

Addendum to Klabenes-McDermott / Protocol # 4/24 “Definitive Sentence”

This document serves to compare the 1917 Code of Canon Law with the 1983 Code of Canon Law in regard to citations found within the document.

1917 Code of Canon Law

C1012.1 Christ the Lord raised the marriage contract itself to the dignity of a sacrament among the baptized.

C1012.2 Therefore among the baptized there can be no valid contract of marriage without its also being a sacrament.

C1014 Marriage enjoys the favor of law; therefore in doubt the validity of marriage is to be upheld until the contrary is proved, with due regard for the prescription of Canon 1127.

C1094 Only those marriages are valid that are contracted in the presence of the pastor, or the local Ordinary, or a priest delegated by either, and two witnesses, according to the rules expressed in the canons that follow, with due regard for the exceptions mentioned in Canons 1098 and 1099.

Exceptions cited in C1094:

1098 If the pastor or Ordinary or delegated priest who assists at marriage according to the norm of Canons 1095 and 1096 cannot be had or cannot be present without grave inconvenience:

1.° In danger of death marriage is contracted validly and licitly in the presence only of witnesses; and outside of danger of death provided it is prudently foreseen that this condition will perdure for one month;

1983 Code of Canon Law

**C1055.1** The matrimonial covenant, by which a man and a woman establish between themselves a partnership of the whole of life, is by its nature ordered toward the good of the spouses and the procreation and education of offspring; this covenant between baptized persons has been raised by Christ the Lord to the dignity of a sacrament.

**C1055.2** For this reason a matrimonial contract cannot validly exist between baptized persons unless it is also a sacrament by that fact.

**C1060** Marriage possesses the favor of law; therefore, in a case of doubt, the validity of a marriage must be upheld until the contrary is proven.

**C1108.1** Only those marriages are valid which are contracted before the local ordinary, pastor, or a priest or deacon delegated by either of them, who assist, and before two witnesses according to the rules expressed in the following canons and without prejudice to the exceptions mentioned in canon 144, 1112.1, 1116, and 1127, 1-2.

**C1108.2** The person who assists at a marriage is understood to be only that person who is present, asks for the manifestation of the consent of the contracting parties, and receives it in the name of the Church.

Exceptions cited in C1108:

**144.1** In common error about fact or about law, and also in positive and probable doubt about law or about fact, the Church supplies executive power of governance both for the external and for the internal forum.

**144.2** This same norm applies to the faculties mentioned in canon 883, 966, and 1111.1.

**1112.1** With the prior favorable opinion of the conference of bishops and after the permission of the Holy See has been obtained, the diocesan

2.° In either case, if another priest can be present, he shall be called and together with the witnesses must assist at marriage, with due regard for conjugal validity solely in the presence of witnesses.

1099 1. [The following] are bound to observe the above-stated form:

1.° All those baptized into the Catholic Church or converted to her from heresy or schism, even if these or the others have left her later, as long as they enter marriage among themselves;

2.° All of those mentioned above if they contract marriage with non-Catholics, whether baptized or non-baptized, even after obtaining a dispensation from the impediment of mixed religion or disparity of cult;

3.° Orientals, when they contract with latins bound to this form.

2. With due regard for the prescription of § 1, n. 1, non-Catholics, whether baptized or nonbaptized, if they contract among themselves, are not in any way bound to observe the Catholic form of marriage; likewise, those born of non-Catholics, even if they are baptized in the Church, [but] who from infancy grow up in heresy or schism or infidelity or without any religion, as often as they contract marriage with a non-Catholic.

C1095.1 A pastor and local Ordinary validly assist at marriage:

1.° From that very day they have taken canonical possession of a benefice according to the norm of Canons 334, § 3, [or] 1444, § 1, or have entered into office, unless by sentence they have been excommunicated, interdicted, or suspended from office, or so declared;

2.° Within the limits of their territory only; they validly assist at the marriages not only of their subjects but also non-subjects;

3.° Provided they are not constrained by force or grave fear [when] they ask for and receive the consent of the contractants.

C1095.2 A pastor and local Ordinary who can validly assist at marriage can grant permission to other priests so that within the limits of their territory they validly assist at marriage.

bishop can delegate lay persons to assist at marriages where priests or deacons are lacking.

**1112.2** A suitable lay person is chosen who is capable of giving instructions to those to be wed and qualified to perform the marriage liturgy correctly.

**1116.1** If the presence of or access to a person who is competent to assist at marriage in accord with the norm of law is impossible without serious inconvenience, persons intending to enter a true marriage can validly and licitly contract it before witnesses alone:

1. in danger of death;

2. outside the danger of death, as long as it is prudently foreseen that such circumstances will continue for a month.

**1127.1** The prescriptions of can. 1108 are to be observed concerning the form to be employed in a mixed marriage; if a Catholic party contracts marriage with a non-Catholic of an oriental rite, the canonical form of celebration is to be observed only for liceity; for validity, however, the presence of a sacred minister is required along with the observance of the other requirements of law.

**1127.2** If serious difficulties pose an obstacle to the observance of the canonical form, the local ordinary of the Catholic party has the right to dispense from the form in individual cases, but after consulting the ordinary of the place where the marriage is to be celebrated and with due regard, for validity, for some public form of celebration; the conference of bishops is to issue norms by which such a dispensation may be granted in an orderly manner.

**1127.3** Before or after the canonical celebration held in accord with the norm of 1, it is forbidden to have another religious celebration of the same marriage to express or renew matrimonial consent; it is likewise forbidden to have a religious celebration in which a Catholic and a non-Catholic minister, assisting together but following their respective rituals, ask for the consent of the parties.

C1096.1 Permission granted to assist at a marriage according to the norm of Canon 1095, § 2, must be given expressly to a specific priest for a specific marriage, to the exclusion of any sort of general delegations, unless it concerns a vicar cooperador for the parish to which he is attached; otherwise it is invalid.

C1096.2 The pastor or local Ordinary shall not grant this permission unless all of the things that prove the free status in law [of the parties] are completed.

C1869.1 For the pronouncement of any sentence the judge is required to achieve moral certitude concerning the matter to be settled in the sentence.

C1869.2 The judge must reach this certitude from the acts and the evidence.

C1869.3 The judge must evaluate the evidence according to his conscience, unless the law expressly established something about the effects of some [types of] evidence.

C1869.4 A judge who is not able to form this certitude himself shall pronounce that the right of the petitioner is not proven and shall dismiss the respondent, unless it concerns a case of favor, in which case it shall be pronounced [in benefit of] the favor and with due regard for the prescription of Canon 1697.2

C1961 Cases that concern merely the civil effects of marriage, if these are the principal matters, belong to the civil magistrates according to the norm of Canon 1016; but if these matters are raised only incidentally and as accessory [concerns], they can also be treated by the ecclesiastical judge as part of his power to adjudicate and decide.

C1969 The defender of the bond has the right:

1. Always and at every moment of the case to inspect the acts of the process even if they are not yet published; to request new deadlines for the completion of his writing, which can be extended in the prudent judgement of the judge;
2. To be informed of all the evidence and allegations so that he is able to produce counterarguments;
3. To ask that other witnesses be called and

**C1111.1** As long as they hold office validly, the local ordinary and the pastor can delegate to priests and deacons the faculty, even a general one, to assist at marriages within the limits of their territory.

**C1111.2** To be valid, the delegation of the faculty to assist at marriages must be given to specific persons expressly. If it concerns special delegation, it must be given for a specific marriage; if it concerns general delegation, it must be given in writing.

**C1608.1** For the pronouncement of any kind of sentence, there must be in the mind of the judge moral certitude regarding the matter to be settled by the sentence.

**C1608.2** The judge must derive this certitude from the acts and the proofs.

**C1608.3** However, the judge must evaluate the proofs conscientiously with due regard for the prescriptions of the law concerning the efficacy of certain proofs.

**C1608.4** A judge who cannot arrive at this certitude, is to pronounce that the right of the petitioner is not established, and is to dismiss the respondent as absolved, unless there is question of a case which enjoys the favor of the law, in which case the decision must in favor of it.

**C1672** In cases regarding the nullity of marriage not reserved to the Apostolic See, the competencies are: 1) the tribunal of the place in which the marriage was celebrated; 2) the tribunal of the place in which either or both parties have a domicile or a quasi-domicile; 3) the tribunal of the place in which in fact most of the proofs must be collected.

**C1677.1** The defender of the bond, the legal representatives of the parties, as well as the promoter of justice, if involved in the trial, have the following rights: 1° to be present at the examination of the parties, the witnesses, and the experts, without prejudice to the prescript of can. 1559; 2° to inspect the judicial acts, even those not yet published, and to review the documents presented by the parties.

[to ask] that they be subjected to another examination, even though the process is completed or published, and to issue new observations;

4. To require that other acts that he himself suggests be produced, unless the tribunal by unanimous vote disagrees.

C1992 The judge of the second instance, with only the intervention of the defender of the bond, shall decide in the same manner mentioned in Canon 1990 whether the sentence shall be confirmed or whether the case needs to be treated in a judicial manner; in which case he sends it back to the tribunal of first instance.

**1677.2** The parties cannot be present at the examination mentioned in §1, n. 1.

**C1688** After receiving a petition proposed according to the norm of canon 1677, the diocesan bishop or the judicial vicar or a judge designated by him can declare the nullity of a marriage by sentence if a document subject to no contradiction or exception clearly establishes the existence of a diriment impediment or a defect of legitimate form, provided that it is equally certain that no dispensation was given, or establishes the lack of a valid mandate of a proxy. In these cases, the formalities of the ordinary process are omitted except for the citation of the parties and the intervention of the defender of the bond.