

Confidential  
Not for Publication + Ell.

Preparation for the Second Meeting of The Joint Anglican/Roman Catholic Sub-Commission of The Theology of Marriage and Its Application to Mixed Marriages

1. A Revue -

The first meeting of the Joint Sub-Commission took place in five sessions at Windsor, England beginning on April 16, 1968.

The Meeting based its discussion on "A Report on the Problem of Mixed Marriages" which was published after the Feb.-March 1967 Meetings of various denominations at Nemi, France.

The Meeting published its own confidential "First Interim Report". This report summarized the main points of discussion under the headings of: (a) Indissolubility, (b) Anglican Procedure in Nullity Case, (c) Sacramental Character of Marriage, (d) Different Situations--Different Duties, (e) Canonical Form, (f) Application for Dispensations from the Cautiones, (g) Dispensation from the Impediment of Mixed Religion, (h) The Reason for the Cautio Concerning the Roman Catholic Upbringing of Children, (i) Joint Pastoral Concern (j) Three Fundamental Theological Principles.

A thorough review of this "First Interim Report" is essential preparation for the Second Meeting of the Joint Sub-Commission.

2. Important Interim Documentations which have been published between the First and Second Meetings of the Joint Sub-Commission.

A). Synod of Bishops (Roman Catholic) Sept. - Oct., 1967 -

Although this Synod met before the First Meeting of the Joint Sub-Commission, it may be well to state again its voting on pertinent questions:

(To understand the voting on mixed marriages one has to remember the rules for determining the 'mind of the Synod'. A two-thirds majority was required--in this case 124. However, a placet iuxta modum vote counts as a placet, since an amendment could only modify a proposal if it went generally in the direction of the proposal; if it went clean contrary to it, it could be discarded (and the erring bishop ought really to have voted non placet).

(1) Whether the terminology now in use (mixed marriage, impediment of mixed religion, impediment of disparity of worship) should be retained? Placet 116; non placet 64; (null 1).

(2) Whether it is opportune to introduce new terminology such as 'inter-confessional marriage,' 'unequal marriage,' or some other? Placet 29; non placet 110; placet iuxta modum 41.

(3) Whether for dispensation from the impediment it is enough for the competent authority to have moral certainty that the Catholic party is exposed to no danger of losing the faith and is ready to do everything in his power to ensure the Catholic baptism and education of the children? Placet 137; non placet 6; placet iuxta modum 42.

(3b) Whether for dispensation from the impediment it is enough for the competent authority to have moral certainty that the non-Catholic party is aware of the obligation in conscience and at least does not exclude the Catholic baptism and education of the children? Placet 92; non placet 13; placet iuxta modum 72; (null 10).

(4) Whether the canonical impediment should be done away with? Placet 28; non placet 128; placet iuxta modum 29 (null 2).

(5) Whether the canonical impediment can be eliminated in such a way as to have the following norm: Catholics, who for the validity of their marriage are obliged to the form when they contract among themselves, are held to it only for lawfulness if they marry non-Catholics? Placet 33; non placet 125; placet iuxta modum 28; (null 1).

(6) Whether, retaining the canonical form for the validity of marriage, local ordinaries should be empowered to dispense from it in particular cases, according to their own conscience and prudence, in such a way that the use of this right would no longer be reserved to the Holy See. placet 105; non placet 13; placet iuxta modum 68 (null 1).

(Many amendments suggested that the right should be vested in Episcopal Conferences rather than individual bishops.)

B) The Lambeth Conference - 1968  
Resolutions and Reports  
(S.P.C.K. and Seabury Press - 1968)

1) Resolutions: The Roman Catholic Church:  
v.p. 43

#52. The Conference welcomes the proposals made in the report of Section III which concern Anglican relations with the Roman Catholic Church.

#53. The Conference recommends the setting up of a Permanent Joint Commission, for which the Anglican delegation should be chosen by the Lambeth Consultative Body (or its successor) and be representative of the Anglican Communion as a whole.

#54. In view of the urgent pastoral questions raised by mixed marriages the Conference welcomes the work of the Joint Commission on the Theology of Marriage and its Application to Mixed Marriages, and urges its speedy continuance.

2) Relations with The Roman Catholic Church-Mixed Marriages  
(pp. 136-137)

We are aware of the suffering which may arise from marriages in which one partner is an Anglican and the other a Roman Catholic, but welcome the fact that a Joint Commission on the Theology of Marriage and its Application to Mixed Marriages has been set up. The preliminary discussions of this joint commission have shown that the two Churches are close to one another in acknowledging that Holy Matrimony has a sacramental nature, although this is somewhat differently expressed in our respective formularies.

We welcome a suggestion from the (Roman Catholic) Third World Congress for the Lay Apostolate that Anglican priests should be acceptable as the official ministerial witnesses required by the Roman Catholic Church.

We note that the same Congress has asked that the responsibility for the Christian education of the

children of a mixed marriage should be regarded as the responsibility of both parents who share in the grace of the marriage sacrament, and note that this is endorsed by the Declaration on Religious Liberty of Vatican II, which states: "Parents... have the right to determine, in accordance with their own religious beliefs, the kind of religious education that their children are to receive."

We also welcome the movement towards joint pastoral care of all concerned both before and after marriage by the clergy of the two Churches. Such joint pastoral care is an expression of the theology of Holy Matrimony which both Churches share.

C. The Third World Congress for the Lay Apostolate  
(Roman Catholic)

The Lambeth Conference cited with approval the pertinent resolution of the 3rd World Congress of the Lay Apostolate which met in Rome from Oct. 11-18, 1967. In attendance were more than 2,000 delegates, experts, and observers from 102 nations. Delegates were selected on the basis of their participation in the lay apostolic movement.

The following paper was obtained from the National Council of Catholic Women, one of the participants:

Draft Resolution On Interfaith Marriages

Members of the Third World Congress for the Lay Apostolate rejoice to learn that the Holy Synod is dealing with the important problem of interfaith marriages.

Considering this opportunity it seems justified to express what follows:

1- The validity of unions blessed by ministers of the main Protestant denominations should be fully recognized as has been the case for unions blessed by ministers of the Orthodox Church.

2- The automatic excommunication of Roman Catholics married in the Protestant Church hurts gravely the charity

and the peace which Our Lord has been establishing between us these last years.

3- The determination of the faith in which the children will be brought up should be left to the choice of parents through the grace of the marriage sacrament and with the help of qualified representatives of the churches.

4- Every effort towards a common pastoral, i.e., concerted at all levels amongst the ministers of the different faiths will be welcomed with joy, not only by interfaith couples, but also by all Christian parents whose children may find themselves in the same situation.

We shall be grateful to the Holy Synod to take into consideration this recommendation.

Confirmed through its authority, it will free for the active service of the Church many forces which are actually left aside.

(The draft resolution on "Mixed Marriages", introduced by the Workshop on ECUMENISM (No. 8 of the second series) will be published in Volume III of the Proceedings, with the report of this Workshop. The text of this draft resolution, revised in agreement with the Workshop leaders, was submitted to the Synod of Bishops by the Congress Steering Committee...")

**PLEASE NOTE:** THIS "DRAFT RESOLUTION ON INTERFAITH MARRIAGES" DOES NOT CONTAIN THE REVISIONS, INDICATED IN THE PRECEDING PARAGRAPH, AND VOLUME III OF THE PROCEEDING ARE NOT YET AVAILABLE.

### 3. Impediments, Indissolubility and Second Unions

These fundamental questions should be the topic of a specially prepared paper whose aim would be to establish the points of agreement between the two communions (i.e., the basic emphasis on indissolubility) and the points of difference (i.e., pastoral approaches to those in second unions).

The paper should try to relate the varied practices in the Roman Catholic Church (i.e., declarations of nullity, Pauline Privileges, Privileges of the Faith) with the practices

in the Anglican Church ( i.e., acceptance of civil annulments).

The paper should try to relate the developed Roman Catholic system of impediments with the thinking and practice of the Anglican Church.

Finally the paper should offer ways in which the points of difference may perhaps be reconciled without any compromise of Church teaching ( i.e., The current Roman Catholic discussion on the pastoral care of those in second unions).

Until this paper has been completed and reviewed, the Joint Sub-Committee's discussion on Canonical Form and the Cautiones must be made on the following presuppositions:

The unions in question do not involve anyone who has been in a prior union unless that prior union is recognized as disallowed or dissolved by both the Roman Catholic and the Anglican Churches.

And the unions do not involve anyone who is prevented from a true union of marriage by the existence of a recognized impediment.

#### 4. Canonical Form

A) The Roman Catholic Church now grants dispensations from dispensations from canonical form in certain cases.

1) This appeal is made by the Local Ordinary to the Congregation of the Doctrine for Faith.

2) The responses have been usually prompt (within 4 weeks) and affirmative.

3) The response frees the Catholic petitioner from any requirement of canonical form. However, it is given in the face of the petition which always mentions the fact that the union will take place in a non-Roman Catholic Church should the permission be granted.

4) In cases of emergency, correct canonical interpretation will allow an Ordinary to grant permission locally.

5) In these petitions there is no question concerning the Cautiones. The non-Roman Catholic has agreed that the children will be reared in the Roman Catholic faith.

6) The following two pages are copies of a November, 1967 and a July, 1968 rescript from the Congregation of the Faith granting a dispensation from canonical form to the Roman Catholic petitioner.



SACRA CONGREGATIO  
PRO DOCTRINA FIDEI

Roma, 12 novembris 1967  
Piazza del S. Uffizio, 11

Prot. N. 4132/1967/M.

(In responsione sac. mentio huius numeri)

Exc.me av Rev.me Domine

Litteris diei 31 octobris, nuper elapsi, Excellentia Tua Rev.ma postulavit ut matrimonium, contrahendum inter ROBERTUM McKAY, catholicum, et LYNDAM BURBAGE, presbiterianam, celebraretur solummodo coram ministro acatholico.

Insuper Excellentia Tua certiore faciebat hanc Sacram Congregationem partes debitas cautiones quoad baptismum et educationem catholicam prolis praestitisse.

Ad rem Tecum communico hanc Sacram Congregationem, attentis peculiaribus casus adiunctis, petitam dispensationem, de qua supra, concedere.

Curet autem E.T. ut hoc fiat sine pompa exteriori, remoto periculo scandali vel admirationis populi.

Adnotatio vero matrimonii celebrati fiat ad normam can. 1103 & 1, 2, C.JC.

Hanc occasionem nactus impensus aestimationis meae sensus Tibi obtestor et permaneo

Excellentiae Tuae Rev.mae  
addictissimus

Exc.mo ac Rev.mo Domino  
D.no ERNESTO L. UNTERKOEFLER  
Episcopo CAROPOLITANO

*J. Cott. O'Hara*  
*P. Puf.*



SACRA CONGREGATIO  
PRO DOCTRINA FIDEI

Roma, 26/Julii/1968  
Piazza del S. Uffizio, 11

Prot. N. 2862/68M

(In responsione fac mentio huius numeri)

Exc. me ac Rev. me Domine,

Litteris die 26 iunii 1968 datis Excellentia Tua Reverendissima dispensationem postulavit a forma canonica pro matrimonio contrahendo inter partem catholicam Jacobum W. BUCKLEY et partem acatholicam Candacen Q. LAWSON qui canonicas cautiones de baptismo et educatione catholica prolis praestare intendunt.

Ad rem Tecum communico hanc Sacram Congregationem dispensationis gratiam concedere dummodo quodvis periculum scandalum vel admirationis populi removeatur.

Pars catholica celebrationis matrimonii documentum exhibere debet parochi catholico pro opportuna adnotatione in registis matrimonialibus.

Hanc occasionem nactus, impensos aestimationis meae sensus Tibi pando et permaneo

Excellentiae Tuae Reverendissimae  
addictissimus

taxa, 5 \$

Exc. mo ac Rev. mo Domino

D. no Ernesto L. UNTERKOEFLER

Episcopo

CAROPOLITAN.

*C. Keller*  
*Subscripsit*



- B) The Roman Catholic Synod of Bishops at its 1967 meeting has already expressed its wish that Local Ordinaries be empowered to grant such a dispensation in particular cases without recourse to the Holy See (v. supra 2.A.6).
- C) The First Interim Report of this Joint Sub-Commission accepted for discussion at its Second Meeting a Roman Catholic delegate's suggestion of a possible modification of the requirement of canonical form to include the acceptability of Anglican priests as the official ministerial witnesses which the Church's law of Canonical Form requires (v. First Interim Report, Section 10).
- D) Possible Considerations of Solutions to the Problem of Canonical Form

The Roman Catholic Church desires to keep the general requirement of canonical form. (v. supra Synod of Bishops: 2. A. 5). In light of this, the Roman Catholic Church should rewrite its general law on canonical form in a thoroughly positive way with emphasis on the benefits which this law brings to the holiness and fulness of marriage.

It may then, after this general statement, accept in a positive way the fact of union between Roman Catholic and Anglicans. It would do this by eliminating the slightly pejorative term, "dispensation". Perhaps a term such as, "special unions" or "inter-faith unions" could be substituted. This special section would honor Roman Catholic-Anglican unions and would detail both the pastoral and canonical requirements.

The following sections ( 1, 2, 3 ) offer possible solutions to the canonical question:

1) The present dispensation officially frees the Roman Catholic from the canonical form. It does not directly recognize another ceremony or ministry, although it is granted with knowledge of this.

A solution would be to extend this present dispensation to Local Ordinaries.

2) When a Roman Catholic marries an Anglican before an Anglican priest and in an Anglican ceremony, a possible interim solution would be for the Roman Catholic Church simply to recognize either a Roman Catholic

priest who assists at the union or a Roman Catholic layman who is present as its official witness.

3) The third solution is the full recognition of the Anglican priest by the Roman Catholic Church as its official priestly witness.

4) This discussion only mentions the canonical solutions. The pastoral requirements would have to be detailed.

5) The above discussion on canonical form, while important, will effect only a very small number of Roman Catholic-Anglican unions since these presuppose that the question of the Cautiones has been accepted according to traditional Roman Catholic law.

## 5. The Cautiones

### A) An Historical Revue

- 1) According to the literature, the Cautiones were a late canonical development in the Roman Catholic Church.
- 2) Roman Catholic jurisprudence and theology traditionally upheld a prohibition against Mixed Marriages and, when they were allowed, they were permitted only if the Roman Catholic baptism and education of children were guaranteed--a guarantee considered necessary by divine law.
- 3) The Cautiones were at first regarded--not as a stricture--but as a necessary requisite for the relaxation of the law against mixed marriage. They were first used in the 17th century in unions of royal families. It was not until the middle of the 18th century that this practice spread to the common populace.
- 4) There is some disagreement in Roman Catholic literature as to whether or not the theological necessity behind the Cautiones was a slow development and as to whether or not the Roman Catholic Church ever dispensed from the obligation of the Cautiones.

5) The better historical judgment seems to be that the theological necessity was always felt from the beginning--if not always explicitated--and that the Church did not so much dispense from the demands of the Cautiones as tolerate situations wherein these demands were impossible of fulfillment. (v. V.J. Doyle, "The Pre-Nuptial Promises in Mixed Marriages--An Historical Synopsis"--an Unpublished Licentiate dissertation at the Catholic University of America, Washington, D.C. - Library No: B V-104 - C35 - D754).

B) The Current Practice in the Roman Catholic Church after Matrimonii Sacramentum

- 1) The Roman Catholic party makes the "promises". The non-Roman Catholic party either written or orally agrees to honor the Roman Catholic's commitment. Matrimonii Sacramentum instructs that instances in which the non-Roman Catholic party cannot agree to this arrangement must be referred to the Holy See.
  
- 2) The following is a July, 1968 rescript obtained by the Diocese of Charleston from the Sacred Congregation for the Doctrine of Faith in an instance where the non-Roman Catholic party could not conscientiously agree to the Cautiones either written or orally.



SACRA CONGREGATIO  
PRO DOCTRINA FIDEI

Roma, 11 Julii 1968  
Piazza del S. Uffizio, 11

Prot. N. 2719/68m

(In responsione fiat mentio huius numeri)

Exc.mo ac Rev.me Domine

Litteris die 17 iunii 1968 datis  
Excellentia Tua Rev.ma dispensationem postulabat super  
impedimento mixtae religionis et, ad cautelam, disparitatis cultus  
pro matrimonio contrahendo inter catholicam Conchita  
JOHNSON et acatholicum Willett STALLWORTH qui  
cautiones canonicas de baptismo et educatione catho-  
lica prolis praestare renuit.

Ad rem Tecum communico hanc Sacram Congregatio-  
nem dispensationis concessionem prudentiae et conscien-  
tiae Excellentiae Tuae committere dummodo pars catholica  
formiter promittat se impleturam esse obligationem omni-  
no cavendi de futurae prolis baptismo et educatione in  
religione catholica et Excellentia Tua moralem certitu-  
dinem habeat de eiusdem promissionis sinceritate.

Praeterea pars acatholica certior fiat de obli-  
gationibus quibus pars catholica pro sua conscientia te-  
netur.

Parochus, sua ex parte, invigilet ut pars catho-  
lica easdem obligationes adimpleat.

Hanc occasionem nactus impensus aestimationis  
meae sensus Tibi obtestor et permaneo

Excellentiae Tuae Rev.mae  
addictissimus

Taxa \$ 5 -

Exc.mo ac Rev.mo Domino  
D.no Ernesto UNTERKOEFFER.

Episcopo

CAROLOPOLITAN.

*Sanctus Philippus*

*a. l. a.*

- 3) The response of the Congregation indicates that the Holy See does not wish to resolve such a problem by decisions in individual cases. It seems to prefer that general policy be resolved between the highest authorities in the Churches.

However, the response does seem to allow--in the particular case--an individual to enter a union wherein a certain tension over the religious upbringing of the children will exist.

The rescript instructs that the Roman Catholic party:

formiter promittat se impleturam  
esse obligationem omnino cavendi  
de futurae prolis baptismo et  
educatione Catholica..."

The Roman Catholic party is not asked to formally promise to rear the children in the faith--since this is the very difficulty occasioning the petition--but he is asked to promise formally that he will fulfill the obligation of doing all that he is able ("omnino cavendi") to see to the Catholic baptism and education of the children. The non-Roman Catholic is to be informed of the direction of the rescript.

- 4) The following pages are taken from "Recent Roman Replies" -- a publication of the Canon Law Society of America. Your attention is drawn to the end case "C" where the Congregation gives an official translation of the words, "promissio omnino cavendi" as "to do all what he is able to do."

In these cases where there is no true determination on the Roman Catholic's part to strive for the religious education of the children the petition is denied.

1. The Decree, "Matrimonii Sacramentum"

a) On November 11, 1966, the following letter was sent to the Sacred Congregation for the Doctrine of the Faith:

"I wish to submit the following convalidation difficulty to the Sacred Congregation for the Teaching of the Faith. I do so in accordance with the Instruction issued March 18, 1966 by the Congregation, (AAS, LVIII, 237).

"Charles", a Catholic, and Lillian, a Lutheran, were married by a Lutheran minister in 1943. No children have been born to them. Charles has faithfully attended Mass all this time. An attempt has recently been made to convalidate this marriage. Charles vividly realizes the invalidity of his marriage and sincerely wishes to make amends and return to the reception of the Sacraments. Lillian has taken a complete course of Catholic instructions. She appears to be a person of good will, understanding, honesty and sincerity. She certainly intends to place no obstacle whatsoever in her husband's way in the practice of his religion. In fact, she is anxious for his peace of mind, that he be allowed to return to the Sacraments of the Church. However she cannot in conscience agree in any way to the Catholic baptism and education of children to be born of this marriage even if a child should now be born at this late date. (In the papers that have been drawn up for the convalidation, both parties have stated under oath that they intend to follow the Church's teaching on birth control. Apparently they have done so in the past but without any children being born. Charles is now 43 and his wife 44). It appears that the possibility of children in this marriage is extremely remote and in a few years there will be absolutely no chance for conception. In view of this, by reason of the sincerity of the parties, and for the spiritual good to be obtained by the convalidation of this marriage, I hereby request permission to grant to these parties a Dispensation for Mixed Religion without asking the non-Catholic party for the promise regarding Catholic baptism and education of children."

---

\* In the interest of anonymity names of persons and places have been changed, the only exception being that in most cases the contributing diocese is indicated. Throughout, the material submitted has been condensed.

On November 26, 1966, the following reply was received:

"Litteris die 11 novemb. 1966 datis Excellentia Tua Rev.ma postulavit dispensationem ab impedimento Mixtae Religionis et ad cautelam D.C. pro matrimonio contrahendo inter catholicum Carolum et acatholicam Lillian quae cautiones canonicas de baptismo et educatione catholica prolis praestare renuit.

"Ad rem Tecum communico hanc S. Congregationem dispensationis concessionem prudentiae et conscientiae Excellentiae Tuae committere dummodo pars catholica formiter promittat se impleturam esse obligationem omnino cavendi de futurae prolis baptismo et educatione in religione catholica; et Excellentia Tua moralem certitudinem habeat de eiusdem promissionis implemento.

"Praeterea pars acatholica certior fiat de obligationibus quibus pars catholica pro sua conscientia tenetur.

"Parochus, sua ex parte, invigilet ut pars catholica easdem obligationes adimpleat."

Diocese of Fargo

b) A request was sent to the Sacred Congregation for the Doctrine of the Faith to be able to grant a Sanatio in a case where the non-Catholic party refused to go through the wedding ceremony and was unwilling to make even an oral promise that the children would be raised Catholics. However, it was noted in the petition that the children already born of this union are being raised and educated as Catholics.

The response dated January 16, 1967 was as follows:

"Litteris die 3 ianuarii a.d. 1967 datis Excellentia Tua Rev.ma sanationem in radice postulabat pro matrimonio iam attentato inter catholicam Caroline et acatholicum Adolphum qui cautiones canonicas de baptismo et educatione catholica prolis praestare renuit.

"Ad rem Tecum communico hanc S. Congregationem sanationis in radice concessionem prudentiae et conscientiae Excellentiae Tuae committere dummodo pars catholica formiter promittat se impleturam esse obligationem omnino cavendi de futurae prolis saltem baptismo et educatione catholica, et Excellentia Tua moralem certitudinem habeat de eiusdem promissionis implemento.

"Praeterea pars acatholica certior fiat de obligationibus quibus pars catholica pro sua conscientia tenetur.

"Parochus, sua ex parte, invigilet ut pars catholica easdem obligationes adimpleat."

Diocese of Columbus

c) The following letter was sent to the Sacred Congregation for the Doctrine of the Faith on September 29, 1966:

"In accordance with the directives of the Decree, 'Matrimonii Sacramentum,' I most respectfully submit the case of Cecil, a Catholic, and Matilda, a Methodist.

"These parties are now invalidly married but wish to have the marriage validated, provided the usual promises are dispensed with. Matilda cannot conscientiously promise that the present or future children will be baptized and reared in the Catholic Faith, nor can she in conscience promise that she will allow her husband to fulfill this obligation.

"However it should be noted that the oldest son is now attending Jesuit High School and it is very likely that their other son will eventually attend this school. The elder daughter attended public schools and is presently enrolled at a State college; the younger daughter is in a public elementary school. Any hope for the conversion of the children, in the opinion of the priest, will be contingent upon the return to the Sacraments and good example of their Catholic father."

The response received, dated October 15, 1966, was exactly the same as that found in case b) above. Whereupon this further letter was sent to the Sacred Congregation for the Doctrine of the Faith on November 23, 1966:

"Upon receipt of your rescript, dated October 15, 1966, I communicated to the priest the stipulated conditions under which Your Eminence empowered me to grant a Sanatio in Radice in favor of Cecil. In view of the priest's reply I have not as yet granted the Sanatio.

"The priest advises me that these conditions are virtually impossible of fulfillment. Cecil cannot give any definite assurance that he will be able to provide for the Catholic baptism and education of any future children, even though it now appears quite unlikely that other children will be born to the couple. The reason remains the same: Matilda's adamant and conscientious position.



"The petitioner however can and does give his firm assurance that he will do everything in his power to bring about the Catholic baptism and education of any future children, and that he will, to the best of his ability, endeavor to influence his present children to embrace the Catholic Faith. Any hope for the conversion of the children will be contingent upon the return to the Sacraments and the good example of their Catholic father.

"We have every reason to believe that Cecil is sincere in his determination to give good example by the return to the full practice of his Faith. Since the non-Catholic party is already aware of the obligations which bind her spouse in conscience, a further explanation of these obligations may only serve to aggravate the situation needlessly. I submit the further petition of Cecil who asks that he be allowed to promise simply that, in the unlikely event of the birth of other children, he will do all that he is able to do to provide for their Catholic baptism and education."

The reply, dated December 6, 1966, read as follows:

"Litteris die 23 novembris a.d. datis Excellentia Tua Rev.ma quoad gratiam sanationis in radice iam concessam in casu matrimonii Cecil-Matilda, sensum postulabat verborum 'promissio omnino cavendi' quae in rescripto huius S. Congregationis continentur.

"Ad rem Tecum communico hoc S. Dicasterium decrevisse illam vocabolorum dictionem idem esse ac vestram anglici sermonis locutionem: 'to do all what he is able to do . . .'"

Archdiocese of New Orleans

d) The following letter was sent to the Apostolic Delegate on May 31, 1966:

"I respectfully present the case of Claude, a Catholic, and Lila, a Lutheran. They have petitioned for a dispensation from the impediment of Mixed Religion.

"The non-Catholic party refuses to give the required guarantee regarding the baptism and education of children in the Catholic Faith from motives of conscience. She is sincere and very faithful in the practice of her religion. At present she teaches Sunday School in the Lutheran Church. Her belief that no one Christian church can claim to be the Church of Christ prevents her from making the required promise in all honesty. She has attended Mass occasionally with Claude. She would have the children of the proposed marriage attend the Catholic Church as well as her own. She will do the same.

"Claude is a sincere and faithful Catholic. There does not seem to be any grave danger that he will cease to practice his own Faith. He has signed the promise to baptize and educate his children solely in the Catholic Faith. He has stated that he will do his best to fulfill this promise with the qualification, however, that he 'would not risk his marriage on the question.' Should the non-Catholic party adamantly refuse to allow him to fulfill his obligation, he would probably permit the children to be raised as Lutherans rather than let the family situation dissolve. In accord with the prescriptions of 'Matrimonii Sacramentum,' I am submitting this case for transmission to the Holy See."

This was the reply from the Sacred Congregation for the Doctrine of the Faith, dated July 9, 1966:

"This S. Congregation has recently received from your Chancery a request for dispensation from the impediment of Mixed Religion for the marriage of Claude, Catholic, and Lila, Lutheran, who is unwilling to give the canonical promises regarding the Catholic baptism and instruction of future children. In view of the circumstances explained in the letter, the dispensation from Mixed Religion is herewith granted, provided it is understood that the Catholic man will do everything in his power to see to it that future offspring of their union will be baptized and raised as Catholics."

e) On September 19, 1966, this letter was sent to the Congregation for the Doctrine of the Faith:

"In accordance with the Instruction issued March 18, 1966 by the Sacred Congregation for the Teaching of the Faith I wish to submit the following case for advice and counsel.

"Carl, a Catholic, and Lola, a Lutheran, attempted marriage on August 28, 1964, before a Lutheran minister. Attempts to convalidate this marriage have been fruitless due to Lola's strong and conscientious conviction that her children must be baptized and reared in her faith. Carl has similar convictions in regard to his children. Notwithstanding his convictions the one child that has been born of this union has been baptized in the Lutheran Church, although this was done after consultation with a priest who reasoned that Lutheran baptism was better than no baptism at all.

"Two months ago Carl separated from Lola and his child, because he was convinced that Lola would never change her attitude; and he could no longer continue to live with his conscience, deprived of the Sacraments of the Church. He has stated that he will never return to Lola unless there can be a solution to the religious problem. In spite of their religious differences it appears that the parties are still very much in love with one

another and sincerely wish to bring about a reconciliation. Lola is perfectly willing to renew her marital consent before a Catholic priest but states that it would be a grave violation of her conscience to allow the baptism and education of her children in a church that is not her own. Carl will agree to accept Lola's attitude only if the Catholic Church will make a special exception and allow the marriage to take place without the usual promises. If the Catholic Church makes a special exception in this case, Carl still feels that he will have a great deal of influence on the spiritual formation of his children."

A reply was received and, asking for a clarification of this sentence from the original letter. "If the Catholic Church makes a special exception in this case, Carl still feels that he will have a great deal of influence on the spiritual formation of his children:" queried, "Quid pars Catholica facere poterit pro educatione Catholica prolis?"

This response was then sent to Rome:

"The greatest influence Carl will be able to have over his children will be by way of good example. This influence will be very great because Carl is an exemplary Catholic. He is frequent in the reception of the Sacraments. He is outstanding in the knowledge of the Faith. He is an effective instructor in the parish Confraternity of Christian Doctrine Program. Carl also feels that living in a Catholic community, such as he does, will be a great help. The Church is respected there and most of his friends are Catholics. Because of the above reasons, I am certain Carl's efforts will be great, unusual, and even heroic in attempting to obtain the Catholic baptism and education of his children."

On October 31, 1966 a reply was received from Rome identical to that found in case b) above.

#### Diocese of Fargo

f) To the Apostolic Delegate on May 17, 1966 was sent this letter:

"Cynthia, a Catholic, and Preston, a Presbyterian, desire to validate their marriage attempted before a Protestant minister on June 11, 1965. A dispensation from the impediment of Mixed Religion and Disparity of Cult ad cautelam is required because the validity of Preston's baptism is doubtful.

"Cynthia is troubled in conscience and wishes to return to the Sacraments. Preston, a staunch Protestant, is willing to have the marriage validated for the sake of his wife. However, he feels he cannot make the required promise regarding the baptism and education of future children. He will agree as a compromise to have all of the girls born of the marriage baptized and raised Catholic but the boys must be baptized and educated as Protestants. Cynthia

cannot make the customary promises because she knows Preston will prevail in this attitude. Cynthia has attended Mass faithfully since her attempted marriage. One child, a girl, was born. The child is baptized and will be brought up in the Catholic Faith."

The Sacred Congregation for the Doctrine of the Faith replied on June 18, 1966:

"Ss. mus D.N.D. Paulus divina Providentia Papa VI per facultates speciales S. Congregationi impertitas attentis peculiaribus circumstantiis in casu concurrentibus et indubiis respicientiae signis partis catholicae, benigne remisit preces prudenti arbitrio et conscientiae R. P. D. Ordinarii qui, dummodo utriusque partis consensus perseveret, sanare valeat in radice matrimonium nulliter contractum a Catholica Cynthia cum acatholico Preston. Insuper parti catholicae gravibus verbis in mentem revocet obligationem, qua tenetur, omnino cavendi de baptismo et educatione universae prolis utriusque sexus, tam forte natae quam forsitan nasciturae, in catholicae religionis sanctitate et prudenter curandi conversionem conjugis ad fidem catholicam. De implenda supra memorata obligatione curandi, pro posse, baptismum et educationem catholicam universae prolis, etiam forte iam natae, exquiratur a parte Catholica explicita promissio."

g) This letter was sent to the Apostolic Delegate on April 13, 1966:

"I respectfully present the case of Cedric, a Catholic, and Lucille, a Lutheran. They have petitioned for a dispensation from the impediment of Mixed Religion. The non-Catholic party refused to give the required guarantee regarding the baptism and education of children in the Catholic Faith from motives of conscience. However she did state in writing that any children born of the proposed union would be introduced to Catholicism at the age of reason through Catholic Christian Doctrine courses and if they wanted to embrace Catholicism she would not object but would rather encourage them. There is no guarantee that she will not have her children baptized in the Lutheran religion. Lucille appears to be sincere, honest and conscientious.

"The Catholic party did not make the customary promises. He has indicated that he would try to influence future children indirectly but would not promise to have the children baptized if it was against the wish of his future spouse. Cedric would appear to be weaker than Lucille in the matter of religious conviction."

The response, dated May 17, 1966, read:

"This S. Congregation has received from your Chancery a letter regarding the planned marriage of Cedric, Catholic, with Lucille, Lutheran, who is however opposed to the Catholic baptism and education of future offspring. The Catholic man has not made the promises, but has merely indicated an intention to try to influence future children. As the case is presented the reply of this S. Congregation must be negative, unless the man in question sincerely promises to do everything possible to secure the Catholic baptism and education of future children."

h) A Catholic woman planned marriage with a baptized non-Catholic. The non-Catholic party did not wish to give the promises either orally or in writing. The Bishop requested the Sacred Congregation for the Doctrine of the Faith for a dispensation for the mixed marriage to take place without the usual ante-nuptial promises. In its first reply the Sacred Congregation asked the following question: "Quid pars catholica facere poterit pro baptismo et educatione catholica proles?" The pastor interviewed the Catholic party and she answered that she did not wish to respond to this question. The pastor indicated further that the non-Catholic party wished to raise any children that might be born of the marriage in his own Lutheran Faith. The Sacred Congregation replied as follows: "Ad rem Tecum communico hanc Sacram Congregationem, re mature perpensa, petitam dispensationem, de qua supra, in adiunctis expositis, concedere non posse."

Diocese of Superior

C) The Clarification of Principles Involved in the Cautiones

- 1) The Anglican Church is opposed to a Roman Catholic-Anglican union in which the Anglican agrees to the Cautiones under the pressure of being denied this union. It does not object when the Anglican voluntarily agrees that the children be reared in the Roman Catholic communion.
- 2) The Roman Catholic theology has emphasized the theological or doctrinal principle that divine law requires that the full and true faith be given to children.

The First Interim Report cites a Roman Catholic delegate's response to the question, "... is it essential for the salvation of children that they be brought up in the Roman Catholic Church?" as follows: "... not essential but vitally important." (First Interim Report of Joint Sub-Committee - No.13)

- 3) As later developments to the above theological or doctrinal principle have come--for want of better words-- a) the ecumenical principle and b) the responsible conscience principle.

a) The ecumenical principles honors both the true ecclesial nature of other communions and the desire and need for unity among all communions.

b) The responsible conscience principle honors the free and informed conscience of the individual. It strives for ways to recognize the individual's freedom to marry and his free embrace of faith in relation to the correct rights and obligations of the Church.

The Third World Congress (Roman Catholic) honors this principle in its Draft Resolutions when it asks that:

"The determination of the faith in which the children will be brought up should be left to the choice of parents through the grace of the marriage sacrament and with the help of qualified representatives of the churches".

(v. supra p. 5 - No.3)

- 4) The Synod of Bishops (Roman Catholic) indicated that another general step could be taken along the lines of the Holy Office's rescript, i.e., that it is sufficient that the Local Ordinary have moral certainty that the Catholic party would "do everything in his power".  
(v. Synod of Bishops, supra, p.2., No. 3-3b).

This would seem to allow the Local Ordinaries to dispense from the Cautiones on the same grounds which the Holy Office now dispenses, i.e., in difficult cases with the guarantee of the Catholic party doing "all that one is able".

"To do all that one is able" must at least mean that a person does not give up his religious principle and that he does not destroy the marriage union over a controversy of religious training of children.

D) Possible Approach to the Problem of the Cautiones:

Given the three principles (theological, ecumenical and responsible conscience, we may consider the following:

- A) The Third World Congress (Roman Catholic) recognizes that individual religious freedom is tempered and informed by the obligations of the religious community when it asks that the parents decide the determination of the children's faith "through the grace of the marriage sacrament and with the help of qualified representatives of the churches".
- B) Given the officially established committees of Roman Catholics and Anglicans seeking ways to fuller union, when there is an instance of a devout member of one communion marrying a religiously indifferent member of another communion, consideration be given to rearing the children in the church of the devout member.
- C) Given the above mentioned movements toward unity, when there is an instance of the marriage of devout members of the different communions, the couple--with the help of qualified representatives of the churches--

study prayerfully the three principles involved (theological, ecumenical, responsible conscience) and, after this study made with the help of the representatives, the couple be allowed by both communions to enter a valid union with the tension of these principles existing in their marriage.