

PRESIDENTIAL REFLECTIONS

Significant Tasks Lie Ahead for Your Board



Rev. Smilanic

The first newsletter after our annual convention is a moment of beginning and of ending. Rather than speak first of beginnings and then of

endings, or visa versa, I would like to intertwine them.

Attentive to new beginnings, I would like to share with you the recent changes in the membership of the constitution committees that the Board of Governors and I have made. The new member of the Nominations Committee is Msgr. Rick Bass; he joins Ms. Eileen Jaramillo and Sr. Maureen McPartland, along with Fr. Paul Counce as an ex officio member. The new member of the Resolutions Committee is Ms. Rita Joyce; she joins Ms. Jennifer Haselberger and Bro. Pat Shea, along with Fr. Larry Jurcak as an ex officio member. Our constitution mandates a Committee on Professional Responsibility, the responsibility of which is to consider complaints from any party aggrieved with respect to the provisions of the *Code of Professional Responsibility*. The committee consists of the three 'senior consultants' of the BOG, who are Fr. Phil Brown, Ms. Zabrina Decker and Fr. Pat Brennan. As we move from a system of three consultants elected every year for a two-year term to a system of two consultants elected every year for a three-year term, the designation of 'senior consultant' will have to be addressed.

Although the *Code of Professional Responsibility* and the *Statement Concerning Professional Courtesies* of our society is currently being revised, the original norms still remain in force. As such, our code directs

the BOG to appoint three members of the Society to serve staggered three-year terms as Hearing Officers to deal with complaints arising under our code. Msgr. Michael Souckar has been appointed a Hearing Officer for three years, with his term expiring in 2011. Both Fr. Bill King and Msgr. Fred Easton have served as Hearing Officers, with both their terms expiring at our last convention. In order to fulfill the membership requirement, Msgr. Easton has been re-appointed for two years with a term expiring in 2010 and Fr. King has been re-appointed for one year with a term expiring in 2009.

With the constitutional amendment that passed at our recent convention, the former Budget Committee has become the Resource and Asset Management Committee. The CLSA Treasurer, Fr. Tom Anslow is the chair, and he is joined by the BOG consultant Ms. Zabrina Decker and as an ex officio member, Fr. Larry Jurcak. This committee will subsume the work of the former on-going committees of 'Investment Review' and 'Scholarship Fund'. This illustrates the task of the BOG this year to organize a smooth transition from the former committee structure to the committee structure envisioned by the FIP; more on this later. I would like to thank Msgr. Rick Thomas and Ms. Lorie Brower Albanese, and their committee members, for the work they have done with the Investment Review committee and the Scholarship Fund committee. They will be an indispensable fund of experience for the Resource and Asset Management Committee as they develop how we are accountable for the temporal goods of our society and how they will be used to serve our needs and goals.

As I mentioned above, a significant task (See **PRESIDENT**, p. 8)

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Canon Law Society of Canada Convention

Rev. Daniel Smilanic

The annual convention of the Canon Law Society of Canada was held in Quebec City from Monday, November 3rd to Thursday, November 6th. The location was selected because of the celebrations of the 400th Anniversary of the foundation of the city of Quebec and the 350th Anniversary of the foundation of the diocese of Quebec. I attended representing the Canon Law Society of America.

The opening address by Canon Jacques St. Michel described the first bishop of Quebec, Francois de Laval, and was entitled 'The boldness of a canonist bishop faced with the difficulties of a new world'. It illustrated that no matter how much things change, they remain the same. Three facets of Laval's ministry were described: relations with civil authority, religious life and a new juridic structure for a new situation. Although complicated by being under a Catholic monarch who enjoyed some power over the Church, Laval struggled with the Governor General to maintain the autonomy of the Church. He envisioned



Quebec City

a form of religious life for women that would be more suited to the needs of his pioneer environment; only with time was his perspective on 'the cloister' accepted. His plan for a seminary that would also address the life of the diocesan priests and their support was a creative attempt to address the twin challenges of morale and stipends. One or another of these three facets are often topics for CLSA convention seminars, and often are the topics of our individual consultations with Ordinaries.

The next day brought a variety of individual seminars. In the light of Canadian legislation that permits same-sex marital unions, Msgr. Lopez-Gallo entitled his 'Towards a diocesan, provincial or national policy regarding the registration of the baptism of children of same-sex couples'. When a same-sex couple presents a child for baptism, what does the norm of law lead us to do? If the pastor decides that there is no reason that the child should not be baptized, how is the entry to be made in the Baptismal Register? These are not theoretical research

topics, but rather actual questions we can expect from those in pastoral ministry. Dr. Michael-Andreas Nobel, a new faculty member from St. Paul University in Ottawa, presented on the topic of the 'Academic formation of priestly candidates according to the CIC/1983'. This is a surprisingly more complex topic than might be initially imagined. It involved a discussion of different possibilities for the formation and education of clergy. As the demographics of our candidates for priestly ordination develops, the different issues related to the different possibilities become more prominent. Finally that day, Mr. Michael Tremblay discussed 'Tribunal directorship and challenges as lay canonists with administrative duties'. As the number of priest and religious canonists decline, using lay canonists how can the administration of a

(See CANADA, p. 9)

Role of Law Award for 2008

The Board of Governors of the Canon Law Society of America selected Reverend John P. Beal, JCD, a priest of the Diocese of Erie and Professor of Canon Law at the Catholic University of America, as this year's recipient of the Role of Law Award. The honoree joined the Canon Law Society of America in October of 1982 and earned his doctorate in canon law from The Catholic University of America in 1985. Fr. Beal's scholarly contribution to the field of canon law is well known to the members of the Society and throughout the canonical world. In recognizing his canonical service at the national, regional and local levels, Fr. Paul Counce, CLSA President, described the honoree as "a scholar in the best sense of the word." Readers may access the Recipient's acceptance address on the CLSA website at www.clsa.org.

Call for 2009 Advisory Opinions

Have you been researching an interesting canonical question that could also benefit other canonists in their work of interpreting and applying Church law? Have you been perplexed by a canonical question that you would like another canonist to consider by way of response?

The Canon Law Society of America is accepting submissions for the 2009 edition of *CLSA Advisory Opinions*. The Society also maintains a list of canonists who are eager to respond to canonical

questions, whether they are of a practical or an exclusively academic nature. Consider challenging your peers to a brainstorming session of important questions that are in need of examination!

Opinions and questions should be forwarded to Ms. Siobhan Verbeek, CLSA Advisory Opinions Editor, at sverbeek@uscclb.org. Submissions will be accepted through February 28, 2009. ▼

Publications, Website, Regional Meetings Keep Staff Busy



Sr. Sharon Euart,
RSM

Thanks to everyone who helped make the Kansas City convention an enjoyable experience for all. We are especially grateful to the local volunteers and

Fr. Joe Matt for their many contributions to the details and arrangements.

I want to update you a few matters that have developed since our last Newsletter.

- *Staff Changes:* At the end of September Katie Richards joined our staff as the new administrative/financial assistant. She comes to us originally from Austin, Texas, having graduated from Loyola University in New Orleans. She was recently married and she and her husband live in Rockville, MD. We extend a warm welcome to

Katie. Nicole Lee, a JCL candidate at CUA, continues working as a part-time administrative assistant during the school year.

- *Publications:* We have been working closely with the CLSA Publications Advisory Board (PAB) to ensure better planning and monitoring of our current and proposed publications. The *CLSA Proceedings 2008* is on target for publication in early 2009; *Canon Law Digest 13* is at the printer and will be available in early 2009. Please read the announcement regarding its availability and cost. This information will also be posted on the website. The Marriage Research Committee's publication on *Rotal Jurisprudence* will be available in the Spring of 2009. Second printings of *Judging Invalidity* and *The Tribunal Handbook* are available now from CLSA Publications. I am grateful, to the members of the PAB for their

advice and assistance. The PAB is a great resource for the Society!

- *CLSA Website:* You may have noticed some of the changes on our website. For example, on the drop-down menu there is a link for the regional meetings with dates and contact information; members only section is entered in the upper right hand corner; news briefs are in the middle of the home page; updated Board of Governors with a picture and profile for each member; announcements are removed in a timely manner. We also welcome any suggestions you might

(See **COORDINATOR**, p. 4)

NEW MEMBERS

The CLSA extends a warm welcome to the following NEW MEMBERS who have joined the Society since summer 2008.

Rev. Peter Akpoghiran
Richmond, VA
Dr. Anne Asselin
Ottawa, ON
Rev. David Boettner
Lenoir City, TN
Rev. Ross Burkhalter
Omaha, NE
Rev. Martin Celuch
Youngstown, OH
Mrs. Cheryl Criss
Diocese of Peoria
Rev. Michael Duffy
Louisa, VA
Sr. Karla S. Felix-Rivera
San Francisco, CA
Rev. Kevin Finegan
Crownpoint, NM
Mr. Stephen Garbitelli
Portland, ME

Rev. Anthony Generose
Scranton, PA
Mrs. Michelle Gerlach
Milwaukee, WI
Mr. Robert Graffio
San Francisco, CA
Rev. Raymond Harris
Baltimore, MD
Mrs. Mary E. Hauck
Indianapolis, IN
Rev. Herman Leong
Oakland, CA
Ms. Louellen Martinez
Albuquerque, NM
Rev. Joseph Newton
Indianapolis, IN
Ms. Nwasi Nyirenda
St. Paul, MN
Rev. Samuel Perez
Tulsa, OK

Deacon John Pickwell
Austin, TX
Rev. Ronald Richards
Garden City, MI
Rev. David Rizzo
Hollidaysburg, PA
Mrs. Patricia Ruiz
Fresno, CA
Mr. Joseph Sinico
Albuquerque, NM
Rev. Jaroslán Skrzypek
Neosho, MO
Rev. Mark Smith
Jefferson City, MO
Deacon Sean Smith
Knoxville, TN
Ms. Shannon Townsend
Portland, ME
Deacon Daniel Welter
Chicago, IL

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Kansas City Convention Both Informative and Challenging

Rev. Paul Counce

Over 350 persons gathered in Kansas City, Missouri, on October 13-16, 2008, for the 70th annual Convention of the *Canon Law Society of America*. I was honored to preside at this assembly, a coming-together of those who are colleagues but even more importantly who are friends. All of this happened, as a local priest said, in the proper context of “wide open spaces, beef and barbecue!”

Even beforehand there was much to learn and experience, as the 75 attendees at our two pre-convention workshops attest. As usual a “tribunal ministry” theme was explored, as Fathers Tony Bawyn and Paul Pluth and Ms. Lynda Robitaille of the Seattle Metropolitan Tribunal explored simulation. Father Phil Brown and Dr. Bill Wagner devoted their “civil law issues” workshop to the topic of prescription and the right of defense.

Once the convention proper began, participants were treated to presentations and seminars that were informative and challenging. While *Proceedings* will present all of these in formal and complete fashion, a couple of exceedingly well-received ones stood out. Father Frank Morrissey’s keynote did indeed set the tone for the whole convention: he identified areas of church law for which the past 25 years has shown “a need either for rethinking some of the canons, or at least making certain adjustments in the legislation.” Later, Monsignor Bernard Hebda’s invitation from the President of the Pontifical Council for Legislative Texts itself for our Society’s input in precisely this work generated a palpable spirit of hopeful and helpful cooperation.

These invitations surrounded one of the most positive events I can remember in the recent history of the CLSA: the Presidential Hearing on the “Future Initiatives Project.” The FIP looks to re-orient our Society’s thinking and approaches – with a modest restruc-

turing to enable this. It was clear from the enthusiastic support for the FIP that the CLSA is headed in the right direction. Our thanks to the FIP Committee for its leadership and vision for the Society’s future!

From the snippets of conversations overheard throughout the week – I’m sorry I couldn’t be everywhere, at every seminar! – people’s imaginations were captured by this idea: after 25 years’ experience with the *Code of Canon Law*, now is the time for renewal. It will be exciting for all of us to be a part of this!

Two other items deserve mention here: first, at its closing banquet the Society awarded its prestigious *Role of Law* award to Father John P. Beal of

The Catholic University of America. Father Beal’s canonical expertise and dedication have helped many over the years to a deeper knowledge of the Church’s laws. The appreciation of the CLSA for him is just as profound.

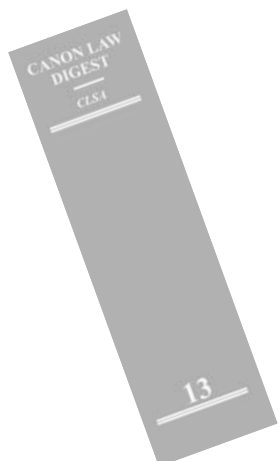
And any memory of the Kansas City convention gratefully recalls the Judicial Vicar of Kansas City-St. Joseph, Father Joseph Matt, and his team of parishioners from Independence who served as local coordinators. Their smiling and efficient help – along with the attentive assistance of the Executive Coordinator Sister Sharon Euart and the eager enthusiasm of the General Convention Chair Father Mike Boccaccio – helped make the gathering a memorable one. ▼

(COORDINATOR, from p. 3)

have for improving the website. Watch for information on the website and in future newsletters about new features. Elsewhere in this Newsletter is an outline of what can be found on the website and how to navigate the website.

- *Profile Information Update*: Again we encourage you to update your profile on the website membership directory. It is an easy process to change your address and it will provide the most current contact information for mailing purposes. If you would like assistance in this process, please contact Katie at the EC office at krichards@clsa.org.
- *New Members*: Just a reminder that new members may obtain a copy of the registration form from the CLSA website. Please remind those you wish to recommend for membership to access the form from the website or by contacting the OEC office. A list of new members since this past summer can be found in this Newsletter. A warm welcome to all our new members!
- *Regional Meetings*: We encourage the contact persons for Regional Meetings to notify the OEC of the dates of the 2008-2009-2010 Regional Meetings and the name of the contact person. We will post the information on the website under “regional meetings.” We also ask the contact person for each Regional Meeting to be in touch with the CLSA President regarding representation from the Board of Governors at the Regional Meeting. The Board of Governors would like to have a representative at each Regional Meeting.
- *Canonical Consultation/Advocacy*: Thank you to those who indicated their willingness to be a contact for individuals who request the name of a canonist to assist them with a situation involving matters such as the closing of a parish, an allegation of misconduct or other issues for which they need to consult with a canonist. If you are available to serve in this capacity, please let me know either by e-mail at seuart@clsa.org or by telephone at 202-832-2350. ▼

CLSA PUBLICATIONS



Canon Law Digest XIII, representing the period of 1991-1995, will be available for distribution in January 2009. This established series is widely employed by canonists and those who seek to reference official and private canonical documentation, especially in the English-speaking world. **You can pre-order your copy today!**

Volume 13 of CLD presents more than seven hundred pages of canonical entries and other documents which are directly related to canon law. The principal categories of documentation included in this volume, arranged according to canon, are documentation from the Roman Pontiff, dicasteries of the Holy See, complementary norms of conferences of bishops, and private replies. This easy-to-use reference is a nice addition to the previous twelve volumes.

CLD 13 also includes a detailed index as well as a chronological index of the documents which will facilitate their retrieval. Also each entry includes where the official text may be located in such publications as the *Acta Apostolicae Sedis*, *Origins*, and *The Pope Speaks*. Occasionally a reference to a location on the internet is also provided.

The series, originated by Jesuit canonists T. Lincoln Bouscaren and James I. O'Connor, include volumes 1-10, which are dedicated to 1917 Code of Canon Law, and has continued with volumes 11 & 12, under the new ownership of the Canon Law Society, as a collection of documentation pertinent to the 1983 Code and the 1990 Code of Canons of the Eastern Churches.

List Price: \$85.00 (member price - \$65.00), 783 pp. ISBN: 1-932208-18-6

Use the reverse side of this form to make a pre-publication order!

Also Now Available!

Marriage Studies:

- *Judging Invalidity*, second printing (2002). List Price: \$20.95, vi + 95 pp. ISBN: 0-943616-96-4

Handbook Series:

- *The Tribunal Handbook: Procedures for Formal Matrimonial Cases* (2005). List Price: \$35.00, xii + 177 pp. ISBN: 1-932208-07-0

Roman Replies & CLSA Advisory Opinions:

- *Roman Replies and CLSA Advisory Opinions* (2008) List Price: \$17.00, ii + 143 pp. ISBN: 1-932208-21-6

Coming Soon

CLSA Proceedings:

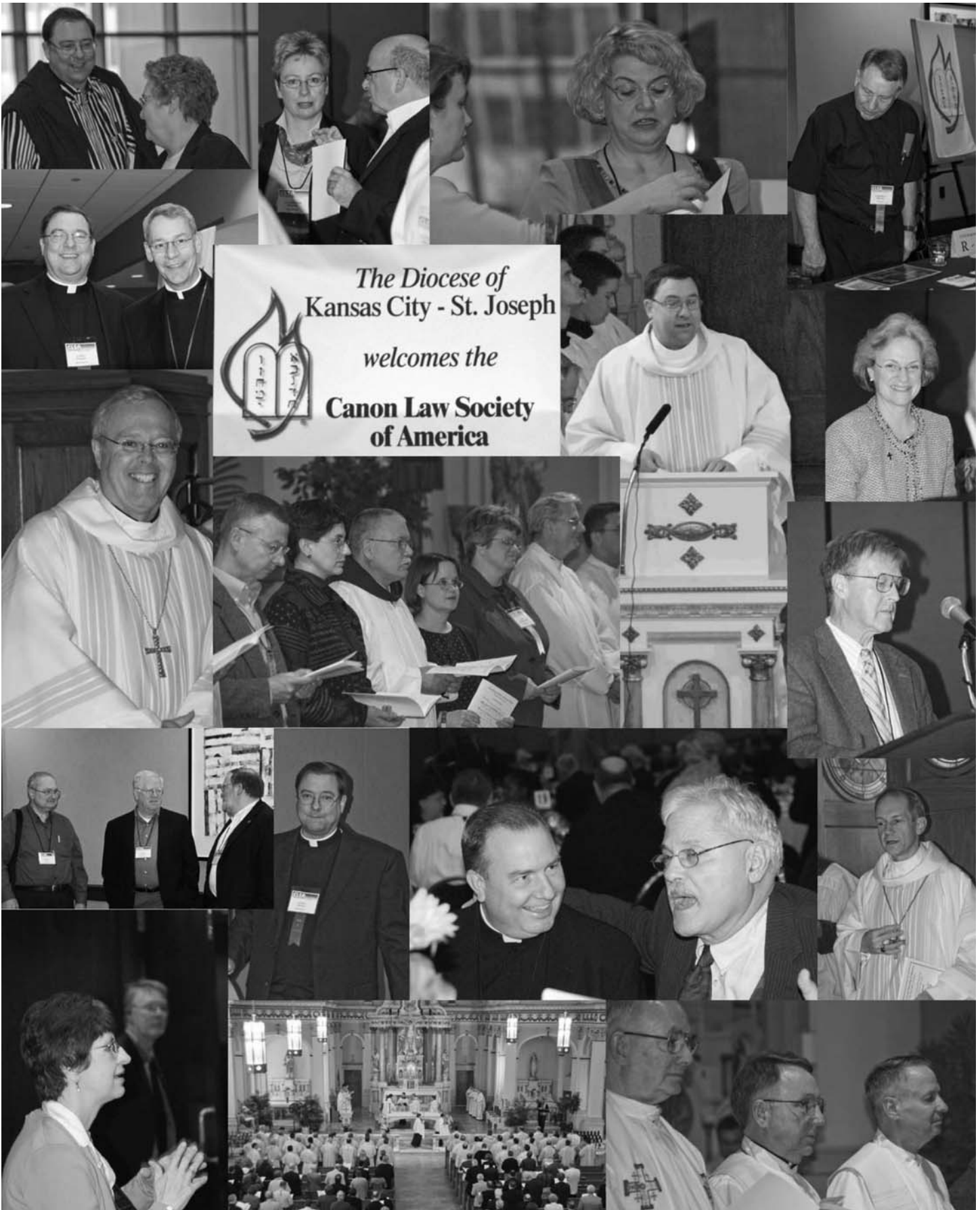
- *CLSA Proceedings (2008) available in early 2009!*

Marriage Studies:

- *Rotal Jurisprudence publication is set for spring 2009*

Members, be sure to ask for your membership discount when placing your order!

For more information about any of these publications, or for a complete listing of all available CLSA publications, please visit our website: www.clsa.org



The Diocese of
 Kansas City - St. Joseph
welcomes the
**Canon Law Society
 of America**

2008 Canon Law Society Annual Convention: Kansas City, Missouri October 13 – 16
 For more recap from the 2008 Convention visit our Convention Blog at www.clsa.org (under the Convention Tab)
 Photos courtesy Fr. Joe Matt, Diocese of Kansas City – St. Joseph; Design by Katie Richards

Navigating the CLSA Website

Some of you might be new to our website or maybe you haven't visited us in a while, while others perhaps have noticed a few changes. The Society has begun to utilize our website quite well, and we hope that through the web we can better serve our members and the community. So look for more changes and more useful information on our website in the future!

Listed below are a few general items you may look for while on our website, and where you can easily locate them.

As a member, you also receive access to additional information on the website when logging in with your login information. If you have not yet changed this information, your username is your first and last name (with a space in between) and your password is your unique six-digit CLSA ID number. As always, if you need assistance with this, please contact us at the CLSA Executive Coordinator's office (202) 832-2350.

Member Login can be found on the upper right hand corner of the homepage. Once logged in, you can change your membership profile (contact, education, employment and/or login information) by clicking on **User Profile**, and you can access the **Membership Directory**.

News can be found on the bottom of the homepage and also on the left hand column under "News." Archived news can only be seen under the "News" tab (you have to scroll down to see past articles).

Online Store and Publications Information can be found on both the right hand and left hand columns of the homepage.

CLSA Newsletter present and archived can be found on the right hand column of the homepage.

Calendar (our list of upcoming events) can be found on the left hand column of the homepage. These events include **Regional Meetings and Conventions**.

CLSA Committees, the Board of Governors, and other information about the CLSA can be found under the "About the CLSA" tab on the left hand column of the homepage. **Scholarship Fund** information is also located on this page.

The **Resources** tab on the left hand column of the homepage includes **Resources for Researching Canonical Topics, Faculties of Canon Law, Other**

(PRESIDENT, from p. 1)

of the BOG this year is to organize the transition from the former committee structure to the committee structure envisioned by the FIP. Principally this entails the consolidation, or streamlining, of the on-going committees. While the BOG moves forward with this restructuring during the coming months, I have asked the chairs of the on-going committees, task forces and projects to continue in place and to continue to work on the projects that are already in process. I hope that the restructuring will take no more than nine months.

Because of the constitutional amendment that passed at our recent convention, the Committee on Convention Planning was changed from a constitution committee to an on-going committee. In addition, its scope of responsibility was expanded to assume the task of the current Convention Liturgies Committee; how this feature will be addressed remains a future effort. I would like to thank Fr. Kelly M. Vandehey and Ms. Barbara Bettwy for their work on Convention Liturgies; and I hope that they will be a resource for the Convention Planning Committee for the liturgical life of our conventions. The proposal was to have the Past President as the chair, with the membership being the Convention Chair and three active members of the Society appointed by the President, each with staggered three-year terms. However, because the planning for a convention overlaps the change in President and Past

Canon Law Societies, and other useful websites.

Employment listings for both wanted employment and open positions are found on the left hand column of the homepage. If you or your diocese is in need of a canon lawyer, please take advantage of this function and email your ad listing to krichards@cls.org. ▼

— Nicole Lee and Katie Richards

President, for the sake of continuity I have confirmed that Pat Cogan is the chair of the Committee on Convention Planning. Fr. Tony Bawyn is a continuing member of this committee. Dr. Barbara Ann Cusack has accepted re-appointment for one year in order to facilitate the 2009 Louisville convention. Because of the efforts of our society with the Canadian Canon Law Society to develop a common endeavor at the 2010 convention in Buffalo, the work of this committee will be significant. Fr. Michael Boccaccio remains our Convention Chairperson.

At our recent convention in Kansas City, Missouri, perhaps one of the most significant moments was when Msgr. Bernie Hebda read the letter from Archbishop Coccopalmerico, the President of the Pontifical Council for Legislative Texts. In that letter the Archbishop noted 'that if we are to be successful in ensuring that the norms of the Church are complete, current and consistent, the assistance of competent canonists will be indispensable'. He invited us to suggest those areas of the Code that may require further specification and to provide some 'reflections' on lacunae in the law that might need to be addressed. For this reason the next committee membership to be addressed, the Research and Development Committee, will be significant. The request of the Archbishop will be entrusted to this committee for preparation and development. I will be writing him shortly to respond to his
(See **PRESIDENT**, p. 9)

(PRESIDENT, from p. 8)

invitation.

I represented the CLSA at the recent convention of the Canon Law Society of Canada and the hospitality they showed me was wonderful. I have described their convention in more detail in another article. In particular, Fr. Richard Arsenault, Msgr. Jean Pelletier and Fr. Stephane Sarazin were very gracious. Their convention was held in Quebec City because of the 400th Anniversary of the foundation of the city and the 350th

CLSA WORKSHOP OFFERING

This Seminar, being offered for a second time, is designed for degreed canonists who are interested in becoming advocates or who have some initial experience of being an advocate in penal cases. Each participant must have broad Tribunal experience. The number of participants will be limited to 25.

The presenters for this Seminar:

Rick Bass, JCL
Fred Easton, JCL
Paul Golden, C.M., JCD
Jerry Jorgensen, JCL
Pat Lagges, JCD

The role of the advocate will be discussed in the context of a case study. Participants will have ample time for questions, will work in small groups and will write various advocate's briefs.

The Seminar will take place from **3:00pm on Monday, May 25 – 1:00pm on Thursday, May 28, 2009** at the Mundelein Conference Center in Chicago, Illinois.

The cost is \$475 USD and is all-inclusive (meals, private rooms, evening socials and all materials).

Application forms will be available from the Executive Coordinator's office and the CLSA website (www.clsa.org) in January. Additional information will be available on the CLSA website.

Anniversary of the foundation of the diocese of Quebec. It was a particular honor for me as a priest of the Archdiocese of Chicago to attend this convention, because prior to 1763 Chicago was a part of New France and a part of the diocese of Quebec City. Fr. Alain Guevremont was elected their new president. Their leadership designated Fr. Joseph Arsenault to work with Fr. Pat Cogan of the CLSA to develop our common endeavor in 2010, and I believe that they have already met. One of the opportunities which the Canadian convention offered was conversation not only with the leadership of their society but also with Msgr. David Hogan, the President of the Canon Law Society of Great Britain and Ireland, and Fr. Ian Waters, the President of the Canon Law Society of Australia and New Zealand. The presidents of these societies, myself included, all felt that Canon Law and the Church would be better served if we all worked together in some manner. We committed ourselves to further conversations about how this could be developed.

November is traditionally a time of remembrance and Thanksgiving. I would like to say a word of thanks to those who have done so much for our society, knowing that I risk leaving someone out.

(CANADA, from p. 2)

diocesan Tribunal be arranged to observe the norm of law and best serve the People of God?

The next day brought a very stimulating talk by Fr. Ian Waters, the president of the Canon Law Society of Australia and New Zealand. He identified about 14 points in canonical doctrine that needed to be addressed. Rather than list them all, I will note three. He identified the Episcopal Conference as a permanent institution with great potential that could use some attention. To be truly effective, it should be more cognizant of the thoughts of the clergy, the religious and the laity; otherwise, with a more narrow perspective its ability to speak effectively to the parochial situation is impoverished. A second point was what he termed 'investigative processes'.

Sr. Sharon Euart, our new Executive Coordinator, walked into convention preparation when she walked into the CLSA office; the recent Kansas City convention could not have happened without her efforts. In a special way I would like to thank our past President, Fr. Paul Counce; his attention to detail and wide breadth of vision was the gift of his leadership. I have asked him to write the article for this Newsletter about our recent convention. Dr. Barbara Cusack and Fr. Michael Boccaccio's patient endurance of the emotional minutiae of the convention made everything go smoothly. More widely for the whole society, I would like to thank all those who have worked on committees, task forces and work projects. I know that it has been confusing and slow as we move into a new structure, but we all benefit from your experience and forbearance. For myself, I cannot thank you enough for having given me this opportunity.

As a Church we face the realities of globalization, secularization and technological change. This will mean that as canonists, we will have to respond to new issues with new methods. It is important that we work together because although individually we may be unsure, together we can find a way. ▼

As examples, he mentioned laicization, the Petrine privilege and non-consummation cases. Given the often very local character of the cases, he suggested that these be done on a diocesan level. Finally, he addressed various issues of procedural law. He wondered why a Third Instance tribunal for marriage cases could not be established as part for a National Episcopal Conference or a grouping of National Episcopal Conferences. This had been done for various regions during World War II. His talk was a stimulating blend of academic research and practical experience.

This is but a small sample of the presentations. The program began with a quote from Benedict XVI: "Church law is first and foremost *lex libertatis*: a law that sets us free to adhere to Jesus". ▼

Notes of Recourse to the Apostolic Signatura (*Pastor bonus*, art. 123)

Joseph R. Punderson

Below are some very brief notes on recourse to the Apostolic Signatura.

WHAT. Recourse can be made (a) against singular administrative acts (cann. 48 and 1732), (b) approved by a Dicastery of the Roman Curia (following hierarchical recourse) or issued by the same (even when no hierarchical recourse preceded), (c) alleging violations of the law in regard to the procedure followed or in regard to the substance of the decision. The latter usually claims that the decision exceeded the limits of its author's discretionary power, which in many matters is quite broad (as in can. 515, §2), or that none of the reasons given had any basis in fact.

WHO. Generally only a physical or juridic person directly affected by the act can make recourse against it, and only a party in a recourse to a Dicastery who is aggrieved by its decision in the matter can have recourse against it (even the author of the original act). Groups lacking juridic personality or recognition (can. 299, §3) cannot as such

make a recourse but their members could possibly do so as individuals, even jointly.

WHEN AND HOW. The recourse must be presented to the Signatura within thirty useful days. To present the recourse, the aggrieved person, or a procurator showing a mandate, must bring or physically send to the Signatura a signed original document indicating, at least briefly, the object of the recourse (attaching a copy if possible) and the reasons for the recourse. The time limit starts when the person has received the decision and the recourse is considered to be made when it is sent or brought to the Signatura. In principle this time does not run when the person is ignorant or is prevented from acting (can. 201, §2), but it is not interrupted by Sundays and holidays, unless the last day of this period falls on a day when it is impossible to present the recourse. Ignorance of the right to have recourse to the Apostolic Signatura or of the legal time limit is not presumed (can. 15, §2), and it must be proved both that the person was truly ignorant and

that he or she was not negligent in any way in seeking the necessary information.

REPRESENTATION. Once the recourse is presented, the parties can participate in the process only through a procurator-advocate admitted to practice before the Signatura.

EXPENSES. An initial deposit is to be made against expenses (presently 1550 Euro), sent either directly to the Apostolic Signatura or through the local Apostolic Nunciature/Delegation. At the end of the process a decision will be made concerning expenses. A request that the deposit be waived or reduced, or that an ex officio procurator-advocate be appointed without cost, must be supported by proof of financial condition and could be granted only if (a) the financial need has been demonstrated and (b) the recourse is not obviously futile. ▼

For more detail see "Hierarchical Recourse to the Holy See: Theory and Practice", CLSA Proceedings 62 (2000), 19-47, esp. 39-47.

The Newsletter of the Canon Law Society is published as a service to members four times a year by the Office of the Executive Coordinator, Canon Law Society of America, The Hecker Center, 3025 Fourth Street, NE, Suite 111, Washington, DC 20017-1102. Membership in the Society is open to interested persons as active or associate members, depending on specific qualifications of training and experience in canon law. The annual membership fee is \$200.00. Application forms are available from the Office of the Executive Coordinator or at www.clsa.org.

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