

Ministry & Life of Permanent Deacons: Canonical Matters

Context and Praxis

Deacon Gerald Jorgensen, PhD, JCL

Archdiocese of Dubuque

563-556-2580 ext. 249

j.jorgensen@dbqarch.org

BE A DEACON, THEY SAID



IT'LL BE FUN, THEY SAID



Irregularities & Impediments for the Exercise of Orders

Can. 1044 Terminology

Can. 1044 § 1 Irregularities – 6

Can. 1044 § 2 Impediments - 2

Broader Context

CIC Book IV, *De Ecclesiae Munere Sanctificandi*, and the fundamental nature of the sacrament of Orders for the Church's life

Broader Context



This context grounds the necessity of moral certitude concerning the fitness of clerics for sacred orders

Terminology: Canon 1040

Impediments - If affected by, prevented from receiving

Perpetual (c. 1041)

Simple (c. 1042)

Irregularities

1. For the reception of orders
2. For the exercise of orders (c. 1044 § 1 & c. 1044 § 2)

Terminology Continued

Strict Interpretation:
Canon 18

Distinguish

Establish penalty

1. Irregularity

Restrict the free
exercise of rights

2. Sins

Contain an exception
from law

3. Delict, Penalty

Irregular for Exercise of Orders :

c. 1044 § 1 (c. 1041, 2° - 6°)

1° unlawful reception

2° delict of apostasy, heresy, schism (if public)

3° attempt marriage: impeded by ligamen, sacred orders, public perpetual vow of chastity or with one so bound

4° voluntary homicide, completed abortion, positive cooperators

Irregular for Exercise of Orders :

c. 1044 § 1 (c. 1041, 2° - 6°)

5° if mutilate self or other; attempted suicide

6° placed an act of orders while lacking the order required or prohibited from its exercise by penalty



Impediments: Canon 1044 § 2

- 1° Impeded from exercise, if received orders while impeded - canon 1042, 1° - 3°
- 2° One who suffers from insanity or some other psychological infirmity – canon 1041, 1°

What disorders and who determines?

Application of Canon 1047

§ § 1, 3, and 4

1 Context

2 Public or Occult

3 Dispensation reserved to the Apostolic See

- Brought to the judicial forum
- From irregularity incurred by publicly attempting marriage
- From public or occult irregularity incurred by voluntary homicide, procured abortion and positive cooperation in either

Application of Canon 1047

§ § 1, 3, and 4

4 Ordinary can dispense from irregularities and impediments not reserved to the Holy See

5 Conditions and actions

6 Hierarchical recourse



Case Scenarios for Consideration

Titus, 55 years of age & a permanent deacon, is married to Flavia. On a business trip, Titus has an affair, impregnates Octavia. Titus & Octavia agree that she should have an abortion; Titus pays for the abortion



Case Scenarios for Consideration

Is Titus irregular or impeded for the exercise of orders?

If yes, which one?

If yes, does it require a dispensation and if so, who can dispense?

Case Scenarios Continued

Titus, a widow & permanent deacon in the USA, civilly married Octavia, a baptized non-Catholic in Scotland. Subsequently Titus and Octavia see the errors of their way and obtain a



Case Scenarios Continued

Has Titus incurred an irregularity or an impediment for exercise of orders?

If yes, which one?

If yes, does it require a dispensation and if so, who can dispense?

Case Scenarios Continued

Julius, a permanent deacon:

Has neglected his prayer life

Finds himself questioning many teachings of the Catholic Church

Starts attending other Churches, other ecclesial communities



Case Scenarios Continued

Has Julius incurred an impediment or an irregularity?

If yes, which one?

If yes, does it require a dispensation and, if so, who can dispense?

Case Scenarios Continued

Cicero, a permanent deacon, indicates to the Director that he has been diagnosed with Bipolar Disorder

Has he incurred an irregularity or impediment for the exercise of orders?

Case Scenarios Continued

Who determines?
*inhabilis ad
ministerium rite
implendum*

Does moral fitness or
probity enter into
incurring an
irregularity or
impediment

Do incurring
irregularities or
impediments refer to
the deacon's inability
to avoid morally
reprehensible
behavior?

Case Scenarios Continued

During a retreat for deacons, Titus shares with the Director he has procured a vasectomy. Has Titus incurred an irregularity?



Canon 1044 § 1, 3^o
graviter
Dolose

Who determines?

Who can dispense?

Canon 1047 § 4

ad cautelam

Forum

Forum internum:

Conscience

Non-sacramental

Formation

Sacramental

Confidentiality

Privilege

Forum externum:

Public

Non-sacramental

Formation

Sacramental

Confidentiality

Privilege

Personnel/Formation Files

Guided by the obligation to protect the right or privacy of individual (c. 220)

Regardless of type, all files are to be protected with the greatest care, properly arranged, and diligently secured (c. 486)

Types of Files

- General Information Files
- Confidential Information Files
- Private Archive

Personnel/Formation Files

What about types of files

Contents

Access

Maintenance, retention, and disposition



Personnel/Formation Files

Documentation to retain and how long

Physical health reports

Psychological evaluations

Who owns

Shelf life

What about retention

Personnel/Formation Files



What happens with ordination as deacon Diocesan Policy

Financial Responsibility of Diocese

CIC, Book II: People of God

Title III: Sacred Ministers or Clerics, can. 281

§ § 1-3

Can. 281 § 1: *remuneratio*

Can. 281 § 2: *sustentatio*

Can. 281 § 3: Deacons, *nisi*

Can. 1274 § 1

Financial Responsibility of Diocese

- Directory for the Ministry and Life of Permanent Deacons (*UD*)
 - *Nn. 15-20: Upkeep and Insurance*
- National Directory for the Formation, Ministry, and Life of Permanent Deacons in the United States (*ND2nd Ed*)
 - *USCCB Particular Law Governing Deacons in the United States*

Financial Responsibility Continued



“Fuzzy” areas

Full time or part time ecclesial ministry (*ND2nd Ed Norms 18, 19* [(§ § 100, 102, 103)])

Remuneratio & nature of office held

Conditions of place and time

Drawing a pension (*ND2nd* [§ § 101, 102])

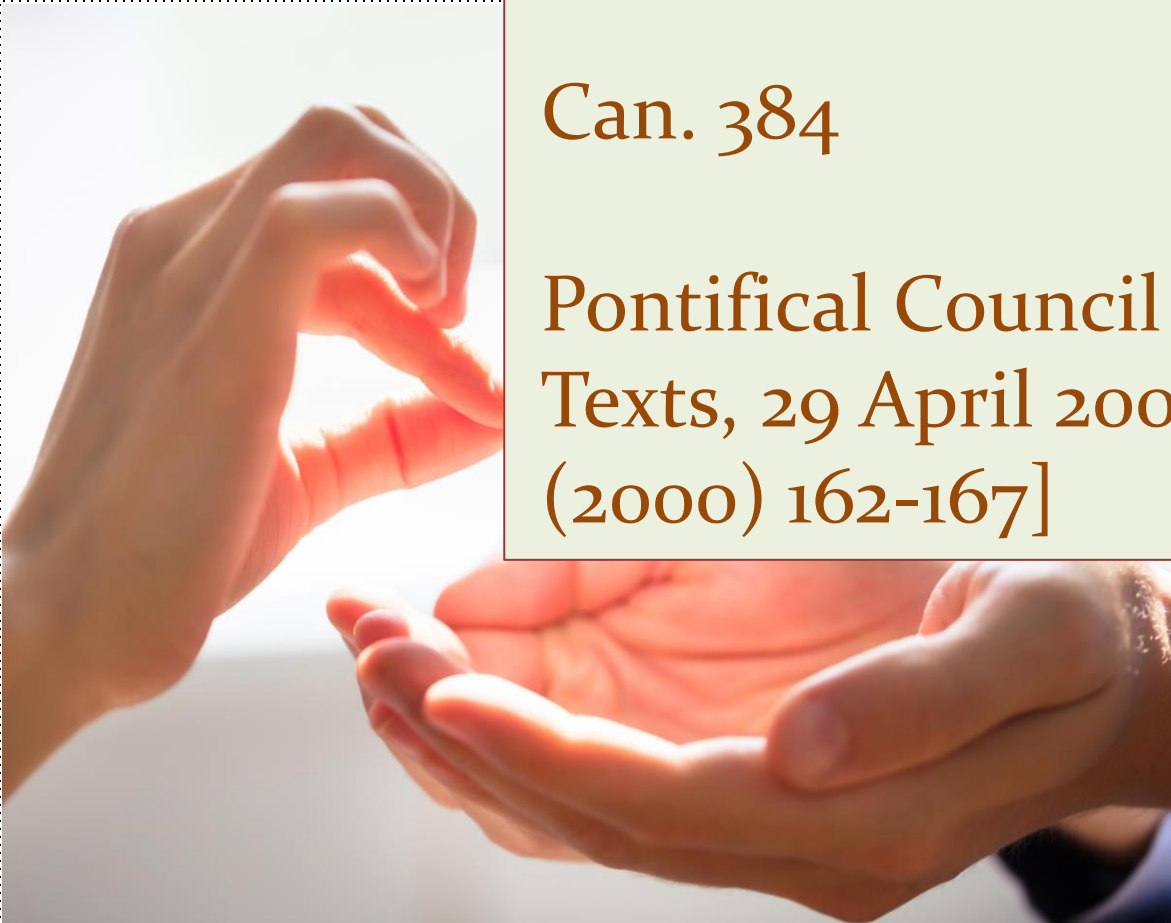
Attached to another diocese, can. 271 § 2

Financial Responsibility Continued

Justice or Charity

Can. 384

Pontifical Council for Legislative
Texts, 29 April 2000 [*Comm* 32
(2000) 162-167]



Other Assignment Matters

Making Assignment

Official letter of appointment (Norm 15 [§ § 46, 47, 98])

Criteria for assignment (Norm 2 [§ 44])

Integrated exercise of 3-fold *munera* (Norm 4 [§ 46])

Other Assignment Matters


Program for newly
ordained (Norm 5
[§ 48])

Faculty to preach (Norm
8 [§ 86])

Ecclesiastical garb (Norm
12 [§ 94])

Public office & political
campaigns (Norm 14
[§ 96])

Restrictions (Revoking)

A man in a dark suit, white shirt, and striped tie is sitting at a wooden desk. He is holding a white sign with black text. His right hand is resting on his forehead, and his left hand is holding the sign. The background is a plain, light-colored wall.

RESIGNATION
office or retirement –
duties (*ND 2nd Ed Norm*
22 [§ 111])

Restrictions (Revoking)

Faculties (Specific canonical rules must be observed)

- Given by diocesan bishop or any other official subject to him (cann. 1722, 143 § 1; ND2nd Ed [§ 107])
- Express some provision or decision or give command
- Preach (can. 764, ND 2nd Ed Norm 8 [§ 86]) – no action, precept (c. 49), revoke
- Delegation/mandate to be authorized witness for marriage
- Recourse may be taken
- Replacing Pagella of faculties (cf. cann. 67 § 2, 47)

Penal Processes



Privation (removal)

Delegated faculties (*ab homine*)

By office, but not to others (can.
1338 § 1)

Prohibition of use

Penal Processes

2 categories of penalties (c. 1312 § 1)

Censures:
excommunication,
interdict, &
suspension (c. 1312
§ 1, 1°)

Expiatory: 4 categories
(cann. 1312, § 1, 2°; 1336)
of which 3 specific nn.
involve faculties

Order, prohibition against use, deprivation,
dismissal

Penal Processes

Suspension (cf. cann. 1312 § 1, 1°; 1331-~~1333~~)

A medicinal penalty - censures

To correct the offender – primary

To punish the offense – secondary at most

To establish or impose only in so far as really necessary

Penal Processes

To incur:

Delinquent must be contumacious or unrepentant

Before *ferendae sententiae* (imposed), must be warned [c. 1347 § 1]

Latae sententiae (automatic, if law or precept expressly state, can. 1314, but limits to what one in precept can effect [can. 1334 § 2])

Suspensions Continued

- Never ceases of its own accord (on being fulfilled), but always by remission
 - Exclusive to clerics, by means of which they are forbidden to exercise the power of order or the power of governance, or both, and also to receive certain temporal goods
- Can be partial or full

Suspensions Continued

- Can. 1333 § 3 gives an exhaustive list of the subjects that are exempt from any prohibition
 - Those liable to sanction, especially imputability (can. 1321)
- Remission – cf. cann. 1347 § 2, 1354-1358

Suspensions Continued

Latae sententiae

- Physical force against a bishop (can. 1370 § 2)
- Attempt to celebrate Eucharist (can. 1379 § 1-2)
- Attempt to hear a sacramental confession (can. 1379 § 1, 2°)
- False accusation of a confessor re solicitation (can. 1390 § 1)
- Attempts marriage (can. 1394 § 1 – cf. cann. 277, 1087, 194 § 1, 3°, 1336 § 4)

Expiatory Penalties

Can affect either forever, for a determinate, or an indeterminate period, inclusive

Four – prohibition vs residence or order to reside, privation of multiple things, prohibition vs. use, dismissal from clerical state

Deacons – dismissal from clerical state

Penal Remedies & Penances

Precepts: Can. 1339

Can. 1339 § 1

Can. 1339 § 2

Can. 1339 § 3

Can. 1339 § 4

Can. 1339 § 5

Penances: Can. 1340

Can. 1340 § 1

Can. 1340 § 2

Can. 1340 § 3

Delicts - 6 Categories

Can. 1392

Can. 1394 § 1

Can. 1395 § 1

Can. 1395 § 2

Can. 1395 § 3



Can. 1397 § 1

Can. 1397 § 2

Can. 1397 § 3

Can. 1398 § 1, 1°-3°

Conclusion

