin, and as sacramental form in English or French is perfectly sensible to anyone who knows English or French.⁴³ Likewise, McHugh and Callan's insistence that the form of a sacrament be *sensible* is honored: the form of any sacrament, expressed competently in a sign language, is completely *sense*-perceptible and accurately conveys to third parties (who know the language) the meaning intended by Christ. Similarly, Halligan's demand that a celebrating priest speak "in the person of Christ Himself ... the words of consecration ... with the greatest care and reverence ... in a truly and normally human manner, without scruples as one speaks important words" is

⁴² I do not mean to imply that there remain no practical pastoral or liturgical questions about proclaiming sacramental form in sign languages, for indeed there are. For example, not every deaf man is necessarily skilled in sign language, and other physical disorders (e.g., cerebral palsy) might interfere with the clarity of signs in rather the same way that various speech disorders might interfere with the ability of a hearing man to express himself clearly in speech. The accuracy and clarity of a Deaf candidate's signing ability should be assessed, with the help of experts if necessary, in the same way that a hearing candidate's command of the vernacular needs to be weighed. See PETERS, "Developments," pp. 441-442 and 1983 *CIC* c. 249. Or again, certain signs and liturgical postures or gestures might need mutual accommodation. But these and other issues go not to the ability of sign language to express sacramental form, but rather, to the ability of a given individual to use sign language correctly. As such, these practical questions are better addressed when specific attention can be accorded them and after pastoral experience in Deaf ministry can shed some light on them.

⁴³ Noldin's concerns that form be expressed by "organs destined for speaking" are adequately addressed herein as part of the wider discussion of the power of sign language to express form, but Noldin's specificity still serves to preclude bizarre methods of attempting to express sacramental form by, say, pantomime, blinking the eyes in Morse Code, or simple "lip-syncing." Likewise his negative view of form that can be "examined only by the eyes," allows to us preclude "mouthing" the form or writing it out and posting the form over the matter, without challenging the sufficiency of sign language in regard to sacramental form.

perfectly—indeed, many would say beautifully—fulfilled by a priest signing the words of institution with the greatest care, in a truly human manner, without scruples, as one would sign important words. And sacramental form expressed in sign language would more than satisfy Regatillo's standard that even if "the words of themselves do [not] have the sense intended by Christ, it suffices that, as they are offered here and now, they propose to the congregants such a sense by common understanding."⁴⁴ There is simply no question in the minds of Deaf congregants that priests offering Mass in sign language, specifically during the Consecration, are acting in Christ's name, using Christ's words, in fulfillment of Christ's mandate.

Conclusion

Given the demonstrations outlined above that sign languages are as inherently capable as oral languages are of expressing sacramental form, the concerns of earlier canonical commentators and sacramental authors that men, simply because they were deprived of *speech*, are unsuitable by divine law for holy orders, are immediately allayed. Clearly, Deaf clergy (or hearing, for that matter) competent in sign language *can* proclaim validly and licitly the form of sacraments and sacramentals in sign language alone,⁴⁵ and thus may be considered for admission to holy orders without scruples in this regard.

There is, in brief, no obstacle in divine or ecclesiastical law according to which deafness or lack of oral speech are, of themselves, contraindications for ordination or obstacles to the celebration of sacraments.

⁴⁴ Regatillo's original phrasing was: "Non requiritur ut verba ex se ipsis sensum habeant a Christo; sufficit ut ex modo quo hic et nunc proferuntur, communii acceptione talem sensum suggerant audientibus" (REGATILLO, *Ius*, p. 7).

⁴⁵ Some pastorally unthinkable contrary conclusions are also hereby avoided: one may be reassured that the uncountable Masses, absolutions, and other sacramental actions celebrated by Deaf clergy without vocalization over the past 40 years were not invalid. The faithful participating in these rites were not deprived of the sacramental graces attached thereto and, for that matter, they were not engaged in material idolatry at pseudo-Eucharists. Instead, the ordination of Deaf clergy and the consequent celebration of various sacramental rites in sign languages around the world is proving to be, not just a boon for deaf and hard-of-hearing persons, but, as suggested by BROESTERHUIZEN, "Faith," p. 325, a *locus theologicus* for the wider Church, specifically, one that deepens our understanding of the "expression requirement" of sacramental form.