

The dress and address of deacons by Duane L.C.M. Galles

The feast of the deacon and doctor of the Church, Saint Ephrem of Syria, June 9, 1997, marked the thirtieth anniversary of the restoration of the permanent diaconate in the Latin Catholic Church. Article 29 of Vatican II's constitution on the church, *Lumen Gentium*, called for the restoration of the permanent diaconate-even among married men-on a country by country basis at the instance of the national episcopal conference and with the approval of the Holy See. Paul VI then duly promulgated the enabling legislation in the form of his 1967 *motu proprio*, *Sacrum diaconatus ordinem*.

The apostolic letter gave juridical form and life to the conciliar wish and events now moved quickly. In April 1968 the National Conference of Catholic Bishops asked the Holy See to restore the permanent diaconate in the United States and the Holy See gave its approval the following August. In November 1968 the Standing Committee on the Permanent Diaconate was established by the episcopal conference and it proceeded to draw up a plan of studies. Diaconal training centers were then set up and May and June of 1971 saw the first ordinations of permanent deacons. By September of that year there were some fifty permanent deacons in the United States. Today in the United States there are over 11,500 permanent deacons and about 500 transitional deacons-those who will eventually be ordained priest. Clearly, the restored permanent diaconate has been a numerical success.

The success of the restoration of the permanent deacon raises the question of how he should dress and be addressed. The Code of Canon Law provides little guidance. Canon 266 tells us that with the reception of the diaconate one becomes a cleric and canon 284 tells us that clerics are bound to wear the suitable ecclesiastical attire in accordance with custom and the directives of the national episcopal conference. Canon 288 adds that permanent deacons are not bound by this canon, unless particular law provides otherwise.

Nor does the Code deal with styles of address for clerics. The only comprehensive legislation on this subject is the 1969 instruction, *Ut sive sollicite*, which applies to secular prelates and includes no norms for simple priests or deacons. It does, however, give individual episcopal conferences a special mandate to regulate styles of address for the lower clergy.¹

Particular law

Universal law, then, leaves norms for the dress and address of the lower clergy to particular (or local) law. But looking to particular law, it does not appear that there is any decree of the National Conference of Catholic Bishops establishing norms for the dress and address of deacons in the United States.²

In the absence of express norms, we do find some advice, however. The Official Catholic Directory tells us that the ecclesiastical form of address "recognized in the United States" is for a permanent deacon to be addressed "Mr. X" and for a transitional deacon to be addressed "Rev. Mr. X."³

No authority for this advice is cited but perhaps the authority is the booklet *Permanent Diaconate in the United States*, published by the Bishops' Standing Committee on the Permanent Diaconate. There the committee "endorses the hope that [permanent] deacons will resemble lay people" in matters of dress and address. The committee explained that the effect of liturgical attire "will be all the more striking when the deacon's street-dress is non-clerical."⁴

In similar vein one prominent writer on the permanent diaconate, whilst advocating the revival of the dalmatic as "the proper liturgical vestment for deacons," declares that the style of "Reverend" is not appropriate for permanent deacons "and should not be permitted."⁵ The collective advice, then, is for permanent deacons outside the sanctuary to dress and be addressed like laymen, despite their clerical status.

If we look to actual practice, we find that it differs from the proffered advice. A survey done by that same Bishops' Standing Committee on the Permanent Diaconate about a decade ago in fact indicates that, while two-thirds of America's permanent deacons have never worn a Roman collar, one-third of America's deacons do wear it to some extent. This statistic clearly suggests that a large proportion of permanent deacons do not feel bound by the committee's advice to wear only lay attire, inasmuch as the committee's advice is widely disregarded.⁶ In the language of the law actual practice permits us to conclude that there is no *opinio juris et necessitatis*, no sense on the part of deacons that they are bound by a canonical obligation to eschew clerical dress.

This, then, raises the question of what is clerical dress in the United States. If there are no norms emanating from the episcopal conference on clerical dress, might there still be other particular law on the matter?

The question of clerical dress and address falls into two parts, liturgical and non-liturgical. First, there is the question of clerical dress during sacred functions. As canon 2 might suggest, liturgical law in general governs this area. Thus, the General Instruction on the Roman Missal indicates that whilst celebrating Mass a priest should wear an alb and chasuble and a deacon should, instead of the chasuble, wear the dalmatic.⁷ The General Instruction on the Liturgy of the Hours, by contrast, indicates that a priest should wear a cope over an alb or cassock and surplice and that a deacon should wear, instead of a cope, a dalmatic during such celebrations.⁸ For other sacraments and sacramentals a priest or deacon will wear a surplice and cassock along with a stole in the manner appropriate for his order as the rubrics direct.⁹

Outside sacred celebrations for norms on clerical dress we should take our cue from canon 284 and look to particular (in this case national) canon law. For the United States there are decrees on the subject made in 1866 by the second plenary council of Baltimore. That council, legislating for the entire United States, decreed that "when at home or in church clerics wear a cassock, which is the dress proper to clerics." Outdoors or whilst recreating or traveling clerics were to wear a black suit (decree 148). Priests were to take care to wear the surplice along with the cassock during all sacred functions (decree 149). The biretta, which individual bishops will have seen introduced into their dioceses, was to conform to the Roman model (decree 150), and so have four corners but only three horns.

Decree 77 of the third plenary council of Baltimore, celebrated in 1884, re-enacted this legislation with respect to the wearing of the cassock and the black suit and then explained that the purpose of the legislation was "so that clerics might be distinguished from lay people." The decree added the requirement that priests, whether at home or outdoors, whether within or outwith their diocese, wear the Roman collar. The fathers in Baltimore added that this dress was also to be worn by religious priests as well as secular priests when the former were not in their religious habit.

This legislation remains today unrepealed. Canon 6 of the Code and its predecessor in the 1917 Code abrogated only universal and particular law contrary to its provisions. Thus, particular law which was *praeter legem* or *secundam legem*, outside or in accordance with universal law like these decrees of Baltimore, remains in effect. Since clerical dress and address are subjects remitted by universal law to particular law, it follows that these (unrepealed) norms of Baltimore on clerical dress remain in effect.

This statement must be modified in one detail. In the legislation of both Baltimore councils the black clerical suit was to extend to the knee. In other words the council fathers were prescribing the frock coat or Prince Albert which was then in vogue in secular dress. This detail of the Baltimore decrees was long observed and as late as the 1950's clerics could be found still adhering to this obligation. But today it is commonly held that custom has modified the Baltimore decrees to the extent that clerics may wear the sack coat and are not required to wear the Prince Albert coat legislated in the 1866

decree.10

Customary law

But if clerical dress in the United States during sacred celebrations is governed by universal liturgical law and outside them by the Baltimore decrees (as modified by custom), clerical style of address seems governed only by customary law. While the 1969 Roman instruction regulates styles of address among prelates and gives the national episcopal conferences the power to regulate ecclesiastical styles of address among the lower clergy, the American episcopal conference has not taken advantage of this faculty. Thus, lacking norms in the *lex scripta*, for norms on styles of address we must look to customary law.

Customary law does indeed provide norms here, although quite naturally custom has varied with time and place. In the Middle Ages in England the secular or diocesan priest who had not been to university was styled "Sir Richard Clifford"- much as in Italy or Spain today the secular priest is "Don Ricardo." But if Richard Clifford, cleric, had been to university, he used the style of his degree and so was "Master Richard Clifford."¹¹

On the other hand if Richard Clifford became a monk, friar or canon regular and thus was a religious, he was styled "Father Richard Clifford"-to distinguish him from the lay brothers of his community who were religious but not clerics. And so to this day in Italy, while the secular priest is "Don Pio," only the religious priest is "Padre Pio."

With the English Reformation the number of "Fathers" disappeared entirely with the dissolution of the monasteries while the number of secular clerics in England who were university graduates shot up from about 20 percent to about 90 percent.¹² This meant that the numbers of "Masters" (corrupted to "Mister" and abbreviated "Mr") soared and the number of "Sirs" declined and then ceased entirely.

But the medieval Catholic clerical style did survive long enough to cross the Atlantic in the baggage of the Puritans. A young Harvard graduate (almost always then intended for the ministry) was styled "Sir Mather" or "Sir Gay" or "Sir Walton" after completing his bachelor's degree and during the three-year period whilst reading for his master's degree. During this interval the young baccalaureate usually spent a short apprenticeship serving as a schoolmaster or as a supply preacher whilst awaiting a call to a New England pulpit. After he was graduated Master of Arts by Harvard, he generally looked for a permanent pulpit, was ordained, and settled over a congregation and, henceforth, was known as "Mr. Mather", "Mr. Gay", or "Mr. Walton."¹³

Later it became the custom to preface the "Mr." with a "Rev." and this remained the style of clerics, Anglican, Protestant and Catholic, in the English-speaking world for centuries. Indeed, until the first half of the nineteenth century "Rev. Mr." was commonly used by secular or diocesan priests and in the previous century there were even cases when it was applied to bishops. Thus in an 1827 entry in an English Roman Catholic parish register Fr. Thomas Slater describes himself as "successor to the Rev. Mr. Rose . . . priest at Monk Haselden." An 1783 entry in the Roman Catholic register from Ellingham, Kent, records that twenty-two "persons were confirmed at Ellingham by Mr. Gibson," i.e. by the Rt. Rev. Lord Bishop William Gibson. American Roman Catholics followed the practice of their English cousins. John Carroll (1735-1815) who in 1790 was consecrated the first Roman Catholic bishop in the United States was accustomed to address his clergy as "Mister," as the three printed volumes of his correspondence amply prove.¹⁴

The use of the style "Father" by secular priests of the Latin church is a fairly recent usage promoted in the last century by Cardinal Manning, who in 1865 became the second archbishop of Westminster. (It was Manning as well who introduced the Roman collar into English-speaking countries).¹⁵ But by the turn of the twentieth century the style "Father" had become general among English-speaking priests, secular and religious alike, and the older clerical style of "Rev. Mr."

had been relegated to the deacon. This is evidenced by the fact that the Official Catholic Directory still prescribes this style for transitional deacons.

The law of privileges

Today clerical dress is seen as "the public testimony which every priest is bound to give of his own identity and of his special dedication to God."¹⁶ But juridically clerical dress and styles of address have also long been regarded as clerical privileges. Indeed, canon 683 of the 1917 Code of Canon Law expressly forbade laymen to wear clerical dress, unless they were seminarians or serving legitimately in some liturgical capacity.

The law of privileges is of importance here. To understand the effect of the law of privileges we need to study the principles of the law of privilege in canon law and see how these relate to the dress and address of clerics. A privilege is a concession given by the law or by other competent authority to a person or group of persons enabling the privileged person to do or not to do some thing. A privilege may also arise from custom, since a custom lawfully observed for thirty years acquires the force of law and possession of a privilege for one hundred years leads to a presumption of its concession.

But if one by whatever right enjoys a privilege, must he use it and may he renounce it? The answer varies with the type of privilege. Privileges are, like Gaul, divided into three types, personal, real and mixed. A privilege is personal if given to a person or group of persons. An individual who has been given a privilege individually is free to renounce it and the renunciation is effective when accepted by the competent authority. But if given by virtue of a dignity to a group of persons, individual members of the group are not free as individuals to renounce the privilege.¹⁷

It follows, then, that a privilege given to deacons by virtue of their diaconal ordination and clerical status is a personal privilege given to a group and it may not be renounced by individual deacons. Thus individual deacons may not renounce the right to clerical dress and address, i.e., the use of the cassock and biretta nor of the clerical suit with Roman collar nor of the style of "The Rev. Mr."

But there is a difference between the right to a privilege and the use of it. Are deacons required to make use of their privilege? Generally one is not required to make use of one's privilege, unless the common good requires it or failure to use it would cause harm to another. But this applies only to privileges granted directly to oneself. A person may enjoy a privilege without its concession having been made directly to him. Such a privilege, such as the privilege granted to clerics as a group, must be used whenever a legitimate occasion presents itself.¹⁸

In recent years Pope John Paul II has pointed out that distinctive clerical dress is to be valued "not only because it contributes to the propriety of the priest in his external behavior or in the exercise of his ministry, but above also because it gives evidence within the ecclesiastical community of the public witness that each priest is held to give of his own identity and special belonging to God." But besides symbolism, clerical dress also had its practical side. Christ's faithful have the right to receive by the assistance of sacred pastors the spiritual goods of the Church. By identifying them as clerics, clerical dress in practice assists clerics to fulfill their correlative duty to provide this assistance. Thus, in a practical sense clerical dress enables Christ's faithful to identify clerics and thus secure from them the spiritual goods of the church to which they have a right.¹⁹

But for canon 288, these considerations would argue in favor of the requirement that permanent deacons must ordinarily wear clerical dress and use the clerical style of address. This canon recognizes that, as clerics, permanent deacons have a right to clerical dress but at the same time permits them not to make use of their privilege of clerical dress and style of address, unless particular law makes a contrary provision and requires that permanent deacons wear clerical dress.

Thus, unless the diocesan bishop has decreed that permanent deacons wear clerical dress, they are not required-by virtue of canon 288-to avail themselves of the privilege of clerical dress. At the same time since the regulation of clerical dress and address is given to the conference (and not to the diocesan bishops as in canon 136 of the 1917 Code), it is ultra vires of the legislative competence of the diocesan bishop to legislate on what consists of proper clerical dress and style of address in his diocese.

While the bishop can require the permanent deacon to wear clerical dress, he cannot forbid him to do so. Canon 1336 tells us that to deprive one of his right, privilege or title is to inflict a penalty. At the same time canon 1342(2) forbids an ordinary perpetually to impose a penalty merely by administrative decree in a penal case. It follows that an ordinary cannot perpetually deprive a permanent deacon of the privilege of clerical dress merely by administrative process. By the same token all deacons by virtue of their ordination have the right to their clerical style of address and cannot, absent judicial process, be perpetually deprived of it.

Thus, all deacons, permanent as well as transitional, as clerics remain free to make use of what has long been a clerical privilege and wear the black cassock, the black biretta, the black clerical suit with Roman collar. They also have a right to the clerical style of address "The Rev. Mr." These they may use or not use on their own initiative. They may not, however, be deprived of these privileges without due canonical process in judicial form.

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1 Secretariat of State, instruction, "Ut sive solliciti," 61 Acta Apostolicae Sedis [=AAS] (1969) 334, art. 34 at 340.

2 See Code of Canon Law Annotated, ed. E. Caparros et al. (Montreal, 1993) pp. 1417-1434 where the complementary norms of the National Conference of Catholic Bishops are printed.

3 (New Providence, NJ, 1996) p. A-16.

4 (Washington, United States Catholic Conference, 1971) pp. 46, 48.

5 James Barnett, *The Diaconate, a Full and Equal Order: A Comprehensive and Critical Study of the Origin, Development, and Decline of the Diaconate in the Context of the Church's Total Ministry, and a Proposal for Renewal* (New York, 1981) pp. 171-172.

6 A National Study of the Permanent Diaconate in the United States (Washington, 1981) p. 59.

7 Articles 298-303.

8 Article 255.

9 Sacred congregation for divine worship, instruction, "Liturgicae instaurationes," 62 AAS (1970) 62 article 8C.

10 John Daniel Mary Barrett, *A Comparative Study of the Council of Baltimore and the Code of Canon Law* (Washington, 1932), pp. 47-49.

11 C.R. Cheney, *English Bishops' Chanceries, 1100-1250* (Manchester, 1950) p. 20.

12 John H. Pruett, *The Parish Clergy under the Later Stuarts: The Leicestershire Experience* (Chicago, 1978) pp. 42, 49 states that in 1576 only fifteen percent of the Leicestershire clergy were university graduates but by 1641 the figure was 90 percent. For Worcester and Oxford the comparable percentages were 14 and 84 percent and 38 and 96 percent, respectively.

13 Clifford K. Shipton, *Sibley's Harvard Graduates: Biographical Sketches of those who attended Harvard Colleges in the classes, 1690-1700* (Harvard University Press, 1933) pp. 7, 33.

14 John Orlebar Payne, *Old English Catholic Missions* (London, 1900) pp. 6, 15; Thomas O'Brien Hanley (ed.), *The John Carroll Papers* 3 vols. (Notre Dame, 1976).

15 Robert Gray, *Cardinal Manning: A Biography* (New York, 1985) p. 251.

16 "Letter of Pope John Paul II to the Cardinal Vicar of Rome," *10 Canon Law Digest* (1986) p. 11. The Roman norms on clerical dress, which apply only to the diocese of Rome, prescribe the use of clerical dress for seminarians once admitted to candidacy. *Ibid.*, p. 13.

17 See canons 76, 26, 80.

18 Canon 71; Edward Roelker, *Principles of Privilege According to the Code of Canon Law* (Washington, 1926) p. 96.

19 See canon 213 and also Cormac Burke, *Authority and Freedom in the Church* (San Francisco, 1988) p. 35.