

# The Question of a Choral Sanctus: A Canon Lawyer's Opinion

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Article 168 of the *General Instruction of the Roman Missal* and article 216 of the introduction to the Missal 2000 read: "The preface is said by the principal celebrant alone; the Sanctus is sung or recited by all the concelebrants with the congregation and the choir."



This would seem to prohibit in practice the singing of a polyphonic Sanctus, since in practice the singing of a polyphonic Sanctus would inhibit priest and people from saying or singing the Sanctus together. This, however, is wrong and for several reasons.

First, we must look back at Vatican II's 1963 constitution on the liturgy which explains the purpose of the liturgical reform and the principles to guide it. In *Sacrosanctum concilium* the Council said that sacred music has a true liturgical function (art 29) and that it is necessary or integral to the solemn liturgy (art. 112). It also said that the Church has always sought the aid of the arts in liturgy and preeminently so of sacred music (art. 112). Clothing the sacred text in song, "a liturgical service takes on a nobler aspect" (art. 113).

More specifically, the Council said that the treasury of sacred music is to be preserved and cultivated with the greatest care, that choirs are to be assiduously developed (art. 114), that Gregorian chant-the Latin Church's own music is to be given the lead spot, and that polyphonic music is by no means excluded from the liturgy (art. 116).

Two years later came the instruction *Inter oecumenci*, which provided the first installment of liturgical reforms. One of the notable reforms of this document was to abrogate the practice under the Missal of Pius V whereby the priest was required to sing or say all the texts of the Mass (other than those responses made by the servers)--even those sung by the choir (art. 48). Thus, even at a *missa cantata* he had to recite the text of the Gloria, Credo and Sanctus, even as the choir was singing every word of these texts. One might add that, as moral theology was taught before these liturgical reforms, the omission of a notable part of the Mass's texts without excuse was considered a mortal sin. Sensibly, this 1964 instruction ended the practice, for it necessarily implied that sacred music was not "necessary or integral" to the liturgy (since for lawfulness the priest still had to say the words). Instead, this practice implied that sacred music was merely an add-on to the liturgy and one dearly dispensable at that.

One must also make note of the character of this "instruction." In general, as canon 34 states (and this was the law in 1964 as well), an instruction does not change the law, it merely explains it. But clearly, this 1964 instruction was intended to change the law and, indeed, abrogate or derogate from many parts of it. The key to understanding the import of the instruction is in its last sentence. The instruction was not only approved by the pope and ordered to be published--as is the case with all instructions emanating from the Roman

curia, the final clause says "Pope Paul...gave it specific approval as a whole and in its parts, confirmed it by his authority, and ordered it to be published." Now the pope can approve a curial act in either of two ways. He can approve it in *forma generali*, in which case it remains an act of the curia and retains its original character. Or he can confirm the act in *forma specifica*, in which case the act ceases to be merely the act of the dicastery and becomes also that of the pope and enjoys his authority as well and so is law and is no longer merely a curial instruction. Since the instruction was clearly derogating from the law, such specific approval was necessary in order for the 1964 instruction to be effective.

Moving now three years to 1967 and the instruction, *Musicae sacram*, a similar situation obtained. It states that it is intended as a continuation in fact of the reforms of *Inter Oecumenici*. It also states that it is not intended to be an integral restatement of the law (cf. Canon 20) relating to sacred music (art. 3). But the instruction clearly was intended to abrogate or derogate from the existing law, including the 1958 instruction on sacred music which had been approved in *forma specifica*. To do what article 3 of the instruction purports to do, the 1967 instruction needed to have the same character as the 1964 instruction. If you look at its final sentence, however, you also see that the 1967 instruction was approved by the pope in language different from that of the 1964 instruction. It is not stated that the pope "gave it specific approval as a whole and in its parts," but, on the other hand, nor is it only approved by the pope in general form. Significantly, however, the final clause adds that it was approved by the pope and also "confirmed by his own authority."

While the sentence does not say so as fully as one might wish that the instruction was approved in *forma specifica*, that must needs have been the intention. Thus, I argue that by intention and its express language "confirmed by his own authority," *Musicae sacram* was also an instruction approved *in forma specifica*. That means that its norms are law themselves and not merely explanations of it.

If we look now to the body of the text of *Musicae sacram*, we see that it expressly foresees that a polyphonic Sanctus might lawfully be sung. Its article 34 foresees two ways of singing the Ordinary of the Mass, both a plan A and a plan B. Plan A is the case when there is "part-singing for the chants of the Ordinary of the Mass [when] they may be sung by the choir alone in the customary way, that is either a *cappella* or with instrumental accompaniment."

Plan B is to divide the Ordinary between the choir and congregation in which case "the Sanctus should as a rule be sung by the entire assembly along with the priest." *Musicae Sacram* thus provides as its plan B for what is described in article 168 as well as for a plan A or polyphonic plan. This is perhaps why articles 15-17 of the 1975 instruction and articles 35-37 of Missal 2000 do not place the Sanctus (and certain other parts of the Ordinary) in the category of responses "that the gathered faithful must contribute" or those "assigned to the whole congregation called together."

In short the value being guarded by the instructions or the object of the reform is thus not to suppress the singing of the polyphonic Sanctus, but to end the practice whereby the priest merely recites the text in disregard of the music which Vatican II declared integral to the liturgy or disregards the presence of the congregation. Laws--as canon 17 commands in cases of interpretation--must be interpreted according to the mind of the legislator and so the evil to be remedied must be considered to inform our understanding of the text.

While canon 20 states that a later law derogates from an earlier one, a universal law does not derogate from a special one, unless the latter expressly so states. Here the 1975 or 2000 instruction forms a later general law and *Musicae sacram* forms a set of special norms governing sacred music. Thus we have the case contemplated by canon 20 and we may also

note that *Musicam sacram* has also made provision--as its plan B--for article 168. Since the latter general norm does not expressly abrogate plan A of *Musicam sacram*, under canon 20 *Musicam sacram*'s plan A must be still lawful. This seems a true application of Canon 20 and the result is reinforced by the approval of *Musicam sacram* in *forma specifica*.

Furthermore, canon 21 says that where there is doubt whether a prior law has been revoked, revocation is not to be presumed but rather the later law is to be interpreted, so far as possible to harmonize it with the earlier one. By treating the singing of a polyphonic Sanctus as subject to special norms and so as not governed by articles 168 or 216, we can harmonize the two laws and so apply canon 21.

Moreover, if we understand the value of sacred music and its genuinely liturgical function and the function of the choir as the vicar of the congregation and, here, too, of the priest, there is really no conflict between *Musicam sacram* and article 168/216, for what is commanded by the latter is accomplished by its vicar, the choir. It is a venerable canonical maxim and one accorded the place of a general principle of law (cf. 19) that "*qui facit per aliam per se.*" In this view the choir is but the vicar of the congregation and the priest and so there is really no legal opposition between *Musicam sacram*'s plan A and plan B.

Thus, reading article 168/216 in the context of the intentions of the Council and the other post-conciliar reform documents and applying canons 17, 19, 20 and 21, one concludes that the *ius vigen*s does not proscribe the singing of a polyphonic Sanctus in the Latin Church, even though the effect would be that priest and people might not thereby themselves sing every word of the text of the Sanctus.

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