

On the Vicar General and the Episcopal Vicar

The vicar general and the episcopal vicar are the representatives of the diocesan bishop in his diocese. They act in his name. They are his deputies.

I. ORIGIN — The origin of the office of the vicar general is different according to different authors. However, just to take a glimpse on its background, we can say that, in the early history of the Church, as the dioceses became larger through the rapid conversion of the heathens at the beginning of the fourth century, the duties of the bishop increased in proportion. It was then that the need of assistants in the government of the diocese made itself felt. Among those called to assist the bishop, we find, in the fourth century, the archdeacon who was the head of seven deacons. Which number was kept at many cathedrals in memory of the first seven deacons chosen by the apostles at Jerusalem. The archdeacon's duties were the supervision of the care for the poor, the distribution of the offerings of the faithful, assisting the bishop at ordinations, the government of the inferior clerics and the visitation and correction of the clergy in general. In the Decretals of Pope Gregory IX, the archdeacon appears vested with ordinary jurisdiction as judge of the first instance in court proceedings and also in matters of administration of the diocese. At first, the bishops were entirely free in the choice of the archdeacon, but, in the course of time, some cathedral chapters obtained the right to elect the archdeacon. And, in some countries, the king nominated this official.

The Vicar General — As a reaction against the almost independent power of the archdeacon coupled with the fact that the bishops were often absent from their dioceses, specially during the crusades, they began, in the twelfth century, to appoint a procurator general or somebody who can rule the diocese in their place. This job is remotely that of the vicar general. But he was even then already dependent on the bishop in the exercise of the powers given him. In the thirteenth century, this office began to have a more official and definitive shape. At the Fourth Lateran Council (1215), Pope Innocent III (1198-1216) and the other council fathers advised the bishops that "if they could not administer and rule the whole diocese by themselves, they should appoint somebody who have their *vicarial* trust."¹

In the *Liber Sextus* of the Decretals of Pope Boniface VIII (1294-1303), these appointed officials were recognized and their duties defined. In some countries, like England, Belgium, France and Germany, two officials were instituted: one called vicar general, for the administration and the temporalities of the diocese and for acts of the so-called voluntary jurisdiction, that is, the granting of favors and other affairs not connected with judicial procedure; and the other official is called the *officialis*, who was vested with jurisdiction in court affairs, both civil and criminal. The archdeacon thus lost practically all the powers connected with his office in former times. The Council of Trent explicitly deprived the archdeacon the power to judge matrimonial cases (Session XXIV, Chapter 20, On Reformation) and of jurisdiction over criminal cases of the clergy (Session XXV, Chapter 14, On Reformation), and limited his power of visitation (Session XXIV, Chapter 3, On Reformation). Finally, the Archdeacon's office came to be nothing more than a dignity in the cathedral chapter without any ordinary jurisdiction.

In the old *Jus Decretalium*, the name of the *Officialis* and the vicar general were still used promiscuously to designate one and the same person. However, when the 1917 Code of Canon Law was promulgated, it implemented the directives of the First Vatican Council and distinguished between the vicar general and of-

¹ (Gutierrez, Lucio, OP, "The Vicar General in the History of the Church", *Companion Readings for the Vicar General*, Manila, UST Printing Office, 1982, pp. 12-13).

ficialis: the latter has none of the duties of the vicar general, but is the judge of the episcopal court with ordinary judicial power.²

The Episcopal Vicar — In bigger dioceses, the diocesan bishops appointed several vicars general but with limited power. They were assigned only to a part of the diocese or to a determined job. The Second Vatican Council called these episcopal vicars. Thus, its *Decree on the Pastoral Office of Bishops in the Church* says: "In the diocesan curia the office of vicar general is pre-eminent. When, however, the good government of the diocese requires it, the bishop may appoint one or more episcopal vicars..." (Christus Dominus, n. 27). The *Ecclesiae Sanctae* I, n. 14 of Pope Paul VI further confirmed and explained this innovation in the diocesan curia. It said that the motive for the appointment of an episcopal vicar should be pastoral, that is, so that the bishop can be given a help in the exercise of his rights and duties.

The present 1983 Code of Canon Law repeats almost word for word the above statement of the Second Vatican Council. The Code says: "As often as the good governance of the diocese requires it, the diocesan bishop can also appoint one or more episcopal vicars." (c. 476).

II. NATURE OF POWER OR AUTHORITY — By divine institution, there are two kinds of power or authority in the Church, namely, the power of order (*potestas ordinis*) and the power of jurisdiction (*potestas jurisdictionis*). The power of order is the authority conferred by holy ordination and destined for the sanctification of God's people through the sacred rites. The power of jurisdiction is the authority to govern God's people towards the supernatural end for which the Church was established by Christ.

The *power of jurisdiction* is either delegated or ordinary. The delegated power of jurisdiction refers to acts of authority which are simply attached to a person. The ordinary power of jurisdiction refers to acts of authority strictly attached to an office by law.

The *ordinary power of jurisdiction* is divided into proper and vicarial. Proper ordinary power of jurisdiction signifies that au-

² (Cfr. Wodwod, Stanislaus, OFM, *A Practical Commentary on the Code of Canon Law*, New York, Joseph F. Wagner, Inc., 1952, pp. 148-149).

thority which is exercised by the very office holder himself. Vicarial ordinary power of jurisdiction means that authority which is exercised in the name of another.

The power of jurisdiction is also either in the external forum or in the internal forum. Jurisdiction in the internal forum is the act of authority exercised privately and in conscience before God. Jurisdiction in the external forum, on the other hand, is the act of authority exercised publicly before the Church with juridical effects.

Moreover, jurisdiction is also either judicial or voluntary. Judicial jurisdiction is the granting of favours and other matters through the ecclesiastical judicial procedure. Voluntary jurisdiction is the granting of favours and other matters not connected with judicial procedure.³

The Vicar General — The vicar general has a voluntary power of jurisdiction. The judicial power of jurisdiction is given to the judicial vicar or the officialis (c. 1420, 1). This is why the judicial vicar is supposed to be "...distinct from the vicar general, unless the smallness of the diocese or the limited number of cases suggest otherwise" (c. 1420, 1). The vicar general also has jurisdiction in the external forum specially as regards sacramental matters (c. 508). This is also why "the office of the vicar general or the episcopal vicar may not be united with the office of the canon penitentiary..." (c. 478, 2). Due to these, the present Code describes the office of the vicar general and the episcopal vicar as *executive*. Thus, it clarifies the phrase "in spiritual and temporal matters to the extent of the bishop's ordinary jurisdiction" of the 1917 Code, c. 368, 1. (Cfr. cc. 137 and 138.)

Lastly, the vicar general has a vicarial ordinary power of jurisdiction (c. 475; *Ecclesiae Sanctae* I, n. 14, 2). *Ordinary*, because the jurisdiction of the vicar general is attached to his office by universal law. And *vicarial*, because this authority is exercised only on behalf of the diocesan bishop.

The Episcopal Vicar — The power or authority of the episcopal vicar is, by nature, the same as that of the vicar general.

³ Cfr. Cruz, Oscar, DD, JCD, "The Vicar General in the Present and Proposed Codes", *Companion Readings for the Vicar General*, Manila, UST Printing Office, 1982, p. 30.)

This is what has been stipulated by *Christus Dominus*, n. 27. Which is repeated by *Ecclesiae Sanctae* I, n. 14, 2 saying: "Episcopal vicars enjoy the ordinary vicarious power which common law gives to the vicar general." Finally, the same is confirmed by the present 1983 Code of Canon Law which says that the episcopal vicars "...have the same ordinary power as the universal law gives to a vicar general..." (c. 476).

III. DIFFERENCES — If the vicar general and the episcopal vicar have the same nature of jurisdiction, they also have their differences. They differ on the necessity of their appointments, on their tenure of office and on the scope of their jurisdiction.

1. Necessity of Appointment — The bishop is obliged to have a vicar general. But he is not obliged to have an episcopal vicar. The present Code of Canon Law says the following.

The Vicar General — "In each diocese the diocesan bishop is to appoint a vicar general to assist him in the governance of the whole diocese..." (c. 475, 1).

The Episcopal Vicar — "As often as the good governance of the diocese requires it, the diocesan bishop can also appoint one or more episcopal vicars..." (c. 476).

It is, therefore, clear that, if the 1917 Code of Canon Law does not require diocesan bishops to appoint a vicar general (c. 366), the present 1983 Code obliges them to do so. It is now the appointment of the episcopal vicar which is facultative. Which means that if the bishop thinks there is pastoral need, then he may appoint an episcopal vicar. If, on the contrary, he thinks that there is no pastoral need at all, then he may not appoint one. And, on this it is interesting to note that the word *pastoral* is defined as "the action of the Church by which She, under the movement of the Holy Spirit, visibly accomplishes the mission which was given to it by Christ and pursues the fulfilment of the salvific designs of the Father over creation".⁴

2. Tenure of Office — To begin with, we have to mention that "the coadjutor bishop, and likewise the auxiliary bishop...

⁴ (Dingemans, R. Page, *Le Concil Diocésain de Pastorale*, Montreal, 1969, English Edition, Paramus, N.J., 1970, p. 107).

is to be appointed a vicar general by the diocesan bishop" (c. 406, 1). Also, we have to bear in mind that "unless the apostolic letters provide otherwise, . . . the diocesan bishop is to appoint his auxiliary or auxiliaries as vicar general or at least episcopal vicar . . ." (c. 406, 2). (Cfr. also *Christus Dominus*, n. 26; *Ecclesiae Sanctae* I, n. 13, 2.)

The Vicar General — Hence, with the exception of the above mentioned coadjutor and auxiliary bishops, "... the vicar general and the episcopal vicar are freely appointed by the diocesan bishop, and can be freely removed by him . . ." (c. 477, 1). This is the extension of the bishop's freedom. He can even remove a vicar general or episcopal vicar from office without consulting any of his diocesan consultative bodies. However, his obligation to appoint the coadjutor or auxiliary bishop as vicar general or episcopal vicar is considered a limitation to the same freedom.

The Episcopal Vicar — On the episcopal vicar, the Code states that "an episcopal vicar who is not an auxiliary bishop, is to be appointed for a period of time, which is to be specified in the act of appointment" (c. 477, 1).

It goes without saying, therefore, that the episcopal vicar has a fixed term of office while the vicar general does not. Although, of course, the term of the episcopal vicar is renewable.

3. Scope of Jurisdiction — Another difference between the vicar general and the episcopal vicar is their scope of jurisdiction. The vicar general is appointed by the diocesan bishop to assist him in the governance of the entire diocese (c. 475, 1). The episcopal vicar, on the other hand, is appointed to assist him (1) over a determined section of the diocese; (2) over a certain type of business or; (3) over the faithful of a determined rite or of a certain group of persons (c. 476).

The Vicar General — The vicar general exercises all the ordinary executive powers of the diocesan bishop in administrative or disciplinary matters on temporal and spiritual things. This power is exercised universally, that is, as far as the territory, persons and things over which the bishop can exercise his powers. His jurisdiction, therefore, can be exercised in the entire diocese. Hence, the title vicar *general*.

Within the limits of his competency, a vicar general also possesses the habitual faculties granted to the bishop by the Apostolic See as well as the power to execute rescripts. This is the case unless another provision has been expressly made or unless the intervention of the diocesan bishop has been chosen due to some personal characteristics involving the matter at hand (c. 479, 3). Added to these, the vicar general can neither perform much administrative acts as those which are reserved by the bishop to himself or those which by law require the special mandate of the bishop (c. 479, 1). It must, moreover, be made clear that the faculties for a certain number of cases and those for a limited length of the time come under the name of habitual faculties.

The Episcopal Vicar — The episcopal vicar *ipso iure* has the same powers as the vicar general but only over the determined section or territory, or over that type of business, or over those faithful of a determined rite or group for which he was appointed by the bishop. Excepted from this general rule are the cases which the bishop has reserved to himself or to the vicar general, those which by law require the special mandate of the bishop and the execution of rescripts which provides that another do it or that the bishop do it due to his personal qualities (c. 479, 2-3). The letter of appointment of the episcopal vicar should include all the determinations of his job so that there will be no overlapping of responsibilities in the diocese.

IV. LIMITATIONS OF THE POWER OR AUTHORITY OF THE VICAR GENERAL AND THE EPISCOPAL VICAR — The power or authority of the vicar general and the episcopal vicar are, therefore, not limitless. Their authority to execute rescripts, as we have just mentioned, may be limited by the rescripts themselves. It may require another for its execution or it may ask for the bishop himself. Other limitations may come from the Code itself. The bishop may make reservations to himself. And some acts demand a special mandate.

1. Limitations coming from the Code itself

- A. Legislative Power — which is solely within the bishop's competence. (Cfr. c. 466 — "The diocesan bishop is the sole legislator in the diocesan synod. Other members of the synod

have only a consultative vote. The diocesan bishop alone signs the synodal declarations and decrees, and only by his authority may these be published.”)

- B. Judicial Power — which is given to the judicial vicar or *officialis*. (Cfr. c. 1420, 1 — “Each diocesan bishop is obliged to appoint a judicial vicar or *officialis* with ordinary power to judge. The judicial vicar is to be a person distinct from the vicar general, unless the smallness of the diocese or the limited number of cases suggest otherwise.”)
 - C. Disciplinary Procedures — which, according to several authors, are not within the competence of the vicar general nor of the episcopal vicar.⁵
 - D. Speaking of the old 1917 Code of Canon Law, Morsdorf adds that the vicar general and hence also the episcopal vicar are excluded from certain acts of general administration. For example, the vicar general could not nominate honorary canons (c. 406); he could not create religious organizations (c. 492, 1) and; he could not be appointed as deputy for either of the seminary boards (c. 1359). The new 1983 Code of Canon Law, while silent on seminary boards, does not, however, disqualify the vicar general and the episcopal vicar from bestowing a canonry (c. 509, 1) and from establishing a religious organization (c. 312, 1).
- 2. Those which the bishop reserves to himself. For, indeed, the bishop cannot legally give the vicar general and the episcopal vicar all his rights and responsibilities.
 - 3. Some acts, by law, demand a special mandate. And regarding this special mandate, we have to take note of the following.
 - A. The special mandate is required for validity. This, because the Code itself places these acts outside the universal competence of the vicar general and hence of the episcopal vicar. And they, by law, can only have competence over these acts if they have the special mandate.
 - B. The question is asked whether a bishop may give his vicar general or episcopal vicar a general special mandate for all

⁵ (Cfr. E. Suarez, *De Remotione Parochorum*, Romae, 1959, n. 25, p. 22.)

cases needing it or whether it should only be given singly for each particular case. There are three opinions regarding this.

a. A Vermeersch — J. Creusen⁶

b. Claeys Bouaert⁷

c. James A. Coriden et al.⁸

V. *SPECIAL MANDATE* — On this, the present Code states: "Whatever in the canons, in the context of executive power, is attributed to the diocesan bishop, is understood to belong only to the diocesan bishop and to others in can. 381 & 2 who are equivalent to him, to the exclusion of the vicar general and the episcopal vicar except by special mandate (c. 134, 3)." Those who are equivalent to a diocesan bishop are the prelates, abbots, vicars apostolic, prefects apostolic and permanent apostolic administrators (Cfr. cc. 381, 2 and 367).

Thomas J. Green listed down for us the pertinent canons which attribute executive power only to the diocesan bishop and his equivalents to the exclusion of the vicar general and the episcopal vicar except by special mandate.⁹

SACRED MINISTERS OR CLERICS

1. Issue letter of incardination or excardination for cleric — "To be validly incardinated in another particular church, a cleric who is already incardinated must obtain a letter of excardination signed by the diocesan bishop and in the same way a letter of incardination signed by the diocesan bishop of the particular church in which he wishes to be incardinated (c. 267, 1)."

⁶ *Epitome Iuris Canonici*, I, n. 479 — a general special mandate may be given for all cases needing it.

⁷ *Eveque*, DDC, n. 664, p. 467 — it should only be given singly for each particular case

⁸ *The Code of Canon Law: A Text and Commentary*, New York, Paulist Press, 1985 — The bishop can grant the mandate "for all matters in which it is required by universal law." And then, he can list down those which he reserves to himself. This is the more probable answer.

⁹ (Green, Thomas J., *A Manual for Bishop: Rights and Responsibilities of Diocesan Bishops in the Revised Code of Canon Law*, Washington DC, U.S. Catholic Conference, 1983, pp. 2 and 41).

2. Recall cleric who has migrated to another particular church. Observe justice and natural equity and written agreements with bishop of other diocese in recalling cleric who has migrated — “A cleric who lawfully moves to another particular church while remaining incardinated in his own, may for a just reason be recalled by his own bishop, provided the agreements entered into with the other bishop are honoured and natural equity is observed. Under the same conditions, the bishop of the other particular church can for a just reason refuse the cleric permission to reside further in his territory” (c. 271, 3).

3. Express mind regarding request of cleric for *ipso iure* incardination after five years in another diocese if one is the cleric's proper bishop or the bishop of the other diocese; this expression of intent is to be done in writing within four months of the cleric's request — “A cleric who has lawfully moved from his own particular church to another is, by virtue of the law itself, incardinated in that latter church after five years, if he has declared this intention in writing to both the diocesan bishop of the host diocese and his own diocesan bishop, and neither of the two bishops has indicated opposition in writing within four months of receiving the cleric's written request” (c. 268, 1).

4. Meet certain conditions before cleric from another diocese is incardinated, e.g., ascertain that such a move is for the good of the diocese and that the cleric can be supported, obtain letter of incardination from cleric's bishop as well as testimonials about his good character, obtain written declaration of cleric's intent to serve in new diocese — “A diocesan bishop is not to incardinate a cleric unless: 1° the need or the advantage of his particular Church requires it, and the provisions of law concerning the worthy support of the cleric are observed; 2° he knows by a lawful document that excardination has been granted, and has also obtained from the excardinating bishop, under secrecy if need be, appropriate testimonials concerning the cleric's life, behaviour and studies; 3° the cleric declares in writing to the same bishop that he wishes to enter the service of the new particular Church in accordance with the norms of law” (c. 269).

5. Grant excardination of cleric for a just cause; deny excardination of cleric only for a just cause — “Excardination can be lawfully granted only for a just cause, such as the advantage

of the Church or the good of the cleric. It may not, however, be refused unless grave reason exists; it is lawful for a cleric who considers himself to be unfairly treated and who has a bishop to receive him, to have recourse against the decision" (c. 270).

6. Not deny permission to migrate to a cleric especially to a diocese short of clergy; work out arrangement with the bishop of that other diocese regarding the rights and obligations of the particular Church, a bishop is not to refuse clerics seeking permission to move whom he knows to be prepared and considers suitable to exercise the ministry in regions which suffer from a grave shortage of clergy. He is to ensure himself, however, that the rights and duties of these clerics are determined by written agreement with the diocesan bishop of the place to which they wish to move" (c. 271).

THE PARTICULAR CHURCHES

7. Determine how religious representatives at a diocesan synod are to be chosen — "The following are to be summoned to the diocesan synod as members and they are obliged to participate in it: some superiors of religious institutes and of societies of apostolic life which have a house in the diocese; these are to be elected in the number and the manner determined by the diocesan bishop" (c. 463, 1, 9°).

8. Name priest as canon penitentiary with ordinary non-delegable power to absolve in the sacramental forum from non-declared *latae sententiae* censures — "The canon penitentiary both of a cathedral church and of a collegiate church has by law ordinary faculties, which he cannot however delegate to others, to absolve in the sacramental forum from *latae sententiae* censures which have not been declared and are not reserved to the Holy See. Within the diocese he can absolve not only diocesans but outsiders also, whereas he can absolve diocesans even outside the diocese" (c. 508, 1). "Where there is no Chapter, the diocesan bishop is to appoint a priest to fulfill this office" (c. 508, 2).

9. Determine how religious representatives to diocesan pastoral council are to be chosen — "A pastoral council is composed of members of Christ's faithful who are in full communion with

the Catholic Church: clerics, members of institutes of consecrated life, and especially lay people. They are designated in the manner determined by the diocesan bishop" (c. 512, 1).

10. Obtain approval of the religious superior before entrusting a parish to religious. Entrust a parish to religious — "A juridical person may not be a parish priest. However, the diocesan bishop, but not the diocesan administrator, can, with the consent of the competent superior, entrust a parish to a clerical religious institute or to a clerical society of apostolic life, even by establishing it in the church of the institute or society, subject however to the rule that one priest be the parish priest or, if the pastoral care is entrusted to several priests jointly, that there be a moderator as mentioned in can. 517, 1" (c. 520, 1).

CONSECRATED AND APOSTOLIC LIFE

11. Consult the Holy See before establishing religious community in the diocese. Establish a religious community in his diocese — "Provided the Apostolic See has been consulted, diocesan bishops can, by formal decree, establish institutes of consecrated life in their own territories" (c. 579).

12. Manifest special care for diocesan communities — "An institute of diocesan right remains under the special care of the diocesan bishop, without prejudice to can. 586" (c. 594).

13. A. If one is the bishop of the diocese where the principal house of a diocesan religious community is located, exercise supervisory role over such a community, e.g., approve constitutions, confirm changes unless Holy See has intervened, deal with major issues exceeding competence of internal religious authority. Consult other bishops in dioceses where a diocesan community has houses in various aspects of exercising supervisory role over them — "It is the bishop of the principal house who approves the constitutions, and confirms any changes lawfully introduced into them, except for those matters which the Apostolic See has taken in hand. He also deals with major affairs which exceed the power of the internal authority of the institute. If the institute had spread to other dioceses, he is in all these matters to consult with the other diocesan bishops concerned" (c. 595, 1).

B. Dispense from the constitutions of diocesan communities in individual cases — “The diocesan bishop can grant a dispensation from the constitutions in particular cases” (c. 595, 2).

14. Receive profession of evangelical counsels of hermit and guide hermit's life — “Hermits are recognized by law as dedicated to God in consecrated life if, in the hands of the diocesan bishop, they publicly profess, by a vow or some other sacred bond, the three evangelical counsels, and then lead their particular form of life under the guidance of the diocesan bishop” (c. 603, 2).

15. Discern new forms of consecrated life and aid founders in expressing their insights and protecting them with appropriate statutes — “The approval of new forms of consecrated life is reserved to the Apostolic See. Diocesan bishops, however, are to endeavour to discern new gifts of consecrated life which the Holy Spirit entrusts to the Church. They are also to assist promoters to express their purposes in the best possible way, and to protect these purposes with suitable statutes, especially by the application of the general norms contained in this part of the Code” (c. 605).

16. A. Approve in writing the establishment of religious house in diocese — “A house of a religious institute is established, with the prior written consent of the diocesan bishop, by the authority competent according to the constitutions” (c. 609, 1).

B. Approve in writing the establishment of a monastery of nuns in his diocese — “For the establishment of a monastery of cloistered nuns, the permission of the Apostolic See is also required” (c. 609, 2).

17. Approve change in apostolic orientation of a religious house in the diocese — “The consent of the diocesan bishop is required if a religious house is to be used for apostolic works other than those for which it was established. This permission is not required for a change which, while observing the laws of the foundation, concerns only internal governance and discipline” (c. 612).

18. Exercise a supervisory role over an autonomous monastery in a diocese — “If an autonomous monastery has no major superior other than its own moderator, and is not associated with any institute of religious has over the monastery a real authority

determined by the constitution, it is entrusted, in accordance with the norms of law, to the special vigilance of the diocesan bishop" (c. 615).

19. Be consulted regarding the suppression of a religious house in his diocese — "After consultation with the diocesan bishop, a supreme moderator can suppress a lawfully established religious house, in accordance with the constitutions. The institute's own law is to make provision for the disposal of the goods of the suppressed house, with due regards for the wishes of the founders or benefactors and for lawfully acquired rights" (c. 616, 1).

20. Preside at the election of the superiors of autonomous monasteries — "The bishop of the principal house of the institute presides at the election of the superior of the autonomous monastery mentioned in can. 615, and at the election of the supreme moderator of an institute of diocesan right" (c. 625, 2).

21. Visit autonomous monasteries and diocesan religious communities — "The diocesan bishop has the right and the duty to visit the following, even in respect of religious disciplines: 1° the autonomous monasteries mentioned in can. 615; 2° the individual houses of an institute of diocesan right situated in his territory" (c. 628, 2).

22. Enter cloister of nuns for just cause and permit them to leave or others to enter cloister for serious reason. Obtain approval of the superior for nuns to leave cloister or for others to enter — "The diocesan bishop has the faculty of entering, for a just reason, the enclosure of cloistered nuns whose monasteries are situated in his diocese. For a grave reason and with the assent of the abbess, he can permit others to be admitted to the enclosure, and permit the nuns to leave the enclosure for whatever time is truly necessary" (c. 667, 4).

23. Consult religious superiors regarding community involvement in various apostolic enterprises — "In directing the apostolic works of religious, diocesan bishops and religious superiors must proceed by way of mutual consultation" (c. 678, 3).

24. Prohibit individual religious from remaining in the diocese if the superior does not take appropriate action. Refer to the Holy

See the case of the religious prohibited from being in the diocese if the religious superior takes no action — “For a very grave reason a diocesan bishop can forbid a member of a religious institute to remain in his diocese, provided the person’s major superior has been informed and has failed to act; the matter must immediately be reported to the Holy See” (c. 679).

25. Supervise apostolic works entrusted to religious. Take cognizance of rights of religious superiors in supervising apostolic works entrusted to religious — “Works which the diocesan bishop entrusts to religious are under the authority and direction of the bishop, without prejudice to the rights of religious superiors in accordance with can. 678, 2 and 3” (c. 681, 1).

26. A. Appoint religious to a diocesan office. Elicit presentation by or at least approval of religious superior before religious is given a diocesan appointment — “If an ecclesiastical office in a diocese is to be conferred on a member of a religious institute, the religious is appointed by the diocesan bishop on presentation by, or at least with the consent of, the competent superior” (c. 682, 1).

B. Remove religious from diocesan office — “The religious can be removed from the office at the discretion of the authority who made the appointment, with prior notice being given to the religious superior; or by the religious superior with prior notice being given to the appointing authority. Neither requires the other’s consent” (c. 682, 2).

27. A. Visit churches, oratories that believers frequent often, schools (not those for members of religious community alone) and other spiritual or temporal works of religion run by religious — “Either personally or through a delegate, the diocesan bishop can visit churches or oratories to which Christ’s faithful have habitual access, schools other than those open only to the institute’s own members, and other works of religion and charity entrusted to religious, whether these works be spiritual and temporal. He can do this at the time of pastoral visitation, or in case of necessity” (c. 683, 1).

B. Deal with abuses in religious institution if the superior fails to do so. Advise the religious superior about certain problems to be dealt with in connection with episcopal visitation —

"If the diocesan bishop becomes aware of abuses, and a warning to the religious superior having been in vain, he can by his own authority deal with the matter" (c. 683, 2).

28. Impose exclaustation on a member of a diocesan community for serious reasons at the request of the supreme moderator with the consent of the council — "At the request of the supreme moderator acting with the consent of his or her council, exclaustation can be imposed by the Holy See on a member of an institute of pontifical right, or by a diocesan bishop on a member of an institute of diocesan right. In either case a grave reason is required, and equity and charity are to be observed" (c. 686, 3).

29. Confirm indult of departure for serious reasons of one in temporary profession in diocesan communities or in autonomous monasteries — "A person who, during the time of temporary profession, for a grave reason asks to leave the institute, can obtain an indult to leave. In an institute of pontifical right, this indult can be given by the supreme moderator with the consent of his or her council. In institutes of diocesan right and in monasteries mentioned in can. 615, the indult must, for validity, be confirmed by the bishop in whose diocese is located the house to which the person is assigned" (c. 688, 2).

30. Grant indult of departure for one in perpetual vow in a diocesan community — "In institute of pontifical right this indult is reserved to the Apostolic See. In institutes of diocesan right the indult can be granted by the bishop in whose diocese is located the house to which the religious is assigned" (c. 691, 2).

31. Incardinate or receive experimentally priest granted indult of departure from religious community (so-called 'benevolent bishop' in law).

Take appropriate action within five years to deny incardination of religious cleric received experimentally after indult of departure from religious community; otherwise he is automatically incardinated after five years — "If the member is a cleric, the indult is not granted until he was found a bishop who will incardinate him in his diocese or at least receive him there on probation. If he is received on probation, he is by virtue of the law itself incardinated in the diocese after five years, unless the bishop has rejected him" (c. 693).

32. Grant dismissal of one in an autonomous monastery. Review acts of council, which have been forwarded by religious superior in case of dismissal from an autonomous monastery — “In the autonomous monasteries mentioned in can. 615, the judgment about dismissal belongs to the diocesan bishop. The superior is to submit the acts to him after they have been reviewed by the council” (c. 699, 2).

33. Confirm the decree of dismissal before it is executed in reference to member of autonomous monastery or diocesan community — “The decree of dismissal has no effect unless it is confirmed by the Holy See, to whom the decree and all the acts are to be forwarded. If the matter concerns an institute of diocesan right, the confirmation belongs to the bishop in whose diocese is located the house to which the religious belongs. For validity, the decree must indicate the right of the person dismissed to have recourse to the competent authority within ten days of receiving notification of the decree. The recourse has a suspensive effect” (c. 700).”

34. Grant an indult of departure for perpetually incorporated member of a diocesan secular institute — “A perpetually incorporated member who wishes to leave the institute must, after seriously weighing the matter before the Lord, petition the Apostolic See through the supreme moderator, if the institute is of pontifical right; otherwise, the indult can also be obtained from the diocesan bishop, as determined in the constitutions” (c. 727, 1).

35. Approve the establishment of a house of society of apostolic life; be consulted before it is suppressed — “A house is established and a local community is constituted by the competent authority of the society, with the prior written consent of the diocesan bishop. The bishop must also be consulted when there is a question of its suppression” (c. 733, 1).

THE TEACHING OFFICE OF THE CHURCH

36. Call religious to aid in announcing the Gospel — “By reason of their consecration to God, members of institutes of consecrated life bear particular witness to the Gospel, and so are fit-

tingly called upon by the bishop to help in proclaiming the Gospel" (c. 758).

37. Approve schools to be established and operated by religious — "Religious institutes which have education as their mission are to keep faithfully to this mission and earnestly strive to devote themselves to catholic education, providing this also through their own schools which, with the consent of the diocesan bishop, they have established" (c. 801).

38. Name or approve religion teachers in his diocese and, if necessary for reasons of faith or morals, remove or require removal of a teacher — "In his own diocese, the local ordinary has the right to appoint or to approve teachers of religion and, if religious or moral considerations require it, the right to remove them or to demand that they be removed" (c. 805).

39. Be vigilant over and visit Catholic schools in his diocese and develop policies regarding the general organization of such schools including those of religious with due regard for proper autonomy of latter in distinctly community matters. — "The diocesan bishop has the right to watch over and inspect the catholic schools situated in his territory, even those established or directed by members of religious institutes. He has also the right to issue directives concerning the general regulation of catholic schools; these directives apply also to schools conducted by members of a religious institute, although they retain their autonomy in the internal management of their schools" (c. 806, 1).

40. Be vigilant lest faithful be harmed by publications/media as regards matters of faith or morals; require that writings of faith and morals be submitted to his judgment; repudiate works contrary to faith and morals — "In order to safeguard the integrity of faith and morals, pastors of the Church have the duty and the right to ensure that in writings or in the use of the means of social communication there should be no ill effect on the faith and morals of Christ's faithful. They also have the duty and the right to demand that where writings of the faithful touch upon matters of faith and morals, these be submitted to their judgment. Moreover, they have the duty and the right to condemn writings which harm true faith or good morals" (c. 823, 1).

For Christ's faithful entrusted to their care, the duty and the right mentioned in 1 belong to the bishops, both as individuals and in particular councils or Episcopal Conferences; for the whole people of God, they belong to the supreme authority of the Church" (c. 823, 2).

41. Provide for pastoral care of college students even those in non-Catholic colleges — "The diocesan bishop is to be zealous in his pastoral care of students, even by the creation of a special parish, or at least by appointing priests with a stable assignment to this care. In all universities, even in those which are not catholic, the diocesan bishop is to provide catholic university centers, to be of assistance to the young people, especially in spiritual matters" (c. 813).

42. Provide for pastoral care of students in such universities and faculties — "The provisions of can. 810, 812 and 813 concerning Catholic universities apply also to ecclesiastical universities and faculties" (c. 818).

43. Send talented students to ecclesiastical universities and faculties — "In so far as the good of a diocese or religious institute or indeed even of the universal Church requires it, young persons, clerics and members of institutes, outstanding in character, intelligence and virtue, must be sent to ecclesiastical universities or faculties by their diocesan bishops or the superiors of their institutes" (c. 819).

44. Establish institutes of higher religious studies where possible — "Where it is possible, the Episcopal Conference and the diocesan bishop are to provide for the establishment of institutes for higher religious studies, in which are taught theological and other subjects pertaining to christian culture" (c. 821).

THE SACRAMENTS

45. Judge when a 'grave necessity' warrants authorizing Western Christians not in full communion to receive penance, anointing and Eucharist — "If there is a danger of death or if, in the judgment of the diocesan bishop or of the Episcopal Conference, there is some other grave and pressing need, catholic ministers may lawfully administer these same sacraments to other

christians not in full communion with the catholic Church, who cannot approach a minister of their own community and who spontaneously ask for them, provided that they demonstrate the catholic faith in respect of these sacraments and are properly disposed" (c. 844, 4).

46. A. Empower one or more priests to confirm on a regular basis — "The diocesan bishop is himself to administer confirmation or to ensure that it is administered by another bishop. If necessity so requires, he may grant to one or several specified priests the faculty to administer this sacrament" (c. 884, 1).

B. Associate priests with him in confirming ministry on *an ad hoc* basis — "For a grave reason the bishop, or the priest who by law or by special grant of the competent authority has the faculty to confirm, may in individual cases invite other priests to join with him in administering the sacrament" (c. 884, 2).

47. Determine if conditions for general absolution are met in the diocese — "It is for the diocesan bishop to judge whether the conditions required (for general absolution) are present; mindful of the criteria agreed with the other members of the Episcopal Conference, he can determine the cases of such necessity" (c. 961, 2).

48. Issue dimissorials for those candidates subject to him — "The proper bishop can issue dimissorial letters for the secular clergy subject to him" (c. 1081, 1, 1°).

49. Send dimissorials to any bishop in communion with the Holy See of the same rite as candidate. Obtain papal mandate to send dimissorials to bishop of another rite — "Dimissorial letters may be sent to any bishop in communion with the Apostolic See, but not to a bishop of a rite other than that of the ordinand, unless there is an apostolic indult" (1021).

50. Issue dimissorials conditionally and revoke them — "Dimissorial letters can be limited or can be revoked by the person granting them or by his successor; once granted, they do not lapse on the expiry of the grantor's authority" (c. 1023).

51. Proper bishop judges candidate's aptitude for ordination and usefulness for Church's ministry — "In order lawfully to confer the orders of priesthood or diaconate, it must have been esta-

blished, in accordance with the proofs laid down by law, that in the judgment of the proper bishop or competent major superior, the candidate possesses the requisite qualities, that he is free of any irregularity or impediment, and that he has fulfilled the requirements set out in can. 1033-1039. Moreover, the documents mentioned in can. 1051 must have been carried out" (c. 1025, 1).

"It is further, required that, in the judgment of the same lawful superior, the candidate is considered beneficial to the ministry of the Church" (c. 1025, 2).

52. Dispense from minimum age for presbyteral ordination (25 years of age) or diaconal ordination (23 for transitory deacon; 25 for unmarried permanent deacon; 35 for married permanent deacon) as long as the age of the candidate does not exceed the minimum age by more than a year — "The priesthood may be conferred only upon those who have completed their twenty-fifth year of age, and possess a sufficient maturity; moreover, an interval of at least six months between the diaconate and the priesthood must have been observed. Those who are destined for the priesthood are to be admitted to the order of diaconate only when they have completed their twenty-third year" (1031, 1).

"A candidate for the permanent diaconate who is not married may be admitted to the diaconate only when he has completed at least his twenty-fifth year; if he is married, not until he has completed at least his thirty-fifth year, and then with the consent of his wife" (c. 1031, 2).

"A dispensation of more than a year from the age required by 1 and 2 is reserved to the Apostolic See" (c. 1031, 4).

53. Determine time for deacon pastoral internship — "After completing the curriculum of studies and before being promoted to the priesthood, deacons are to spend an appropriate time, to be determined by the bishop or by the competent major superior, exercising the diaconal order and taking part in the pastoral ministry" (c. 1032, 2).

54. Proper bishop admits individual to candidacy — "An aspirant to the diaconate or to the priesthood is not to be ordained unless he has first, through the liturgical rite of admission, secured enrolment as a candidate from the authority mentioned in can. 1016 and 1019. He must previously have submitted a peti-

tion in his own hand and signed by him, which has been accepted in writing by the same authority" (c. 1034, 1).

55. Receive free commitment of candidate to ecclesial service — "For a candidate to be promoted to the order of diaconate or priesthood, he must submit to the proper bishop or to the competent major superior a declaration written in his own hand and signed by him, in which he attests that he will spontaneously and freely receive the sacred order and will devote himself permanently to the ecclesiastical ministry, asking at the same time that he be admitted to receive the order" (c. 1036).

56. Use various means besides seminary testimonials in pre-ordination scrutinies — "In the investigation of the requisite qualities of one who is to be ordained, the following provisions are to be observed: 2° the diocesan bishop or major superior may, in order properly to complete the investigation, use other means which, taking into account the circumstances of time and place, may seem useful, such as testimonial letters, public notices or other sources of information" (c. 1051, 2).

57. Obtain all necessary testimonials and documents required by canons 1050-1051 before issuing dimissorials — "Dimissorial letters are not to be granted unless all the testimonials and documents required by the law in accordance with can. 1050-1051 have first been obtained" (c. 1020).

58. Ordaining bishop to check authenticity of dimissorials — "When the ordaining bishop has received the prescribed dimissorial letters, he may proceed to the ordination only when the authenticity of these letters is established beyond any doubt whatever" (c. 1022).

59. Ordaining bishop should see to it that his subject ordained for another diocese will indeed serve in it — "A bishop ordaining his own subject who is destined for the service of another diocese, must be certain that the ordinand will in fact be attached to that other diocese" (1025, 3).

60. See to it that candidates for ordination are properly instructed and understand the obligations of the order in question — "The diocesan bishop or the competent superior must ensure that before they are promoted to any order, candidates are properly

instructed concerning the order itself and its obligations" (c. 1028).

61. Ordain only qualified candidates — "Only those are to be promoted to orders who, in the prudent judgment of the proper bishop or the competent major superior, all things considered, have sound faith, are motivated by the right intention, are endowed with the requisite knowledge, enjoy a good reputation, and have moral probity, proven virtue and other physical and psychological qualities appropriate to the order to be received" (c. 1029).

62. Needs canonical reason, even if occult, to refuse to ordain a deacon a priest — "The proper bishop or the competent major superior may, but only for a canonical reason, even one which is occult, forbid admission to the priesthood to deacons subject to them who were destined for the priesthood, without prejudice to recourse in accordance with the law" (c. 1030).

63. Needs canonical impediment or other serious reason to prevent deacon refusing priesthood from exercising order — "A deacon who refuses to be promoted to the priesthood may not be forbidden the exercise of the order he has received, unless he is constrained by a canonical impediment, or unless there is some other grave reason, to be estimated by the diocesan bishop or the competent major superior" (c. 1038).

64. Check on the fulfillment of retreat requirement before ordination — "All who are to be promoted to any order, must make a retreat for at least five days, in a place and in the manner determined by the ordinary. Before he proceeds to the ordination, the bishop must have assured himself that the candidates have duly made the retreat" (c. 1039).

65. A. Ordaining bishop to see to it that all is in order for ordination, e.g., requisite documents, expediting of scrutinies, positive arguments for ordaining candidate — "For a bishop to proceed to an ordination which he is to confer by his own right, he must be satisfied that the documents mentioned in can. 1050 are at hand and that, as a result of the investigations prescribed by law, the suitability of the candidate has been positively established" (c. 1052, 1).

B. Ordaining bishop not to ordain one whose qualifications are questionable — "For a bishop to proceed to the ordina-

tion of someone not his own subject, it is sufficient that the dimissorial letters state that those documents are at hand, that the investigation has been conducted according to the law, and that the candidate's suitability has been established. If the ordinand is a member of a religious institute or a society of apostolic life, those letters must also testify that he has been definitively enrolled in the institute or society and that he is a subject of the superior who gives the letter" (c. 1052, 2).

"If, notwithstanding all these, the bishop has definite reasons for doubting that the candidate is suitable to receive orders, he is not to promote him" (c. 1052, 3).

66. Ordaining bishop to give one ordained a certificate of ordination and notify latter's ordinary if the ordained is not his subject — "The ordaining bishop is to give each person ordained an authentic certificate of the ordination received. Those who, with dimissorial letters, have been promoted by a bishop other than their own, are to submit the certificate to their proper ordinary for the registration of the ordination in a special register, to be kept in the archive" (c. 1053, 2).

67. Empower layperson to be official witness at marriage for validity with permission of Holy See and after favorable *votum* of conference of bishops — "Where there are no priests and deacons, the diocesan bishop can delegate lay persons to assist at marriages. If the Episcopal Conference has given its prior approval and the permission of the Holy See has been obtained" (c. 1112, 1).

SACRED PLACES AND TIMES

68. Competent to dedicate sacred places or delegate another bishop or priest to do so — "The dedication of a place belongs to the diocesan bishop and to those equivalent to him in law. For a dedication in their own territory they can depute any bishop or, in exceptional cases, a priest" (c. 1206).

69. A. Give written consent that a church be built — "No church is to be built without the express and written consent of the diocesan bishop" (c. 1215, b).

B. Hear presbyteral council and neighboring rectors before approving the building of a Church — "The diocesan bishop is not to give his consent until he has consulted the council of priests and the rectors of neighboring churches, and then decides that the new church can serve the good of souls and that the necessary means will be available to build the church and to provide for divine worship" (c. 1215, 2).

C. Approve religious building a church even if he has already approved their establishment of a house — "Even though they have received the diocesan bishop's consent to establish a new house in a diocese or city, religious institutes must obtain the same bishop's permission before they may build a church in a specific and determined place" (c. 1215, 3).

70. Authorize conversion of a church to secular purposes if it cannot be repaired or if other serious reasons suggest such a conversion — "If a church cannot in any way be used for divine worship and there is no possibility of its being restored, the diocesan bishop may allow it to be used for some secular but not unbecoming purpose" (c. 1222, 1).

"Where other grave reasons suggest that a particular church should no longer be used for divine worship, the diocesan bishop may allow it to be used for a secular but not unbecoming purpose. Before doing so, he must consult the council of priests; he must also have the consent of those who could lawfully claim rights over that church, and be sure that the good of souls would not be harmed by the transfer" (c. 1222, 2).

71. Determine feast days or penitential days on an individual basis or *per modum actus* — "Diocesan bishops can proclaim special holydays or days of penance for their own diocesan or territories, but only for individual occasions" (c. 1244, 2).

THE TEMPORAL GOODS OF THE CHURCH

72. Moderately tax for diocesan needs public juridic persons subject to him in a fashion proportionate to their income; in case of grave necessity impose a moderate and extraordinary tax on physical persons and juridic persons not subject to him; proper consultation required — "The diocesan bishop, after consulting the finance committee and the council of priests, has the right to levy

on public juridic persons subject to his authority a tax for the needs of the diocese. This tax must be moderate and proportionate to their income. He may impose an extraordinary and moderate tax on other physical and juridic persons only in a grave necessity and under the same conditions, but without prejudice to particular laws and customs which may give him greater rights" (c. 1263).

73. A. Set up a special fund for clergy support (c. 281) if not otherwise provided for — "in every diocese there is to be a special fund which collects offerings and temporal goods for the purpose of providing, in accordance with can. 281, for the support of the clergy who serve the diocese, unless they are otherwise catered for" (c. 1274, 1).

B. Establish a common fund in diocese for support of other personnel and various ecclesiastical needs — "To the extent that it is required, a common reserved is to be established in every diocese by which the bishop is enabled to fulfill his obligations towards other persons who serve the Church and to meet various needs of the diocese; this can also be the means by which wealthier dioceses may help poorer ones" (c. 1274, 3).

74. Consult finance council and college of consultors in posting significant administrative acts in light of economic condition of diocese. Obtain consent of finance council and college of consultors for acts of extraordinary administration — "In carrying out acts of administration which, in the light of the financial situation of the diocese, are of major importance, the diocesan bishop must consult the finance committee and the college of consultors. For acts of extraordinary administration, except in cases expressly provided for in the universal law or stated in the documents of foundation, the diocesan bishop needs the consent of the committee and of the college of consultors. It is for the Episcopal Conference to determine what are to be regarded as acts of extraordinary administration" (c. 1277).

75. Obtain consent of finance council, interested parties and college of consultors to: (a) authorize alienation of goods of juridic persons subject to him if their value falls within the minimal and maximal sums determined by the conference of bishops: (b) alienate the goods of the diocese — "Without prejudice to the provisions of can. 638 §3, when the amount of the goods to be alienated

is between the minimum and maximum sums to be established by the Episcopal Conference for its region, the competent authority in the case of juridical persons not subject to the diocesan bishop is determined by the juridical person's own statutes. In other cases, the competent authority is the diocesan bishop acting with the consent of the finance committee, of the college of consultors, and of any interested parties. The diocesan bishop needs the consent of these same persons to alienate goods which belong to the diocese itself" (c. 1292, 1).

SANCTIONS AND PROCESSES IN THE CHURCH

76. See to uniformity in penal discipline as much as possible in collaboration with neighboring bishops — "Diocesan bishops are to take care that as far as possible any penalties which are to be imposed by law are uniform within the same city or region" (c. 1316).

77. Free to commit more significant or more difficult cases to college of three to five judges — "The bishop can entrust the more difficult cases or those of greater importance to the judgment of three or of five judges" (c. 1425, 2).

78. Authorize gathering of proofs in his diocese by judge from outside it — "Apart from the circumstances mentioned in 1, the judge for a just cause and after hearing the parties, can go outside his own territory to gather evidence. This is to be done with the permission of, and in a place designated by the diocesan bishop of the place to which he goes" (c. 1469, 2).

79. Execute sentence if his tribunal is first instance court — "Unless particular law provides otherwise, the bishop of the diocese in which the first instance judgment was given must, either personally or through another, execute the judgment" (c. 1653, 1).

80. Prepare votum to accompany tribunal votum in transition from nullity case to non-consummation process — "Whenever in the course of the hearing of a case a doubt of a high degree of probability arises that the marriage has not been consummated, the tribunal can, with the consent of the parties, suspend the nullity case and complete the instruction of a case for a dispensation from a non-consummated marriage: eventually it can forward the acts to the Apostolic See, together with a petition, from either or both

of the parties, for a dispensation, and with the opinions of the tribunal and of the bishop" (c. 1681).

81. Decree separation of spouses or permit them to approach civil court — "unless lawfully provided otherwise in particular places, the personal separation of baptized spouses can be decided by a decree of the diocesan bishop, or by the judgment of a judge in accordance with the following canons" (c. 1692, 1)

"Where the ecclesiastical decision does not produce civil effects, or if it is foreseen that there will be a civil judgment not contrary to the divine law, the bishop of the diocese where the spouses are living can, in the light of their particular circumstances, give them permission to approach the civil courts" (c. 1692, 2).

"If the case is also concerned with the merely civil effects of marriage, the judge is to endeavour, without prejudice to the provision of § 2, to have the case brought before the civil court from the very beginning" (c. 1692, 3).

82. Transmit own votum and votum of the defender of the bond to the Holy See in nonconsummation cases — "The bishop is to transmit all the acts to the Apostolic See, together with his opinion and the observation of the defender of the bond" (c. 1705, 1).

83. Supply additional data to the Holy See in nonconsummation cases — "If, in the judgment of the Apostolic See, a supplementary instruction is required, this will be notified to the bishop, with a statement of the items on which the acts are to be supplemented (c. 1705, 2)."

84. Establish office or council to mediate disputes in diocese — "The Episcopal Conference can prescribe that in each diocese there be established a permanent office or council which would have the duty, in accordance with the norms laid down by the Conference, of seeking and suggesting equitable solution. Even if the Conference has not demanded this, the bishop may establish such an office or council (c. 1733, 2)."

We see, therefore, that, if the old 1917 Code of Canon Law has 23 cases needing the special mandate of the bishop, the present Code has 84 canons requiring it.

VI. QUALIFICATIONS — A vicar general and an episcopal vicar should be priest; not less than thirty years of age; should hold a doctorate or licentiate in canon law or in theology or should at least be truly experts in these disciplines; should have sound doctrine, integrity, prudence and experience in handling matters; they should not be canons penitentiaries and; they should not be related to the bishop within the fourth degree by blood (c. 478, 1 and 2).

Therefore, the vicar general and the episcopal vicar should not be brothers, nephews, grandnephews, uncles, granduncles or first cousins of the bishop. They should not be judicial vicars, unless "the smallness of the diocese or the limited number of cases suggest otherwise" (c. 1420, 1). The Code no longer demands that they should come from outside the diocese and that they should not be pastors.

The requirement of priesthood is *Ad Validitatem*. The rest *ad liceitatem*. This, because the functions attributed to the vicar general and the episcopal vicar are in themselves not functions pertaining to the presbyteral order. They are only vicarious to the presbyteral order. They are only done in the name of the bishop because they are functions which are normally constituted only for those in the episcopal order. Hence, these cannot just be done by those not constituted in the episcopal order. The necessity of priesthood, therefore, comes from the nature of the functions committed to the vicar general and the episcopal vicar.

VII. NUMBER — As a general rule, there should only be one vicar of rites, if the size of the diocese is so big, if the inhabitants so many and pastoral reasons require that there should be more than one vicar general, then it is permitted by law that there be more than one vicar general. Caution, however, must be given lest in appointing more than one vicar general, the unity and centrality of diocesan activities suffer.

As regards the episcopal vicar, the Code states that it is not obligatory for a bishop to designate an episcopal vicar in his diocese. However, if the good governance of the diocese demands it, then he is allowed to appoint an episcopal vicar. The number also depends upon him (c. 476).

The practice of naming honorary vicars general and episcopal vicars is alien to the Code.

VIII. SUBSTITUTION AND SUSPENSION — When a vicar general or an episcopal vicar is absent or is legitimately impeded, the diocesan bishop can appoint another who acts as substitute for such a vicar (c. 477, 2).

Regarding suspension, the Code says that, unless they possess episcopal dignity, the power of the vicar general and the episcopal vicar is suspended with the suspension from office of the diocesan bishop (c. 481, 2). This principle follows from the fact that the vicar general and the episcopal vicar are supposed to be alter egos of the diocesan bishop.

IX. TERMINATION OF TENURE — Unlike the judicial vicar, the vicar general and the episcopal vicar can be removed from office by the bishop anytime. Their power ceases (1) when the time of their mandate is fulfilled; (2) when they resign; (3) when they are informed of their removal and; (4) when the episcopal see is vacant (c. 481, 1).

(1) When Mandate is Fulfilled — The word “mandate” may apply to the vicar’s appointment to the office itself or to any special faculties attached temporarily to his office. In the former case, the expiration of the term causes the vicar to lose the office itself; in the latter case, only the special faculties cease. Even though the vicar’s term lapse on a certain date, the loss of the office does not take effect juridically until this fact is stated to him in writing by the diocesan bishop (c. 186).

(2) When They Resign — Vicars may resign from office voluntarily. They should have a just reason for resigning. And, for validity, they must inform the diocesan bishop about the resignation in writing or orally before two witnesses. The resignation does not take effect until the diocesan bishop is duly informed (cc. 187 and 189). The resignation does not require the acceptance by the diocesan bishop in order to take effect.

(3) When They Are Removed — A priest can be freely removed from the office of vicar by the diocesan bishop provided that natural and canonical equity is observed. The removal requires only a just reason (c. 193, 3). No particular procedure is required other than informing the vicar in writing. The priest does not lose the office until he receives the written decree of re-

moval, signed by the diocesan bishop and properly notarized (cc. 193, 4 and; 474).

(4) When the See is Vacant — If the episcopal see becomes vacant, the priest serving as a vicar automatically loses his office. Without a diocesan bishop, there can be no alter ego. His powers do not cease, however, until he is morally certain (not necessarily through a written instrument) that the diocesan bishop has died or that the pope has accepted the bishop's resignation, transferred him to another office, or removed him from the office of diocesan bishop (cc. 416 and 417).

An auxiliary bishop can be removed from the office of vicar general, but the explicit reference to canon 406, 1 suggest that he must at least be appointed as an episcopal vicar. A coadjutor bishop or auxiliary can be removed from the office of vicar general only for grave reasons (c. 193, 1). The same holds for the removal of any auxiliary bishop from the office of episcopal vicar. When the episcopal see becomes vacant for any reason, auxiliary bishops lose the office of vicar general or episcopal vicar but retain all their powers of governance attached to the office, including any special mandates granted by the diocesan bishop. They exercise these powers and faculties under the authority of the diocesan administrator until the succeeding bishop takes possession of the episcopal see (c. 409). As soon as the auxiliary bishop is certain that this has occurred, he loses the powers and faculties which he originally received as vicar general or episcopal vicar. He must be reinstated to his office by the new diocesan bishop if he is to continue to exercise such responsibilities (cfr. cc. 406 and 409).¹⁰

X. RELATIONS AMONG THE BISHOP, THE VICAR GENERAL AND THE EPISCOPAL VICAR — All the vicars of a bishop form one tribunal with him (c. 1420, 2). In order to preserve this unity, the vicar general and the episcopal vicar must refer to the diocesan bishop the principal matters which are to be handled and which have been handled, and they should never act contrary to the will and mind of the diocesan bishop (c. 480). Furthermore, they should not omit to have frequent exchange of views with one another in order that unity of discipline among clergy and people should be strengthened and that greater spiri-

¹⁰ (Cfr. also Coriden, James A. et al., eds., *The Code of Canon Law: A Text and Commentary*, New York, Paulist Press, 1985, p. 391.)

tual fruits should result for the diocese. The manner of having dialogue should be determined by the bishop (*Ecclesiae Sanctae* I, n. 14, 3). And we should remember that this is precisely the reason behind the creation of the episcopal council (c. 473, 4).

The vicar general or the episcopal vicar cannot validly concede a favor already denied by another vicar general or episcopal vicar of the same diocesan bishop, although the reasons for the denial are communicated (c. 65, 2; *Ecclesiae Sanctae* I, n. 14, 4). A favor refused by the diocesan bishop cannot, without the bishop's consent, be validly obtained from his vicar general or episcopal vicar, even though mention is made of the refusal (c. 65, 3).

A favor refused by a vicar general or an episcopal vicar and later, without any mention being made of this refusal, obtained from the diocesan bishop is invalid (c. 65, 3). This sentence of canon 65 seems to imply that if the refusal of the vicar general or of the episcopal vicar is mentioned, there can be recourse from the vicar general or the episcopal vicar to the bishop.

Two opinions are advanced regarding this matter. The first opinion says that there can be no recourse from the vicar general or episcopal vicar to the bishop (Creve and some pre-1917 Code canonists). The second opinion states that favors refused by the vicar general or the episcopal vicar can be brought to the bishop for appeal (Chelodi, Woywod et al.).

Those espousing the first opinion point out that there can be no appeal because the vicars form one tribunal with the bishop (c. 1420, 2). Besides, they say that the vicarial ordinary power of jurisdiction of a vicar general or an episcopal vicar can further be divided into that which is not identified with a juridical person as a principal and that which is identified with a juridical person as a principal. Decisions made by one with vicarial ordinary power of jurisdiction which is not identified with a juridical person as a principal can be appealed to that same principal. However, decisions made by one with vicarial ordinary power of jurisdiction which is identified with a juridical person as a principal cannot be appealed to that same principal. And such is the power of the vicar general and the episcopal vicar — a vicarial ordinary power of jurisdiction which is identified with a juridical person as a

principal. And hence their decisions cannot be appealed to their principal which is the bishop.

They also say that the bishop anyway can correct his administrative acts. For in administrative affairs the author or actor can correct his own act either spontaneously or through petitions. Therefore, the bishop can also correct even those acts committed by his vicars since they are one with him. Hence, there is no need for appeal.

Those who hold the second opinion, moreover, state that recourse from the vicar general and the episcopal vicar to the bishop is indicated by the fact the Code speaking of favors denied by the vicar general or the episcopal vicar (cfr. c. 65, 3) supposes this recourse. The petitioner just have to make known to the bishop the refusal of the vicar general or of the episcopal vicar, otherwise the bishop's granting of the favor would be invalid. Also, it can be said that the *petition* spoken of by those advocating the first opinion can well be regarded as an appeal. The second opinion, therefore, is the more probable one.

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