

Bishop's Office

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Diocese of Penang

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Dear Fathers,

Re: DIRECTIVE ON FINANCIAL MATTERS

The following Directive is for your immediate attention and action as applicable. Accountability is not optional. Good stewardship practices invite us to be accountable for all of the gifts we have been given, financial blessings among them. In view of this,

1. Clergy are not permitted to open any Bank Account for their Parish, Chapel or Ministries in their personal name. All Bank Accounts must be approved by the Bishop of Penang via a written letter of request with the list of signatories for the said Bank Account following the Diocesan procedures that is; *Clergy is to sign with any one of the three members of the Finance Committee.*
2. Any form of lease or tenancy that implicates the land, building and properties of the Church should be submitted to the Diocese for Bishop's approval. Thus, the Bishop signs the contract or tenancy since the Clergy has no *locus standi* (place of standing) meaning "the right or capacity to bring an action or to appear in a court."

However, if the above said has been carried out previously, whereby there are occupants, tenants in the compound or properties of the Church, kindly review and rectify the contracts/tenancy so as to comply with the Diocesan procedures.

3. *Can. 286* states that "Clerics are prohibited from conducting business or trade personally or through others, for their own advantage or that of others, except with the permission of legitimate ecclesiastical authority."

As such, I strongly appeal that Clerics do not engage in registering a business company in one's name or in partnership with others even if it deals with religious articles, publications, pilgrimages etc. Furthermore, Clerics should not also be spiritual advisors for any form of business ventures even if it pertains to religious matters.

4. Lastly, no loans are to be given to any party from Church funds.

May Jesus and Mary bless and guide you in your ministry!

Sincerely in Christ,

Sebastian Francis

Bishop Sebastian Francis
Diocese of Penang

Clerics are not to manage the money or property of lay people without the *permission* of their ordinary. They need permission, therefore, to be guardians of children, executors of wills, or trustees of funds. They would, of course, be permitted to handle the affairs of relatives or close friends who were dependent upon them. They must also have authorization to hold secular offices for which they are legally accountable, such as an official in a savings bank, a cooperative, or a charitable association.

Without consulting their ordinary, clerics are not to give surety (e.g., bail), even with their own goods, or to sign promissory notes obliging themselves to pay money on demand. One member of the commission sought to eliminate this clause or at least to substitute an exhortation in place of the necessary permission of the bishop. The secretariat responded that for the sake of prudence the text should remain as it is.¹⁶¹ Again this paragraph does not apply to permanent deacons (c. 288) but it does apply to religious (c. 672).

The 1977 draft included a fourth paragraph (CIC 139, §3) inhibiting clerics from hailing anyone before a lay tribunal or having any part in a lay criminal trial, even to the extent of giving testimony without necessity, unless they had the permission of their ordinary. This paragraph was subsequently dropped.¹⁶²

Business or Trade

Canon 286 — Clerics are prohibited from conducting business or trade personally or through others, for their own advantage or that of others,

¹⁶¹ Cardinal Bernardin sought to leave the matter to the discretion of the clergyman, but it was decided to leave the text as it is "for the sake of prudence" (*Rel.* ad c. 260, 68).

¹⁶² The *coetus* dropped the former permission needed for a priest to appear in civil court and be involved in criminal cases (CIC 139, §3) precisely because such permission presumed the priest to be a minor in dependence on the bishop. See *Comm.* 14, (1982): 82: "Esso risente di una vecchia concezione per cui il sacerdote era considerato quasi un minore alla dipendenza del Vescovo."

except with the permission of legitimate ecclesiastical authority.

Clerics are barred from engaging in business. An interpretation of this highly technical and complicated canon must be based on canon 142 of the 1917 code and a 1950 decree of the Sacred Congregation of the Council, the only sources indicated in the annotated edition of the current code. The 1983 code is the same as the former one except for the provision that legitimate ecclesiastical authority may permit such activity. Clerics are forbidden to engage in *negotiatio aut mercatura*. While in practice most canonists treat the terms as synonymous, *negotiatio* refers to all business operations carried on for gain, whereas *mercatura* is restricted to trading, i.e., the buying and selling of merchandise.

Commentators distinguish among several types of commercial enterprises. (1) Trading strictly so-called is buying goods with the intention of selling them unchanged for a profit, whether or not in smaller quantities or newly packaged. Included under this category would be a currency exchange where money itself is bought and sold. Such activity is definitely not lawful for clerics. (2) Industrial business or buying materials with the intention of selling them later at a profit after they have been transformed by one's own labor or that of hired employees is also prohibited. However, publishing or other apostolic enterprises are not forbidden, since they are not undertaken for profit alone.¹⁶³ (3) Domestic business is permissible. It consists in the profitable management of more or less permanent investments. A religious community, for example, may sell wine produced from its vineyards. Land, houses, and farms may be purchased with the intention of renting them out later at a profit. (4) Convenience operations which make such items as food, books, and religious articles available to a school or other community are permissible so long as any profit accrues to the organization. (5) With regard to stocks, a distinction must

¹⁶³ J. Dede, "Business Pursuits of Clerics and Religious," *J* 23 (1963) 50-60.

be made between speculation and investment. Investment is the purchase of stocks and bonds with the intention of receiving periodic income. Speculation is carried on, not for the sake of the income accruing, but with the hope that the item purchased will rather quickly increase in value so that it can be resold for a profit. All speculation, which is akin to gambling, is forbidden to clerics, especially such a transaction as short-selling.

The canon forbids clerics to "conduct" (*exercere*) business, that is, on a more or less habitual basis. An isolated act would not violate the law. A cleric may not engage in business either personally or through an agent; he is not allowed to commission an agent to carry on the operation in the cleric's name and at his risk. Clerics are forbidden, furthermore, to carry on such activity either for their own benefit or for that of other persons. Even the intention to devote the proceeds to pious or charitable causes does not justify a cleric's engaging in business.

A March 22, 1950, decree of the Sacred Congregation of the Council declared that any cleric or religious who violated the canon on business activity incurred an excommunication specially reserved to the Holy See. Even the penalty of degradation, which included dismissal from the clerical state, could be invoked.¹⁶⁴ Paul VI in *De episcoporum muneribus* reserved to the Holy See any dispensation for a cleric "to practice business or commerce."¹⁶⁵

The 1983 code eliminated the automatic excommunication but provides in canon 1392 that "clerics or religious who exercise a trade or business contrary to the prescripts of the canons are to be punished according to the gravity of the delict." The code, nevertheless, makes explicit reference to the possibility of obtaining permission from "legitimate ecclesiastical authority" to engage in such activity. It was recognized under the 1917 code that in cases of necessity, either of the cleric himself or of his family, the ordinary could

allow what would otherwise be forbidden. If a cleric inherited or succeeded to a viable business that could not be relinquished without loss, the permission of the Holy See had to be obtained to continue it. Now a secular cleric is to seek permission from the diocesan bishop and a religious from the major superior.

The Clergy as Signs of Peace

Canon 287 — §1. Most especially, clerics are always to foster the peace and harmony based on justice which are to be observed among people.

The clergy are to be especially zealous promoters of peace. Here the obligation is stated positively in contrast to the negative position of the 1917 code (CIC 141) which had forbidden the clergy to participate in any way whatever in civil conflict or public disturbances. The sources for this paragraph stress the need for the clergy to be imbued with an all-embracing concern for concord. "The pastor's task is not limited to individual care of the faithful" but extends to all people; "priests can never be the servants of any human ideology or party." (PO 6) "Since God the Father is the beginning and the end of all things, we are all called to be brothers and sisters; we ought to work together without violence and without deceit to build up the world in a spirit of genuine peace." (GS 92) "It is the Church's mission to preach the gospel message with a consequent demand for justice in the world. "This is the reason why the Church has the right—indeed, even the duty—to proclaim justice on the social, national, and international level; and to denounce instances of injustice when the fundamental rights of people and their very salvation demand it. The Church is not solely responsible for justice in the world; however, she has a proper and specific responsibility that is identified with her mission of giving witness before the world of the need for love and justice contained in the gospel message."¹⁶⁶

¹⁶⁴ CIC 1, 68 (9). This decree generated extensive canonical literature. For a bibliography see Dede, 61-62.

¹⁶⁵ CIC 1, 6, 398.

¹⁶⁶ The 1971 synod of bishops, "Justice in the World," P II, TPS 16 (1972) 383.