

Marian and Cultic References in the 1983 Code of Canon Law

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A technical juridic document such as the 1983 *Code of Canon Law* is not the first place one thinks to look for references to the place of Mary and the saints in Catholic life.¹ But it need not be the last place one looks, either. Seminary formation, episcopal *ad limina* visits, popular devotions, magisterial infallibility, and alienation of ecclesiastical property—these are just a sampling of the canonical topics which include, to one degree or another, references to the Blessed Virgin and the saints in Church life and administration. I believe these Marian and cultic references are more significant than their relatively low frequency of occurrence in the revised Code might at first glance seem to imply, if only because a significant number of these textual appearances are directly attributable to pontifical decisions made late in the canonical reform process.² It is the purpose of this article to gather all of the references to Mary and the saints which occur in the 1983 Code and to comment on them.³

Mary in the 1983 Code

Although in terms of mere numbers there are more references in the 1983 Code to St. Peter than there are to any other saint, including the Blessed Virgin Mary,⁴ it seems becoming to open this study with an examination of the place of Our Lady in modern canon law.⁵ This is said not simply out of a sense of filial *pietas*, but also because of the prominence given to the Blessed Virgin in the 1983 Code and the manner in which certain Marian references were included therein. Mary is expressly mentioned in five provisions dealing with, in turn, seminary formation (Canon 246), clerical holiness (Canon 276), consecrated life (Canon 663),

eneration of saints (Canon 1186), and holy days of obligation (Canon 1246). We shall examine each of these topics in turn.

1. Seminary Life. Canon 246 is the primary canon regulating the essentials of seminary spiritual life and formation. Recognizing the Eucharist, of course, as the center of seminary life, as it is indeed for the whole of Christian life (1983 CIC 897), Canon 246 §§ 1, 2, & 4 also generally directs that students should be assiduously formed by such things as the celebration of the liturgy of the hours, the sacrament of reconciliation, and annual retreats.

Canon 246 § 3, however, specifically governs student training in mental prayer and devotional exercises, and opens with a foundational reference to the Blessed Virgin Mary and the rosary. It begins as follows:

Devotion to the Blessed Virgin Mary, including the rosary, mental prayer and other devotional exercises are to be fostered so that the students acquire a spirit of prayer and gain strength in their vocation.⁶

The deliberateness with which this pair of Marian references were included in the modern canon is noteworthy, for the parallel provisions on seminary formation in the 1917 Code contained no Marian references.⁷ Their appearance here is, therefore, a post-Conciliar development, and one with a progressive legislative history.

The first draft of what would eventually become Canon 246 § 3 of the 1983 Code appeared as Canon 98 § 3 of the *Schema de Populo Dei*, but that original version made no references either to the importance of Mary or to the place of the rosary in the spiritual formation of seminarians.⁸ The subsequent draft of the same provision, however, namely Canon 217 § 3 of the 1980 *Schema Codicis*, inserted an express reference to Mary, but as yet made no mention of rosary devotions in seminary life.⁹ Finally, Canon 246 of the 1982 *Schema Codicis* retained the Marian reference from the 1980 draft and added a reference to the rosary as a devotion to be fostered during seminary formation.¹⁰ At each stage of the drafting process, then, it can be seen that increasing references to Our Lady's importance in seminary formation were made. Given, moreover,

the canonical prominence accorded to Marian devotions among clerics, discussed below, it seems reasonable that the revised law attempts to instill the habit of Marian spirituality among those training for ordained ministry, rather than expecting ministers to develop such habits after beginning ordained work. Moreover, the text of the law does not indicate whether such heightened Marian references have been made in response to a deeper appreciation of the place of Mary in Christian life, or whether the new references are made out of fear that Mary's place is being diminished in modern times. Either explanation, or both, are plausible.

2. Clerical Holiness. Following shortly after the norms on seminary formation are various canons on the life of ordained ministers. Among these provisions, Canon 276 § 2, n.5, exhorts clerics to strive for holiness by cultivating habits of "mental prayer, frequent reception of sacramental confession, and special devotions to the Virgin Mother of God."¹¹

The values reflected in Canon 276 had express precursors in the Pio-Benedictine Code, specifically 1917 CIC 125. That provision read as follows:

Ordinaries of the place shall take care:

1. That all clerics frequently wash the stains of conscience by frequent sacramental penance;
2. That [clerics] devote some part of every day to mental prayer, visiting the most holy Sacrament, cultivation of the Marian rosary of the Virgin Mother of God, and strict examination of conscience.¹²

The above provision puts to rest any perception that Marian spirituality was not canonically considered a part of clerical life under the Pio-Benedictine Code. Some commentators on the Pio-Benedictine Code, moreover, attempted to specify what types of Marian devotions would satisfy the provisions of 1917 CIC 125. Abbo-Hannan, for example, urged the recitation of five decades daily; Bouscaren-Ellis recommended that this recitation take place before the Blessed Sacrament.¹³ Given that Canon 276 of the revised law had such a clear Pio-Benedictine predecessor, it will not

be surprising to see that the 1983 Code's emphasis on the importance of Mary in the life of clerics (though not mentioning the rosary in particular) was reflected and promoted from the first draft of the new law.¹⁴

3. Consecrated Life. Canon 663 performs for members of institutes of consecrated life a role similar to that performed by Canon 246 for seminarians and Canon 276 for ordained ministers: it outlines in specific terms the spiritual foundations upon which should rest their way of life. Canon 663 § 4 reads as follows: "[Religious] are to cultivate a special devotion to the Virgin Mother of God, model and protector of all consecrated life, including the Marian rosary."¹⁵

The Pio-Benedictine Code predecessor to 1983 CIC 663 was 1917 CIC 596 which contained, however, no Marian references nor specific recommendations regarding the rosary. Once again, then, we are dealing with a post-conciliar development in the law. In the case of this current norm on various spiritual practices associated with consecrated life, however, the inclusion of Marian themes, including the rosary, dates back to the earliest drafts of what eventually became Canon 663 of the revised code, and at no point was there any discussion of reducing or eliminating these Marian references.¹⁶

4. Veneration of Saints. The fourth and most explicit reference to the Blessed Virgin Mary in modern canon law occurs in Canon 1186 which opens the 1983 Code's treatment of the veneration of saints. Fostering nothing less than the "sanctification of the people of God, the Church recommends [for the] particular and filial veneration of the Christian faithful the Blessed Mary ever Virgin, the Mother of God, whom Christ established as the mother of the human race."¹⁷ Canon 1186 did have a Pio-Benedictine predecessor, namely 1917 CIC 1276:

It is good and useful to invoke suppliantly the Servants of God, reigning together with Christ, and good that their relics and images be venerated; but before these others the faithful should follow with filial devotion the Blessed Virgin Mary.¹⁸

In the words of Lincoln Bouscaren, "this canon needs no commentary."¹⁹ There is simply no doubt but that the former law was

enshrining what was already common practice among the faithful. Similarly, commentaries on 1983 CIC 1186, which clearly keeps Mary at the forefront of a healthy Catholic veneration of the saints, also tend to be brief. The Canon Law Society of America Commentary, for example, simply observes that Canon 1186 is “lengthier and more comprehensive” than its 1917 Code counterpart; the Navarra Commentary notes that veneration of Mary and the saints forms part of the *munus sanctificandi* of the Church; and the Great Britain & Ireland Commentary credits Vatican II with the inspiration for the language.²⁰

Interestingly, the legislative history of Canon 1186 differs somewhat from that of other Marian canons discussed so far. The subject matter of what eventually became Canon 1186 of the 1983 Code began as Canon 54 of the *Schema de Locis et Temporibus*.²¹ From there it was carried into Canon 1137 of the 1980 *Schema Codicis*. But the text of Canon 1186 of the 1982 *Schema Codicis* which followed was not derived from these two earlier drafts. Instead, and perhaps as a further confirmation of the importance of sound Marian devotion in Catholic life, a provision of the much-anticipated, but eventually suspended, attempt to produce a “Fundamental Law of the Church” (*Lex Ecclesiae Fundamentalis*)²² also gave emphasis to Marian devotion among Catholics. Indeed, Canon 70 of the 1976 version of the *LEF* actually provided the language which substantially makes up Canon 1186.²³ At no point, in any event, was there any consideration given to reducing or eliminating the primacy accorded Marian devotions among sound Catholic cultic practices encompassed by Canon 1186.

5. Holy Days of Obligation. The final specific canonical reference to Mary in the 1983 Code is found in Canon 1246 which enumerates the universal holy days of obligation. Of the ten holy days other than Sundays listed therein, three (Solemnity of Mary on January 1, Assumption of Mary on August 15, and Immaculate Conception on December 8) are directly Marian in focus, two others (Christmas and Epiphany) are closely linked to Marian devotions, and one other (All Saints Day) includes significant Marian elements. Thus, over half of the Church’s universal holy days other than Sundays are notably Marian in content.

Although the current list of universal holy days with its notably Marian emphasis appears little changed from the list presented under the 1917 Code,²⁴ this apparent continuity masks a period of considerable post-Conciliar uncertainty about the future of holy days, Marian or otherwise, in the western Church.

Canon 1246 originally appeared as canon 45 of the *Schema de Locis et Temporibus*.²⁵ At that time, besides Sundays, only Christmas was to be retained as a universal holy day, along with one of the traditional Marian holy days which was to be selected by the respective conference of bishops in each nation. This virtual elimination of holy days of obligation from the Catholic liturgical life met with considerable opposition in coetus discussions.²⁶ However, Canon 1197 of the 1980 *Schema Codicis* retained the language of the original draft. Again, opposition to the dramatic changes in store for liturgical practice was presented during the 1981 Plenaria sessions devoted to critiquing the 1980 *Schema Codicis*.²⁷ Once again, however, calls for restoring some or all of the holy days were rejected and the 1982 *Schema Codicis* 1246 retained only Christmas and a Marian day to be selected by episcopal conferences in the territory. And yet, when the 1983 Code was promulgated, the 10 holy days of the Pio-Benedictine Code were restored virtually intact. It is clear, therefore, that the reintroduction of the 10 holy day provision, with its heavily Marian emphasis, could only have come about under the active influence of the Holy Father himself.

We conclude this discussion of the place of Mary in modern canon law by noting two express invocations of Mary, Mother of the Church, first in the final sentence of the unsigned *Preface* to the 1983 Code and, perhaps more significantly, that with which Pope John Paul II closed his apostolic constitution, *Sacrae disciplinae legis*, by which the 1983 Code of Canon Law was promulgated. The penultimate sentence of the constitution reads:

I therefore exhort all the faithful to observe the proposed legislation with a sincere spirit and good will in the hope that there may flower again in the Church a renewed discipline and that consequently the salvation of souls will be rendered

ever more easy under the protection of the Blessed Virgin Mary, Mother of the Church.²⁸

While devotion to Our Lady, by any measure, exceeds in law and practice that accorded other saints, this is not to say that Marian devotions are encouraged at the expense of that accorded other saints in Catholic life. Indeed, Canons 1186 and 1246 link Marian devotions with other healthy cultic practices in the Church. We shall begin this examination by turning to the place of St. Peter in modern canon law.

St. Peter in the 1983 Code

According to Ochoa, the 1983 Code mentions St. Peter eight times in seven canons.²⁹ Even a cursory examination of these Petrine references immediately reveals that most of them (in fact, six of them) are employed as appositions for the pope. Pope John Paul II, therefore, in the Church's primary legislative document, promulgated in virtue of the pope's legislative authority over the Church, six times explicitly links his position in the Church with that enjoyed by St. Peter. Compared to the former law, this is a marked increase in references, both in terms of number and content, to St. Peter in pontifically promulgated universal law.³⁰

The first appearance of St. Peter in the 1983 Code occurs in Canon 204 which, by way of opening Book II of the Code, identifies the characteristics of those who belong to the Church. Canon 204 § 2 reads as follows: "This Church, constituted and organized as a society in this world, subsists in the Catholic Church, governed by the successor of Peter and the bishops in communion with him."³¹ Aside from obviously placing a Petrine qualifier in the first canon dealing with the ecclesiastical identity of the Catholic Church, it is noteworthy that the Legislator feels that such a Petrine reference, without any further identification or elaboration, is sufficient to identify the Roman Pontiff himself.

Moving on to Canon 245, at which point the 1983 Code is dealing with the formation of its ministers, the revised law states that seminarians "are to be so formed that, imbued with love for

the Church of Christ, they are devoted with a humble and filial love to the Roman Pontiff, the successor of Peter."³² This canon does two things: it expressly links Petrine succession with the Roman Pontiff, and, more pointedly, it grounds love (*caritate*) of Peter's successor in love (*amore*) of the Church. Once again, one might speculate on the reasons such assertions have appeared in modern canon law. Do they reflect a growing appreciation of the fact that, as the papacy is constitutive to the Church, love for the Roman Pontiff is intimately related to love for the Church? Or is there a fear that a decline in respect for the Roman Pontiff threatens a decline in the esteem with which clerics regard the Church as a whole?

Canons 330 and 331 contain the most direct and emphatic references to St. Peter in the 1983 Code. These two canons open the revised law's treatment of the supreme authority of the Church in general and the papacy in particular. They read as follows:

Canon 330:

Just as, by the Lord's decision, Saint Peter and the other Apostles constitute one college, so in a similar way the Roman Pontiff, successor of Peter, and the bishops, successor of the apostles, are joined together.

Canon 331:

The bishop of the Church of Rome, in who resides the office given in a special way by the Lord to Peter, first of the Apostles and to be transmitted to his successors, is head of the college of bishops, Vicar of Christ and Pastor of the universal Church on earth; therefore, in virtue of his office, he enjoys supreme full immediate and universal ordinary power in the Church, which he can always freely exercise.³³

St. Peter is thus named three times in the two canons which most specifically assert papal primacy, and in both canons the entrustment of plenary ecclesiastical authority to St. Peter by the Lord is affirmed. Notwithstanding these important similarities, however,

the legislative history of these two canons differ from each other. Indeed, that of Canon 330 is quite unusual.

Canon 330 had no predecessor in the Pio-Benedictine Code. Nor did what was to become Canon 330 appear in draft form in the *Schema de Populo Dei*, nor in the 1980 *Schema Codicis*, nor the 1982 *Schema Codicis*. Instead, the text of what eventually became Canon 330 of the new Code first appeared as Canon 31 § 3 of the 1969 draft of the *Lex Ecclesiae Fundamental*, and was repeated in the 1971 version of the *LEF*.³⁴ For some reason, however, the entire provision was dropped from the final version of the *LEF*, albeit only to reappear in the promulgated form of the 1983 Code.³⁵ Once again, therefore, as was noted in the case of Canon 1246, the appearance of Canon 330 can most likely be attributed to a direct papal decision made late in revision process.

Canon 331, on the other hand, does have a Pio-Benedictine predecessor which, while "it obviously does not reflect Vatican II" phraseology,³⁶ does make an express reference to St. Peter.³⁷ Moreover, Canon 331, while not reflected in the *Schema de Populo Dei* nor in the 1980 *Schema Codicis*, was included in the 1982 *Schema Codicis* as Canon 330 § 1. It had been placed there after being considered as part of the *LEF*.³⁸

The next mention of St. Peter in the 1983 Code occurs in Canon 400 which directs diocesan bishops to "come to Rome to venerate the tombs of the blessed apostles Peter and Paul and . . . appear before the Roman Pontiff."³⁹ While the "devotional" context of the canon is clearly in service to the requirement of a quinquennial report (see 1983 CIC 399), it is noteworthy that the required *honneur* to the apostles is not an elocution for the canonical requirement of reporting to the pope, for the obligation of a bishop's quinquennial papal visitation is listed separately in the canon.

Canon 749 need be noted only briefly. Although dealing with a topic of major importance, namely magisterial authority in the Church, the reference to St. Peter is appositional once again for Roman Pontiff. Canon 749 § 2 states in part: "[bishops] exercise [teaching authority] scattered throughout the world but united in a bond of communion among themselves and with the successor of

Peter when together with that same Roman Pontiff in their capacity as authentic teachers of faith and morals they agree on an opinion to be held as definitive."⁴⁰

The final appearance of St. Peter in the 1983 Code comes by way of inclusion of his feast day, shared with St. Paul, in the list of universal holy days contained in Canon 1246. The legislative history of that canon has been discussed above, and nothing specifically relevant to the Petrine element of the feast day was noted by the author of this study.

Other Named Saints

St. Paul is mentioned twice in the 1983 Code, both times along with St. Peter, and both times in what might be called a devotional context. The first mention, as we have seen above, is made with regard to the requirement in 1983 CIC 400 that diocesan bishops make an *ad limina* visit "to venerate the tombs of the blessed apostles Peter and Paul and appear before the Roman Pontiff."⁴¹ Second, St. Paul is, as mentioned above, liturgically commemorated along with St. Peter in accord with Canon 1246.⁴² It may also be noted that, as happened with regard to Our Lady, the *Preface* to the 1983 Code links Sts. Peter and Paul in asking for their joint intercession on behalf of the new law.

St. Thomas Aquinas is mentioned twice in the 1983 Code, once by name and once by implication. Canon 252 § 3, regulating various aspects of seminary formation, states: "There are to be classes in dogmatic theology which are always to be based upon the written word of God along with sacred tradition, in which the students may learn to penetrate ever more profoundly the mysteries of salvation, with St. Thomas as their teacher in special way."⁴³ The express reference to St. Thomas in the 1983 Code is new not only in the sense that the Pio-Benedictine Code made no such reference,⁴⁴ but also in that this explicit mention of St. Thomas was not made until the final draft of this canon.⁴⁵ Considering, however, that St. Thomas was expressly honored by Vatican II for his theological teaching,⁴⁶ the appearance of the Angelic Doctor in the Code is not entirely surprising.

But while Canon 252 speaks of St. Thomas in his capacity as a teacher of theology, Canon 251 refers to him, though not by name, as a trustworthy teacher of philosophy as well. For practical purposes, Canon 251 had no predecessor in the Pio-Benedictine Code,⁴⁷ and instead it traces its roots to Conciliar teaching and post-conciliar documents.

Paragraph 15 of the Second Vatican Council's Decree on the Training of Priests stated that seminary "students should rely on that philosophical patrimony which is forever valid."⁴⁸ When asked just two months later what was to be the concrete understanding of the Council's reference to a philosophical system "forever valid," the Congregation for Seminaries and Universities replied the teachings of Saint Thomas.⁴⁹ It repeated this identification of St. Thomas as the preeminent teacher of perennially valid philosophy in 1972.⁵⁰ Thus the revision commission, when queried why St. Thomas was not expressly named in what was to become Canon 251 of the new code, replied that there was no need to name St. Thomas in this context, for he was already indicated by the term "perennially valid philosophy."⁵¹ All modern commentaries on canon law recognize St. Thomas as the referent of Canon 251.⁵²

St. Joseph, patron of the universal Church, is mentioned once in the 1983 Code as part of the inclusion of his feast as a universal holy day of obligation in Canon 1246. As was true in the cases of the Blessed Virgin Mary and Sts. Peter and Paul, moreover, the *Preface* to the 1983 Code invokes the intercession of St. Joseph, under his title as Patron of the Church, for the success of the revised law.

Other Cultic References in the 1983 Code

Besides their inclusion in the universal holy days listed in Canon 1246, discussed above, the saints as a whole are mentioned four times in the revised Code.⁵³

First, as part of the bishop's duty to supervise various matters in the particular church committed to his care, Canon 392 § 2 directs him to be watchful lest "abuses creep into the ecclesiastical discipline especially concerning . . . the worship of God and

devotion to the saints."⁵⁴ Second, Canon 992 sets forth basic Church teaching on indulgences and notes, among other things, that the spiritual treasury upon which the Church draws in the matter of indulgences is that derived from the "satisfactions of Christ and the saints."⁵⁵ Third, according to Canon 1187, public veneration of the saints is permitted only to those approved by the Church.⁵⁶ Finally, Canon 1237 § 2 notes and preserves the "ancient tradition of keeping relics of martyrs and other saints under a fixed altar."⁵⁷ These four canons may be read together to show that devotion to the saints is of ancient lineage in the Church, that excesses in cultic practices can occur and therefore care should be taken to avoid abuse, and that the saints are of real and present usefulness to the Church militant in our day.⁵⁸

The Apostles as a specific subgroup of saints are mentioned four times in three canons.⁵⁹ Two of these canonical appearances (1983 CIC 330 and 331) are directly linked to Petrine assertions and are adequately discussed above. Two others, however, one in Canon 330 and one in Canon 375, deserve additional notice, as both link apostolic identity with bishops.

Canon 375 § 1, which opens the revised Code's treatment of bishops, states that "[t]hrough the Holy Spirit who has been given to them, bishops are the successors of the apostles by divine institution."⁶⁰ The legislative history of Canon 375 is relatively straightforward.

The Pio-Benedictine Code plainly asserted that bishops were successors of the apostles.⁶¹ Canon 225 § 1 of the *Schema de Populo Dei* made this same point, adding only that such status was a result of divine law.⁶² Likewise, 1980 *Schema Codicis* 341 § 1 and 1982 *Schema Codicis* 375 § 1 preserved this language. The canonical recognition of bishops as successors of the apostles is express and unbroken, therefore, through both modern codifications.

Three provisions from the revised norms on veneration of the saints, even though they do not expressly name Mary or the saints, protect among other things the tangible or sensate character of Marian and cultic devotions. Two of these canons enact regulations on the display and modification of public images. Canon 1188 preserves the long-standing practice of displaying sacred images

in churches, restricting them only where such displays actually interfere with the devotions they are intended to foster.⁶³ Canon 1189 cautions against repair or modification of public images without the consultation of qualified experts lest damage be inflicted on sacred objects.⁶⁴

Canon 1190, however, deals directly with relics, necessarily of saints and blessed, and of consequence raises specifically cultic matters.⁶⁵ Besides repeating the well-known strictures against selling relics of the saints,⁶⁶ the canon requires consent of the Holy See prior to any alienation of significant relics.

Finally, Canon 1403 states that the procedures used in the canonization of saints will be henceforth regulated not by the revised Code, but by special pontifical law. In so declaring, the Legislator was able to omit from the revised law matters treated by some 141 canons of the Pio-Benedictine Code (1917 CIC 1999-2141). This special law was, in fact, promulgated under the Apostolic Constitution "*Divinus perfectionis Magister*" on the same day the 1983 Code appeared.⁶⁷

Conclusions

Even counting the most oblique of references (such as 1983 CIC 1188-1189 on sacred images) Mary and the saints are mentioned in hardly 1% of the canons comprising the 1983 Code. And yet this handful of canons is sufficient, for example, to place the Blessed Virgin at the forefront of devotional life among the faithful (1983 CIC 1186) and to recognize her and the Marian rosary as leading elements in clerical (1983 CIC 246 and 276) and religious (1983 CIC 663) spirituality. Papal primacy is asserted in reference to St. Peter no less than six times in the revised law (1983 CIC 204, 245, 330 twice, 331, and 749), and most of these express Petrine references are new with the 1983 Code. Efforts to all-but-eliminate universal holy days which as a group are substantially oriented to Marian and cultic themes were rejected (1983 CIC 1246), certain saints were singled out for heightened devotional or academic attention (1983 CIC 400, 251 and 253), and diocesan bishops, whose identity is twice linked with that of the Apostles (1983 CIC 330

and 375) were specifically charged to monitor various Marian and cultic issues in their dioceses (for example 1983 CIC 392, 1187 & 1189). Several of these Marian and cultic manifestations in the revised law were placed there not just in the context of the Second Vatican Council, which was so important to the reform of canon law in general, but as the direct result of pontifical preferences asserted by Pope John Paul II in the last months prior to the promulgation of the new code (for example, 1983 CIC 330 and 1246). Finally, even the documents of promulgation used by the pope in connection with the 1983 Code suggest a significant and positive invocation of Mary and the saints in the life and administration of the Church.

Canon law provides a rule or measure for ecclesiastical life. Canonized saints provide models or measures of Christian life. Naturally, canon law is going to incorporate in its juridic determinations concepts involving the place of Mary and the saints in the lives of the faithful. The 1983 Code is not the first place one would look for information on the place of Mary and the saints in Catholic life, but the provisions of the revised law provide more than enough reasons for the faithful to conduct such inquiries on their own.

Notes

¹ For practical purposes, there is no ideal "first place" to look in a literature as immense as that dealing with Mary and the saints, but one might begin with the *Catechism of the Catholic Church* (United States Catholic Conference: Washington DC, 1994), which introduces cultic themes at nos. 954-959 and Marian topics at nos. 963-972.

² There is generally recognized no significant papal involvement in the process of reforming canon law prior to October 1981, when Pope John Paul II personally attended one of the plenary sessions discussing the reform of canon law, a process which by that time, however, had already been underway for some 12 years. In April 1982, the final draft of the revised law was submitted directly to the Roman Pontiff, who then associated himself with a very small group of advisors. When the new law was promulgated by the pope in January 1983, several changes in the text were noted, some of them in canons dealing with Mary and

the saints. It is on this basis that I suggest that several aspects of Marian and cultic law are directly attributable to pontifical decisions made late in the canonical reform process.

³ *Codex Iuris Canonici auctoritate Ioannis Pauli Pp. II promulgatus* (Typis Polyglottis Vaticanis, 1983) [hereafter, 1983 CIC]. Translations used herein are those of the Canon Law Society of America, 1983. References will also be made to the Pio-Benedictine Code, *Codex Iuris Canonici Pii X Pontificis Maximi iussu digestus Benedicti Papae XV auctoritate promulgatus* (Typis Polyglottis Vaticanis, 1918) [hereafter, 1917 CIC]. All translations of materials from the 1917 Code are of this author.

⁴ I rely extensively on X. Ochoa, *Index Verborum ac Locutionum Codicis Iuris Canonici*, (Roma: Commentarium pro Religiosis, 1983) in arriving at this and similar conclusions.

⁵ For an overview of specifically Marian references in the Pio-Benedictine Code, see G. Roschini, "Maria Virgo" in P. Palazzini, ed., *Dictionarium Morale et Canonicum*, 4 vols. (Roma: Officium Libri Catholici, 1962-1968), vol. III, 176-180.

⁶ 1983 CIC 246 § 3: "Foveantur cultus Beatae Mariae Virginis etiam per mariale rosarium, oratio mentalis aliaque pietatis exercitia, quibus alumni spiritum orationis acquirant atque vocationis suae robur consequantur."

⁷ The Pio-Benedictine canon closest in content to 1983 CIC 246 was 1917 CIC 1367.

⁸ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Canonum Libri II de Populo Dei* (Typis Polyglottis Vaticanis, 1977) [hereafter, *Schema de Populo Dei*], Canon 98 § 3 read as follows: "Foveantur etiam quae venerando Ecclesiae usu commendata sunt pietatis exercitia quibus alumni spiritum orationis acquirant atque vocationis suae robur consequantur."

⁹ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Codicis Iuris Canonici Iuxta Animadversiones S.R.E. Cardinalium, Episcoporum Conferentiarum, Dicasteriorum Curiae Romanae, Universitatum Facultatumque Ecclesiasticarum necnon Superiorum Institutorum Vitae Consecratae Recognitum* (Liberia Editrice Vaticana, 1980) [hereafter, 1980 *Schema Codicis*], Canon 217 § 3 read as follows: "Foveantur cultus B.M. Virginis, oratio mentalis aliaque pietatis exercitia quibus alumni spiritum orationis acquirant atque vocationis suae robur consequantur." The Marian reference was included at the express request of consultors who wanted to give examples of the most important kinds of pious exercises. See *Communicationes* 14 (1982), 48.

¹⁰ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Codex Iuris Canonici: Schema Novissimum Iuxta Placita Patrum Commissionis Emendatum atque Summo Pontifici Praesentatum* (Typis Polyglottis Vaticanis, 1982) [hereafter, 1982 *Schema Codicis*], Canon 246 § 3 read as follows: "Foveantur cultus Beatae Mariae Virginis etiam per mariale rosarium, oratio mentalis aliaque pietatis exercitia, quibus alumni spiritum orationis acquirant atque vocationis suae robur consequantur." While it is not quite accurate to say that "the rosary never appeared in any draft of this canon" (*pace* CLSA Commentary 184) it is true to say that up to and through the 1981 Plenaria, there was no discussion of or call for mention of the rosary in the norm. Yet, it appeared in the draft prior to its submission to the Roman Pontiff for final review.

¹¹ 1983 CIC 276 § 2, n.5: "sollicitantur ut orationi mentali regulariter incumbant, frequenter ad paenitentiae sacramentum accedant, Deiparam Virginem peculiari veneratione colant, aliisque mediis sanctificationis utantur communibus et particularibus."

¹² 1917 CIC 125: "Curent locorum Ordinarii: 1) Ut clerici omnes poenitentiae sacramento frequenter conscientiae maculas eluant; 2) Ut iidem quotidie orationi mentali per aliquod tempus incumbant, sanctissimum Sacramentum visitent, Deiparam Virginem mariano rosario colant, conscientiam suam discutiant."

¹³ J. Abbo & J. Hannan, *The Sacred Canons*, 2 vols. (St. Louis: Herder Books, 1952), vol. I, 181, and T. Bouscaren, et al., *Canon Law: A Text and Commentary* (Milwaukee: Bruce Publishing, 1966) [hereafter, Bouscaren-Ellis], 109. Prominent Roman authors making similar observations include Wernz-Vidal, *Ius Canonicum*, third ed. (Roma: Aedes Universitatis Gregoriana, 1943), vol. II, 117-118; F. Cappello, *Summa Iuris Canonici*, fifth ed. (Roma: Aedes Universitatis Gregoriana, 1951), vol. IV, 201; and Beste, *Introductio in Codicem*, fifth ed. (Neapoli: D'Auria, 1961), 180.

¹⁴ See *Schema de Populo Dei* 134 § 2, n.5, followed by 1980 *Schema Codicis* 249 § 2, n. 5, followed by 1982 *Schema Codicis* 278 § 2, n. 5. The text of the canon remained substantially the same through each version.

¹⁵ 1983 CIC 663 § 4: "Speciali cultu Virginem Deiparam, omnis vitae consecratae exemplum et tutamen, etiam per mariale rosarium prosequantur."

¹⁶ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Canonum de Institutis Vitae Consecratae per Professionem Consiliorum Evangelicorum* (Typis Polyglottis Vaticanis, 1977) Canon 73 § 3, which was followed by 1980 *Schema Codicis* 589 § 4, in turn

followed by 1982 *Schema Codicis* 663 § 4. See also *Communicationes* 13 (1981), 180-182.

¹⁷ 1983 CIC 1186 states in part: "Ad sanctificationem populi Dei fovendam, Ecclesia peculiari et filiali christifidelium venerationi commendat Beatam Mariam semper Virginem, Dei Matrem, quam Christus hominum omnium Matrem constituit."

¹⁸ 1917 CIC 1276: "Bonum atque utile est Dei Servos, una cum Christo regnantes, suppliciter invocare eorumque reliquias atque imagines venerari; sed prae ceteris filiali devotione Beatissimam Virginem Mariam fideles universi prosequantur."

¹⁹ Bouscaren-Ellis, 722, although he added that "filial devotion to the Blessed Virgin is presented as *almost* a precept, and that for *all the faithful*" (723; emphasis in original).

²⁰ See Coriden, et al., eds., *The Code of Canon Law: A Text and Commentary* (New York: Paulist Press, 1985) [hereafter, CLSA Commentary], 841; Caparros, et al., eds., *Code of Canon Law Annotated* (Montreal: Wilson & Lafleur, 1993) [hereafter, Navarra Commentary], 742; and Canon Law Society of Great Britain & Ireland, *The Canon Law: Letter & Spirit* (Collegeville MN: Liturgical Press, 1995) [hereafter, GB&I Commentary], 674.

²¹ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Canonum Libri IV De Ecclesiae Munere Sanctificandi, Pars II: De Locis et Temporibus Sacris deque Cultu Divino* (Typis Polyglottis Vaticanis, 1977) [hereafter, *Schema de Locis et Temporibus*], Canon 54. The text of this draft is identical to 1917 CIC 1276.

²² The *LEF*, as it came to be known, went through several versions (1969, 1971, 1976, and 1980), not all easily accessible now. See generally, however, Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Legis Ecclesiae Fundamentalibus: Textus Emendatus cum Relatione de ipso Schemate deque Emendationibus Receptis*, (Typis Polyglottis Vaticanis, 1971).

²³ See generally *Communicationes* 12 (1980), 372, *Communicationes* 13 (1981), 72, *Communicationes* 15 (1983), 246, and *Communicationes* 16 (1984), 99, as well as GB&I Commentary, 674.

²⁴ See 1917 CIC 1247 § 1, which differs from the current law only in observing the Circumcision of the Lord instead of the Solemnity of Mary.

²⁵ *Schema de Locis et Temporibus* 45 read as follows: "Praeter diem dominicum, qui in universa Ecclesia uti primordialis dies festus de praecepto servari debet, diem quoque Nativitatis Domini Nostri Iesu Christi et unam ex sollemnitatibus B. M. V. a Conferentiis Episcopalibus

designandam, penes eandem Conferentiam Episcopalem est determinare quinam alii dies festi in suo territorio sub praecepto servandi sint.”

²⁶ See *Communicationes* 12 (1980), 359-360.

²⁷ See Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Relatio Complectens Synthesim Animadversionum ab Em.Mis atque Exc.Mis Patribus Commissionis Ad Novissimum Schema Codicis Iuris Canonici Exhibitarum, cum Responsionibus a Secretaria et Consultoribus Datis* (Typis Polyglottis Vaticanis, 1981) [hereafter, *Relatio Complectens*], 277. Also reported in *Communicationes* 15 (1983), 251.

²⁸ By way of comparison, note that Pope Benedict XV closed his apostolic constitution by which the 1917 Code was promulgated, “Providentissima Mater Ecclesia,” with a cultic invocation of Sts. Peter and Paul. But Benedict’s words are more of a warning against incurring the indignation of the Apostles should the new codification be violated, rather than a petition for their prayers.

²⁹ See Ochoa, *Index Verborum*, “Petrus, (s.),” citing 1983 CIC 204 § 2, 245 § 2, 330 (twice), 331, 400 § 1, 749 § 2, and 1246 § 1.

³⁰ Canons 204, 245, 330, and 749 had no Pio-Benedictine predecessors, so their Petrine references are new with Pope John Paul II, and prescinding for the moment from Canons 400 and 1246 with what might be called their devotional references to St. Peter, only Canon 331 had a Pio-Benedictine predecessor with an explicitly Petrine reference to the Roman Pontiff.

³¹ 1983 CIC 204 § 2: “Haec Ecclesia, in hoc mundo ut societas constituta et ordinata, subsistit in Ecclesia catholica, a successore Petri et Episcopis in eius communione gubernata.”

³² 1983 CIC 245 § 2 states in part: “Ita formentur alumni ut, amore Ecclesiae Christi imbuti, Pontifici Romano Petri successori humili et filiali caritate devinciantur.”

³³ 1983 CIC 330: “Sicut, statuente Domino, sanctus Petrus et ceteri Apostoli unum Collegium consistuunt, pari ratione Romanus Pontifex, successor Petri, et Episcopi, successores Apostolorum, inter se coniunguntur.”

1983 CIC 331: “Ecclesiae Romanae Episcopus, in quo permanet munus a Domino singulariter Petro, primo Apostolorum, concessum et successoribus eius transmittendum, Collegii Episcoporum est caput, Vicarius Christi atque universae Ecclesiae his in terris Pastor; qui ideo vi muneris sui suprema, plena, immediata et universali in Ecclesia gaudet ordinaria potestate, quam semper libere exercere valet.”

³⁴ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Legis Ecclesiae Fundamentalis: Textus Emendatus cum Relatione de ipso*

Schemate deque Emendationibus Receptis, (Typis Polyglottis Vaticanis, 1971), 31 § 3. The numbering for both the 1969 version of this canon and the 1971 version is identical. Both prior versions are substantially the same as that which eventually appeared as 1983 CIC 330.

³⁵ CLSA Commentary, 265.

³⁶ CLSA Commentary, 267.

³⁷ 1917 CIC 218 § 1 begins: "Romanus Pontifex, Beati Petri in primatu Successor."

³⁸ See CLSA Commentary, 266-267.

³⁹ 1983 CIC 400 § 1 states in part: "Episcopus diocesanus . . . ad Urbem, Beatorum Apostolorum Petri et Pauli sepulcra veneraturus, accedat et Romano Pontifici se sistat." This provision originated in *Schema de Populo Dei* 258 § 1, followed by 1980 *Schema Codicis* 361 § 1, followed by 1982 *Schema Codicis* 400 § 1. The text remained substantially the same through each version of the canon.

⁴⁰ 1983 CIC 749 § 2 states in part: "[A]ut quando per orbem dispersi, communionis nexum inter se et cum Petri successore servantes, una cum eodem Romano Pontifice authentice res fidei vel morum docentes, in unam sententiam tamquam definitive tenendam conveniunt." This provision, drawn originally from the *LEF* (see, e.g., Canon 58 § 2 of the 1980 version) first appeared as a canonical provision in 1982 *Schema Codicis* 749 § 2.

⁴¹ See note 39, above.

⁴² It might be mentioned, moreover, that Pope John XXIII announced his intentions to reform the Pio-Benedictine Code on 25 January, 1959, the Feast of the Conversion of St. Paul, and that Pope John Paul II picked that same date to promulgate the revised Code in 1983.

⁴³ 1983 CIC 252 § 3 states in part: "Lectiones habeantur theologiae dogmaticae, verbo Dei scripto una cum sacra Traditione semper innixae, quarum ope alumni mysteria salutis, s. Thoma praesertim magistro, intimus penetrare addiscant."

⁴⁴ 1917 CIC 1365 most closely parallels the values reflected in 1983 CIC 251.

⁴⁵ See *Schema de Populo Dei* 105 § 3 which was followed by 1980 *Schema Codicis* 223 § 3, neither of which make mention of St. Thomas. Responding to several requests by consultors (see *Communicationes* 14 [1982], 165, noted by GB&I Commentary 144), 1982 *Schema Codicis* 252 § 3 expressly named St. Thomas as the principal teacher of theology.

⁴⁶ See Second Vatican Council, *Gravissimum educationis* (Declaration on Christian Education), 28 October 1965, No. 10.

⁴⁷ 1917 CIC 1365 § 1 simply called for two years of philosophy study during seminary formation.

⁴⁸ See Second Vatican Council, *Optatum Totius*, Decree on the Training of Priests (28 October 1965), No. 15, English translation by Austin Flannery, *Vatican Council II: The Conciliar and Post-Conciliar Documents* (Collegeville MN: Liturgical Press, 1975).

⁴⁹ See Sacred Congregation for Seminaries and Universities, "Private Reply," 20 December 1965, reprinted in *Canon Law Digest* 6 (1963-1967), 252.

⁵⁰ See Sacred Congregation for Catholic Education, "Study of Philosophy in Seminaries," 20 January 1972, reprinted in *Canon Law Digest* 9 (1978-1981), 807-821, esp. 820.

⁵¹ See GB&I Commentary 144, citing *Communicationes* 14 (1982), 52. Canon 251 had first appeared as *Schema de Populo Dei* 104, followed by 1980 *Schema Codicis* 222, followed by 1982 *Schema Codicis* 251.

⁵² See, for example, CLSA Commentary, 186; GB&I Commentary, 143-144; Navarra Commentary, 216; P. Pinto, ed., *Commento al Codice di Diritto Canonico* (Roma: Urbaniana University Press, 1985), 150; or L. de Echeverria, ed., *Codigo de Derecho Canonico: Edicion bilingue comentada*, (Madrid: Biblioteca de Autores Cristianos, 1985), 156. Saint Thomas is, by the way, the only saint mentioned in the 1983 Code who does not enjoy a preceptive holy day of obligation.

⁵³ See generally Ochoa, *Index Verborum*, "Sanctus, I," and "Sanctus, a, um." Twice in the 1983 Code, the Legislator makes references to the "Mystical Body of Christ." See 1983 CIC 674 (on the apostolate of religious institutes) and 834 § 1 (on the Church's sanctifying mission). While the concept of Mystical Body includes those elsewhere recognized as "saints" for purposes of this article, neither canon addresses issues which would be of relevance to this particular study.

The Pio-Benedictine requirement that a saint's name be used at baptism (1917 CIC 761) has not been carried over into the revised law. See 1983 CIC 855. This change in canon law dates back to the original draft of the provision (*Schema de Sacramentis*, 24) and was preserved in 1980 *Schema Codicis* 809 and 1982 *Schema Codicis* 855. No rationale for the change in discipline was offered.

It might also be briefly noted that a suggestion to require that bishops offer Mass on Christmas and All Saints Day for the intention of the people committed to their care was raised, but rejected, during the revision process. See *Communicationes* 13 (1981), 323.

⁵⁴ 1983 CIC 392 § 2 states in part: "Advigilet [Episcopus] ne abusus in ecclesiasticam disciplinam irrepant, praesertim circa . . . cultum Dei

et sanctorum." This provision originated as *Schema de Populo Dei* 245 § 2, followed by 1980 *Schema Codicis* 359 § 2, followed by 1982 *Schema Codicis* 392 § 2. The text remained substantially the same throughout the revision process.

⁵⁵ 1983 CIC 992 states in part: "[T]hesaurum satisfactionum Christi et Sanctorum." This provision originated as Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Documenti Pontificii quo Disciplina Canonica de Sacramentis Recognoscitur* (Typis Polyglottis Vaticanis, 1975) [hereafter, *Schema de Sacramentis*], 161, followed by 1980 *Schema Codicis* 946, followed by 1982 *Schema Codicis* 993. The text remained substantially the same throughout the revision process.

⁵⁶ 1983 CIC 1187: "Cultu publico eos tantum Dei servos venerari licet, qui auctoritate Ecclesiae in album Sanctorum vel Beatorum relati sint." This provision originated as *Schema de Locis et Temporibus* 55 § 1, followed by 1980 *Schema Codicis* 1138 § 1, followed by 1982 *Schema Codicis* 1187 § 1. The text remained substantially the same throughout the revision process. A lengthy discussion about the cultic distinctions between *sancti* and *beati* which arose during the revision process is not resolved by the terminology of the 1983 Code. See GB&I Commentary at 674, and *Communicationes* 12 (1980) 372-373 and *Relatio Complectens* 272, reprinted at *Communicationes* 15 (1983) 247. The elimination of 1982 *Schema Codicis* 1187 § 2 which addressed this issue came about, obviously, during the final period of personal papal review of the proposed law.

⁵⁷ 1983 CIC 1237 § 2: "Antiqua traditio Martyrum aliorumve Sanctorum reliquias sub altari fixo condendi servetur." This norm did not appear in the *Schema de Sacramentis*, but was later drafted at the recommendation of the Coetus on Sacraments. See *Communicationes* 12 (1980), 381. From there it was carried over, substantially intact, to 1980 *Schema Codicis* 1188 § 2, followed by 1982 *Schema Codicis* 1237 § 2. This provision is, by the way, the only time martyrs as a subgroup of saints are mentioned in the 1983 Code.

⁵⁸ Of course, Canon 1186, already discussed, notes that a key way the saints are of usefulness to the Church in our times is by their example and intercession.

⁵⁹ See generally Ochoa, *Index Verborum*, "Apostolus, i." A form of the word "apostle" appears in two other norms, namely Canons 400 and 1246, discussed above, but only as a title attached to Sts. Peter and Paul.

⁶⁰ 1983 CIC 375 § 1 states in part: "Episcopi, qui ex divina institutione in Apostolorum locum succedunt per Spiritum Sanctum qui datus est

eis.” Canon 330 makes the same assertion and for that reason is not separately discussed herein.

⁶¹ 1917 CIC 329 stated in part: “Episcopi sunt Apostolorum successors.”

⁶² *Schema de Populo Deo* 225 § 1 stated in part: “Episcopi, qui ex divina institutione in Apostolorum locum succedunt.”

⁶³ For present purposes, the legislative history of 1983 CIC 1188 is unremarkable. It began as *Schema de Locis et Temporibus* 56, followed by 1980 *Schema Codicis* 1139, followed by 1982 *Schema Codicis* 1188. The Pio-Benedictine counterpart of 1983 CIC 1188 was 1917 CIC 1277.

⁶⁴ For present purposes, the legislative history of 1983 CIC 1189 is unremarkable. It began as *Schema de Locis et Temporibus* 57, followed by 1980 *Schema Codicis* 1140, followed by 1982 *Schema Codicis* 1189. See *Communicationes* 12 (1980), 374. The Pio-Benedictine counterpart of 1983 CIC 1189 was 1917 CIC 1279.

⁶⁵ For present purposes, the legislative history of 1983 CIC 1190 is remarkable only in that the first draft of the canon, *Schema de Locis et Temporibus* 58, was considered insufficiently specific, and hence it was divided into multiple sections which appeared under 1980 *Schema Codicis* 1141, followed by 1982 *Schema Codicis* 1190. The Pio-Benedictine counterpart of 1983 CIC 1190 was 1917 CIC 1281.

⁶⁶ The strictures might be well-known but, as noted by the GB&I Commentary, 675-676, the canon makes use of unusually strong language in reprobating abuses in this regard.

⁶⁷ See *Acta Apotolicae Sedis* 75 (1983), 349-355. English translation at *Canon Law Digest* 10 (1982-1983), 267-273. Original Latin and English translation also reprinted in the Navarra Commentary, 1142-1155.