

THE CANON LAW OF MARRIAGE

(LAWS 782)

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SYLLABUS*

I.

INTRODUCTION John Paul II, *Sacræ disciplinæ leges* (CCLA, at 2-11)

CIC, Preface (CCLA, at 12-29)

ÖRSY, at 13-45†**

II(a). THE NATURE OF MARRIAGE

Gaudium et spes†, arts. 47-52

Cc. 1055-1062

WRENN, at 202-218

II(b). THE EFFECTS OF MARRIAGE

Cc. 1134-1140

III.

PREPARATION FOR MARRIAGE Cc. 1063-1072

Prematrimonial documents†

IV. IMPEDIMENTS TO MARRIAGE

(a) In General

Cc. 1073-1082; see also cc. 86, 87, 134, 136 & 368

(b) In Particular Cc. 1083-1094; see also c. 18

WRENN, at 7-20 & 231

V.

DEFECTIVE CONSENT Cc. 1096-1103; 1095; see also cc. 124-126

WRENN, at 92-167 & 229-230; 184-201 & 21-91

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All canons cited (“c.” and “cc.”) refer to the CODEX IURIS CANONICI, AUCTORITATE IOANNIS PAULI PP. II PROMULGATUS (1983) [“CIC”], trans., CODE OF CANON LAW ANNOTATED (E. Caparros, M. Thériault & J. Thorn

eds. 2d ed 2004) or CODE OF CANON LAW, LATIN-ENGLISH EDITION: NEW ENGLISH TRANSLATION (Canon Law Soc’y

of America, 1999) [hereafter “CCLA” or “CCL-NET”]. Page numbers refer to CCLA, or to L. WRENN, THE INVALID

MARRIAGE (1998).

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All texts signaled with a dagger (†) will be supplied.

VI. EFFECTIVE MEANS OF CONSENT Cc. 1104-1107

VII. THE CANONICAL FORM Cc. 1108-1123; 144

CCEO cc. 828-842†

VIII. MIXED MARRIAGES Cc. 1124-1129

CCEO cc. 813-816†

Secret Marriages will not be covered in class. See cc. 1130-1133: ÖRSY, at 197-200; GH&W, at 77-78, and other commentaries in bibliography, *infra*.

IX.

VALIDATION OF MARRIAGES

(a) Simple Convalidation Cc. 1156-1160

WRENN, at 168-171

(b) Retroactive (Radical) Sanation Cc. 1161-1165

X.

DISSOLUTION OF THE MARRIAGE BOND Cc. 1141-1150

Canonical separation of both living spouses will not be covered in class. See cc. 1151-1155; ÖRSY, at 234-239; GH&W, at 95-99, and other commentaries in bibliography, *infra*.

XI.

MATRIMONIAL PROCEDURES will be covered summarily, either with a visit to the Metropolitan Tribunal of the Archdiocese of St. Paul & Minneapolis or in a special presentation by a Tribunal official. The date for such a visit or presentation will be announced in anticipation of it. To prepare for either event, read WRENN, at 173-183, and review the following canons:

(a) The Competent Forum Cc. 1671-1677, *et seq.*; 1691

(b) The Documentary Process Cc. 1686-1688

(c.) The Contentious Trial

In general Cc. 1501-1525

Evidence (Proofs) Cc. 1678-1679; see also cc. 1526-1573

Experts C. 1680; see also cc. 1574-1581

Presumptions Cc. 1060, 1061 § 2, 1101 § 1; 1584-1586

Publication of the Acts, the Sentence

and the Appeal See cc. 1598-1640, 1643, 1681-1685, 1689

XII. CONCLUSIONS & QUESTIONS WRENN, at 219-228

General Information

Although I will not habitually “call roll,” every student’s regular attendance in class is expected and required. However, every student is permitted one unexcused absence for each credit hour of the course, i.e.,

you may “cut” class without presenting an excuse for the absence no more than three (3) times during this

Spring semester. Excused absences due, e.g., to your own illness, serious illness or death in your immediate

family, due to religious holidays or law-school-related activities that require your absence are to be certified

through Dean Thomas's office. See the course Blackboard site for advice concerning illness involving the H1N1 virus and seasonal influenza.

Everyone is expected to be prepared for each class meeting and to participate in class actively.

Preparation includes studying the canons and associated pages of the relevant text books, as well as other

materials that I will distribute to you from time to time, and being ready to discuss these matters in class.

If for some reason you are not so prepared, you should advise me so before class.

The Final Examination will comprise two parts, each worth 50% of your grade. The first part will consist of a written test administered at the Law School. No commentary, no outline (irrespective of authorship), and no book other than the Code of Canon Law may be brought to or used during the first part of the final examination. The second part of the examination will consist of a take-home project based on a hypothetical marriage. There will be no limitation on textual "helps" you may use for the second part.

In addition to the texts assigned for this course, you may wish to consult the following canonical commentaries, reserved for your use in the Schoenecker Law School Library:

I. GRAMUNT, J. HERVADA & L. A. WAUCK, *CANONS AND COMMENTARIES ON MARRIAGE* (1987); and
L. ÖRSY, *MARRIAGE IN CANON LAW* (1986)

You also may wish to consult the following canonical commentaries, available in the Ireland

(Divinity School) Library:

I-V EXEGETICAL COMMENTARY ON THE CODE OF CANON LAW (Ángel Marzoa, Jorge Miras & Rafael Rodríguez-Ocaña eds. 2004);

NEW COMMENTARY ON THE CODE OF CANON LAW (John P. Beal, James A. Coriden & Thomas J. Green eds.

2000);

THE CANON LAW SOCIETY OF GREAT BRITAIN AND IRELAND, THE CANON LAW LETTER AND SPIRIT: A PRACTICAL GUIDE TO THE CODE OF CANON LAW (1995).

Also helpful are the articles you can find in JURIST, the only American-edited journal of canon law, which you will find in both the Ireland and Law School libraries. You can find articles in English also in the Canadian STUDIA CANONICA (half in French), to be found in the Ireland Library collection.

The DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS - TEXT REVISION (4th ed. 2000) ["DSM-IV-TR"] of the American Psychiatric Association is regularly consulted by tribunals inclined to find marriages invalid on psychological grounds. You may look for the DSM-IV-TR, or its earlier editions (DSM-IV, DSM-III-R, DSM-III, etc.) in the library stacks.

For more direct treatments of the Church's faith, doctrine and theology concerning marriage, you may wish to consult the following works:

RICHARD R. GAILLARDETZ, A DARING PROMISE: A SPIRITUALITY OF CHRISTIAN MARRIAGE (2002)

DAVID M. THOMAS, CHRISTIAN MARRIAGE: A JOURNEY TOGETHER (1983)

JOHN PAUL II, THE THEOLOGY OF THE BODY: HUMAN LOVE IN THE DIVINE PLAN (1998)

THE CATECHISM OF THE CATHOLIC CHURCH (1994); with MODIFICATIONS FROM THE EDITIO TYPICA (1998)