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South Carolina. Supreme Court



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Canon 1096 on Ignorance with Application to Tribunal and Pastoral Practice Girard M. Sherba, 2001 Before Vatican II marriage was often considered or at least popularly expressed as a union of bodies that is to say marriage was an exclusive contract by which a man and a woman mutually handed over their bodies for the purpose of acts which led to the procreation of children Matrimonial jurisprudence was primarily focused on this marital contract With the advent of Vatican II and its emphasis on the personalist notion of marriage a new age dawned whereby canonists especially auditors of the Roman Rota were henceforth to view marriage as a union of persons Person is more than a body rather a person is an individual consisting of wants needs desires impulses hopes and dreams whose life experience has been shaped by the milieu cultural familial religious from which he or she comes Union is not only simply understood as a contract but also is now once again recognized as a covenant a concept which at least in the Latin Church was prevalent until the 12th century One of the canons of the 1983 CIC although almost identical in wording to its predecessor in the 1917 CIC but which now must be understood and interpreted in light of the teachings of Vatican II is canon 1096 which pertains to the effect of ignorance on matrimonial consent Given the current appreciation of marriage founded in the teachings of Vatican II especially in *Gaudium et spes* reiterated by Popes Paul VI and John Paul II and described in the Catechism of the Catholic Church complicated by today's western society's stress on individualism and permeated by a divorce mentality what is the impact of this canon on matrimonial consent How can its meaning once understood as being wider than merely the sexual act itself be better utilized by those in tribunal ministry This is the major thrust of the present work The research of the history and development of the concept of ignorance in canonical writings how its understanding broadened especially after Vatican II and our conclusions on how to apply its richness to marriage nullity led us to expand the use of this canon how it can aid in the development of pre marital preparation programs which would not only possibly help prevent couples from being ignorant of the essence of marriage but also help them to appreciate this richness more deeply in their own lives so that marriage truly can become as we read in canon 1055 a partnership of the whole of life which is ordered by its nature to the good of the spouses and the procreation and education of offspring It is our sincere hope that this study with its extensive footnotes and up to date bibliography will not only be of benefit to all who read it but also will serve as a spring board for further discussion and use of this canon as a ground for nullity and other pastoral uses Reports of Cases and Matters Determined by the Supreme Court and Court of Appeals of South Carolina South Carolina. Supreme Court, 2008 **Popular Photography** , 2006-07

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