

**MARRIAGE LEGISLATION  
IN THE NEW CODE OF  
CANON LAW**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649643851

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Cover @ 2017

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BY

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NEW YORK, CINCINNATI, CHICAGO  
**BENZIGER BROTHERS**  
PRINTERS TO THE HOLY APOSTOLIC SEE

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## INTRODUCTION

IN THE SURETY that a worthy and useful work is herewith offered to Catholic readers, I authorize and gladly recommend the publication of Dr. Ayrinhac's "Marriage Legislation in the New Code of Canon Law." Coming from the pen of one whose equipment combines a technical training at Rome with the growth of twenty-five years of experience in class-work and with the opportunities incident to the function of *Vindex Vinculi* in our Metropolitan Court, it bears the marks of an authority that professors in the seminary and officials of the chancery will readily recognize and appreciate.

It comes, too, at an opportune moment. Tragic events of to-day, the bitter fruit of four centuries of lax thinking among non-Catholic schoolmen and proportionately lax living among their disciples, have shown that the ethical order must be refashioned in the ancient Christian pattern if the race of men is to sustain itself even physically, the more so if there is to be real moral advancement. The world will not come back to Christ, nor be made subject to His reign by any influence the world itself may initiate; the impulse must be from without—the force must come from above. The Church of Christ, which is not of this world, must bring from on high the heavenly grace that will heal the nations. Her mission is to teach, her remedy for the world's distemper is primarily the imparting of the form of sound words

which she has heard in faith, for only to minds that know God and His ways can exhortation to righteousness be addressed. In proclaiming anew the system of law whereby her visible life has been erected and directed through the centuries, she inculcates forcibly the notion of moral obligation; she appears before the world as the arbiter of man's conscience, the custodian and interpreter of the "shalt" and "shalt not" of right reason; for she is well aware that knowledge is the first step in the way of salvation, and she takes the step bravely, saying with the voice of authority: *Hoc fac et vives*.

If ever men felt the need of such knowledge, of such secure informing of their minds in the right notion of law, they feel it now, when false science and the lawless devices of science are bringing the ruins of civilization crashing at their feet. The sacred institution of marriage has not been spared in the widespread catastrophe. The assault upon its laws, whether in academic literature or civil code, or popular story, has brought the inevitable reaction, and people think lightly or not at all of the bond that binds husband and wife with an eternal and divine sanction. Practical disregard of the moral law has wrought in modern paganism exactly the same paradox and absurdity that marked the culture of those ancients who changed the truth of God into a lie; their foolish heart is darkened; they serve the creature rather than the Creator.

Because the present work sets forth boldly the notion of Christian matrimonial law, it comes as a thing of blessing. The author has given succinctly

but clearly the several stages traversed by the canons of the Church as they grew to the fulness of form and content in which the Codex now presents them. Throughout, the concept of marriage as a natural legal institution sanctified in the grace of Christ and protected in its sacred character by the enactments of Popes and Councils, is ably delineated and, where necessary, defended. To the exposition of the several canons Dr. Ayrinhac has brought a wide erudition and a competent practical experience that will make his book invaluable to the clergy in parish work, as well as to the professor and student in the seminary. We pray upon it ardently the blessings that befit so high an effort in the cause of Christian truth and Christian law.

✠EDWARD J. HANNA,  
*Archbishop of San Francisco.*

October 4, 1918.





## FOREWORD

Canonists will, no doubt, give us, before long, scientific commentaries on the New Code of Canon Law. Meanwhile, it was thought that a brief explanation, incomplete and fragmentary though it be, of that part of the Code which concerns the sacrament of marriage might be of some service to the busy parish clergy who have to apply the law without delay.

The changes in the matrimonial legislation, although not very numerous, are of real, practical importance; and, in spite of the efforts made by the legislator to avoid obscurity or indefiniteness, the interpretation and application of a new law is never without some difficulties. The following pages are published in the hope of being of some assistance in that work.

The text itself of the law is here given in the original, in order that every one may study it for himself and refer to it as to the only authoritative norm.

An English translation is added for the benefit of possible readers who might not be familiar with Church Latin.

In the explanations some stress is laid on the historical development of the legislation to show the continuity of the Church's discipline under accidental changes. It helps also to determine the meaning of the new law, to understand its real spirit, and to see how it differs from the old one. Those

differences are pointed out briefly without entering into details which all students of Catholic theology are acquainted with or which can easily be found in the familiar text-books.

There will soon be decisions of Roman Congregations in answer to questions proposed or difficulties submitted to them. Some of the interpretations or conclusions adopted here may have to be modified. Although not without solid foundation, as it seems, they can, under the circumstances, be only of a provisional character.

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