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DOCUMENT NO.XII**COMMENTARY ON CARDINAL GASPARRI'S
LETTER: PERLEGISTI****By Dr Edward Peters**

Some 100 years ago, Pietro Cardinal Gasparri addressed a short but fascinating letter to Catholic universities engaged in teaching Canon Law.¹ Written just a few weeks after receiving from Pope Pius X his mandate to begin work on the codification of Canon Law,² Gasparri's letter solicits the support of Catholic universities in the *arduum munus* that the codification project would be. Along the way, his letter also provides an early description of the basic structure that the Pio-Benedictine Code would eventually adopt, as well as some evidence that an alternative structure was still being considered at the time.

After underscoring the Roman Pontiff's directive calling for nothing less than the reduction of "all of Canon Law" into Canons along the models of recent civil Codes, Gasparri wrote: "The order to be observed (in the Code) will more or less be as follows: being preceded by a general part consisting of the titles *De Summa Trinitate et fide catholica*, *De Constitutionibus*, *De Consuetudine* (and) *De Rescriptis*, there will be five books: *De Personis*, *de Sacramentis*; *De Rebus et Locis sacris*, *De Delictis et Poenis*, (and) *De Iudiciis*".

What became the books of the 1917 Code are immediately recognisable in this very early outline: Persons, Things (into which Gasparri had put Sacraments and Things and sacred Places), Crimes and Penalties, and Trials (albeit reversing the order of the last two books during the codification process).³ That leaves only Book I of the Pio-Benedictine Code, General Norms, unaccounted for, but recognising such topics as Custom and Rescripts among his proposed preliminary "titles", we can easily surmise that these matters were grouped with others then unnamed in what finally emerged as Book I of the 1917 Code. In this regard, *Perlegisti* reads consistently with the idea that Gasparri had long wanted to work on a canonical codification project, and had obviously given it much thought.⁴

¹ Petrus Gasparri, letter *Perlegisti*, 6 April 1904, *Acta Sanctae Sedis* 37 (1904-1905) 130-131. The *Acta Sanctae Sedis* (1865-1908), published with papal authority beginning in 1904, was superseded by the official commentary *Acta Apostolicae Sedis* beginning in 1909, *Perlegisti* was also reprinted in *Le canoniste contemporain* 27 (1904) 692-693.

² Pope Pius X announced his intention to codify Canon Law in the m.p. *Arduum sane munus*, 19 March 1904, *Acta Sanctae Sedis* 36 (1903-1904) 549-551. Gasparri, appointed to direct the Codification Commission the same day, wrote *Perlegisti* just three weeks later.

³ The order of the last two books is reversed again in the 1983 Code (namely Book VI Sanctions, and Book VII Procedures), thereby returning to the order originally envisioned by Gasparri.

⁴ See generally R. Naz, et. Al., "Codex Iuris Canonici: Travaux Préparatoires", *Dictionnaire De Droit Canonique*, t. III, col. 909-940 (1942), esp.col.917-920. The order proposed for the Code (Persons, Things, Procedures and Crimes) is the way, the same as that used by the lay Canonist Lancelotti in his *Institutiones Iuris Canonici* (1563), with a distinct book on General Norms not being present in either plan.

But the proposed preliminary “titles” that were eventually organised instead into a book on Norms bear closer examination. Whence did they arise? Quite clearly, they are the opening titles of St Raymond Peñafort’s *Quinque Libri Decretalium* (1234), namely, tit.I *De Summa Trinitate et fide catholica*, tit.II *De Constitutionibus*, tit.III *De Rescriptis*, and tit.IV *De Consuetudine*.⁵ In other words, I suggest that, at the outset of his work, Gasparri still had two competing models in mind for the Code of Canon Law, one drawing on Raymond’s title system – the canonical categories in which Gasparri would obviously have been steeped – the other a more radical reclassification of canonical topics as part of the Code. Now Gasparri had noted in *Perlegisti* that the order proposed “at the beginning can be changed if in the progress of studies it seems opportune to accommodate the work undertaken by the consultors.” Clearly, that is what happened, with the latter more modern system of categorising canonical concepts finally winning out but not, it seems, without some consideration being given to lifting at least parts of St.Raymond’s title structure directly into the Church’s first comprehensive Code of Canon Law.⁶

December 2003

Edward Peters

⁵ See A.Friedberg, *Corpis Iuris Canonici, Editio Lipsiensis Secunda Post Aemili Ludovic Richteri*, 2 vols., (Leipzig, 1881), vol.2, *Decretalium Collectiones*, “Decretalium D.Gregorii Papae IX Compilatio”, esp. col.1-36. Gasparri slightly modified the order of topics.

⁶ There might be, after all, a remnant of the Raymondian order present in the 1917 Code: all versions of the Pio-Benedictine Code are preceded, without comment or explanation, by a “Profession of Faith”, arguably there for use in provisions calling for professions of faith (see 1917 CIC 1406), but, more than coincidentally it seems, printed in the same prominent place as St.Raymond located his first title, the symbol of Catholic Faith, in the *Quinque Libri Decretalium*.

DOCUMENT NO XIII

CARDINAL GASPARRI'S LETTER PERLEGISTI
6 APRIL 1904

Translation of Cardinal Gasparri's letter "*Perlegisti*".

[From the Codification Commission.

Universities of Studies must contribute to the work of codification]

Illustrious and Reverend Lord

You have certainly already read those Letters by which the most Blessed Father recently issued his *motu proprio* "*de Ecclesiae Legibus in unum redigendis*". The mind of His Holiness is indeed that all of Canon Law be suitably organised into Canons or articles in the model of more recent Codes and at the same time, documents issued after the authentic collections of Body of Law, from which these Canons or articles will be taken, be likewise gathered together. The order to be observed here will more or less be as follows: after being preceded by a general part consisting of titles *on the High Trinity and Catholic faith, on Constitutions, on Custom (and) on Rescripts*, there will be five books: *On Persons, On Sacraments, On Things and sacred places, On crimes and penalties (and) On Trials*; nevertheless the order established at the beginning can be changed if in the progress of studies it seems opportune to accommodate the work undertaken by the Consultors.

Already the Supreme Pontiff greatly desires that the University of Studies over which you preside contribute to this difficult and most important labour. Thus, he directs you to enquire among those who handle Canon law in the university and thereafter send to me as soon as possible whatever parts of Canon law seem ready to cast into articles or Canons. Having received your response, special instruction will be sent by which opportune norms in service to this matter will be delivered to those concerned.

For the rest, as directed by the Most Blessed Father, I convey to you especially my high regard, etc., Abp. Pietro Gasparri, Secretary for the Codification Commission ... from Rome, 6 April, 1904.

hearings the case was finally dealt with by a *turnus* of which Monsignor De Lanversin was the Ponens in a sentence dated 27 June 1997. The **in jure** Section of the Decision gives great attention to the matter of "so-called customary marriage". The text of what follows was translated (and reproduced with permission) by Professor Augustine Mendonça (from RRT Decis.88(1996), pp.520-531). The whole is reproduced with permission of **Studia Canonica** and Professor Mendonça (**Document No.VIII**).

**Customary Marriage
in Nigeria**

The second Sentence written by Monsignor De Lanversin as the Ponens concerns customary marriage in Nigeria. This appeared in RRT Decis.88 (1996), pp.520-531). (See **Document No.IX**). The material in Document No.IX was translated by Father Augustine Mendonça; and the whole is reproduced in CLSN by permission of Professor Mendonça and **Studia Canonica**.

**British and Irish
Tribunal Statistics**

Judicial Vicars will know that in January the Editor of CLSN seeks from them a copy of pages 5 and 6 of the Statistical Questionnaire required by the Secretariat of State for every diocese. Pages 5 and 6 deal with the movement (or non-movement) of Tribunal cases. When these statistics for the dioceses in England and Wales and for the Tribunals of Scotland and the four Regional Tribunals in Ireland have been gathered, they are processed by Father Peter Kravos of Leeds. These statistics are to be found at **Document No.X**. Father Kravos has prepared a Commentary on the figures.

**Global Statistics
For the Year 2001**

The annual statistical returns are sent to the Secretariat of State by each diocese. These are collated and processed by the Statistical Office of the Secretariat of State and are then published in the **Annuario Statisticum Ecclesiae** which comes out each year,. The most recent publication of these global statistics is the volume for 2001. Father Kravos has also provided a Commentary on these statistics. It is interesting to note that there has been a drop in cases introduced in the United States of America and in Canada, and there is a slight increase in cases introduced in Europe; with Italy having the lion's share of cases. These figures are reproduced at **Document No. XI**.

**Cardinal Gasparri's
Letter *Perlegisti***

A couple of weeks after Cardinal Gasparri received his mandate to begin work on the Revision of Canon Law, he wrote to Universities around the world telling them about the proposed Revision. The letter itself is reproduced at **Document No. XIII**. There is also a short Commentary on the letter written by Doctor Edward Peters

of **The Institute for Pastoral Theology** at the Ave Maria University, Lypsilanti, Missouri (**Document no. XII**).

New Civil Law on Marriage in Norway

There has been a change in the civil law in Norway regarding marriage. It appears that those who wish to marry in Norway must state in writing before the marriage that they recognise the right of their spouses to divorce. The Judicial Vicar of Oslo, Father Claes Tandé has raised this matter on the internet; Mr Paul Robbins has made a comment on the situation at **Document No. XIV**

Canon Law Society Conference: May 2004

A message was received from the Apostolic Nuncio passing on the greetings and apostolic blessing of the Holy Father on the occasion of the Conference at Cardiff in May 2004. (See **Document No. XV**).

The Extraordinary Form of Marriage (Canon 1116)

A thesis has been written by Father Andrej Saje, a priest ordained for the Archdiocese of Ljubljana in 1992. Father Andrej went to the Gregorian University after working for a number of years in his own diocese; and he has written a doctoral thesis **The Extraordinary Form and the Minister of the Celebration of Marriage According to the Latin and Oriental Codes**. There is a description of the work at **Document No. XVI**.

Lyndwood Lecture 2005

The 2005 Lyndwood Lecture will be given by Bishop John McAreevey on Monday 15 November 2005, 6 for 6.30 pm in the Throne Room of Archbishops House, Westminster, London SW1. The title is: "Mixed Marriages: Conversations in Canon Law, Ecumenism and Pastoral Practice".

Canon Law Society of Great Britain and Ireland: Conferences 2005 and 2006

The Conference for 2005 will be held at the Dean Park Hotel, Renfrew, Scotland, between 16 and 20 May 2005. The Conference for the following year will be held in Ireland, probably in Belfast, between 15 and 19 May 2006.

Canon Law Society of Australia and New Zealand

The 38th Annual Conference of the CLSANZ will be held between 13 and 19 September 2004 at the Mercure Resort, Surfers Paradise, Gold Coast, Queensland, Australia. It is understood that this resort is situated in five acres of tropical garden only minutes from the heart of Surfers Paradise. "Endless surf