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THE INSTITUTE OF THE SISTERS OF MERCY OF THE AMERICAS:
THE CANONICAL DEVELOPMENT OF THE *PROPOSED GOVERNANCE MODEL*

by
Catherine C. DARCY

A dissertation submitted to the Faculty of Canon
Law, Saint Paul University, Ottawa, Canada, in
partial fulfillment of the requirements for the
degree of Doctor of Canon Law



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BIBLIOGRAPHICAL NOTE

On July 24, 1950, Catherine C. Darcy was born in New York City. In 1970, she entered the Sisters of Mercy of New Jersey, the congregation in which she professed perpetual vows on April 2, 1978.

In 1972, she earned a B.A. in Mathematics from Georgian Court College, Lakewood, New Jersey; in 1983, a Master's in Pastoral Studies from Loyola University of Chicago, and in 1989, a Licentiate in Canon Law from the Catholic University of America, Washington, D.C.

Before commencing canon law studies, Catherine served in elementary and secondary education as well as parish ministry. She is presently serving in tribunal ministry for the Diocese of Trenton.

ABBREVIATIONS

- AAD Archives of the Diocese of Dublin
- AAH Archives of the Archdiocese of Hartford
- AAL Archives of the Archdiocese of Louisville
- AAO Archives of the Archdiocese of Omaha
- AAS *Acta Apostolicae Sedis*
- ADD Archives of the Diocese of Davenport
- ADDM Archives of the Diocese of Des Moines
- ADKC Archives of the Diocese of Kansas City-St. Joseph
- ADP Archives of the Diocese of Portland
- ADR Archives of the Diocese of Rochester
- ADS Archives of the Diocese of Savannah
- AFSMA Archives of the Federation of the Sisters of Mercy of
the Americas
- AISMA Archives of the Institute of the Sisters of Mercy of the
the Americas
- AMI Archives of Mercy Ireland
- APF Archives of the Congregation of the Propagation of the
Faith
- ASMB Archives of the Sisters of Mercy, Burlingame, California
- ASMCP Archives of the Sisters of Mercy, Carysfort Park
(Dublin)
- ASMC Archives of the Sisters of Mercy of Connecticut
- ASMD Archives of the Sisters of Mercy of Detroit
- ASMM Archives of the Sisters of Mercy of Merion

ABBREVIATIONS

v

ASMNC Archives of the Sisters of Mercy of North Carolina
ASMNJ Archives of the Sisters of Mercy of New Jersey
ASMNO Archives of the Sisters of Mercy of New Orleans
ASMP Archives of the Sisters of Mercy of Portland
ASMR Archives of the Sisters of Mercy, Rosanna, Australia
ASMSJ Archives of the Sisters of Mercy, St. John's,
Newfoundland
ASMU Archives of the Sisters of Mercy of the Union
CBR Sacred Congregation for Bishops and Regulars
CICL Congregation for Institutes of Consecrated Life and
Societies of Apostolic Life
CLSA Canon Law Society of America
COA Committee of Assistants
CPF Congregation for the Propagation of the Faith
CR Congregation for Religious
CRIS Congregation for Religious and Secular Institutes
SCR Sacred Congregation for Religious
SCRIS Sacred Congregation for Religious and Secular Institutes
TAG Transition Administrative Group
TAC Transition Administrative Council
= hereafter referred to as

*Because we also share a common heritage and a common vision,
as well as a common experience of contemporary realities,
...a new relationship has emerged among us.¹*

¹ *From the Preamble for the Proposed Governance Model for the Institute of the Sisters of Mercy of the Americas.*

TABLE OF CONTENTS

INTRODUCTION.....	xii
-------------------	-----

PART ONE

HISTORICAL AND CANONICAL CONTEXT	1
--	---

CHAPTER

I THE HERITAGE OF THE SISTERS OF MERCY.....	2
I. THE CHARISM OF CATHERINE MCAULEY.....	4
A. The private life of Catherine McAuley.....	6
B. The road to the establishment of a religious institute.....	11
1. The beginnings of Baggot Street.....	11
2. Ecclesiastical recognition.....	15
3. The decision to become a religious institute.....	17
C. The contribution of Catherine McAuley.....	19
1. The original foundations.....	20
2. Ecclesiastical approval and confirmation of the <i>Rule and Constitutions</i>	23
a. The initial rule.....	23
b. A letter of praise.....	24
c. Diocesan approval.....	27
d. Pontifical confirmation.....	28
II. NATURE, PURPOSE, SPIRIT, CHARACTER, TRADITIONS OF THE SISTERS OF MERCY.....	31
A. Nature of the Sisters of Mercy.....	32
1. Pontifical right.....	33
2. Autonomous houses.....	35
B. Purpose of the Sisters of Mercy.....	37
C. Spirit of the Sisters of Mercy.....	41
1. Union and charity.....	42
2. Flexibility and adaptability.....	43
3. Action and contemplation.....	45
D. Character of the Sisters of Mercy.....	47
1. Dedication to the works of the apostolate.....	48
2. The fourth vow.....	49

E. Wholesome traditions of the Sisters of Mercy.....	51
1. Assertive respect.....	51
2. Consultation and leadership development.....	55

CHAPTER

II THE EXPANSION OF THE SISTERS OF MERCY IN THE UNITED STATES.....	60
I. THE IRISH EXPANSION THROUGHOUT THE ENGLISH-SPEAKING WORLD.....	61
A. United States cities of major expansion.....	63
1. Pittsburgh.....	63
2. New York City.....	65
B. United States cities of lesser expansion.....	67
1. San Francisco.....	67
2. Little Rock, Arkansas; Cincinnati, Ohio; Middletown, Connecticut.....	69
II. MOVEMENT TOWARD CENTRALIZATION.....	71
A. Frances Warde: Symbol of unity.....	71
B. Regional efforts toward unity.....	73
1. Unintended independence.....	73
2. A series of unions.....	76
a. Rationale.....	77
b. Circumstances and procedure.....	81
III. FORMATION OF THE SISTERS OF MERCY OF THE UNION.....	86
A. Remote efforts at general unification.....	87
B. A petition requesting union.....	89
C. The response of the Holy See.....	91
D. The First General Chapter.....	94
E. Subsequent expansion.....	95
IV. THE HERITAGE OF THE SISTERS OF MERCY	97
A. Nature of the Sisters of Mercy.....	98
1. Pontifical right.....	98
2. Autonomous houses.....	100
B. Purpose of the Sisters of Mercy.....	101
C. Character of the Sisters of Mercy.....	104
1. Dedication to the works of the apostolate.....	104
2. The fourth vow.....	106

D. Spirit of the Sisters of Mercy.....	108
1. Union and charity.....	109
2. Flexibility and adaptability.....	110
3. Action and contemplation.....	113
E. Wholesome traditions of the Sisters of Mercy.....	115
1. Assertive respect.....	115
2. Consultation and leadership development.....	117
SUMMARY AND CONCLUSIONS FOR PART ONE.....	121

PART TWO

FORMATION OF THE INSTITUTE OF THE SISTERS OF MERCY OF THE AMERICAS.....	128
---	-----

CHAPTER

III	MOVEMENT TOWARD RESTRUCTURING THE SISTERS OF MERCY IN THE UNITED STATES.....	129
I.	THE FEDERATION OF THE SISTERS OF MERCY OF THE AMERICAS.....	130
A.	The Mother McAuley Conference.....	130
B.	The establishment of the Federation.....	131
C.	Federation functions expand.....	133
II.	MERCY FUTURES: APRIL, 1980 - JUNE, 1983.....	138
A.	Governing board meeting: April, 1980.....	138
B.	Establishment of committees.....	141
1.	Futures Studies Committee.....	141
2.	Mercy Futures Task Force.....	144
C.	Membership consultation: fall, 1982.....	147
1.	Format	147
2.	The 1982 model.....	149
3.	Results.....	152
D.	Membership consultation: spring, 1983.....	154
1.	Format.....	154
2.	The 1983 models.....	155
a.	One: a strengthened federation.....	155
b.	Two: a generalate model.....	156
c.	Three: 1982 model (revised).....	158
3.	Results.....	159

TABLE OF CONTENTS

x

III. RESHAPING THE MERCY FUTURES PROCESS:	
JUNE, 1983 - JUNE, 1984.....	161
A. Governing board meeting: June, 1983.....	161
B. Further steps:	
summer, 1983 - spring, 1984.....	163
C. Formulation of the	
<i>proposed governance model</i>	166
1. Governing board meeting:	
June, 1984.....	166
2. Membership consultation:	
fall, 1984.....	167
3. The spring, 1985, model.....	168
4. Membership consultation:	
spring, 1985.....	175
D. The straw vote: December, 1985.....	176
E. Consultation with the Holy See:	
November, 1984.....	179

CHAPTER

IV	THE FORMAL JURIDICAL PREPARATION FOR THE FORMATION OF A SINGLE INSTITUTE	183
	I. FORMALIZATION OF FORMAL DECISION MAKING PROCESS	
	FINALIZATION OF THE <i>PROPOSED GOVERNANCE MODEL</i>	184
	A. Governing board endorses formal consideration: January, 1986.....	184
	B. Formulation of the decision- making process.....	187
	1. The initial draft.....	187
	2. Governing board revisions.....	191
	C. Consultation with the Holy See:	
	October, 1986.....	193
	1. Observations on the	
	fall, 1985, model.....	194
	2. Observations on the	
	decision-making process.....	199
	3. Governing board's response:	
	January, 1987.....	201
	a. <i>Proposed governance model</i>	202
	b. Decision-making process.....	205
	D. General petition submitted to Holy See:	
	February, 1987.....	206
	E. Holy See requests opinions of bishops:	
	July, 1987.....	208
	F. Federation representatives	
	meet CRIS commission: January, 1988.....	210

TABLE OF CONTENTS

xi

G. Holy See grants permission to proceed: March, 1988.....	213
H. Further clarifications on post-chapter referendum: spring, 1988.....	216
II. FORMAL DECISION-MAKING PROCESS COMMENCES.....	219
A. Pre-chapter written consultation: April, 1988.....	219
B. General chapters vote: April - August, 1988.....	221
C. Post-chapter referendum: September, 1988.....	222
D. Locus of authority to petition Holy See.....	224
III. CONGREGATIONS' INDIVIDUAL PETITIONS SUBMITTED	
THE HOLY SEE: October, 1988.....	228
A. Format.....	229
B. Rationale	230
IV. ACTION TAKEN BY THE HOLY SEE:	
January, 1990 - June, 1991.....	234
A. Approval granted to fourteen congregations.....	234
B. Approval initially withheld from three congregations.....	238
1. Merion.....	238
2. New Jersey.....	240
3. Portland.....	242
C. Provisions for sisters not accepting membership in the Institute.....	244
1. The available alternatives.....	245
2. Twelve Portland sisters become a diocesan institute.....	248
D. The decree of establishment.....	251
V. The First Institute Chapter: July 20 - August 3, 1991.....	252
SUMMARY AND CONCLUSIONS FOR PART TWO.....	255
GENERAL CONCLUSIONS.....	264
APPENDICES.....	274
BIBLIOGRAPHY.....	317

INTRODUCTION

On July 20, 1991, the Institute of the Sisters of Mercy of the Americas, a bilingual, multicultural religious institute of pontifical right dedicated to the works of the apostolate, came into existence.¹ To commemorate this event, some three thousand Sisters of Mercy, their associates and invited guests gathered in Buffalo, New York, for the opening of the First Institute Chapter. On this occasion Sister Bette Moslander, C.S.J., proclaimed the decree of establishment on behalf of the Holy See.² This founding event marked the conclusion of a phase of United States Mercy history, a ten year period, in which the question of restructuring would be raised by the leadership, affirmed by membership and approved by the Holy See. The project and process of this period became known as "Mercy Futures". The event also marked the beginning of an era which hopefully would enable the Sisters of Mercy

¹ The bilingual/multicultural feature of the new Institute resides in its inclusion of Spanish-speaking and/or indigenous sisters in Argentina, Belize, Chile, Guam, Guatemala, Guyana, Honduras, Jamaica, Panama, Peru and the Philippines whose previous membership resided in one of the founding congregations. The multicultural aspect is further exemplified in the various cultures represented in the twenty-five regional communities.

² B. Moslander was serving as an assistant appointed by the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (=CICL). The decree which was issued on June 8, 1991 became effective on July 20, 1991. See CICL, Decree of Establishment, Prot. no. B 220-1/86, June 8, 1991, in AISMA.

of the Americas to extend their charism into the next century more effectively. Some would even consider this establishment a refounding of the Sisters of Mercy in the Americas.³

The Institute of the Sisters of Mercy of the Americas consists of twenty-five provincial units called regional communities.⁴ Previously, sixteen of these had belonged to the Federation of the Sisters of Mercy of the Americas as member congregations.⁵ The remaining had provided the provincial structure for the Sisters of Mercy of the Union, another member congregation of the Federation. On the day of its

³ While discussion on this facet of the Institute's foundation is beyond the scope of this dissertation, two works provide essential background for one to explore this approach to the Institute's foundation. See R. HOSTIE, *Vie et mort des ordres religieux. Approches psychosociologiques*, Paris, Desclée de Brouwer, 1972, 381p; A. ARBUCKLE, *Out of Chaos: Refounding Religious Congregations*, New York, Paulist Press, 1988, 201p.

⁴ These regional communities would be known as the "Sisters of Mercy of...": Albany (NY), Auburn, (CA), Baltimore (MD), Brooklyn (NY), Buffalo (NY) Burlingame (CA), Burlington (VT), Cedar Rapids (IA), Chicago (IL), Cincinnati (OH), Connecticut, Dallas (PA), Detroit (MI), Erie (PA), Merion (PA), New Hampshire, New Jersey, New York, North Carolina, Omaha (NE), Pittsburgh (PA), Portland (ME), Providence (RI), Rochester (NY) and St. Louis (MO). In the course of their history several of these regional communities would have been known by other names. These include: the "Sisters of Mercy of...": Auburn, formerly known as Sacramento; Burlingame, formerly known as San Francisco; Connecticut, formerly known as (West) Hartford; Dallas, formerly known as Scranton; Merion, formerly known as Philadelphia; New Jersey, formerly known as (North) Plainfield and Plainfield-Watchung; North Carolina, formerly known as Belmont; and New Hampshire, formerly known as both Manchester and Windham.

⁵ The Federation of the Sisters of Mercy of the Americas (=Federation) came into existence in 1965.

establishment, the new Institute included approximately 7100 sisters, nearly every Sister of Mercy in the United States.⁶

This study will ascertain the extent to which the development of the *proposed governance model* of the new Institute remained faithful to the heritage of the Sisters of Mercy as established by the founder, Catherine McAuley.⁷ We

⁶ Twelve sisters who had belonged to the Sisters of Mercy of Portland would not accept membership in the new Institute. Also not included in the Institute was the Religious Sisters of Mercy of Alma, Michigan, a congregation consisting of about 40 sisters. The roots of the Alma congregation were with the Sisters of Mercy of the Union. On September 1, 1973, ten members of the Sisters of Mercy of the Union terminated their membership and founded the Congregation of the Religious Sisters of Mercy of Alma. On June 15, 1982, the Holy See granted pontifical status to the Religious Sisters of Mercy of Alma. See R. WERNITZ, *Our Beloved Union: A History of the Sisters of Mercy of the Union*, Westminster, Maryland, Christian Classics, 1989, pp. 284-292.

Other exceptions include the Irish congregations of Sisters of Mercy which have sisters missioned to houses in California, Florida, Alabama, Missouri, Nevada, Mississippi, Montana, and New Jersey. See *Minutes of Plenary Council Meeting, Mercy Ireland*, February 22-24, 1991, (attachment) in AMI. Since these sisters have maintained their affiliation with their generalates in Ireland, they did not belong to the Federation and hence did not participate in Mercy Futures.

For a demographic profile of the Federation of the Sisters of Mercy of the Americas compiled as part of the Mercy Futures process, see J. McNALLY, *A Profile of the Federation of the Sisters of Mercy of the Americas*, August, 1983, 15p, in AFSMA. These statistics were updated in TRANSITIONAL ADMINISTRATIVE GROUP, "Demographics", in *Accountability Report*, July 1991, pp. 41-45, in AISMA.

⁷ The original intent for the thesis included a particular focus on the *proposed governance model*. As the dissertation progressed, however, it became evident that the far more compelling need at this time necessitated that the dissertation focus mainly on the process which developed the model. Only when the governance model becomes operative in the new Institute will we be able to judge its fidelity to the

will view this development from the perspective of its historical and canonical context as well as from the perspective of the more immediate processes which shaped the *proposed governance model*. Thus, the dissertation is divided into two parts. The first provides the historical and canonical context for the *proposed governance model*.⁸ The second part traces the canonical development of the Institute of the Sisters of Mercy of the Americas. Conclusions will be drawn at the end of each part, rather than at the end of each chapter. These conclusions assess the extent to which the development which took place in the respective parts remained faithful to the Mercy heritage as bequeathed by Catherine McAuley. The general conclusions of this study will ascertain how well the overall canonical development of the *proposed governance model* for the new Institute reflects the original Mercy heritage. In addition, these general conclusions point to some of the many challenges ahead for the Sisters of Mercy

Mercy heritage. We leave that task, then, to future study. In addition, it may be necessary to point out that the actual heritage of the new Institute as contained in the Institute's proposed constitutions is not a main focus of the study. While we reference this document, a comprehensive examination of these constitutions and the eleven year process which developed them, also remains a task for future research.

⁸ Universal law provides that ecclesiastical laws are understood in their text and context. See *CIC* 1983, canon 17. The *proposed governance model* which would eventually become ecclesiastical law with its embodiment in the new Institute's constitutions can only be understood in the light of the historical and canonical context provided in the dissertation's first part.

of the Americas.

The formation of the Institute of the Sisters of Mercy of the Americas took place in the context of the Second Vatican Council's call to renew religious life. In the years following the Council, the American Mercy sisters responded to the Council's call to return to the spirit of Catherine McAuley.⁹ As they gathered for this purpose, they grew closer together. They then began to ponder another of the Council's exhortations: to consider some sort of restructuring.¹⁰

⁹ The Council declared that the renewal of religious life takes place in the context of spirit and aims of the founder. See SECOND VATICAN COUNCIL, Decree on the Renewal of Religious Life, *Perfectae caritatis*, no. 2b, in *Acta Apostolicae Sedis* (=AAS), 58(1966), p. 703.

¹⁰ The decree on the renewal of religious life, *Perfectae caritatis*, addresses the need for religious institutes to consider some sort of restructuring. This decree suggests that institutes which no longer have a reasonable hope of further development should consider amalgamating with more flourishing but similar institutes. In addition, the decree recommends that institutes with common constitutions and spirit form federations or possibly even unions. See SECOND VATICAN COUNCIL, Decree on the Renewal of Religious Life, *Perfectae caritatis*, nos. 21-22, in AAS, 58(1966), p. 711.

Pope Paul VI in his norms implementing *Perfectae caritatis* also addressed the question of restructuring religious institutes. In the *motu proprio*, *Ecclesiae sanctae*, he restated the basic concepts of *Perfectae caritatis*, adding several fundamental principles to guide this restructuring such as consideration of the good of the church and the particular character of each institute. Other principles of this document will be referenced at appropriate points in the text. See POPE PAUL VI, *Motu proprio*, *Ecclesiae sanctae*, II, August 6, 1966, nos. 39-41, in AAS, 58(1966), pp. 781-782.

In addition, the revised code includes a canon, without direct antecedent in the 1917 code, which specifically refers to the restructuring of religious institutes. This canon specifies that fusions, unions, federations and confederations

This call had set in motion a movement among certain religious institutes to consider restructuring to enable them to serve the church more effectively.¹¹ Two of these efforts among the Sisters of Mercy merit special note. First, on December 15, 1981, the Holy See approved the unification of seventeen congregations of pontifical right in Australia forming the Institute of the Sisters of Mercy of Australia.¹² Its governance structure received considerable attention from those facilitating the restructuring process in the United States, particularly in its initial stages. Then in 1985

are reserved to the Holy See. See CIC 1983, canon 582.

¹¹ An indication of the extent to which religious institutes responded to the call of the Second Vatican Council to consider restructuring can be gleaned from an examination of the activity of the Sacred Congregation for Religious and Secular Institutes during the late sixties and early seventies when numerous fusions and unions took place and various federations were established. See *L'Attività della Sancta Sede*, Vatican City, Tipografia poliglotta vaticana, 1941-, especially the volumes published in: 1966, pp. 929-932; 1967, pp. 1226-1229; 1968, pp. 1251-1253; 1968, 1251-1253; 1969, pp. 687-690; 1970, pp. 720-722; 1971, pp. 554-555.

¹² Prior to this unification, eight of these congregations belonged to the Australian Union of the Sisters of Our Lady of Mercy (established in 1953) while the remaining nine had belonged to the Australian Federation of the Religious Sisters of Mercy (established in 1957). All the congregations had participated in another grouping, the Conference of Sisters of Mercy of Australia, since its establishment in 1967. With the election of the national executive council of the new Institute in December 1981, the Union, the Federation and the Conference ceased to exist. See SACRED CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES (=SCRIS), Decree, December 15, 1981 in *Acts and Proceedings of the First National Chapter of the Institute of the Sisters of Mercy of Australia*, 1981, p. 8, in Archives of the Institute of the Sisters of Mercy of Australia.

another movement toward unity began with the Sisters of Mercy in Ireland who, in turn, have learned from the restructuring taking place in the United States.¹³ Thus the movement toward unification in the Americas occurred within a context of other movements toward restructuring, particularly with other national groupings of Sisters of Mercy.¹⁴

From the canon law point of view, the value of this study resides in its concentration on the development of proper law within an institute of consecrated life in accordance with the universal law. This study will examine the development of a governance model which would become acceptable to 98% of the

¹³ In 1985 the national assembly (the general superiors and elected delegates from each congregation) of the Sisters of Mercy in Ireland formed an association, "Mercy Ireland", and elected its full-time leadership. The national assembly directed that Mercy Ireland explore the feasibility of the Irish congregations becoming an institute with canonical status. Presently the member congregations of Mercy Ireland are participating in a formal decision-making process which appears to be leading to the submission (early in 1992) of the congregations' individual formal petitions to the Holy See seeking the establishment of a single institute of Sisters of Mercy in Ireland. Mercy Ireland is moving toward a union of the majority and possibly all of its 26 congregations of nearly 4000 sisters into a single institute which will be divided into provinces. The elements of their formal decision-making process seem to resemble but at the same time differ slightly from the elements contained in the Mercy Futures' formal decision-making process. See *Minutes of Plenary Council Meeting, Mercy Ireland, February 22-24, 1991*, p. 3-4 in AMI.

¹⁴ Also, on February 21, 1968, the Holy See established the Federation of the Sisters of Mercy in New Zealand with the four Mercy congregations as members. Three different affiliations of Sisters of Mercy in Great Britain exist: Union, Institute and Federation. See M. SLAVIN (Assistant to Mother General, Sisters of Mercy of the Union of Great Britain), Letter to M. Stevens, March 8, 1984, in ASMU.

Sisters of Mercy who participated in the Mercy Futures project as well as to the Holy See.¹⁵ The dissertation, therefore, provides some meaningful insights into how the church, in its ministry of governance, functions and operates as it continues to promote the well-being of all entrusted to it.

¹⁵ Eventually the proposed governance model would be incorporated into the Institute's proper law by its inclusion in the Institute's constitutions. In addition, however, to this final product the various decrees and other individual administrative acts issued by the Holy See during the Mercy Futures process also constitute the proper law of the founding congregations. For a discussion of the legislative import of various administrative acts, see F. MORRISEY, "Papal and Curial Pronouncements: Their Canonical Significance in Light of the 1983 Code of Canon Law", in *The Jurist*, 50(1990), pp. 102-125.

PART ONE

HISTORICAL AND CANONICAL CONTEXT

Part One, which contains two chapters, provides the historical and canonical context for the establishment of the Institute of the Sisters of Mercy of the Americas. The first chapter describes the heritage of the Sisters of Mercy as laid out in the original foundation. It discusses the life of Catherine McAuley, notes her contribution to providing for the institute's continued existence, and studies her original intention regarding the various elements of the institute's heritage.

The second chapter discusses the expansion of the Sisters of Mercy to and throughout the United States as well as the regional efforts toward union which occurred between 1881 and 1928. It also considers the 1929 establishment of the Sisters of Mercy of the Union, a restructuring which united over half of the Sisters of Mercy in the United States. The chapter then examines how well the United States expansion efforts, the regional unions and the establishment of the Union remained faithful to the heritage described in the preceding chapter.

CHAPTER I

THE HERITAGE OF THE SISTERS OF MERCY

Canon 578 of the 1983 Code of Canon Law describes the content of the heritage of an institute of consecrated life. It states:

The intention of the founders and their determination concerning the nature, purpose, spirit and character of the institute which have been ratified by competent ecclesiastical authority as well as its wholesome traditions, all of which constitute the [heritage] of the institute itself are to be faithfully observed by all.¹

¹ "Fundatorum mens atque proposita a competenti auctoritate ecclesiastica sancita circa naturam, finem, spiritum et indolem instituti, necnon eius sanae traditiones, quae omnia patrimonium eiusdem instituti constituunt, ab omnibus fideliter servanda sunt." *Codex iuris canonici*, auctoritate Ioannis Pauli PP. II promulgatus, in Civitate Vaticana, Libreria Editrice Vaticana, 1983 (hereafter referred to in text as 1983 Code and cited as CIC 1983), canon 578. English translation in *Code of Canon Law: Latin-English Edition*, Washington, The Canon Law Society of America, 1983 (= CLSA). The CLSA translation used "patrimony" rather than "heritage". Throughout this study heritage is used.

For a treatment of the notion of heritage sometimes referred to as "spiritual patrimony", see P. NGUYEN DAN, *The Spiritual Patrimony of an Institute of Consecrated Life*, Rome, Pontificia Universitas Urbaniana, 1989, xvii-207p; X. OCHOA, "Modus determinandi patrimonium constitutionale cuiusvis instituti perfectionis proprium", in *Commentarium pro religiosis et missionariis*, 46(1967), pp. 337-350; 47(1968), pp. 97-111; J. BEYER, *Le droit de la vie consacrée: Commentaire des Canons 573-606*, Paris, Tardy, 1988, pp. 59-62; (= *Commentaire des Canons 573-606*); J. KALLUMKAL, "The Patrimony of an Institute", in *Commentarium pro religiosis et missionariis*, 70(1989), pp. 263-303; J. BEYER, "Réponses à des doutes au sujet du droit des instituts de vie consacrée", in *Les cahiers du droit ecclésial*, 3(1986), pp. 144-156 and

This chapter, then, outlines the heritage of the Sisters of Mercy. Since the initial component of an institute's heritage consists of the intention of the founder, the first section describes the charism of the founder, Catherine McAuley.² This includes a brief sketch of Catherine's life. This section also notes Catherine's contribution in establishing the Congregation.³ The second section describes the heritage of the Sisters of Mercy as reflected in the nature, purpose, spirit, character and wholesome traditions of the institute.

4(1986), pp. 9-15.

For an application of the concept of heritage to a particular religious institute, see P. ALLARD, *Le canon 578 et son application à la Société de Marie: Le patrimoine de l'institut*, Ottawa, Université Saint-Paul, 1989, 292p; J. de CHARRY, *Les constitutions définitives et leur approbation par le Saint-Siège*, Rome, Typis Pontificiae Universitatis Gregorianae, 1979, 3 vol.

² J. Kallumkal suggests that the "intention of the founder" is an innovation in the 1983 code. This component of an institute's heritage was not contained in the source of canon 578. J. KALLUMKAL, "The Patrimony of an Institute", p. 269. For the source of canon 578 see SECOND VATICAN COUNCIL, Decree on the Renewal of Religious Life, *Perfectae caritatis*, no. 2b, in *Acta Apostolicae Sedis*, (=AAS), 58(1966), p. 703.

Further J. Kallumkal states that "the charism of the founders plays a pre-eminent role in revealing the intentions of the founders regarding the important aspects of an institute." J. KALLUMKAL, "The Patrimony of an Institute", p. 274.

³ P. Nguyen Dan states: "Founding an institute of religious life is a complex act of providing all fundamental elements with which a community can be formed and endure." P. NGUYEN DAN, *Spiritual Patrimony*, p. 58.

I. THE CHARISM OF CATHERINE MCAULEY

The charism of a founder indicates a gift of the Holy Spirit given to a person for the building up of the Body of Christ, the church.⁴ Apparently, the Holy Spirit so gifted Catherine McAuley.⁵ Her own time, place, culture and experiences provided the environment for this charism's

⁴ For a treatment of founders and their charism, see P. MOLINARI, "Renewal of the Religious Life According to the Founder's Spirit", in *Review for Religious*, 27(1968), pp. 796-806; J. FUTRELL, "Discovering the Founder's Charism", in *Supplement to the Way*, 14(1971), pp. 62-70; S. McCARTY, "Touching Each Other at the Roots: A Reflection on the Charism of a Founder", in *Review for Religious*, 31(1972), pp. 202-205; T. LEDÓCHOWSKI, *In Search of the Charism of the Institute*, trans. M.A. Lawrence and M.M. Bellasis, Rome, Ursulines of the Roman Union, 1976, 98p; L. LABONTÉ, "The Founder's Charism and the 'Primordial Concern' of an Institute", in *The Spirit of the Founders and Our Religious Renewal*, Ottawa, Canadian Religious Conference, 1977, pp. 393-421; J. LOZANO, *Foundresses, Founders and Their Religious Families*, trans. J. Daries, Chicago, Claret Center for Resources in Spirituality, 1983, x-105p; J. TILLARD, "Founder's Charism or Founding Charism", in *Religious Life Review. Supplement to Doctrine and Life*, 22(1983), pp. 313-325; E. WILLIAMSON, "The Notion of Charism in the Religious Life", in *Studia canonica*, 19(1985), pp. 99-114; J. LOZANO, "Founder and Community: Inspiration and Charism", in *Review for Religious*, 37(1978), pp. 214-236; F. VIENS, *Charismes et vie consacrée*, Rome, Typis Pontificiae Universitatis Gregorianae, 1983, xxvi-275p; M. JURADO, "Consecrated Life and the Charisms of the Founders", in R. LATOURELLE (ed.), *Vatican II: Assessment and perspectives: Twenty-five Years After (1962-1987)*, New York, Paulist Press, 1988-1989, vol. 3, pp. 3-25; D. MACDONALD, "Sharing a Founder's Motivation", in *Review for Religious*, 49(1990), pp. 117-121.

⁵ On April 9, 1990, recognizing the Catherine McAuley's heroic virtue as a servant of God, the Holy See declared her venerable. See CONGREGATION FOR THE CAUSES OF SAINTS, Decree, April 9, 1990 in AAS, 82(1990), pp. 1004-1010.

growth.⁶ Catherine's life spanned sixty-three years from 1778 to 1841. She spent fewer than ten of those years as a Sister of Mercy. Accordingly, we shall focus first on the background and life experience of her first forty-four years. Then we shall explore the transition period of her life when she moved from living as an individual Christian to serving in the name of the church. Finally, we shall focus on the lasting contribution Catherine made in establishing the initial foundations and by gaining pontifical confirmation of the

⁶ General studies on the life of Catherine McAuley include: A. BOLSTER, *Documentary Study for the Canonization Process of the Servant of God, Catherine McAuley, Founder of the Congregation of the Sisters of Mercy, 1778-1841: Positio super virtutibus*, Protocol Number 1296, Dublin, Rome, Sacred Congregation for the Causes of Saints, 1985, 2v (= A. BOLSTER, *Positio*); R. BURKE SAVAGE, *Catherine McAuley. The First Sister of Mercy*, Dublin, M.H. Gill and Son, 1950, xii-434p; B. DEGNAN, *Mercy Unto Thousands: Life of Mother Catherine McAuley, Foundress of the Sisters of Mercy*, Westminster, Maryland, Newman Press, 1957, xvi-394p; A. CARROLL, *The Life of Catherine McAuley, Foundress and First Superior of the Institute of Religious Sisters of Mercy*, Saint Louis, Missouri, The Vincentian Press, 1893, xv-457p.

Collections of Catherine's correspondence include: A. BOLSTER, *The Correspondence of Catherine McAuley 1827 - 1841*, Dublin, Dominican Publications, 1989, xxviii-268p; I. NEUMANN, (ed.), *Letters of Catherine McAuley*, Baltimore, Helicon, 1969, xxvi-404p.

Recent works which focus on Catherine McAuley's charism include: C. BOURKE, *A Woman Sings of Mercy. Reflections on the Life and Spirit of Mother Catherine McAuley, Foundress of the Sisters of Mercy*, Sydney, Australia, E.J. Dwyer, 1987, x-102p; J. REGAN and I. KEISS, *Tender Courage*, Chicago, Franciscan Herald Press, 1988, ix-158p.

Mercy rule.⁷

A. *The private life of Catherine McAuley*

On September 29, 1778, James and Elinor McGauley gave birth to their first child, Catherine, in County Dublin, Ireland, a land on the brink of a social revolution.⁸ For centuries England had dominated Ireland as its colony. The Protestant-controlled Irish Parliament assisted the English by enacting legislation discriminating against the Catholic majority.⁹ Nevertheless, authorities moderately and at times loosely enforced the Irish penal legislation. By the latter part of the 18th century most of these laws had fallen into disuse. In the year of Catherine's birth (1778), the Irish Parliament passed the first of three relief acts designed to

⁷ Even though the Mercy rule and constitutions received pontifical confirmation in 1841, they were not published until 1863. Unless otherwise noted references made to the rule and constitutions will be to the first published edition. See *Rule and Constitutions of the Religious Called the Sisters of Mercy*, Dublin, James Duffy, 1863, 58p (= *Rule and Constitutions*).

⁸ The date of Catherine McAuley's birth is disputed. A. Bolster suggests this date. See A. BOLSTER, *Positio*, p. 11. Bolster also suggests that while Catherine would assume the name McAuley which her mother adopted as a widow, Catherine's father "signed himself as James McGauley." *Ibid.*, p. 8.

⁹ For a fuller treatment of the Irish penal legislation see M. WALL, *The Penal Laws, 1691-1760*, Irish History Series, no.1, Dundalk, Dublin Historical Association, 1967, 68p.

repeal select penal legislation.¹⁰ Even though the slow process of Catholic emancipation had begun, the penal laws would affect Ireland's Catholic population for decades to come. As a young woman, Catherine McAuley would ponder these effects.¹¹ In time, she would devote her fortune and her destiny to the lessening of social evils which had resulted from centuries of discrimination.

Dublin provided the location for the McGauley home, Stormanstown House. The fact that Catherine's Catholic parents secured a somewhat fashionable home set them apart from the vast majority of Catholics in Ireland. Both James and Elinor belonged to the rising Catholic middle class in late eighteenth century Ireland.¹² Within five years of Catherine's birth, the McGauleys would have two more children, Mary (1781)

¹⁰ The Gardiner Relief Act (1778), permitted Catholics to "enter upon leases of indefinite length and to inherit and bequeath property." P. McGARRY, art. "Penal Laws", in *New Catholic Encyclopedia*, vol. 11, New York, McGraw Hill, 1967, p. 68.

¹¹ F. Sheeran states that founders "are people of their own time, place and culture, and they have a keen awareness of their environment." F. SHEERAN, "Charism as Empowerment to Discern, to Decide, to Act, to Assess", in *Review for Religious*, 47(1988), p. 163. L. Labonté adds to this discussion saying: "Charism is not necessarily the result of the formation of the founder, but it is a result of their contemplation which causes them to see, hear and comprehend what pertains to their era." L. LABONTÉ, "The Founder's Charism", p. 407.

¹² A. Bolster states that James began his career as a carpenter and continued as a builder; he became wealthy as a timber merchant and grazier, and by the late 1770s was a successful real estate dealer. See A. BOLSTER, *Positio*, p. 9.

and James (1783); James McGauley, Sr., died in 1783. Even though he lived only five years of her life, James McGauley influenced his daughter's life significantly. In particular, Catherine embraced two aspects of her father's devotion: teaching the truths of the faith to small children and holding a deep sensitivity for the needs of the poor.¹³ By contrast, Catherine's mother apparently did not share her husband's deep religious convictions. Rather, Elinor, a highly cultured and beautiful woman, strove to gain acceptance in Protestant society after her husband's death. In addition it seems that Elinor, who mismanaged her husband's wealth, left her children virtually penniless when she died in 1798. Angela Bolster contends that upon her deathbed, Catherine's mother regretted these aspects of her life.¹⁴ Moreover, her mother's anxiety at death profoundly affected Catherine, then twenty years old.¹⁵ Little did Catherine know at that time, that some thirty years later she would establish an institute characterized by service to the sick and dying.

The first two years after her mother's death found Catherine searching for a home to call her own.¹⁶ In 1800 she

¹³ *Ibid.*, p. 12.

¹⁴ *Ibid.*, p. 13.

¹⁵ *Ibid.*

¹⁶ Catherine spent the first year after her mother's death in the home of her mother's relatives, the Conways, a strong Catholic family. They soon lost their wealth giving Catherine a first hand experience of destitution and forcing her to

accepted an offer of hospitality which eventually paved the way for the founding of the Institute of Mercy. Catherine began her residence with William and Catherine Callaghan on Mary Street, Dublin. Within two years, the household moved to "Coolock House" located just outside the city of Dublin.

Coolock House provided a twenty-two year reflection-period in Catherine's life. During this time she grew in knowledge, love and conviction of her Christian faith.¹⁷ While at Coolock House Catherine served as companion, daughter, and estate manager for the Callaghans. She also realized her call to be an instrument to bring God's message of mercy and love to the poorest of Ireland's poor. The Callaghans gave Catherine the freedom to offer catechetical instructions to the domestic staff as well as to assemble them for devotions. Catherine, who took a special interest in training young girls for employment, also visited the sick and needy of the area.

leave the home and accept the hospitality of other distant relatives, the Armstrong family. Here Catherine was subjected to constant ridicule regarding her Catholic faith. *Ibid.*, pp. 13-14.

¹⁷ In the beginning of her stay with the Callaghans, the practice of her religion became a challenge for Catherine. William Callaghan, a non-practicing Anglican, shared anti-Catholic sentiment. Initially he refused to allow Catherine to practice her faith. Later, he agreed to a compromise whereby he allowed Catherine to practice her faith as long as there were no outward manifestations of "Popery" at Coolock House. Mrs. Callaghan, who was a member of the Society of Friends which advocated a special devotion to the word of God, assisted those in need and saw women as spiritually equal to men. She appears to have been more sympathetic to Catherine McAuley's spiritual needs. *Ibid.*, pp. 21-25.

Furthermore, toward the latter part of her stay at Coolock House, she assumed the care of several homeless children. As she sought to alleviate individual needs in particular situations, Catherine soon realized that her piecemeal approach would not suffice. Rather, relief required an organized effort focused on enabling systemic change. She dreamed of schools for the poor, structures for the protection and training of young women, and an organized way to assist the sick and dying.¹⁸ In 1822 with the death of William Callaghan, Catherine became the sole residuary heir to the Callaghan fortune.¹⁹ She now possessed the means to make her dream a reality.

¹⁸ See A. CARROLL, *The Life of Catherine McAuley*, p. 59.

¹⁹ Catherine Callaghan had died 3 years earlier in 1819. The Callaghan estate would be worth \$1,400,000 in today's US currency. See A. BOLSTER, *Catherine McAuley: Venerable for Mercy*, Dublin, Dominican Publications, 1990, p. 16.

B. The road to the establishment of a religious institute

By the time of William Callaghan's death, Catherine McAuley had discerned that she would spend her remaining years bringing God's message of love and mercy to the poorest of Dublin's poor. While the purpose for her life had become clear, how she would achieve that purpose had yet to evolve. Beginning with a loosely structured group of pious women to assist her, Catherine realized eventually that church recognition would involve taking steps to found a religious institute.

1. The beginnings of Baggot Street

A. Bolster describes the city of Dublin in the 1820s as one of the most fashionable cities of Europe as well as a city which "relegated Catholics to indescribable squalor in disease-ridden slums where unprotected young girls roamed the streets, where crime was a way of life and where unemployment and alcoholism went hand-in-hand."²⁰ For some years now, the energetic coadjutor archbishop, Dr. Daniel Murray, had fixed his attention on the local church of Dublin.²¹ He shared Catherine's sentiment that the relief of Ireland's Catholic

²⁰ A. BOLSTER, *Positio*, p. 35.

²¹ Daniel Murray was consecrated coadjutor to Archbishop John T. Troy, O.P., Archbishop of Dublin, on November 30, 1809 and succeeded him as Archbishop of Dublin on May 11, 1823. He served as Archbishop of Dublin until February 26, 1852.

population from its inhumane existence necessitated structural change. Besides, he saw in religious congregations tremendous possibilities for building the structures necessary to bring about this change. He realized, however, that since the existing religious congregations in Dublin observed enclosure the nuns could not move about the slums freely. In 1815 Dr. Murray assisted Mary Aikenhead in founding the Irish Sisters of Charity. This congregation would not need to observe enclosure. Rather, the sisters would possess the mobility necessary to minister to Dublin's poor.²² In 1822 Dr. Murray also enlisted the support of the Institute of the Blessed Virgin Mary, known in Ireland as the Loreto Sisters. These focused their educational apostolate on the girls and young women of wealthier Catholic families.²³

Although this trend away from enclosure in religious institutes interested Dr. Murray, it did not attract Catherine's interest initially. Rather, the movement among lay Catholics influenced her. Indeed, lay Catholic action had enlisted the support of middle class Catholics who gave of their time and talent to assist the church in meeting the

²² See M. NETHERCOTT, *The Story of Mary Aikenhead, Foundress of the Irish Sisters of Charity*, London, Burns and Oates, Limited, 1897, pp. 38-68. A distinction of the Irish Sisters of Charities is that theirs was a centralized government.

²³ See A LORETO SISTER, *Joyful Mother of Children: Mother Frances Mary Theresa Ball*, Dublin, M.H. Gill and Son, 1961, pp. 93-104.

spiritual and material needs of their impoverished compatriots.²⁴ Catherine intended to form an association of Catholic social service workers, a group of pious women who for a temporary period would devote their time and energies to the service of the poor. Before Catherine could enlist her workers, however, she needed a place in which to serve.

With encouragement from a local parish priest, Dr. Edward Armstrong, Catherine decided to construct a building in a fashionable section of Dublin on Baggot Street to "ensure that the social consciousness of the wealthier classes towards the poor would be aroused."²⁵ Her instructions to the architects simply suggested: three or four very large rooms for poor schools; four large dormitories for distressed young women; one room loftier than others, for an oratory; and a few small rooms for ladies who wished to help in taking care of the poor.²⁶ To Catherine's surprise the completed Baggot Street house resembled a convent.²⁷

²⁴ See B. DEGNAN, *Mercy Unto Thousands*, p. 67. One of the most vocal and public of these expressions was the Catholic Emancipation movement headed by Daniel O'Connell. For a further development of this period of history, see F. O'FERRALL, *Catholic Emancipation: Daniel O'Connell and the Birth of Irish Democracy 1820-1830*, Dublin, Gill and Macmillan, 1985, xv-329p. This expression of lay Catholic action was not limited to Ireland. Rather, it was characteristic of nineteenth century Europe.

²⁵ A. BOLSTER, *Positio*, p. 41.

²⁶ See A. CARROLL, *The Life of Catherine McAuley*, p. 92.

²⁷ *Ibid.*

During Lent of 1828, Catherine opened the "First Residential Hostel for Working Girls in Dublin."²⁸ She named her enterprise "House of Mercy", defining it as a temporary shelter for girls and unemployed women of good character.²⁹ The services on Baggot Street included a day school, an orphanage to provide for casualties of the 1827 cholera epidemic, adult education and a type of *Meals on Feet*.³⁰ As the apostolate grew, Catherine enlisted the help of additional women. The lifestyle then became more characteristic of convent living. A certain asceticism characterized these future Sisters of Mercy as they developed a common life centered in God. For example, their daily schedule included religious devotions. While their dress became simpler they also initiated the use of the term "sister" with each other.³¹ This growing resemblance to a religious institute concerned the local clergy who felt that these lay women lacked qualification for the works they were assuming. In addition, some priests felt that Catherine and her associates were trespassing on the territory of Mary Aikenhead. Since they believed that Dublin

²⁸ A. BOLSTER, *Positio*, p. 72.

²⁹ While in residence, the young women did either needle or laundry work as a means of their support. In addition they received training in domestic services. Catherine intended that the stay at the House of Mercy would be of temporary duration. The House of Mercy would provide an employment service, assisting the young women in procuring work. *Ibid.*

³⁰ *Ibid.*, p. 52.

³¹ *Ibid.*, pp. 68-69.

could not sustain two apostolates so similar, they judged that Catherine McAuley's enterprise should disband.³²

2. Ecclesiastical recognition

From the beginning of her endeavor, Catherine McAuley desired the recognition and blessing of the church. For instance, she decided to build only after consulting with church authorities. On September 28, 1828, Catherine received Archbishop Murray's permission to use the official title: "Institute of our Lady of Mercy".³³ Then, on November 22, 1828, he gave her the necessary permission to visit the sick in their homes and in the Dublin hospitals.³⁴ Interestingly, Catherine did not consider the newly acquired property on Baggot Street as her property. Rather, the "House of Mercy" belonged to the church. On April 8, 1829, when Catherine established the *Baggot Street Trust*, her conviction became a legal fact.³⁵

With mounting opposition in clerical circles to the

³² R. Burke Savage states, "Mother Mary Aikenhead herself was not party to these fears..." R. BURKE SAVAGE, *The First Sister of Mercy*, p. 91.

³³ A. BOLSTER, *Positio*, pp. 65-66.

³⁴ *Ibid.*, p. 70.

³⁵ The *Baggot Street Trust*, which placed the Baggot Street house under the control and management of Archbishop Murray, stated as its purpose: the establishing of more schools for poor female children, the accommodating of women as residents, and the visitation of the sick poor. See R. BURKE SAVAGE, *The First Sister of Mercy*, p. 102.

Baggot Street apostolate, Catherine soon realized the necessity of papal approval. Accordingly, early in 1830 she petitioned Cardinal Maur Cappellari, prefect of the Congregation for the Propagation of the Faith (and the future Pope Gregory XVI), for the Holy See's approval and *beneplicitum* for herself, her associates and the Baggot Street apostolate. In her petition she described this apostolate as the education of poor girls, care of unemployed servant girls, and the visitation and service of the sick.³⁶ In turn, Cardinal Cappellari requested Dr. Murray's opinion regarding this establishment in his diocese.³⁷ Dr. Murray's response did little to support Catherine's request. Rather, he saw Catherine's petition as an attempt to secure for the ladies of Baggot Street favors which the church normally applied to a religious institute. He contended that as pious as Catherine and her associates might be, they did not possess the status of a legitimately established religious congregation. Nor were they living under an approved rule.³⁸ In May, 1830, Dr.

³⁶ See C. McAULEY, Petition to Cardinal M. Cappellari, n.d., in APF, Udienze, vol. 75, f. 645^v and in A. BOLSTER, *Correspondence*, pp. 2-3.

³⁷ See M. CAPPELLARI, Letter to D. Murray, March 27, 1830 in APF, Udienze, vol. 75, f. 645 and in A. BOLSTER, *Correspondence*, p. 4.

³⁸ See D. MURRAY, Letter to Cardinal M. Cappellari, April 17, 1830, in APF, Udienze, vol. 75, ff. 646^r-467^r and in A. BOLSTER, *Correspondence*, pp. 4-5. A. Bolster contends that Murray was being cautious and feared reprisals from the Protestant sector of Dublin after having already brought two religious institutes into Dublin. See A. BOLSTER, *Positio*, p.

Murray's opinion notwithstanding, the Holy See answered Catherine's petition with a rescript of spiritual favors. Herein, Pope Pius VIII granted certain indulgences to "all the ladies of the [Baggot Street] house".³⁹

3. *The decision to become a religious institute*

Catherine's "idea was to help the poor...and the poor helped her become a nun."⁴⁰ For several years because she and her associates had been drifting toward religious life, they continued to attract criticism. Catherine hesitated to embrace religious life at least partially because she had spent most of her life in an environment which did not favor or sympathize with Catholic practices. Catherine also found enclosure and the inability to move about freely incompatible with the purpose of her foundation. The increase in opposition, however, forced Catherine to reevaluate her position. Likewise, as Archbishop Murray's discernment continued, he realized that Catherine and her associates should either embrace religious life or return to a truly secular way of life. He communicated this decision to her with an assurance that should she embrace religious life, the

83.

³⁹ C. CASTRACANE, Rescript to Archbishop Murray, May 23, 1830 in AAD and in A. BOLSTER, *Correspondence*, p. 6. Also See Appendix I - A.

⁴⁰ A. BOLSTER, *Positio*, p. 40.

church would not require the obligation of enclosure. Catherine then discussed the possibilities with her associates. Unanimously they endorsed a decision to become a religious institute. This decision prompted Catherine to begin her study of the rules and constitutions of various communities in Dublin.⁴¹

Catherine determined that the Presentation Sisters' rule, which was based on the monastic rule of Saint Augustine, could be adapted to her purposes most easily.⁴² And so, on September 8, 1830, she and two of her associates, Mary Ann Doyle and Elizabeth Harley, began a fifteen month residence -- a three month postulancy and a twelve month novitiate -- with the Presentation Sisters in their convent on George's Hill in Dublin.⁴³ The first sisters completed their novitiate on December 12, 1831, the day of their profession as Sisters of Mercy. The wording of the vows which Catherine McAuley, Mary Ann Doyle and Elizabeth Harley professed closely resembled the Presentation vow formula with three significant revisions.

⁴¹ A. Bolster states that the rule of the Sisters of Charity was not available. Instead, Catherine was offered a third order affiliation with the Poor Clares of Harold's Cross and the Carmelites of Blackrock. Catherine did not find those arrangements acceptable. *Ibid.*, p. 92.

⁴² See *Rules and Constitution of the Institute of the Religious Sisterhood of the Presentation of the Ever Blessed Virgin Mary*, Dublin, M. H. Gill, 1881, 75p (= Presentation Rules and Constitution).

⁴³ Because of Catherine's age and her duties, Archbishop Murray shortened the postulancy and novitiate to the shortest time canonically possible.

Instead of the solemn vows which the Presentation Sisters professed and which obliged enclosure, Catherine and her associates professed simple vows. In addition, Archbishop Murray made two insertions into the Presentation vow formula. The Archbishop's first insertion, "in the Congregation called 'of the Sisters of Mercy', established for the Visitation of the Sick Poor and Charitable Instruction of Poor Females", endorsed the Mercy apostolate, thus preserving Catherine's original intention.⁴⁴ The Archbishop's second insertion made the *Presentation Rules and Constitution* subject to the alterations approved by the Archbishop of Dublin. This addition would allow for flexibility as the Sisters of Mercy responded to the demands of their changing status.⁴⁵ In addition to marking the profession day for Catherine McAuley, December 12, 1831, also marks the day of the formal establishment of the Sisters of Mercy.

C. The contribution of Catherine McAuley

During the ten years in which Catherine McAuley would live as the founding mother superior of the Sisters of Mercy, she established the means whereby the congregation would experience extraordinary expansion while maintaining a remarkable fidelity to the founding charism. Two of

⁴⁴ See A. BOLSTER, *Positio*, p. 117.

⁴⁵ *Ibid.*, p. 118.

Catherine's achievements in these early years merit special note. First, she personally provided for the establishment of ten independent foundations in dioceses spread throughout Ireland and England.⁴⁶ Secondly, she finalized the *Rule and Constitutions* for the Sisters of Mercy, receiving full pontifical confirmation for them shortly before her death in 1841. Since these two developments are of major import in framing the heritage of the Sisters of Mercy, each will receive individual treatment.

1. *The original foundations*

On March 24, 1835, Catherine McAuley established her first foundation in Kingstown, located near the city of Dublin. This foundation, which Catherine primarily intended as a convalescent center for the sisters, remained a branch of the Baggot Street house.⁴⁷ Catherine's establishing of an independent foundation in Tullamore on April 21, 1836, however, marked the beginning of Mercy expansion outside the Dublin archdiocese. She would live to establish six additional autonomous houses throughout Ireland. The location and dates of these foundations were: Charleville on October 20, 1836; Carlow on April 11, 1837; Cork on July 6, 1837; Limerick on

⁴⁶ Also, Catherine McAuley founded branch houses of the Dublin house in Kingstown (now Dun Laoghaire) on March 24, 1835, and in Booterstown on July 26, 1838.

⁴⁷ Kingstown was closed in 1838 and was reopened in 1841.

September 24, 1838; Galway on May 8, 1840; and Birr on December 27, 1840. In addition, Catherine led the expansion to England, establishing autonomous houses in Bermondsey, England, on November 21, 1839, and in Birmingham on August 21, 1841. Catherine's close associate, Mother Frances Warde, who initially brought the Sisters of Mercy to the United States of America in 1843, established two other Mercy foundations during Catherine's lifetime.⁴⁸ On September 24, 1839, under Frances Warde's leadership, the Carlow Mercy community established a branch house in Naas. The following year on December 8, 1840, Carlow established its first autonomous foundation in Wexford. While Catherine did not involve herself in the foundations of Naas and Wexford directly, she maintained a definite link to them.

Requests for the establishment of the Sisters of Mercy in new locales came from a variety of sources. Parish priests, bishops and at one point a committee of lay persons brought their requests to Catherine.⁴⁹ These came to the Sisters of Mercy because of their commitment to the poor and because of their ability to serve the poor directly. The *Rule and*

⁴⁸ The extensive correspondence between Catherine and Frances illustrates the depth of both their personal and professional relationship. See A. BOLSTER, *The Correspondence of Catherine McAuley 1827 - 1841*, Dublin, Dominican Publications, 1989, xxviii-268p.

⁴⁹ The request for Booterstown, 1838, came from a committee of lay persons who were charged with administering a benefactor's donation. See A. BOLSTER, *Positio*, p. 404.

Constitutions gave three conditions for the licit establishment of a new foundation.⁵⁰ The first required that the potential site provide assurance of financial support for the sisters' sustenance. The second and third concerned the approval of the bishop of the establishing foundation and the approval of the mother superior's council of advisors.⁵¹

Even though Catherine chose to establish her new foundations as autonomous houses, she maintained a keen interest in them.⁵² Catherine demonstrated this interest by instituting the practice of remaining with a new foundation for thirty days of prayer. During this time she usually provided for a public reception or profession ceremony as a means of introducing the local people to the congregation's purpose. Later, when a foundation professed new members, Catherine would often return to assist at those ceremonies. Prior to the profession ceremony she often gave the novices a series of instructions. In addition, Catherine corresponded prolifically. Her letters to the foundations, which became known as "foundation circulars", provided extensive news

⁵⁰ See *Rule and Constitutions* Part II, chapter 10, no. 1, pp. 57-58.

⁵¹ This council of advisors, sometimes called the "discreets", included the mother assistant, the bursar and the mistress of novices. See *Rule and Constitutions* Part II, Chapter 7, no. 1, p. 54.

⁵² The reasons for Catherine's choice of the autonomous form of governance are discussed in Part Two of this chapter under *Nature of the Sisters of Mercy*. See *infra* p. 35.

regarding the activities of the various foundations as well as encouragement and advice.⁵³ Indeed, Catherine's method of establishing new autonomous foundations fostered a unity which served to preserve her original inspiration.

2. *Ecclesiastical approval and confirmation of the Rule and Constitutions*

Canon 578 states that a necessary component of spiritual heritage includes the competent ecclesiastical authority's ratification of an institute's proposed nature, purpose, spirit, and character. This ratification finds clearest expression in the approval and confirmation given to an institute's rule and constitutions. We shall now outline the process which Catherine McAuley pursued in order to obtain confirmation of the *Mercy Rule and Constitutions*.

a. *The initial rule*

Because the Presentation rule encompassed certain values, Catherine selected it as the basis for the Mercy rule. In addition to seeing the Presentation rule as clearly adaptable to her intentions, Catherine appreciated its Augustinian values of union and charity as central to community life.⁵⁴ Catherine readily agreed with Archbishop Murray's response to

⁵³ For a collection of Catherine's letters, see *supra* note 6, p. 5.

⁵⁴ See A. BOLSTER, *Positio*, p. 207.

her inquiry that until the Mercy rule was prepared, the newly established congregation should embrace the Presentation rule's chapter entitled "On Union and Charity" as its rule of life. When adapted into their own rule, this chapter counseled the Sisters of Mercy to avoid whatever may disturb their union.⁵⁵

Early in 1832 Archbishop Murray appointed Father Myles Gaffney to assist Catherine McAuley in formulating the rule and constitutions for the newly founded institute. Catherine then formulated two original chapters.⁵⁶ These chapters, on the visitation of the sick and on the admission of distressed women, distinguished the Sisters of Mercy from the Presentation Sisters as well as from other religious congregations in Dublin.

b. *A letter of praise*

The year 1833 provided a definite impetus for Catherine McAuley to begin the process of petitioning the Holy See for approval of the Mercy rule and constitutions. In August of that year, the Holy See confirmed the rule of the Sisters of Charity. This event provoked more criticism on the part of those who saw the Irish Charities and Mercy Sisters as

⁵⁵ See *Rule and Constitutions* Part I, Chapter 37, no. 3, p. 33.

⁵⁶ See *Rule and Constitutions* Part I, Chapters 3-4, pp. 6-13.

competing entities. Supporters of the Irish Sisters of Charity expressed their disapproval by noting that the Sisters of Mercy had yet to receive even "the stroke of a pen from Rome" favoring their congregation.⁵⁷ Apparently, this event motivated Catherine to delay no longer in petitioning for Roman approval. By December 8, 1833, she had prepared her petition to Pope Gregory XVI for confirmation of the congregation. The petition described the principal aim of the congregation as: "to educate poor girls, to lodge and maintain poor young women who are in danger...and to visit the sick poor."⁵⁸ In addition, Catherine outlined the achievements of the congregation with a particular focus on the 772 poor women who had already been assisted.⁵⁹ With her petition Catherine included copies of her vows and the two original chapters of her rule, asking for their confirmation as well.

On May 6, 1834, Cardinal C. Pedicini, prefect of the Congregation for the Propagation of the Faith, wrote to Archbishop Murray requesting his *votum* regarding this new religious congregation in his archdiocese.⁶⁰ This time, Dr.

⁵⁷ A. BOLSTER, *Positio*, p. 194.

⁵⁸ C. McAuley, Petition to Pope Gregory XVI, December 8, 1833, in APF, vol. 950, f.183^{rv} and in A. BOLSTER, *Correspondence*, pp. 11-12.

⁵⁹ *Ibid.*, p. 12.

⁶⁰ See C. PEDICINI, Letter to D. Murray, May 6, 1834, in APF, vol. 950, f.187 and in A. BOLSTER, *Correspondence*, pp. 12-13.

Murray's response included a concise history of the Mercy congregation and the favorable opinion that the Sisters of Mercy should be considered "entirely worthy" for their firm establishment as a religious institute.⁶¹

On March 24, 1835, the Holy See issued a letter of praise, commending the sisters for their work of serving the poor, relieving the sick and safeguarding women found in dangerous circumstances.⁶² This letter, which also bestowed its Apostolic Benediction on the Sisters of Mercy, contained a

⁶¹ D. MURRAY, Letter to C. Pedicini, June 21, 1834, in APF, vol. 950, ff. 189^{r-190r} and in A. BOLSTER, *Correspondence*, pp. 13-14.

⁶² CPF, Letter to D. Murray, March 24, 1835, in APF, vol. 950, f. 190^v and in A. BOLSTER, *Correspondence*, p. 17. Also see Appendix I - B. This letter of praise has been referred to by some biographers of Catherine McAuley as a *decretum laudis*. This designation may be incorrect. The *decretum laudis* was established in 1854 as a step in the method of pontifical approval for new institutes of simple vows by the Sacred Congregation of Bishops and Regulars. See CBR, *Appendix Prima: Methodus quae a Sacra Congregatione Episcoporum et Regularium servatur in approbandis novis institutis votorum simplicium*, September 22, 1854, in CBR, *Collectanea in usum secretariae Sacrae Congregationis Episcoporum et Regularium*, A. Bizzarri, (ed.), 2nd ed., Rome, Typographia Polyglotta, 1885, p. 772.

From the wording of this method, there is an expectation that the *decretum laudis* would be granted after the institute had expanded to several dioceses. In the case of the Sisters of Mercy, Catherine McAuley made her request before the institute expanded beyond Dublin. In addition, the procedures which the CBR used for approving new institutes in the 1850s held little resemblance to those bearing on the procedures which the CPF used in the 1830s. Furthermore, the format of the document appears to be that of a letter addressed to Archbishop Murray and not a decree.

prohibition against solemn vows.⁶³ Finally, it left the prescribing of observances over and above the *Presentation Rules and Constitution* to Archbishop Murray's discretion.⁶⁴

c. *Diocesan approval*

On May 23, 1835, Archbishop Murray delivered the letter of praise which he had received from the Holy See to Catherine McAuley. During the same meeting he advised her to make the necessary adjustments in the *Presentation rule*, insert her own chapters, and submit a completed rule to him.⁶⁵ With the help

⁶³ See CPR, Letter to D. Murray, March 24, 1835, APF, vol. 950, f. 190^v and in A. BOLSTER *Correspondence*, p. 17.

⁶⁴ *Ibid.*

⁶⁵ While Catherine appropriated many sections of the *Presentation Rules and Constitution* unchanged or hardly changed, other sections she significantly revised. Mary Sullivan, who has critically analyzed Catherine's draft of the *Rule and Constitutions*, says that Catherine's additions, deletions, and revisions of chapters, paragraphs, sentences and words of the *Presentation rule* reveal a great deal about her intentions. M. Sullivan points out that certain attitudes of Catherine surface in the study of her revision of the *Presentation Rule*. These include: "modesty of language, reserve and self-effacement in the treatment of the mother superior, maturity regarding women and sexuality, expectation of and trust in the dependability of her sisters and her affection for them, restraint in terms of prescriptions, respect and deference toward those she served, care to avoid unnecessary clerical or ecclesiastical supervision, the placement of vows and intra-institutional matters in a supportive rather than in a primary position, consciousness of the primacy of the external ministry of the sisters, a characteristic emphasis on the example of Jesus Christ and the saints." M. SULLIVAN, "Songs Prepared for the Journey: The Readings, Writings and Prayers of Catherine McAuley", Talk delivered to the Annual Meeting of the Governing Board of the Federation of the Sisters of Mercy of the Americas held at Manchester, New Hampshire, June 24, 1989, pp. 26-27.

of the congregation's Latin scholar, Sister Mary Clare Moore, Catherine completed an initial draft of the rule and constitutions.⁶⁶ She then submitted the draft to Archbishop Murray who examined the proposed rule and constitutions. He penciled in corrections for Catherine's further consideration.⁶⁷ On the basis of these suggestions, Catherine further revised the text. On January 23, 1837, Archbishop Murray approved a copy of the document, as follows:

We approve of the Rule and Constitutions compiled for the Religious Congregation of the Sisters of Mercy; and we declare that it is not our intention that they shall bind under pain of mortal or venial sin, only inasmuch as the transgression of any article may be violation of the vows, or in itself a sin independently of the Rule.⁶⁸

Before submitting their rule and constitutions to the Holy See for final confirmation, the Sisters of Mercy would live them in order to determine their suitability.

d. *Pontifical confirmation*

In late 1839 Catherine sent her formal petition to the Holy See for full confirmation of the Mercy rule. In her

⁶⁶ See R. BURKE SAVAGE, *The First Sister of Mercy*, p. 264.

⁶⁷ R. Burke Savage notes that Archbishop Murray's occasional preference for the wording of the Presentation constitutions over Catherine's revisions did not indicate disapproval of Catherine's suggestions, but was merely a judgment of what would be more acceptable to Rome. *Ibid.*

⁶⁸ A. BOLSTER, *Positio*, p. 207.

petition directed to Pope Gregory XVI, she expressed gratitude for the approval and benediction imparted to the congregation in 1835. She also enumerated the dioceses in which the Sisters of Mercy had established autonomous houses since their establishment.⁶⁹ Catherine included with her petition, which the superiors of all the institute's autonomous houses had signed, commendatory letters from bishops of Ireland and London.⁷⁰ In addition, Catherine enclosed Archbishop Murray's favorable *votum* which requested the Holy Father to confirm the enclosed rule.⁷¹

⁶⁹ Catherine's list included the Diocese of Meath, Cloyne, Kildare and Leighlin, Cork, Limerick, and the Vicariate Apostolic of London District. See C. McAULEY, *Petition to Pope Gregory XVI*, n.d., in APF, vol. 957, F. 321 and in A. BOLSTER, *Correspondence*, p. 103.

⁷⁰ The petition was signed by Catherine McAuley, M. Ann Doyle (Tullamore), M. Angela Dunne (Charleville), M. Francis Warde (Carlow), M. Josephine Warde (Cork), M. Elizabeth Moore (Limerick), M. Josephine Trenor (Naas) and M. Clare Moore (London). *Ibid.* There is no explanation for the fact that the petition was signed by M. Josephine Trenor (Naas), who was superior of a branch house only.

The bishops sending commendatory letters included: Bishops Michael Blake of Newry, John Ryan of Limerick, William Kinsella of Ossery, John Murphy of Cork, Archbishop William Crolly of Armagh, and Dr. Thomas Griffiths of London. Bishop Francis Haly of Kildare and Leighlin sent his letter directly to Cardinal Fransoni, the prefect of the Congregation for the Propagation of the Faith. See A. Bolster, *Positio*, pp. 268-270.

⁷¹ In his letter, the archbishop stated that the Mercy Congregation was "spreading more and more every day, far and wide throughout Ireland, to the great benefit of souls and the great consolation of Pastors." D. MURRAY, *Letter to Pope Gregory XVI*, November 12, 1839, in APF, vol. 957, f. 275, and in A. BOLSTER, *Correspondence*, p. 101.

On February 20, 1840, the Congregation for the Propagation of the Faith requested of Paul Gavino Secchi Murro, a consultor for the congregation, his *votum* regarding Catherine's petition. In this *votum*, dated March 3, 1840, he deemed the Sisters of Mercy worthy of supreme approval because of their "solid piety" and "perfect charity".⁷² Further, he recommended that they profess simple vows rather than solemn ones.⁷³

On October 14, 1840, with no word forthcoming from Rome, Catherine sent a second appeal to the Holy See for the confirmation of her rule. In this second effort, she expressed the concern that the delay in gaining the Holy See's confirmation of the *Rule and Constitutions* was impeding the expansion of the Sisters of Mercy throughout Ireland and England.⁷⁴ During late August 1841, less than three months prior to Catherine's death, the Holy See's favorable response arrived at Baggot Street. This decree, issued on July 5, 1841,

⁷² P. SECCHI MURRO, *Votum on Rule and Constitutions of the Sisters of Mercy*, March 3, 1840, in APF, vol. 957 f.f. 310^v, 312^{rv} and in ASMU. Secchi Murro also included, however, several cautions regarding the Mercy institute's rule and constitutions. He noted that while the rule is quite adequate, the constitutions did not give the needed specificity. He listed areas in the constitutions which were in further need of development. These areas included the subjects to be taught in the schools, a norm regarding the entrance of externs into a religious house, and a system of penances.

⁷³ *Ibid.*

⁷⁴ See C. MCAULEY, Letter to J. Franconi, October 14, 1840, in APF, SC Irlanda, 27, f. 340^{rv} and in A. BOLSTER, *Correspondence*, p. 153.

described the Sisters of Mercy as a society

which devotes itself sedulously to the special end of helping the poor and relieving the sick in every way, and safeguarding by the exercise of charity and religion women who find themselves in circumstances dangerous to virtue.⁷⁵

The decree which also confirmed the *Rule and Constitutions* of the Sisters of Mercy prescribed that the members of the newly approved congregation profess simple vows.⁷⁶ A. Bolster points out correctly that the rule, which the Holy See confirmed in 1841, has "remained the basic guide for Sisters of Mercy throughout the world."⁷⁷ Now that we have described the process whereby Catherine provided for the preservation of her institute's heritage, we may turn our attention to describing the elements of that heritage.

II. NATURE, PURPOSE, SPIRIT, CHARACTER, TRADITIONS OF THE SISTERS OF MERCY

Canon 578 seems to suggest that the founder determines the elements of an institute's heritage, i.e., its nature,

⁷⁵ "...quae pauperibus praesertim juvandis, infirma valetudine laborantibus omni ratione erigendis, mulieribus in honestatis discrimine versantibus, charitatis ac religionis officio tuendis sedulo dedita est...", CPF, Decree, *Cum pientissimarum*, July 5, 1841, in ASMU. English translation in A. BOLSTER, *Correspondence*, p. 236. See also Appendix I - C.

⁷⁶ *Ibid.*

⁷⁷ A. BOLSTER, *Positio*, p. 290.

purpose, spirit, character, and wholesome traditions.⁷⁸ This section, then, will focus on the development of these elements as Catherine McAuley determined them for the *Sisters of Mercy*.⁷⁹ Since canon 578 also requires that the nature, purpose, character and spirit of an institute's heritage receive ratification by competent ecclesiastical authority, this treatment will include appropriate references to their embodiment in the first approved Mercy rule.

A. *Nature of the Sisters of Mercy*

A description of the nature of an institute of consecrated life illustrates that institute's juridic condition.⁸⁰ An institute's inner qualities -- which enable it to be classified as female or male, clerical or lay, religious or secular, contemplative or dedicated to the works of the apostolate, pontifical or diocesan, autonomous or with a centralized type of governance -- constitute its juridic condition. At the time of its establishment, the Institute of Mercy would have been classified as a female, lay, religious apostolic institute of pontifical right with autonomous type

⁷⁸ See *supra* p. 2.

⁷⁹ The treatment which follows is not a comprehensive one. Rather, the description of the heritage of the Sisters of Mercy is selective, based on a particular application to the development of the proposed governance model of the Institute of the Sisters of Mercy.

⁸⁰ See B. FRISON, "Renewal of Religious", in *Studia Canonica*, 1(1967), p. 73.

of governance.⁸¹ Due to its focus, this study will examine the nature of the Sisters of Mercy as an institute of pontifical right with an autonomous type of governance.

1. Pontifical right

The Sisters of Mercy came into existence in an age when the juridical nature of pontifical and diocesan institutes was less clearly defined than is the case today.⁸² In 1900 the Apostolic Constitution *Conditae a Christo* began to recognize for congregations of simple vows the rightful autonomy of life and of governance later assured by canon 586 of the 1983 code.⁸³ Indeed, a lack of clarity regarding its juridic lines of accountability characterized the Sisters of Mercy. On one

⁸¹ "Dedication to the works of the apostolate" is a feature of an institute's heritage which is normally considered as an element of the institute's nature. Since the ability to move about God's people freely without the encumbrance of enclosure provided such a strong focus for Catherine, the feature may be considered as "proper to the institute". It is then appropriately considered as manifesting part of the "character" of the institute. Therefore, this study considers the apostolic aspect of the institute's nature under its character. See *infra* p. 48.

⁸² See J. KINANE, "Declaration Regarding the Juridical Nature of the Congregation of the Sisters of Mercy", in *The Irish Ecclesiastical Record*, 28(1926), p. 420.

⁸³ *Conditae a Christo* distinguished diocesan congregations as those which have obtained the approval of the diocesan bishop alone and classified pontifical institutes as those which have received a decree of the Roman Pontiff recognizing their laws and statutes. The constitution also delineated the authority of the diocesan bishop regarding diocesan institutes and pontifical institutes. See LEO XIII, Apostolic Constitution *Conditae a Christo*, December 8, 1900, in *Acta Sanctae Sedis*, 33 (1900), pp. 341-347.

hand, their original *Rule and Constitutions* gave the diocesan bishop broad powers regarding their internal governance. Accordingly, Part II, the governance section of the *Rule and Constitutions*, begins with the directive:

This Religious Congregation shall always be subject to the authority and jurisdiction of the Bishop of the Diocese, and the Sisters shall respect and obey him as their principal Superior.⁸⁴

On the other hand, Catherine McAuley's actions of petitioning the Holy See for recognition in 1830, 1833 and 1839 support the position that she intended that the Sisters of Mercy obtain pontifical recognition.⁸⁵

⁸⁴ *Rule and Constitutions* Part II, Chapter 1, no. 1, p. 39. The next article requires that the mother superior should not take on any matter of importance without the consent of the bishop. *Rule and Constitutions* Part II, Chapter 1, no. 2, p. 40. Part II also included numerous rules regarding the participation of the bishop in events such as reception and profession ceremonies, the admission of postulants, ecclesiastical visitations, elections and new foundations. See *Rule and Constitutions* Part II, Chapter 1, nos. 3-6, pp. 40-42; Part II, Chapter 2, nos. 2, 7, 11, pp. 42-47; Part II, Chapter 10, no. 1, p. 58.

An important note in this consideration is that there is virtually no original composition by Catherine McAuley regarding the involvement of the bishop in the governance of the congregation. Rather, at the request of D. Murray when he critiqued Catherine's manuscript, these sections were taken verbatim from the *Presentation Rules and Constitution*. Therefore, questions can be raised as to Catherine McAuley's personal intention regarding the involvement of the diocesan bishop in the governance of the Mercy congregations. This point is explored further in the section on *Assertive respect* under *Wholesome traditions*. See *infra* p. 51.

⁸⁵ See *supra* pp. 16, 25, 28, respectively.

2. *Autonomous houses*

Style of governance comprises another aspect of an institute's nature. At first glance, no evidence portends which questions that Catherine intended to adopt the Presentation Sisters' autonomous house structure of government. However, upon careful examination of the institute's early history, researchers suggest that Catherine based her choice of governance structures on practicality rather than on clearly focused governance principles.⁸⁶ Apparently she considered what would benefit the sisters and their apostolate as well as what bishops, possible candidates, and potential benefactors would find most acceptable. For example, Catherine felt that an autonomous house could foster a family spirit among the sisters in a way not attainable with a strong central government. She knew that the onus of constant consultation with a remote mother superior might hamper a local superior who would evaluate the needs of an area more realistically. Catherine desired that one foundation should not be confined by the limitations of another. She also realized that bishops preferred convents over which they had some control. Hence, they would not need to contend with the bishop of another diocese or with a mother superior in a

⁸⁶ See R. BURKE SAVAGE, *The First Sister of Mercy*, pp. 261-262. A. Bolster offers a similar rationale. See A. BOLSTER, *Positio*, pp. 297-301.

distant city.⁸⁷

In order to appreciate her choice of government, one needs to realize that female religious congregations in mid-nineteenth century Ireland almost always embraced the autonomous type of governance.⁸⁸ Caitriona Clear states that unlike the situation in other Catholic countries, "the modern, active religious was quite a novelty in Ireland, dating only from 1776. It is no wonder, then, that congregations whose houses were directly under episcopal authority at diocesan level were so popular at this time."⁸⁹ Because of the centuries of discrimination against Catholics in Ireland, church structures such as those pertaining to religious life were less developed and less sophisticated than in other Catholic countries. Edward Ryan describes the Sisters of Mercy as a

⁸⁷ A. Fahey points out that the Irish Sisters of Charity, who did have a centralized form of government, differed from centralized male orders in one significant respect. Unlike the men's orders, the Irish Sisters of Charity were not centered in Rome. Consequently "congregations which centralized their government in a particular diocese under a particular bishop were inviting jurisdictional disputes between authorities of equal rank rather than between authorities of higher and lower level." A. FAHEY, *Female Asceticism in the Catholic Church: A Case Study of Nuns in Ireland in the Nineteenth Century*, Ann Arbor, Michigan, University Microfilms, 1982, p. 144.

⁸⁸ F. Callaghan recounts the obstacles to the centralization of government in religious institutes in the nineteenth century for Europe in general, citing natural, secular and ecclesiastical causes. See F. CALLAGHAN, *The Centralization of Government in Pontifical Institutes of Women with Simple Vows (from their beginnings till legislation of Leo XIII)*, Rome, Gregorian University, 1948, pp. 62-66.

⁸⁹ C. CLEAR, *Nuns in Nineteenth-Century Ireland*, Washington, D.C., The Catholic University Press, 1988, p. 55.

"great Order" which took root, developed and expanded with a legal structure which had been superseded in the church at the time of its foundation.⁹⁰ He also suggests that the juridical form of a religious institute is subordinate to its spiritual foundation.⁹¹ Accordingly, Catherine had "founded her Order, breathed her spirit into it, and put it to work before she gave thought to the legal side of the picture."⁹² Hence, it appears probable that the historical context rather than personal intention more directly influenced Catherine in her choice of a governance structure.⁹³

B. Purpose of the Sisters of Mercy

The purpose of an institute of consecrated life, and more specifically a religious institute, gives the *raison d'être* for that institute. Each religious institute possesses both a general purpose and a specific one. In the original rule, the general purpose given for members of all institutes specified "attending particularly to their own perfection."⁹⁴

⁹⁰ See E. RYAN, "The Sisters of Mercy: An Important Chapter in Church History", in *Theological Studies*, 18(1957), p. 259.

⁹¹ *Ibid.*

⁹² *Ibid.*

⁹³ Part II of the *Rule and Constitutions* specified the Congregation's governance structure. See *Rule and Constitutions* Part II, Chapters 1-10, pp. 39-57.

⁹⁴ *Rule and Constitutions* Part I, Chapter 1, no. 1, p. 3.

The specific purpose, however, gives the particular orientation of a given religious institute, i.e., the reason for which it was founded. Catherine intended that the Sisters of Mercy would serve the poor in a way which promoted their human dignity and helped them "in every way possible to help themselves."⁹⁵ The *Rule and Constitutions*' first article specified the object of the congregation as "the Education of poor girls, the Visitation of the Sick, and the Protection of poor Women of good character."⁹⁶ Then the *Rule and Constitutions* further specified each of the three components of the object of the congregation.⁹⁷

Evidence abounds that Catherine personally intended that the education and religious formation of poor girls would become a means of liberating the poor from the bonds of deprivation present in nineteenth-century Irish society. She expressed this conviction in the *Rule and Constitutions*:

⁹⁵ A. BOLSTER, *Positio*, p. 39.

⁹⁶ *Rule and Constitutions* Part I, Chapter 1, no. 1, p. 3.

⁹⁷ See *Rule and Constitutions* Part I, Chapter 2-4, pp. 4-13.

...no work of charity can be more productive of good to society, or more conducive to the happiness of the Poor, than the careful instruction of women; because whatever be the station they are destined to fill, their example and their advice will always have great influence; and wherever a religious woman presides, peace and good order are generally to be found.⁹⁸

Catherine also suggested an urgency regarding the visitation of the sick. In a letter advising Frances Warde regarding the upcoming Wexford foundation, Catherine wrote: "Commence the Visitation as soon as possible..."⁹⁹ The *Rule and Constitutions*, which devoted a chapter to the visitation of the sick, specified the spiritual rationale for the visitation apostolate as well as a fairly detailed guide for the Sister of Mercy undertaking visitation of the sick.¹⁰⁰ For instance, article eight stressed that the visiting sisters must "act with great tenderness" and must first relieve physical distress before attempting to respond to the spiritual needs of the sick person.¹⁰¹

Since unemployed, unmarried women found themselves especially susceptible to the dangers that prevailed in the

⁹⁸ *Rule and Constitutions* Part I, Chapter 2, no. 5, p. 5. Since this article was not contained in the *Presentation Rules and Constitution*, it appears to have been written entirely by Catherine McAuley.

⁹⁹ See C. MCAULEY, Letter to F. Warde, November 24, 1840, in A. BOLSTER, *Correspondence*, p. 169.

¹⁰⁰ *Rule and Constitutions* Part I, Chapter 3, pp. 6-11.

¹⁰¹ *Rule and Constitutions* Part I, Chapter 3, no. 8, pp. 8-9.

slums of Dublin, their needs provided a strong motivating force in Catherine's decision to build the Baggot Street house.¹⁰² This purpose, which directed attention to the protection of poor women of good character, called for the establishment of "Houses of Mercy" to provide protection, training and eventual job placement for them.¹⁰³ In short, Catherine's purpose in founding the Sisters of Mercy institutionalized her own facility for linking the rich and the influential to the poor and the powerless.¹⁰⁴

¹⁰² Catherine's original rule says "distressed women" rather than poor women. See C. McAULEY, *Rule of the Sisters of Mercy* (with suggested modifications by Archbishop Murray), photocopy of handwritten manuscript, 1833, p. 7, in ASMNJ.

¹⁰³ In nineteenth century Irish society, women apparently underwent a "'moral classification'...separating prostitutes, unmarried mothers and 'women of unimpeached character' married or single, from one another in various ways..." C. CLEAR, *Nuns in Nineteenth-Century Ireland*, p. 8.

Furthermore, for the second generation Sisters of Mercy the House of Mercy seemed to be constitutive of a Mercy community: "Each Community should establish a House of Mercy as soon as it is possible to do so. A House of the Institute cannot be considered complete without it." *The Abridgment of a Guide for the Religious Called Sisters of Mercy*, London, Robson and Son, 1866, (= *Abridgment of a Guide*), p. 18. An 1864 meeting of some Mercy superiors in Limerick produced this commentary on the *Rule and Constitutions*. While the document possessed no juridic weight it does indicate the thinking of at least some Mercy congregations in the generation after Catherine's death. Mother M. Frances Bridgeman, superior at Kinsale, enlarged the *Abridgment of a Guide* with scripture references and additional commentary and published it as the *Guide for the Religious Called Sisters of Mercy. Amplified by Quotations, Instructions, &c. Part I*, London, Robson and Son, 1866, 68p (= *Guide*).

¹⁰⁴ Of this J. Regan writes: "[Catherine connected] the rich to the poor, the healthy to the sick, the educated and skilled to the uninstructed, the influential to those of no

C. *Spirit of the Sisters of Mercy*

Jean Beyer suggests that while the "spirit of an institute" contains the institute's spirituality, it includes more.¹⁰⁵ For Pius Nguyen Dan, the spirit of an institute originates as a gift of the Holy Spirit which a founder receives. Thus, the Holy Spirit creates within the founder the particular mode of feeling, thinking, judging, willing and evaluating.¹⁰⁶ When the founder succeeds in transmitting this proper spirit to the members of an institute, it becomes the "spirit of the institute".¹⁰⁷ J. Kallumkal suggests that the spirit of an institute reflects that institute's purpose.¹⁰⁸ This suggestion finds relevance in an opening statement in the *Abridgment of a Guide*: "The spirit of our Institute is mercy which its name denotes..."¹⁰⁹ However, since the purpose of the Sisters of Mercy has received adequate treatment already, this section will focus on other manifestations of the institute's spirit. These include "union and charity", "flexibility and adaptability", and "action and

consequence and the powerful to the weak." J. REGAN and I. KEISS, *Tender Courage*, p. viii.

¹⁰⁵ See J. BEYER, *Commentaire des Canons 573-606*, p. 61.

¹⁰⁶ See P. NGUYEN DAN, *Spiritual Patrimony*, pp. 65-66.

¹⁰⁷ *Ibid.*, p. 65.

¹⁰⁸ See J. KALLUMKAL, "The Patrimony of an Institute", p. 295.

¹⁰⁹ *Abridgment of a Guide*, p. 1.

contemplation".

1. *Union and charity*

As mercy permeated the relationships that the Sisters of Mercy enjoyed with those they served, so too, union and charity would permeate the sister's relationships with one another.¹¹⁰ Union and charity, love of God and of one another, provided the kernel of Catherine's founding charism.¹¹¹ Her own words: "The blessing of unity still dwells among us, and oh, what a blessing! ... This is the true spirit of our Order...", shows her contentment in the quality of relationships among her sisters as she was nearing her death.¹¹² Not only by her words did Catherine demonstrate her concern that a deep expression of union and charity prevail among her sisters, but clearly by her actions, as well, did Catherine demonstrate her intention to shape a familial community. According to J. Regan this community would manifest a "sense of unity [which] transcended whatever formal governmental arrangements were

¹¹⁰ Recall that while the *Rule and Constitutions* for the sisters were being prepared, the Sisters of Mercy took as their rule the chapter "Of Union and Charity" in the *Presentation Rules and Constitution*. See *supra* p. 23. The *Rule and Constitutions* of the Sisters of Mercy included a chapter Of "Union and Charity", quite similar to the corresponding chapter in the *Presentation rule*. See *Rule and Constitutions* Part I, Chapter 17, nos. 1-5, pp. 32-35.

¹¹¹ See A. BOLSTER, *Positio*, p. 172.

¹¹² See B. DEGNAN, *Mercy Unto Thousands*, p. 331.

necessary for the carrying out of their mission."¹¹³ Through her "foundation circulars" and extensive visitation Catherine encouraged her sisters to remain faithful to the spirit of the institute. She also assessed the progress and problems inherent in the early Mercy foundations. In so doing, Catherine connected the various foundations with one another.¹¹⁴ Soon even those outside the community would consider union and charity the hallmark of the Sisters of Mercy.¹¹⁵

2. *Flexibility and adaptability*

For Catherine McAuley, unity did not necessitate uniformity. She demonstrated a high degree of flexibility when she undertook the works of Mercy in a new location.¹¹⁶ For

¹¹³ J. REGAN and I. KEISS, *Tender Courage*, p. 69.

¹¹⁴ *Ibid.*

¹¹⁵ See R. BURKE SAVAGE, *The First Sister of Mercy*, p. 115.

The Bishop George P. Browne of Galway reflected on the relationship he had observed among the Sisters of Mercy. He said, "It is impossible the Order of Sisters of Mercy should fail where there is such unity." C. McAULEY, Letter to F. Warde, Easter Saturday, 1841, in A. BOLSTER, *Correspondence*, p. 223.

¹¹⁶ A comparison of the Mercy Rule and Constitutions with the Presentation Rules and Constitution indicates that Catherine eliminated much of the detail found in the Presentation Rules and Constitution, thus providing for more flexibility. For an example, see these two institutes' section dealing with the school apostolate, in (Mercy) Rule and Constitutions, Part I, Chapters 1-2, pp. 3-5 and Presentation Rules and Constitution, Part I, Chapters 1-2, pp. 12-17.

Catherine, local need combined with congregational tradition to determine the form of the local apostolate. The foundations at Carlow and Cork which pioneered secondary education for girls of middle class families provide examples of Catherine's flexibility.¹¹⁷ According to Catherine, "Every place has its own particular ideas and feelings which must be yielded to when possible."¹¹⁸ This flexibility and adaptability to local need appears both to have taken root and met resistance in the generation following Catherine's death. On one hand, the *Abridgment of a Guide* seemed to interpret the institute's apostolate to women broadly by not excluding "Magdalen Asylums".¹¹⁹ On the other hand, a definite tension regarding the expansion of the works of mercy beyond the materially poor emerged in the second half of the nineteenth century. This occurred particularly with respect to the middle class pension schools where families of the students paid for their

Recall that the *votum* which P. Secchi Murro did on the *Rule and Constitutions* suggested that the constitutions needed more specificity. See *supra* note 72, p. 30. It appears that the Holy See approved the *Rule and Constitutions* without requiring additional specificity.

¹¹⁷ These foundations departed from exclusive service to the poor. See A. BOLSTER, *Positio*, pp. 343, 346.

¹¹⁸ C. MCAULEY, Letter to F. Warde, November 17, 1838, in A. BOLSTER, *Correspondence*, p. 74.

¹¹⁹ Here women of questioned background (not only those of "good character") would provide the focus for the Mercy apostolate. See *Abridgment of a Guide*, pp. 20-22.

education.¹²⁰ This controversy, which would surface during the Sisters of Mercy's expansion in the United States, contained the seeds which would enable a deeper understanding of the purpose and the spirit of the institute.¹²¹

3. Action and contemplation

In forming a spirituality for her sisters, Catherine McAuley sought to link the general purpose of all religious institutes (the personal salvation of members of an institute) with the congregation's specific purpose.¹²² In other words, personal salvation and the salvation of others are so bonded that they reciprocally help each other.¹²³ Catherine elaborated on these concepts in an essay entitled "The Spirit of the

¹²⁰ Catherine did not include the statement in the *Presentation Rules and Constitution* which provided that the institute "shall admit none to their schools but poor children; nor can they receive money...for instruction..." *Presentation Rules and Constitution*, Part I, Chapter 1, no. 5, p. 14. By this omission Catherine left options open.

¹²¹ For an account of the pension school controversy see E. GEORGE, *The Sisters of Mercy and the Pension School Controversy*, n.d., 19p, in ASMU.

¹²² See *Rule and Constitutions* Part I, Chapter 1, no. 1, p. 3.

¹²³ A sister's spiritual development will enhance her effectiveness in the apostolate while conversely, her activity in the apostolate will strengthen her relationship with God. See C. McAULEY, "Spirit of the Institute", in A. BOLSTER, *Correspondence*, p. 242.

Institute".¹²⁴ In her essay she illustrated the reciprocal flow between one's own salvation and that of those whom the sister is serving. The essay points out that personal conversion takes place in the midst of service.¹²⁵ In addition, the essay calls forth a certain confidence that God "concurrs" or collaborates with the sisters as they render their acts of mercy.¹²⁶ Accordingly, A. Bolster suggests that Catherine would uphold that "a true Sister of Mercy can never abandon service for contemplation, nor can she abandon prayer for apostolic

¹²⁴ While this document is not technically considered part of the institute's heritage, it does indicate Catherine McAuley's intention. The essay was found undated. However, some researchers believe that it may have been written in response to a serious threat to Mercy spirituality which had occurred in Bermondsey, the first Mercy foundation in England. The first English superior, Sr. Mary Clare Agnew, whom Catherine described as being fond of "extremes of piety", gave the sisters under her the option of choosing between a life of contemplation and a life of active service. Meeting with resistance, Sr. Mary Clare Agnew soon left the Sisters of Mercy. This innovation, short lived as it was, sent shock waves through the Mercy sisterhood. Regardless of whether or not Catherine's essay, "The Spirit of the Institute", was specifically written in response to that crisis which culminated in 1841, it does contain foundational concepts regarding Mercy spirituality. For a more detailed sketch of the "Bermondsey Controversy", see A. BOLSTER, *Positio*, pp. 642-645 and J. REGAN and I. KEISS, *Tender Courage*, pp. 108-110. For an interesting analysis of the composition of this essay see, M. SULLIVAN, "Catherine McAuley's Theological and Literary Debt to Alonso Rodriguez: The 'Spirit of the Institute' Parallels", in *Recusant History*, 20(1990), pp. 81-105.

¹²⁵ If a sister prays for another's conversion, that sister prays for her own conversion as well. If a sister prays for a happy death for another, that sister prays that her own death will be happy. See C. McAULEY, "Spirit of the Institute", p. 244.

¹²⁶ *Ibid.*, p. 245.

service."¹²⁷

D. Character of the Sisters of Mercy

According to Xavier Ochoa, the character of an institute designates its most intimate internal and external constitution including all the original theological and juridical elements.¹²⁸ P. Nguyen Dan describes character as the "particularity of an institute."¹²⁹ J. Beyer claims that "character" provides an inadequate translation of the word *indoles* which the official text of canon 578 employed.¹³⁰ He suggests that the term "identity", which recaptures the nature, purpose and spirit of an institute, furnishes a more appropriate translation.¹³¹ J. Beyer also remarks that a fourth vow which may represent a major trait of the purpose or spirituality of the institute often affirms this identity.¹³² This section will focus attention on two of the most salient

¹²⁷ A. BOLSTER, *Positio*, p. 116. The *Rule and Constitutions* seem to incorporate this aspect of the institute's spirit in one of the two original chapters written by Catherine, "Of the Visitation of the Sick". This chapter demonstrates the rhythm between prayer and one specific work of mercy, the visitation of the sick. See *Rule and Constitutions* Part I, Chapter 3, pp. 6-11.

¹²⁸ X. OCHOA, "Modus determinandi patrimonium", p. 344.

¹²⁹ P. NGUYEN DAN, *Spiritual Patrimony*, p. 67.

¹³⁰ J. BEYER, *Commentaire des Canons 573-606*, p. 62.

¹³¹ *Ibid.*

¹³² *Ibid.*

features of that character, namely, dedication to the works of the apostolate and the fourth vow which this feature inspired.

1. *Dedication to the works of the apostolate*

Dedication to the works of the apostolate without the encumbrance of traditional enclosure offered, perhaps, the least negotiable feature of Catherine McAuley's original intention.¹³³ Catherine's perception that Dublin's religious lacked the necessary mobility to visit the poor in their homes, in hospitals and "along the byways of the lowly" accounts for her initial reluctance to embrace religious life.¹³⁴ Only when Archbishop Murray guaranteed that Catherine

¹³³ Probably because she thought a section on enclosure was required, Catherine's draft of the rule included a chapter entitled "Of Enclosure". This chapter which modified the chapter in the Presentation Rule stated: "The religious of the Institute of the Sisters of Mercy, always keeping in mind that in consecrating themselves in this holy state they have totally renounced the world, shall hold themselves obliged to a strict, exact and faithful observance of enclosure, so that after having made their vows it shall be no longer in their power to pass the limits of the enclosure which shall be marked out, except first, to comply with the duties of their Institute, second, for the reasons assigned in the sacred Canons and Apostolic Constitutions." C. MCAULEY, *Rule of the Sisters of Mercy*, p. 26.

The major change Catherine McAuley makes in this paragraph from the Presentation Rule is to add the exception to the obligation of enclosure "first, to comply with duties of their apostolate". In his examination of this manuscript, Archbishop Murray crossed out this entire paragraph. Hence, even the element of a modified enclosure did not belong to the original Mercy heritage. *Ibid.*

¹³⁴ A. BOLSTER, *Positio*, p. 92.

and her associates would enjoy the freedom necessary to pursue an external apostolate did she consent to founding a religious institute.¹³⁵ While with the Presentation Sisters for her novitiate, Catherine became even more convinced that her congregation would not take on a cloistered character.¹³⁶ Within the first decade of the institute's existence, a fourth vow of active service would emerge, thus preserving this characteristic element of the heritage of the Sisters of Mercy.

2. *The fourth vow*

Joanne Lappetito points out that the origin of the fourth vow dates back to when Archbishop Murray modified the wording of the vows used for Catherine McAuley's profession.¹³⁷ Into the original Presentation vow formula, Archbishop Murray inserted the words "established for the Visitation of the Sick Poor and Charitable Instruction of Poor Females." In so doing, he distinguished the Sisters of Mercy from other religious

¹³⁵ *Ibid.*

¹³⁶ A. Bolster speculates that "...from her cell window she could see the teeming slums which the rule of enclosure forbade her to visit. This experience strengthened Catherine's resolve to maintain for her own congregation the character of active apostolic service beyond the cloister." *Ibid.*, p. 100.

¹³⁷ See J. LAPPETITO, *Our Life Together in Mercy*, p. 4.

institutes thus preserving Catherine's original intention.¹³⁸

This fourth vow of service to the poor, sick and ignorant provided the Sisters of Mercy with an expression of commitment at the heart of Catherine's intention: active, unimpeded service to God's people. This active, unimpeded service appears to constitute an essential element in the life of a Mercy congregation. Accordingly, this element, at least partially, signifies the identity or character of the Sisters

¹³⁸ See A. BOLSTER, *Positio*, p. 117.

An early memoir about Catherine McAuley relates how the actual formulation of the fourth vow took place in Cork in 1837: "On the 25th of October the Right Reverend Dr. Murphy gave the Habit to a Postulant who had entered when the Sisters first arrived in Cork, and on the same day a Novice made her holy Profession. It was on this occasion that Bishop Murphy wished an alteration to be made in the formula of the Act of Profession: before that, only the three Vows of Poverty, Chastity and Obedience, common to every Religious Society, were expressed in it; but he proved to our Foundress the necessity of declaring the special object of the Institute distinct from others, and therefore the following words were introduced, 'and the service of the poor, sick, and ignorant.' But this was not generally adopted until after the Confirmation of our Holy Rule in 1841." SISTERS OF MERCY, BERMONDSEY, ENGLAND, *Bermondsey Annals: Entry for 1841 (on the life of Catherine McAuley)*, Bermondsey, 1849-50, p. 18.

The wording of this revised vow formula contained in the *Rule and Constitutions* was: "In the name of our Lord and Savior Jesus Christ, and under the protection of His Immaculate Mother Mary, ever Virgin, I, N.N., called in Religion Sister N.N., do vow and promise to God Poverty, Chastity, and Obedience; and the service of the Poor, Sick, and Ignorant; and to persevere until death in this congregation of our Lady of Mercy, according to its approved Rule and Constitutions; under the authority and in the presence of you, my Lord and most Reverend Father in God, N.N., Archbishop of this Diocese; and of our Reverend Mother, N.N., called in Religion, N.N., mother superior of this Convent of Mercy, this N. day of N., in the year of our Lord N." *Rule and Constitutions* Part I, Chapter 8, no. 5, p. 18.

of Mercy.

E. Wholesome traditions of the Sisters of Mercy

P. Nguyen Dan considers that traditions signify "characterizing elements introduced in the course of time after the foundation."¹³⁹ Wholesome implies reasonableness, liceity, and usefulness.¹⁴⁰ In addition, a wholesome tradition does not modify the content of the charism of the institute.¹⁴¹ X. Ochoa states that wholesome traditions ought to influence the character of the institute, that is, their specific purpose, spirit, apostolic works, particular ministerial mode and religious devotions.¹⁴² The wholesome traditions considered here concern the *modus operandi* of the institute. They include the manner in which Catherine dealt with ecclesiastical authority as well as the manner in which she consulted others in her decision-making processes, thus fostering leadership development.

1. Assertive respect

A first tradition concerns the assertive respect with which Catherine related to ecclesiastical authority. Carmel

¹³⁹ P. NGUYEN DAN, *Spiritual Patrimony*, p. 81.

¹⁴⁰ *Ibid.*, p. 83.

¹⁴¹ See J. BEYER, *Commentaire des Canons 573-606*, p. 59.

¹⁴² See X. OCHOA, "Modus determinandi patrimonium", p. 106.

Bourke notes that Catherine placed the congregation at the service of the church.¹⁴³ In a letter to Sister M. Elizabeth Moore, Catherine recalled her involvement of church officials in all stages of decision-making regarding the Baggot Street House.¹⁴⁴ A. Bolster suggests that Catherine's sense of obedience to the church remained a "special and constant feature of her charism."¹⁴⁵ With the expansion of the institute and in spite of the influential position she held among her sisters, Catherine would not, herself, interfere in congregational-diocesan relations in other dioceses. Rather she would uphold the constitutions which gave the bishop executive authority over the congregation.¹⁴⁶

However, Celeste Rouleau states that Catherine's was not

¹⁴³ C. Bourke states that Catherine "firmly believed that God was manifesting his will in her regard, through ecclesiastical authority." C. BOURKE, *A Woman Sings of Mercy*, p. 78.

¹⁴⁴ Catherine writes: "All was done under [Dr. Murray's] direction from the time we entered the house, which was erected for the purposes of Charity....Dr. Blake and Rev. Mr. Armstrong were chiefly concerned, received all the ideas I had formed and consulted for two years at least before the house was built... Seeing us increase so rapidly and all going on in the greatest order almost of itself, great anxiety was expressed to give it stability. We were prepared to do whatever was recommended." C. MCAULEY, Letter to E. Moore, January 13, 1839, in A. BOLSTER, *Correspondence*, p. 84.

¹⁴⁵ A. BOLSTER, *Positio*, p. 567.

¹⁴⁶ See B. DEGNAN, *Mercy Unto Thousands*, p. 220.

an "unintelligent obedience".¹⁴⁷ In a letter to Frances Warde, Catherine appears to affirm the actions of Mary Ann Doyle, the superior at Tullamore, who took a stand against her bishop regarding the amount of the dowry to be collected.¹⁴⁸ In addition, Catherine asserted herself with a local parish priest in an ongoing dispute regarding the provision of chaplaincy services at Baggot Street.¹⁴⁹ She would not yield when she perceived a violation of the young women and girls' rightful access to the church's spiritual goods.

Interestingly, in the draft of the *Rule and Constitutions* which she submitted to Archbishop Murray, Catherine began the rule's governance section with the chapter on the role of the mother superior. This chapter began with the words, "The superior when duly elected shall govern for three years."¹⁵⁰ She then placed a single paragraph on the role of the bishop, as the sisters' first superior, on the last page of the rule.¹⁵¹ On this draft, Archbishop Murray indicated that this

¹⁴⁷ C. ROULEAU, *Authority and Obedience: The Legacy of Catherine McAuley*, Burlingame, California, Sisters of Mercy, 1980, p. 32.

¹⁴⁸ See C. MCAULEY, Letter to F. Warde, January 25, 1839, in A. BOLSTER, *Correspondence*, p. 86.

¹⁴⁹ See J. REGAN and I. KEISS, *Tender Courage*, pp. 110-115.

¹⁵⁰ C. MCAULEY, *Rule of the Sisters of Mercy*, p. 29.

¹⁵¹ *Ibid.*, p. 43. This paragraph closely resembled the corresponding paragraph of the *Presentation Rules and Constitution*. See *Presentation Rules and Constitution*, Part II, Chapter 1, no. 1, p. 39.

paragraph should be replaced by the entire chapter on the ecclesiastical superior as in the *Presentation Rules and Constitution* and should appear as the first chapter of the rule's second part.¹⁵² Consequently, the version of the rule which Catherine submitted to the Holy See for approval in 1839 incorporated Archbishop Murray's suggestion regarding placement of the chapter on the bishop's role.¹⁵³ This chapter also included additional specific provisions for his exercise of authority.¹⁵⁴ Thus, it becomes evident that Catherine's original focus in formulating the governance section of the rule rested on the duly-elected superior. In the version of the rule submitted for approval, this focus had been shifted, at Archbishop Murray's suggestion, to the diocesan bishop and his area of jurisdiction regarding the institute.

This tradition of assertive respect in relating to ecclesiastical authority appears to have taken root in the generation following Catherine's death. While the *Abridgment of a Guide* reminded the sisters that they may respectfully represent their concerns to the bishop, it also exhorted superiors to respect and submit to all ecclesiastical

¹⁵² See C. MCAULEY, *Rule of the Sisters of Mercy*, p. 43.

¹⁵³ See *supra* p. 34.

¹⁵⁴ The additional specific provisions appear to be taken almost verbatim from the first chapter of the *Presentation Rules and Constitution* which dealt with the ecclesiastical superior and his visitation to the institute. See *Presentation Rules and Constitutions*, Part II, Chapter 1, no. 1-6, p. 39-41.

authorities.¹⁵⁵ The *Abridgment of a Guide* then added that the mother superior should not invite "unnecessary or interference in that which belongs to her to regulate."¹⁵⁶ Thus the heritage of the Sisters of Mercy seems to include a tradition of respecting legitimate ecclesiastical authority while at the same time resisting undue interference in the institute's rightful autonomy of life.

2. Consultation and leadership development

Catherine recognized the importance of membership consultation regarding all significant decisions. An early memoir records that at evening recreation "the business of the Convent was talked of as freely as if we were at a Chapter of Discreets...."¹⁵⁷ Catherine invited feedback as evidenced in a letter to Sister M. Elizabeth Moore, the superior in Limerick: "Never suppose you can make me feel displeasure by giving any opinion that occurs to you."¹⁵⁸ Catherine sought these opinions through various means: letters, visitations, and consultation

¹⁵⁵ See *Abridgment of a Guide*, p. 84.

¹⁵⁶ *Abridgment of a Guide*, p. 93.

¹⁵⁷ C. A. MOORE, "Dublin Manuscript, Memoir of the Foundress M.C. McAuley", 1864, p. 14, in ASMCP and quoted in C. BOURKE, *A Woman Sings of Mercy*, p. 64.

¹⁵⁸ C. MCAULEY, Letter to E. Moore, July 24, 1839, in A. BOLSTER, *Correspondence*, p. 93.

with her council of discreets at Baggot Street.¹⁵⁹ In a letter to Frances Warde, Catherine asked her opinion regarding the selection of a superior for Birr.¹⁶⁰ J. Regan suggests that Catherine shared her decision-making prerogatives when they concerned the choice of sisters who would be sent to an upcoming foundation. J. Regan references a letter which states, "For Booterstown we have marked out..."¹⁶¹ C. Bourke, who describes Catherine's approach to government as an open forum, states that Catherine consulted even the institute's newer members.¹⁶² The *Rule and Constitutions* preserved this tradition. In describing the relationship of the mother superior to her council, the *Rule and Constitutions* state:

¹⁵⁹ Apparently, Catherine's did not obtain a Council of Discreets until 1840. See C. MCAULEY, Letter to E. Moore, March 14, 1940, *Ibid.*, p. 124.

¹⁶⁰ "At present I cannot fix my mind on any as head, but little Sister Teresa White, a perfect mistress, very faithful to her vocation and well-versed in all our ways. Tell me what you think of her for such a purpose." C. MCAULEY, Letter to F. Warde, June 6, 1840, in A. BOLSTER, *Correspondence*, p. 133.

¹⁶¹ J. REGAN and I. KEISS, *Tender Courage*, pp. 54-55; J. Regan also points out that an analysis of Catherine's letters reveals that she never uses an editorial "we". *Ibid.*

¹⁶² Here C. Bourke is referring to the work which was done on adapting the rule from the Presentation rule and Catherine's choice of the recently professed Sister Clare Moore, also a Latin scholar, to assist with the project. See C. BOURKE, *A Woman Sings of Mercy*, p. 65.

She shall listen to their opinions, and shall not be at all displeased should they be different from her own but rather show that she is disposed to adopt their views whenever she shall be convinced by their reasons.¹⁶³

The *Abridgment of a Guide* comments on this notion in saying that the mother superior should give her council "entire freedom" in expressing their opinions.¹⁶⁴ The case should be rare where "it would be more advisable to follow her own individual judgment than the unanimous opinion of her Discreets."¹⁶⁵ Hence the notion of membership consultation seems to provide a wholesome tradition which enjoys a long history as part of the Mercy heritage.

Leadership development appears closely tied to the concept of consultation. C. Bourke writes that Catherine McAuley had "a rare gift for discovering and fostering leadership qualities in the Sisters."¹⁶⁶ Thus, Catherine fostered leadership among the superiors of the initial foundations by not intervening in the affairs of the foundations. She also encouraged these initial foundations to expand.¹⁶⁷ Interestingly, Catherine agreed that the Cork

¹⁶³ *Rule and Constitutions* Part II, Chapter 3, no. 7, p. 48.

¹⁶⁴ See *Abridgment of a Guide*, p. 97.

¹⁶⁵ *Ibid.*

¹⁶⁶ C. BOURKE, *A Woman Sings of Mercy*, p. 66.

¹⁶⁷ See *supra* p. 21.

foundation, not the Dublin house, would prepare for the development of the first English foundation, Bermondsey. In so doing, the Cork foundation provided the novitiate experience for the founding sisters as well as the initial superior of Bermondsey, Sister M. Clare Moore.

This approach to leadership development appears to involve not only the mother superiors of autonomous foundations, but other superiors as well. To the superior of Kingstown, a branch house of Baggot Street, Catherine wrote, "I leave you free to do what you think is best. I am satisfied you will not act imprudently, and this conviction makes me happy..."¹⁶⁸ With this attitude Catherine demonstrated more freedom than the *Abridgment of a Guide* would indicate some years later. Instead, this guide reflected the prevailing church practice. It indicated that since the branch house superior depends entirely on the will of the mother superior, the branch house superior must act by the mother superior's direction in all things.¹⁶⁹ Long before the word, subsidiarity, appeared in church vocabulary, this wholesome tradition of leadership development had begun to take root among the Sisters of Mercy.

At this point we can see that Catherine McAuley provided the elements necessary for the Institute of Mercy to endure

¹⁶⁸ C. MCAULEY, Letter to T. White, October 12, 1838, in A. BOLSTER, *Correspondence*, p. 67.

¹⁶⁹ *Abridgment of a Guide*, p. 126.

beyond her lifetime. Future members, ecclesiastical authorities and others of the Christian faithful would assume the task of faithfully observing and preserving this heritage. At the same time they would distinguish its transitory elements from its permanent ones. This study continues by focusing on the extent to which those involved in the United States expansion and centralization efforts remained faithful to the heritage of this institute of consecrated life.

CHAPTER II

THE EXPANSION OF THE SISTERS OF MERCY IN THE UNITED STATES

Having examined the heritage which Catherine McAuley passed on to the Sisters of Mercy during its Irish foundation, this study now considers institute's 1843 establishment and expansion in the United States of America.¹ This chapter contains four sections. The first considers the various factors which contributed to the expansion of the Sisters of Mercy in the United States, as well as the diversified charitable services which the sisters rendered as they blazed the Mercy trail throughout the nation. The second explores the gradual but steady movement toward central government, which had begun by 1880. This section, then, focuses on the regional efforts toward unification which occurred between 1881 and 1929. The third section explores the major developments in the restructuring process which followed in the 1929 union whereby the Holy See united thirty-nine out of a possible sixty autonomous houses of the Sisters of Mercy in the United

¹ For a treatment of the expansion of the Sisters of Mercy in the United States, see E. HERRON, *The Sisters of Mercy in the United States 1843 - 1928*, New York, The Macmillan Company, 1929, xvii-434p; K. HEALY, *Frances Warde: American Founder of the Sisters of Mercy*, New York, The Seabury Press, 1973, x-535p; H. MULDERY, *Abounding in Mercy: Mother Austin Carroll*, New Orleans, Habersham, 1988, xiv-452p.

States. The fourth and final section evaluates the expansion, the regional efforts toward centralization, and the 1929 amalgamation in the light of the heritage of the Sisters of Mercy described in the first chapter. Here the chapter does render a comprehensive treatment of the expansion and centralization efforts between 1843 and 1929. Rather, it presents the "flavor" of these years. Thus it provides a necessary link between the institute's original foundation in 1831 and the establishment of the Institute of the Sisters of Mercy of the Americas in 1991.

I. THE IRISH EXPANSION THROUGHOUT THE ENGLISH SPEAKING WORLD²

Tremendous expansion characterized the Sisters of Mercy in the decades which followed the death of Catherine McAuley. When Catherine died in 1841, one hundred and forty-two women had professed vows in the Sisters of Mercy. In just fifteen years this number grew to three thousand.³ The institute's active-contemplative character, autonomous form of governance, willingness to serve the poor directly and pioneering spirit all combined to contribute to the remarkable growth which

² For a treatment of the world-wide expansion of the Sisters of Mercy, see A. CARROLL, *Leaves from the Annals of the Sisters of Mercy*, New York, Catholic Publications Society, 1881-1895, 4 vols; J. GATELY, *The Sisters of Mercy: Historical Sketches, 1831-1931*, New York, Macmillan, 1931, xix-503 p.

³ See A. BOLSTER, *Positio*, p. 851.

characterized the worldwide Mercy movement.⁴ The bulk of expansion into new frontiers occurred during the decades remaining in the nineteenth century after the death of Catherine McAuley. Between 1841 and 1900, in addition to the United States expansion, Irish houses established some thirty-one autonomous houses outside Ireland: ten in England; one in Newfoundland; thirteen in Australia; three in New Zealand; three in Scotland; and one in South Africa.⁵ However, in 1843 the most abundant growth of the Sisters of Mercy began, when Frances Warde led six sisters from Carlow to Pittsburgh. External circumstances, such as the tremendous industrialization taking place in the middle and latter part of the nineteenth century, conditioned this expansion. In addition, the monumental influx of European immigrants into the major United States cities also affected it. Regional influences on the establishment of Mercy foundations included: religious intolerance in the northeast, the Civil War in the

⁴ K. HEALY, *Frances Warde*, p. 148. E. RYAN states, "No centralized institute of women has ever spread as widely or as rapidly, at least in the English-speaking world, as the Sisters of Mercy." E. RYAN, "The Sisters of Mercy: An Important Chapter in Church History", in *Theological Studies*, 18(1957), p. 261.

⁵ For a listing of these foundations, see *Supplementary Manual to the Sisters of Mercy: Historical Sketches, 1831-1931*, New York, Macmillan, 1931, 113p. In addition to the expansion to the English-speaking world, the Sisters of Mercy arrived in Argentina from Ireland in 1861 to establish their presence in South America.

south; and the primitive frontier life in the west.⁶ History has shown that the daughters of Catherine McAuley dealt so aptly with these challenges that they flourished in their midst.

A. United States cities of major expansion

Over eighty percent of the expansion of the Sisters of Mercy in the United States grew from foundations made in Pittsburgh (1843) and New York City (1846). Both these cities grew at unprecedented rates in the 1840s due to the influx of immigrants, many of them Irish.

1. Pittsburgh

On October 3, 1843, Michael O'Connor, the newly consecrated bishop of Pittsburgh arrived in person at the Carlow convent to request that the Sisters of Mercy establish their institute in Pittsburgh. He proposed that the Mercy community would serve the spiritual and temporal needs of the city's Irish immigrants most effectively. On December 23, 1843, under the leadership of Mother Frances Xavier Warde, the Sisters of Mercy arrived in Pennsylvania's "Iron City" where most of its 25,000 inhabitants worked in mining and

⁶ A blatant example of the anti-Catholic prejudice occurred in Providence, Rhode Island. For details see K. HEALY, *Frances Warde*, pp. 240-245.

manufacturing.⁷ Visitation and care of the sick poor as well as the religious instruction of children and adults commenced immediately.⁸ In September, 1844, Frances Warde opened the first Mercy academy for girls in the United States, a pattern she continued in her foundations throughout the United States. The sisters also visited the penitentiary until authorities denied them admittance when many of the inmates expressed a desire to become Catholic.⁹ In 1847 the Pittsburgh sisters began to organize their approach to health care in the United States with the establishment of a temporary hospital in the city's "Concert Hall".¹⁰ Pittsburgh established two major centers of expansion: Chicago (1846), which spread the congregation throughout Illinois and Iowa, and Providence (1851), which extended the Sisters of Mercy into Rhode Island, Connecticut, Massachusetts, New Hampshire, Tennessee, northern New York State and into the south.¹¹

⁷ *Ibid.*, p. 162.

⁸ *Ibid.*, p. 164.

⁹ *Ibid.*

¹⁰ E. HERRON, *The Sisters of Mercy in the United States 1843 - 1928*, p. 8.

¹¹ Pittsburgh also founded two additional foundations: Loretto, Pennsylvania (1848) and Baltimore, Maryland (1855) which in turn founded Vickburg (1860).

The Providence foundation established a foundation in Manchester, New Hampshire (1858) with Frances Warde as founding mother superior. Manchester provided the final community for which Frances served as superior (1858-1877 and 1883-1884) and in which she would live until her death in

2. New York City

On May 14, 1846, Mother Mary Agnes O'Connor, superior of a Dublin branch in London, led the Sisters of Mercy to New York City. Responding to the invitation of New York's Bishop Hughes, the sisters focused their attention on poor immigrant girls who arrived in New York without family or acquaintance. Shortly after their arrival, the sisters began a circulating library. This served as a means for the sisters to discover young women in need.¹² By 1848 this concern prompted the establishment of a house of mercy.¹³ Moreover, visitation of city institutions -- hospitals, prisons, and almshouses, as well as the state prison at Sing Sing -- distinguished the New York foundation.¹⁴ The New York sisters, however, did not limit their service to the materially poor. For instance, they opened a "select school" in 1848. Furthermore, they followed Catherine McAuley's example by seeking to interest the rich

1884. The Manchester foundation extended the congregation into Philadelphia, New Jersey, Nebraska, Maine, California and Vermont. See Appendix II - A.

The Providence community established a foundation in St. Augustine, Florida (1859) which moved to Columbus, Georgia (1862) due to war conditions. The foundation in Columbus, Georgia provided the source for foundations in Missouri, Kentucky, Illinois, and Oklahoma. *Ibid.*

¹² See K. BURTON, *His Mercy Endureth Forever*, Tarrytown, New York, Sisters of Mercy, 1946, pp. 77-78.

¹³ See E. HERRON, *The Sisters of Mercy in the United States 1843 - 1928*, p. 31.

¹⁴ *Ibid.*, p. 80.

in the poor with the establishing of sodalities.¹⁵ The services rendered by the New York foundation extended to Beaufort, North Carolina, where the sisters took charge of a military hospital during the Civil War.

The New York community first expanded to a neighboring borough, Brooklyn (1855), which provided a source of several foundations in the midwest and in Los Angeles (1890).¹⁶ In 1856 New York established its most successful foundation, an autonomous house in St. Louis which provided the source for some twenty-six independent foundations ranging from Louisville (1869) to Smithville, Texas (1897).¹⁷ New York also extended up the Hudson River to Rensselaer (1863) which, in turn, founded Fort Dodge, Iowa (1875) and Albany (1928); to Worcester, Massachusetts (1864) which founded a Mercy community in Independence, Missouri (1885); and to Eureka, California in 1871.¹⁸

¹⁵ "A sodality of the Immaculate Conception, the first of its kind in the United States, was organized [in] 1853 and approved by Pope Pius IX, in a rescript dated January 22, 1856." E. HERRON, *The Sisters of Mercy in the United States 1843 - 1928*, p. 33.

¹⁶ Brooklyn established a foundation in Grand Rapids, Michigan (1873) which provided the source for other foundations in Michigan and foundations in Ohio, Kansas, Minnesota, Iowa and Illinois. See Appendix II-A.

¹⁷ The St. Louis community established foundations in Louisiana, Missouri, Illinois, Kentucky, New Mexico, Arizona, Texas, Alabama, Colorado, California, and in other parts of Missouri. *Ibid.*

¹⁸ *Ibid.*

B. *United States cities of lesser expansion*

Of the remaining foundations from Ireland, the Kinsale foundation of the Sisters of Mercy in San Francisco (1854) may hold the most significance. While the San Francisco community established few direct foundations, it did provide, however, the focal point for the most extensive union of Sisters of Mercy in the United States prior to 1929.¹⁹ Other foundations from Ireland included Little Rock (1851), established by the Mercy community at Naas; Cincinnati (1858), also established by the Kinsale community; and Middletown, Connecticut (1872), established by the Sisters of Mercy of Ennis.

1. *San Francisco*

San Francisco (1854) provided a colorful setting for the United States Mercy expansion. Just six years prior to the institute's foundation the discovery of gold transformed the small frontier settlement into a thriving metropolis in a matter of months.²⁰ This dramatic change led to a tremendous increase in crime due to lack of law enforcement.²¹ In addition, enormous inflation, disease and child neglect now

¹⁹ See *infra* note 42, p. 76.

²⁰ The population is said to have grown in the beginning of 1849 from 2000 to between 20,000 and 40,000 by the end of 1849. See A. SHERIDAN, *...And Some Fell on Good Ground: A History of the Sisters of Mercy of California and Arizona*, New York, Carlton Press, 1982, p. 59.

²¹ *Ibid.*

characterized San Francisco. On December 8, 1854, at the invitation of Archbishop Joseph Alemany, of San Francisco, the Sisters of Mercy arrived there under the leadership of Mother Baptist Russell.²²

These sisters directed their immediate service to children by opening a school and establishing a house of mercy to care for children left behind as their parents searched for gold.²³ In 1855 the sisters initiated health care by serving victims of the cholera plague.²⁴ As early as 1856, the sisters extended their service to young women of questionable character.²⁵ The San Francisco community limited its expansion to Sacramento in 1857, to Grass Valley, California, in 1863, and to Raton, New Mexico, in 1922.

²² The Kinsale superior, Francis Bridgeman authorized the San Francisco foundation and appointed Mother Baptist Russell. Recall that F. Bridgeman played a key role in the compilation of the *Guide* which advocated that Catherine McAuley intended that the institute limit its service to the materially poor. See *Guide*, pp. vii-viii. Francis Bridgeman's influence on her protégé, Baptist Russell, would become apparent as she later debated with Frances Warde concerning pension schools and their conformity with the *Rule and Constitutions*. See *infra* p. 111.

²³ See E. HERRON, *The Sisters of Mercy in the United States 1843 - 1928*, p. 152.

²⁴ On July 27, 1857, the San Francisco community formalized its health care service with the establishment of St. Mary's Hospital.

²⁵ In 1862 they formalized these efforts with the opening of a Magdalen Asylum which the *Abridgement of a Guide* considers "conformable to the spirit of the Institute..." *Abridgement of a Guide*, p. 20.

2. *Little Rock, Arkansas; Cincinnati, Ohio; Middletown, Connecticut*

The remaining three Irish foundations of Sisters of Mercy in the United States included Little Rock, Arkansas (1851), Cincinnati, Ohio (1858), and Middletown, Connecticut (1872). On February 6, 1851, at the invitation of the first bishop of Little Rock, Andrew Byrne, the Mercy sisters arrived, led by Mother Mary Theresa Farrell.²⁶ The sisters commenced visitation of the sick and the religious instruction of children immediately.²⁷ Service to the Indian population, confrontations with religious intolerance, and tremendous hardships because of their proximity to the battlegrounds of the Civil War characterized this foundation's early years. In 1853 the Little Rock house established its lone independent foundation at Fort Smith, Arkansas.

On August 15, 1858, Sisters of Mercy led by Mother Teresa Maher from Kinsale, Ireland, arrived in Cincinnati, Ohio. These sisters had responded favorably to the invitation of a persistent Mrs. Sarah Peter.²⁸ She had represented Cincinnati's Archbishop John B. Purcell in Kinsale. At the time of their arrival, Cincinnati's population approximated 200,000, a

²⁶ *Ibid.*, p. 71.

²⁷ *Ibid.*, p. 74.

²⁸ See E. EVANS, *The Spirit is Mercy: The Story of the Sisters of Mercy in the Archdiocese of Cincinnati 1858-1958*, Westminster, Newman Press, 1959, p. 11.

quarter of whom were Catholic. In addition, the social problems had multiplied far beyond what city, state and archdiocesan facilities could relieve.²⁹ Immediately the sisters began visitation of the sick and the poor and religious instruction for children.³⁰ In addition, by October, 1858, they opened a home and school for destitute children. Some Cincinnati sisters served during the Civil War using their convent for war and cholera victims. The Cincinnati community, unlike the other original Irish foundations in the United States, never established any autonomous foundations.

In Connecticut, parish schools expanded so rapidly that despite the constant flow of vocations entering the Hartford community, Hartford's bishop, Francis P. McFarland, saw the need for additional sisters.³¹ He requested them from the Ireland's Ennis congregation. On May 7, 1872, these sisters arrived in Middletown, Connecticut, to begin a tradition of service in the parochial school system. Service to the poor also characterized this Connecticut foundation. Soon the Middletown community expanded to Meriden, a foundation which began as Middletown's branch house. In 1876 the Meriden community became an autonomous house.

²⁹ *Ibid.*

³⁰ See E. HERRON, *The Sisters of Mercy in the United States 1843 - 1928*, p. 226.

³¹ *Ibid.*, p. 109.

This brief synopsis of the expansion of the Sisters of Mercy in the United States has dealt only with the expansion's more salient features. A comprehensive treatment would need to include some detail about each of the nearly one-hundred and thirty-eight autonomous houses which the Sisters of Mercy established in the country between 1843 and 1928. Rather, the focus of this study necessitates turning our attention to the gradual but constant movement toward centralization found within the United States Mercy community.

II. MOVEMENT TOWARD CENTRALIZATION

For the Sisters of Mercy in the United States, the movement toward centralization came about gradually but persistently. Within twenty years of Catherine McAuley's death, Mother Frances Warde, considered the American founder of the Sisters of Mercy, began to explore the possibility of greater centralization for her sisters. While her initial proposal met with resistance, church authorities, both the Holy See as well as some diocesan bishops, eventually recognized the advantage of uniting various autonomous Mercy houses.

A. *Frances Warde: Symbol of unity*

According to Kathleen Healy, Frances Warde "was always

the Reverend Mother of the Mercy Sisters throughout America."³² By the 1860s, in addition to the supportive role she offered to the pioneering American sisters, Frances perceived that the United States Mercy communities should undergo a restructuring. She now saw that a central novitiate would preserve the Mercy charism and prepare young sisters more satisfactorily.³³ In short, this type of restructuring would enhance the mission of the Sisters of Mercy to the poor, sick and ignorant.

And so, in September, 1861, while initiating the Mercy community in Philadelphia, Frances proposed a centralized novitiate and centralized government.³⁴ But Frances' efforts at reform broke down soon after they were publicly known. She met opposition when she conferred with the Mercy community at Pittsburgh. Upon her return to Philadelphia, she learned that Philadelphia's Bishop, James Wood, also had objected rather strongly.³⁵ While Frances discontinued her efforts at

³² Frances encouraged a new relationship among American foundations implicitly, for during her forty years in the United States, Mercy convents throughout the nation sought her advice. See K. HEALY, *Frances Warde*, p. 389.

³³ *Ibid.*, p. 281. Hermina Muldrey maintains that Bishop Michael O'Connor, who had welcomed Frances to Pittsburgh, might have influenced her in this movement. See H. MULDERY, *Abounding in Mercy*, p. 60.

³⁴ To effect her plan, Frances had obtained Sister Patricia Waldron from Ireland to serve as Mistress of Novices. See K. HEALY, *Frances Warde*, p. 268.

³⁵ See H. MULDERY, *Abounding in Mercy*, p. 61.

unification, the issue did not die. Rather a series of regional efforts toward union transpired during the remainder of the nineteenth century and the first quarter of the twentieth.³⁶

B. Regional efforts toward unity

One of the most significant factors in the development of governance structures for the American Sisters of Mercy resided in the simultaneous development of the American ecclesiastical structures. The creation of new dioceses as well as the appointment of new diocesan bishops affected, at times, either the *autonomous* or *branch* status of a Mercy house.

1. Unintended independence

Often the sisters established, as independent foundations, new communities located a distance from the

³⁶ J. Sabourin documents several efforts to effect centralization in the 1870s. See J. SABOURIN, *The Amalgamation. History of the Union of the Religious Sisters of Mercy of the United States of America*, Saint Meinrad, Indiana, Abbey Press, 1976, pp. 8-12. Correspondence in the early 1880s between Mother Austin Carroll, Superior of the New Orleans Mercy community and Bishop James O'Connor, Bishop of Omaha and brother of Michael O'Connor (former Pittsburgh Bishop who had welcomed Frances Warde to Pittsburgh and later joined the Society of Jesus), reveals this continued concern for unity. Carroll writes, "I feel one day the whole Order will be turned into a generalate with provinces...but I will hardly live to see a change which must come gradually and sweetly..." A. CARROLL, Letter to M. O'Connor, September 22, 1883, in AAO.

founding motherhouse.³⁷ At times some communities originally founded as branch houses attached to the founding motherhouse became independent due to circumstances beyond the control of the Sisters of Mercy. For instance, separations often occurred with the creation of a new diocese.³⁸ One situation which illustrates the vulnerability of the Sisters of Mercy regarding their branch houses occurred in western New York.³⁹ In 1862 the Rochester community established a Mercy community at Batavia as an independent congregation which immediately opened four branch houses associated with parish schools in

³⁷ A series of branch houses which the Wilkes-Barre foundation established on Long Island provides an exception to this practice. These houses never received independent status.

³⁸ In New England, for example, the Providence foundation, originally contained in the Diocese of Hartford, established a branch house in the city of Hartford (1852). The Hartford community remained Providence's branch until the establishment of the Diocese of Providence in 1872 when the Hartford house became autonomous. In the mid-west the Sisters of Mercy of Independence, Iowa, retained affiliation to their motherhouse until the establishment of the Diocese of Davenport, Iowa, in 1881 when the branch house in Independence became an independent foundation. In the west, the creation of the diocese of Sacramento (1886) severed the connection of the Sisters of Mercy from their founding community in San Francisco.

³⁹ A similar situation occurred in New Orleans where the German Redemptorists "wanted the Mercy convent within their parish separated from all their branches and isolated from the rest of the community so that they could be directed by the pastor and work only within parish limits." H. MULDERY, *Abounding in Mercy*, p. 216. By 1907 this trend of juridically separating a motherhouse from its foundations appeared to have been changing. A decree issued that year to the Sisters of Mercy in St. Louis stated that its foundations should remain dependent on the St. Louis motherhouse. See J. SABOURIN, *The Amalgamation*, p. 28.

Corning, Albron, Owego and Hornellsville, all located within 100 miles of Batavia. On September 24, 1873, Mother Mary Stanislaus, the superior of the Batavia community, received word that the Corning branch house had become independent of Batavia. Apparently, the pastor at Corning had convinced Buffalo's Bishop Stephen V. Ryan that this change would be in the best interests of the parish school; Bishop Ryan had reached this decision without any consultation with the sisters involved. Shortly thereafter, he separated the branch houses at Albron, Owego and Hornellsville from Batavia, as well. Bishop Ryan now directly supervised each of these communities. In 1881 realizing the inadequacy of the arrangement, he responded to the wish of the sisters by reuniting the Batavia community with its former branch houses.⁴⁰ In 1897, however, a papal bull which restructured the Buffalo and Rochester dioceses also necessitated the separation, once again, of some of these same Mercy sisters from their motherhouse at Batavia.⁴¹

⁴⁰ See G. PIERCE, *Unto All - His Mercy: The First Hundred Years of the Sisters of Mercy in the Diocese of Buffalo*, Buffalo, Savage Litho Company, 1979, pp. 61-63.

⁴¹ See POPE LEO XIII, Bull, *Cum ex Apostolico munere*, December 10, 1896, in ADR. On March 17, 1899, following the transfer of four New York State counties--Chemung, Schuyler, Steuben and Tioga--from the Diocese of Buffalo to the diocese of Rochester, four of Batavia's branch houses at Hornellsville, Corning, Elmira, and Owego combined to become a second autonomous house in the Rochester diocese with its center at Hornellsville. In 1901 Rochester Bishop B. McQuaid sought and effected the union of the Rochester and Hornellsville houses into one autonomous house. See G. PIERCE,

2. A series of unions

Between 1881 and 1928, at least sixteen unions occurred in the United States among communities of Sisters of Mercy.⁴² These occurred within the context of unions of autonomous houses of Sisters of Mercy happening in dioceses throughout the world.⁴³ Almost all of the United States unions occurred

Unto All - His Mercy, pp. 67-68.

⁴² In 1881 the Mercy community at Batavia, New York, was reunited with its former branch houses of Corning, Albron, Owego and Hornellsville which had been made independent foundations in 1873; in 1882 Manchester branch houses at Bordentown and Princeton were united and made independent of Manchester; in 1898 independent foundations at Buffalo and Batavia were united; in 1899 independent foundations at Wilkes-Barre and Hazleton were united; in 1901 independent foundations at Hornellsville and Rochester were united; in 1903 Rio Vista, California and Ukiah, California were united; in 1911 three independent foundations in the diocese of Kansas City were united; in 1911 independent foundations in Hartford, Middletown and Meriden were united; in 1917 independent foundations of Rio Vista and San Francisco were united; in 1918 independent foundations of San Diego and Los Angeles were united; in 1921 independent foundations at Phoenix and Los Angeles were united; in 1922 the Sisters of Mercy living in the Dioceses of San Francisco and Tucson were united with the Sisters of Mercy living in the diocese of Monterey-Los Angeles; in 1922 the foundation at Council Bluffs was united to the foundation in Des Moines; in 1922 the foundation at Independence, Iowa was united with the foundation in Dubuque, Iowa; in 1923 a foundation in Louisville was reunited with its former branch house; in 1928 the foundation at Iowa City was united with the foundation in Davenport.

⁴³ For instance, on January 1, 1871, the first amalgamation of Sisters of Mercy appears to have occurred in the Diocese of Elphin, Ireland, uniting four independent houses in the diocese. See "Some necessary details of what led to the union of the several convents into one diocesan congregation in 1871", in *Annals of the Sisters of Mercy of Elphin*, pp. 25-29. Then on April 14, 1908, the Holy See ratified a union of the Sisters of Mercy in the Ecclesiastical Province of Melbourne, Australia. See CPR, Decree, Prot. no.

within a given diocese. One prominent exception involved an interdiocesan union of Mercy sisters in California and the southwest.⁴⁴ This section, then, explores the rationale behind these unions as well as some of the circumstances under which church authorities effected them.

a. *Rationale*

In a letter addressed to the pastors in the diocese where the Sisters of Mercy served, Bishop John J. Nilan of Hartford expressed his desire to unite all the Connecticut Sisters of Mercy. He believed that his "duties [would] become simplified and [the sisters'] efficiency [would be] increased by uniformity in customs and a centralization of authority."⁴⁵ In addition, various Mercy communities united during this period because church authorities saw these unions affecting a

81,039, April 14, 1908, in ASMR. On November 25, 1915, the Congregation for Religious issued a decree uniting all the houses founded by the Sisters of Mercy in Newfoundland into one congregation. This same decree also united all the houses of the Presentation Sisters into one congregation. See CR, Decree, Prot. no. 4046/15, November 25, 1915 in ASMSJ.

⁴⁴ The union of the Sisters of Mercy in San Francisco and the southwest involved a series of unions. See *supra* note 42, p. 76. Eventually, this series of unions resulted in all Sisters of Mercy in the archdiocese of San Francisco and the dioceses of Monterey-Los Angeles and Tucson being united in a single institute.

⁴⁵ J. Nilan, Circular letter to Pastors, September 5, 1911, in ASMC.

stronger organization and a more uniform discipline.⁴⁶ For instance, the request to unite the Mercy communities in Kansas City cited the lack of sisters with the ability to govern as the motivating reason.⁴⁷ Moreover, some prelates felt that restructuring would increase educational and ministerial opportunities as well as enhance a community's capacity to attract religious vocations.⁴⁸

⁴⁶ In some cases bishops believed that particular communities were not living in conformity with the discipline of religious life as intended by the church. This is illustrated in a rather dictatorial announcement directed to the Sisters of Mercy Hospital, Des Moines, from Thomas W. Drumm, Bishop of Des Moines, saying that he found their "...religious and even [their] professional life irregular, chaotic and in a very unhappy condition." THOMAS W. DRUMM, Announcement to the twelve [s]isters of Mercy Hospital, January 12, 1922, in ADDM.

The rationale given in a decree uniting the Connecticut Sisters of Mercy also illustrated these principles: "[I]nterests of religious discipline might be better safeguarded, especially in the training of novices, that a stronger community spirit might be developed, that greater uniformity might be secured, that better results in the practical work of the communities might be obtained." D. FALCONIO (Apostolic Delegate), Decree, Prot. no. 9809-d, August 28, 1911 in AAH. Also see Appendix II-B.

⁴⁷ See D. FALCONIO (Apostolic Delegate), Decree, Prot. no. 8537-d, April 7, 1911, in ADKC.

⁴⁸ Regarding the 1898 union of the Sisters of Mercy in Buffalo and Batavia, G. Pierce writes, "Bishop Quigley felt there was a large field for the community in the city of Buffalo, better facilities for the advancement of the members who wished to pursue certain areas of study and a better opportunity to secure and foster vocations to religious Life." G. PIERCE, *Unto All - His Mercy*, p. 67.

Regarding the 1928 union of the Sisters of Mercy at Iowa City, Iowa and Davenport, Iowa, the bishop of Davenport decreed, "Then too, it is the experience of every order that, while their subjects may be excellent religious, they desire

Documentation from the California unions included a variety of reasons. For instance, the Californians expressed concern about sick and infirm sisters in smaller institutes.⁴⁹ Furthermore, they noted that war conditions in Europe had affected the availability of recruits from Ireland.⁵⁰ Concern that the structuring of dioceses in the southwest might cut her sisters off from associations with Mercy sisters in other dioceses motivated Mother M. Paul O'Grady, superior in Phoenix, to seek a union of her sisters with the Mercy community in San Francisco.⁵¹ Furthermore, Bishop John J. Cantwell, Bishop of Monterey and Los Angeles, who espoused M. O'Grady's cause, reasoned that the Holy See favored such a union.⁵²

In addition to the Mercy communities which claimed Catherine McAuley as their founder and the 1841 Rule and

a change of place at time. A larger community will give the Sisters a wider and more diversified field of labor." H. ROHLMAN (Bishop of Davenport), Letter to Sisters of Mercy, March 14, 1928 in ADD. *Ibid.*

⁴⁹ See S. ALEMANY (Archbishop of San Francisco), Letter to the Sisters of Mercy, November 1, 1882, in ASMB.

⁵⁰ See H. GRANJON (Bishop of Tucson), Letter to J. Cantwell (Bishop of Monterey and Los Angeles), February 19, 1920, in ASMB.

⁵¹ Apparently, Mother M. Paul O'Grady's concern grew because of the erroneous perception that the Sisters of Mercy were a diocesan community. See A. SHERIDAN, *...And Some Fell on Good Ground*, p. 282.

⁵² See J. CANTWELL (Bishop of Monterey and Los Angeles), Letter to B. O'Brien (Mother Superior of Sisters of Mercy, San Francisco), April 29, 1921, in ASMB.

Constitutions as their rule, two other groups of religious women sought and obtained affiliation with Catherine McAuley's sisters.⁵³ Both these groups had evolved from the diocesan institute founded by Bishop John England.⁵⁴ Two segments of this community, one in Savannah, Georgia, and another in North Carolina (Wilmington and Belmont), eventually affiliated with Sisters of Mercy founded by Catherine McAuley.⁵⁵ The impetus

⁵³ These affiliations did not entail an actual union of persons and goods with any autonomous house of the Sisters of Mercy. Rather the adoption of the *Rule and Constitutions* and the Mercy habit distinguished these affiliations. In the case of the Savannah community a union between the Sisters of Mercy of Savannah and the Sisters of Mercy in Macon (located within the Diocese of Savannah) was attempted in 1894 and again in 1909. Apparently, neither effort succeeded. See B. KEILEY (Bishop of Savannah), Letter to R. Merry Del Val (Secretary of State), December 1, 1909 in ADS.

⁵⁴ In 1829 Bishop England had established the Sisters of Our Lady of Mercy of Charleston (South Carolina). See H. MCCARTHY, *History of the Sisters of Mercy of Belmont, North Carolina 1869-1933*, Washington, D.C., Catholic University of America, 1934, p. 9.

⁵⁵ The affiliation of the sisters of Our Lady of Mercy in Savannah began on September 24, 1891, when they were presented with the *Mercy Rule and Constitutions*. The following year under the guidance of Mother Austin Carroll, superior of New Orleans, the newly affiliated sisters made and began to wear the Mercy habit. While a search of the ADS did not yield a document ratifying this affiliation of the Sisters of Our Lady of Mercy in Savannah with the Sisters of Mercy of Catherine McAuley, other letters and diary entries of Thomas A. Becker, Bishop of Savannah, attest to its occurrence. See also T. PETERMAN, *The Cutting Edge: Life of Thomas A. Becker, First Catholic Bishop of Wilmington and Sixth Bishop of Savannah (1831-1895)*, Devon, Pennsylvania, Wm. T. Cooke Publishing, 1982, pp. 190-193.

The affiliation of the Sisters of Our Lady of Mercy in North Carolina began in 1893 when the North Carolina sisters began to wear the Mercy habit. On June 12, 1912, the North Carolina sisters voted to affiliate with the Sisters of Mercy

for these affiliations came from the sisters who desired pontifical approval for their rule.

To summarize, the reasons for requesting and for granting these unions varied. They seem, however, to have included a common expectation. In 1911 the apostolic delegate expressed this expectation in a decree uniting the Mercy communities in Kansas City. D. Falconio stated that he hoped that this union would "infuse new spirit into the Institute...[giving] it greater strength and courage for the attainment of the sublime and holy end for which the Sisters of Mercy were instituted..."⁵⁶ The Holy See would echo the substance of this foundational statement for the Sisters of Mercy in 1929 as well as in 1991.

b. Circumstances and procedure

The circumstances of the various Mercy unions merit special note. Several of the unions occurred because of a change in diocesan borders. For example, the New Jersey communities at Bordentown and Princeton which Manchester established in 1873 and 1878, respectively, remained branch houses of Manchester until the Diocese of Trenton came into

and on June 29, 1913 this union was effected. See L. HAID (Vicar Apostolic), Decree, June 29, 1913, in ASMNC. Also see Appendix II-C.

⁵⁶ D. FALCONIO, Decree, April 7, 1911.

existence in 1881.⁵⁷ Trenton's first bishop, Michael J. Farrell, who gained independence for the two Mercy branch houses, united them shortly after he took office.⁵⁸

Since documentation does not seem to be available to explain the unions which occurred before 1911, the juridic procedure followed to bring about these unions eludes systematic examination. Analysis of documentation regarding unions dating from 1911, however, reveals the utilization of several canonical principles in the prevailing universal law which soon became codified in the 1917 *Codex iuris canonici*.⁵⁹ Hence the 1917 code's section on union of benefices supplied these principles. For instance, canon 1419, §1, describes an extinctive union of benefices in these terms:

⁵⁷ See B. DOHERTY, *The First Hundred Years of the Manchester Sisters of Mercy: 1858-1958*, Sisters of Mercy, Manchester, New Hampshire, 1968, p. 47.

⁵⁸ Apparently other unions occurred shortly after a new prelate took office. Several examples include: the union of the Buffalo and Batavia communities which occurred on July 6, 1898, appears to have been one of the first major acts of James E. Quigley who was consecrated bishop of Buffalo on February 24, 1897. Also John J. Nilan was consecrated Bishop of Hartford on April 28, 1911, and in August, 1911, the union of the Connecticut Mercy congregations took effect.

⁵⁹ See *Codex iuris canonici, auctoritate Pii X Pontificis Maximi iussu digestus Benedicti Papae XV promulgatus*, Typis Polyglottis Vaticanis, 1917. (Hereafter referred to as 1917 code and cited as *CIC* 1917), canons 1419-1428.

The union of benefices is extinctive if from the suppression of two or more benefices there is established one new benefice, or if one or more are so united to another that only the latter remains.⁶⁰

This canon then provides for two types of extinctive union.⁶¹ In the first one, all the pre-existing benefices cease to exist as moral persons. An entirely new benefice with its own moral personality then comes into existence. In the second type, one or more of the pre-existing benefices loses its moral personality while one benefice maintains its moral personality as it continues in existence. In this second type, the rights and obligations of the extinct benefices devolve to the one benefice which continues to exist.⁶²

Agathange Bouquet characterizes the amalgamation of congregations as the *extinctive union* of one congregation into another.⁶³ This description appears to coincide with the second

⁶⁰ "Unio beneficiorum est: 1. *Extinctiva*, cum aut ex suppressis duobus vel pluribus beneficiis novum atque unicum beneficium efficitur, aut unum vel plura ita alii uniuntur ut esse desinant"; CIC 1917, canon 1419 §1. Translation from J. ABBO, *The Sacred Canons; A Concise Presentation of the Current Disciplinary Norms of the Church*, St. Louis, Herder, 1957, vol. 2, p. 654.

⁶¹ For a commentary on the extinctive union of benefices see T. MUNDY, *The Union of Parishes: A Historical Synopsis and Commentary*, Washington, D.C., The Catholic University of America Press, pp. 42-70.

⁶² See S. WOYWOD, *A Practical Commentary on the Code of Canon Law*, New York, Wagner, 1926, vol. 2, p. 140.

⁶³ See A. BOCQUET, "De l'union extinctive d'une congrégation religieuse à une autre", in *L'Année canonique*, 4(1956), p. 11.

type of extinctive union mentioned in canon 1419, §1. In this case the Holy See suppresses one congregation, extinguishing its collegial moral personality, while at the same time uniting its members, houses and temporal goods to another congregation.⁶⁴ A. Bouquet also applies, by analogy, canon 1422 to the union of institutes. This canon reserves extinctive unions and suppression of benefices to the Holy See.⁶⁵ This principle of reservation appears to have been operative in many of these unions of Mercy congregations, as well.⁶⁶ The canons on the union of benefices may also have influenced the appointment of a new general superior. In his application of these principles on the union of benefices to the union of

⁶⁴ *Ibid.*

⁶⁵ See also CIC 1917, canon 493 which reserves to the Holy See the right to suppress an institute.

⁶⁶ See CR, Rescript, Prot. no. 283/19, December 4, 1919, in ASMB; CR, Rescript, Prot. no. 8304/21, February 16, 1922, in ASMB, also see Appendix II-D; CR, Rescript, Prot. no. 5804/21, March 16, 1922, in ASMD. CR, Rescript, Prot. no. 1492/22, May 2, 1922, in ADDM; CR, Rescript, Prot. no. 5894/22, February 9, 1923, in AAL. In addition, two unions were granted by the apostolic delegate to the United States, D. Falconio, in 1911. Presumably Falconio proceeded on faculties granted to his predecessor, Cardinal Sebastian Martinelli, to regularize situations among the Sisters of Mercy. See N. LEDOCHOWSKI, Letter to S. Martinelli, Prot. no. 47787, January 20, 1902, in ASMU. The two unions effected by the apostolic delegate in 1911 include the union of three communities in Kansas City, Missouri. See D. FALCONIO, Decree, April 7, 1911. Also the union of the Mercy communities in Hartford, Meriden, and Middletown, Connecticut. See D. FALCONIO, Decree, August 28, 1911. The Holy Father also approved the union of the Sisters of Mercy in Iowa City, Iowa and Davenport, Iowa. See H. ROHLMAN (Bishop of Davenport), Letter to Sisters of Mercy of Davenport and Iowa City, September 13, 1928 in ADD.

parishes, Thomas Mundy comments that an extinctive union of the first type required the appointment of a new pastor.⁶⁷ The rescripts of union for two or more Mercy communities often called for the appointment or election of a general superior for the newly united community.⁶⁸ A final application of principles found in the canons on union of benefices concerns the consultation of individual sisters in the congregations involved. Canon 1424 prohibits ordinaries from uniting benefices without the consent of their patrons. Prior to effecting a union, the praxis of the curia seemed to require the consent of the sisters involved.⁶⁹ This principle of freely

⁶⁷ See T. MUNDY, *The Union of Parishes*, p. 59.

⁶⁸ Such is the case in the decree uniting three foundations in Kansas City. See D. FALCONIO, Decree, April 7, 1911. This might indicate that some of these unions were extinctive unions of the first kind.

⁶⁹ For instance, see decree of union for two foundations in Louisville: CR, Rescript, February 9, 1923.

In the case of the union which occurred among the three Mercy congregations in Connecticut, there appears to be a dispute regarding whether or not the sisters of the three Connecticut congregations freely consented to the union. The decree of union issued by the apostolic delegate states that Bishop Nilan had assured the apostolic delegate that chapters had been held and that the proposed union had received "almost unanimous consent." D. FALCONIO, Decree, August 28, 1911. J. Sabourin refers to documentation which suggests, however, that Bishop Nilan proceeded without a vote of the sisters. See J. SABOURIN, *The Amalgamation*, p. 227. A search of the archives of the Sisters of Mercy of Connecticut yielded no record of any chapter meetings during the time in question. However, this search did yield a report on remarks made by Bishop Nilan to the newly combined communities on July 27, 1912. He thanked the sisters for their "generous and cheerful submission" to his wish and that he was aware that he was "rudely disturbing the peace of three happy families..." *Transcript of remarks*

given consent would remain essential in the mind of the Holy See.

J. Sabourin suggests that the unions which occurred throughout the late nineteenth century and in the first quarter of the twentieth served to keep the concept of union before the sisters.⁷⁰ Indeed these unions may well have influenced the Sisters of Mercy as they prepared to chart their own destiny. For eventually, they would propose to the Holy See the most comprehensive union to date.

III. FORMATION OF THE SISTERS OF MERCY OF THE UNION

By the early 1900s, the Holy See had begun to encourage the unification of all Sisters of Mercy in the United States. This encouragement had influenced at least some individual bishops to seek unions within their own jurisdictions. In 1929, however, a most comprehensive union occurred when thirty-nine out of a possible sixty autonomous houses consented to this amalgamation.⁷¹

made by Rt. Rev. J. J. Nilan, July 27, 1912 in ASMC.

⁷⁰ See J. SABOURIN, *The Amalgamation*, p. 17.

⁷¹ For an excellent study of the 1929 amalgamation, see J. SABOURIN, *The Amalgamation. History of the Union of the Religious Sisters of Mercy of the United States of America*, Saint Meinrad, Indiana, Abbey Press, 1976, xii-330p. The author includes photocopies of many of the primary documents.

The name for this congregation underwent several modifications. The initial constitutions bear the congregation's title as "Religious Sisters of Mercy for the Union in the United States." The 1941 and 1955 constitutions

A. Remote efforts at general unification

On January 20, 1902, the Holy See initiated communication regarding the unification of all Sisters of Mercy in the United States. In his letter, Cardinal N. Ledochowski, prefect for the Congregation for the Propagation of the Faith, gave Archbishop Sebastian Martinelli, apostolic delegate of the United States, the necessary faculties to regularize the status of the Sisters of Mercy in accordance with church law.⁷² While Martinelli did move on Ledochowski's concerns, his successor, Archbishop Diomedeo Falconio, attempted to resolve the situation more assertively.⁷³ He wrote to members of the United States hierarchy. In his letter, D. Falconio indicated that, at times, the Sisters of Mercy were not following the Holy See's regulations regarding postulancy, novitiate,

bears the congregation's title as the "Institute of the Religious Sisters of Mercy of the Union in the United States of America." More recently this congregation has become known as the "Sisters of Mercy of the Union in the United States". This study will refer to this congregation as "the Sisters of Mercy of the Union" and "the Union".

⁷² See N. LEDOCHOWSKI (Prefect for CPF), Letter to S. Martinelli (Apostolic Pro-Delegate), Prot. 47785, January 20, 1902, in ASMU.

⁷³ S. Martinelli circulated a letter to all United States hierarchy appraising them of the concerns of the Holy See. See S. MARTINELLI, Circular letter to United States Hierarchy, Prot. no. 1919, March 3, 1902, in ASMU. Then, see D. FALCONIO (Apostolic Delegate), Letter to United States Hierarchy, Prot. no. 8330, February 13, 1905, in ASMU.

training, profession of vows and dismissal of sisters.⁷⁴ He suggested that a union of all Sisters of Mercy in the United States would serve to strengthen the institute.⁷⁵ While D. Falconio's letter received positive response from the bishops, apparently some Mercy superiors reacted less favorably.⁷⁶ Hence D. Falconio's effort to unite the Sisters of Mercy in the United States did not bear immediate results. While in 1911 and in 1923, Mercy superiors discussed the possibilities of uniting, neither discussion yielded any definitive movement toward union.⁷⁷

⁷⁴ D. Falconio also expressed concern about the validity of vows professed because of seemingly invalid novitiates. *Ibid.* Prior to writing to the hierarchy, Archbishop D. Falconio had written to the Major Superior in each Mercy Congregation and asked her to send him copies of their Rule and Constitutions, Book of Customs, as well as a list of branch houses, sisters and their apostolates. See J. SABOURIN, *The Amalgamation*, p. 20.

⁷⁵ See D. FALCONIO, Letter to US Hierarchy, February 13, 1905.

⁷⁶ See J. SABOURIN, *The Amalgamation*, pp. 23-24. For instance, a letter from Mother M. Sebastian Gillespie, superior of the Pittsburgh community, noted the concerns of the sisters: future relationship with their diocesan bishop, debts and property, transfer of sisters, changes in their rule and constitutions and consultation with the sisters regarding such a change in governance structure. See S. GILLESPIE (Superior, Sisters of Mercy, Pittsburgh), Letter to D. Falconio (Apostolic Delegate), March 11, 1905, in ASMU.

⁷⁷ In 1911 the superiors of eight congregations met to discuss the possibility of uniting. The congregations represented included: Providence, Brooklyn, Albany, Gabriels, Wilkes-Barre, Harrisburg, Titusville, and Cresson. See *Minutes of Meeting of Superiors*, Cresson, Pennsylvania, September 21, 1911, in ASMU.

On September 18, 1923, superiors of twenty-five

B. A petition requesting union

Finally, on October 9, 1927, a meeting of six Mercy superiors held in Cincinnati set in motion what history would judge as a highly successful effort to unite all the Sisters of Mercy in the United States.⁷⁸ The minutes of this meeting disclose that those in attendance drafted a letter to be sent to all Mercy superiors.⁷⁹ They also chose Mother M. Carmelita Hartman of Baltimore as their spokesperson.

On June 10-11, 1928, Carmelita Hartman hosted the Mercy superiors at a meeting which produced a petition asking the Holy See to unite the Sisters of Mercy in the United States.⁸⁰

congregations gathered to discuss bringing their constitutions into conformity with the 1917 code. Their discussions on the constitutions led to a discussion on the possibilities of uniting. The superiors commissioned Mother Mary Irenaeus, mother superior of the Pittsburgh Sisters of Mercy, to poll the Mercy communities not present at this meeting regarding their opinion on general government. See *Minutes of Meeting of Superiors of the Sisters of Mercy*, Chicago, Illinois, September 18-21, 1923, in J. SABOURIN, *The Amalgamation*, pp. 38-41. Mother Irenaeus' poll, which appears to have been biased by her presentation of the issue of general government, yielded an overall negative response. Once again, the movement to unite was placed on hold. See M. IRENAEUS, Circular letter to all United States Superiors, October 8, 1923, in ASMU.

⁷⁸ Attended by Mother M. Bernadine Clancy, Milwaukee; Mother M. Evangelist Flanagan, Chicago; Mother M. Carmelita Hartman and Sister M. Thomasina O'Hara (former mother superior), Baltimore; Mother M. Bernadine Purcell and Mother M. Hilda Brennan, Cincinnati.

⁷⁹ See C. HARTMAN, Circular letter to all United States Superiors, December 12, 1927, in ASMU.

⁸⁰ See *Report of the Meeting of Superiors*, Mount Saint Agnes, Mt. Washington, June 10-12, 1928, in ASMU. For a list of those congregations represented, see J. SABOURIN, *The*

These superiors, who directed their petition to Pope Pius XI, recalled Archbishop Falconio's letter which had proposed that the Sisters of Mercy in the United States form one institute.⁸¹ The petition then listed twenty-nine autonomous houses which had "voted to cooperate in such a union" and the thirty-two not-yet-committed houses.⁸² The petition reasoned that the proposed union would enhance the promotion of religious discipline, the novitiate experience, and professional training as well as increase possibilities for mutual assistance among the various houses.⁸³ On July 25, 1928, Carmelita Hartman submitted to the Holy See this petition, which superiors representing twenty-seven Mercy communities had signed.⁸⁴

Amalgamation, p. 134. The canonical advice imparted to the sisters at this meeting suggested that the petition which they would submit to the Holy See was not definitive. As events unfolded, however, it became evident that this advice was not correct. Instead, the Holy See regarded the petition as a definitive request. See *Report of the Meeting of Superiors*, June 10-12, 1928, p. 1.

⁸¹ See SUPERIORS, SISTERS OF MERCY, Petition to Pope Pius XI, June 11, 1928 in ASMU.

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴ Enclosed with the petition was a copy of Archbishop Falconio's letter, a copy of Carmelita's letter initiating the process and its accompanying questionnaire, the report of the June 10-12, 1928, meeting of Superiors, and a report concerning those who did not sign the petition.

Some communities which were not petitioning adopted a "wait and see" attitude. For instance, the sisters at Aurora, Illinois, were waiting to see how other Mercy communities

C. *The response of the Holy See*

On March 1, 1929, the Holy See approved the union of twenty-nine autonomous houses of Sisters of Mercy into one religious institute under one general superior.⁸⁵ The decree,

responded, while the Mercy communities at Burlingame, California and Burlington, Vermont were waiting to see how the Holy See would respond. The sisters in Buffalo and Pittsburgh were simply not in favor of general government. The community at Belmont cited financial concerns as impeding its joining. The sisters at Merion mentioned that general government was not the intention of the founder. The Louisville sisters mentioned that they had not yet had the opportunity to consider the question in a community wide forum while the communities at Cedar Rapids, Chicago (south), and Fall River intimated that their ecclesiastical superior stood in the way of their considering this possibility at this time. See C. HARTMAN, *Report of the communities who did not sign the Petition to be sent to our Holy Father, July 24, 1928*, in ASMU.

⁸⁵ See SCR, Decree, *Perplures communitates*, March 1, 1929, Prot. 684/29, in ASMU. See also Appendix II-E. The principles of union of benefices also applied to the 1929 union. The competency to grant this union rested with the Holy See. See *supra* p. 84. Also, considering the principles contained in the union of benefices, the 1929 amalgamation appears to be an extinctive union of the first kind, where "all the pre-existing benefices cease to exist as moral persons and an entirely new benefice with its own moral personality comes into existence" and which necessitates the designation of a new superior. See *supra* p. 83, 85.

Included in the decree were two houses, Dallas, Pennsylvania and Laredo, Texas, which had been represented on the petition but whose superiors had not signed the petition because neither superior had previously consulted their communities. Seemingly, the grant of union with the omission of consultation represented a procedural irregularity and appears to have been in contrast to the praxis of the curia which called for consent of membership prior to a union taking effect. See *supra* p. 85.

In the case of the Dallas community, the procedural irregularity became healed because after the decree was issued; consultation did take place and consent of membership

Perplures communitates, stated as its rationale that many independent communities of Sisters of Mercy in the United States are convinced that "they would more easily attain their common purpose, the strength of regular discipline would be increased and more abundant fruits would accrue to the faithful."⁸⁶ This decree of union granted to the apostolic delegate faculties for effecting a union of persons and of goods while preserving the nature, privileges, rights and spiritual favors which these communities presently enjoy.⁸⁷ Finally, the decree called for the convocation of a general chapter for the purpose of electing a superior general and general council and for resolving other governmental affairs.⁸⁸

was obtained. The decree admitting additional communities to the union just prior to the chapter then included the Dallas community. See *infra* note 89, p. 93.

In the case of the Laredo community, the procedural irregularity would not have been rectified until 1936 when a rescript issued by the Congregation for Religious sanated all "acts that need healing". See CR, Rescript, Prot. no. 7552/36, October 31, 1936 in ASMU.

⁸⁶ "...sibi perspectum habent ut si inter se ita uniretur ut unum religiosum institutum efformaretur, facilius finem sibi proprium assequerentur, regularis disciplinae robur augeretur, atque uberiores fructus in christifideles profluerentur." CR, Decree, March 1, 1929.

⁸⁷ *Ibid.*

⁸⁸ The decree specified that each community would send their superior and two delegates elected by all the sisters. *Ibid.* In a letter to the apostolic delegate, the Congregation for Religious enunciated the other governmental affairs to be taken care of at the chapter. These included the alignment of provinces (six established originally), provincial seats (names of provinces were drawn from the dioceses in which the provincials and councils were headquartered), location of

The Holy See communicated the decree of union to Archbishop Pietro Fumasoni-Biondi, the apostolic delegate, in a letter in which the Congregation for Religious disclosed instructions regarding the union.⁸⁹

novitiates and preparation of constitutions. See V. LA PUMA (Secretary for CR), Letter to P. Fumasoni-Biondi (Apostolic Delegate), Prot. no. 684/29, April 20, 1929, in ASMU.

⁸⁹ In its letter the Congregation for Religious dealt with the sensitive matter of individual sisters who were now a part of the new union but who did not consent to its formation. These sisters would be bound to observe the new institute's constitutions but could not be transferred to another house of the institute without their expressed consent. The Holy See also expressed a desire for those Mercy communities not represented on the petition but who "looked favorably" on the union, to join. At the same time they wished to preserve the autonomy of all congregations to make a free decision regarding amalgamation. *Ibid.*

In turn, the apostolic delegate reiterated this desire of the Holy See to the United States hierarchy and to every autonomous house of the Sisters of Mercy in the United States. In his letter to the hierarchy, the apostolic delegate wrote, "It would be both a lack of reverence towards the Holy See and an injustice to the Sisters for anyone, and especially for those placed by God over these chosen ones of His flock to use any pressure either to compel these Sisters against their will to join the union or to hinder them from amalgamation with the others if they so desire." P. FUMASONI-BIONDI (Apostolic Delegate), Letter to United States Hierarchy, Prot. 2867-h, June 14, 1929, in ASMU.

In his letter to all Mercy communities in the United States the apostolic delegate writes: "No obligation to join will be imposed on any community. In those communities that are still undecided, it is left to a vote of the Sisters of each community in Chapter assembled to decide whether it will amalgamate with the others or not..." *Ibid.*

The communities which opted to join the Union after the Holy See approved it included Chicago (South), Chicago (West), Cincinnati, Dallas [Scranton] (was on initial petition), Dubuque, Fall River, Grass Valley, Little Rock, Louisville, Nashville, New York, Providence and Raton (in Archdiocese of Santa Fe). See CR, Executorial Decree, Prot. no. 684/29,

D. The First General Chapter

On August 26, 1929, Archbishop P. Fumasoni-Biondi, apostolic delegate, called to order the inaugural chapter of the Sisters of Mercy of the Union.⁹⁰ As their first major order of business, the delegates prepared a petition for the Holy See which proposed the alignment of the provinces and the sites for the provincial houses.⁹¹ Next, chapter delegates elected Mother Carmelita Hartman as general superior to be followed by the election of her council.⁹² Then the delegates met in six provincial groupings and elected provincials and

August 26, 1929, in ASMU.

⁹⁰ The Chapter was held at Mt. St. Mary's Seminary, Cincinnati with thirty-nine communities represented. For listing see J. SABOURIN, *The Amalgamation*, p. 235.

⁹¹ See C. HARTMAN, Petition to P. Fumasoni-Biondi (Apostolic Delegate), August 29, 1929, in ASMU.

In keeping with one of the fundamental purposes for the union, the chapter determined that, as soon as circumstances would allow, the number of novitiates in each province would be reduced to one. By August, 1932, each of the provinces had one central novitiate, with the exception of Providence and Scranton, each of which had two novitiates. By 1951 each of the Union's nine provinces had one central novitiate. See [J. GALLEN], *Historico-Juridico Account of the Religious Sisters of Mercy of the Union in the U.S.A.*, Bethesda, Sisters of Mercy of the Union, n.d. in ASMU (= *Historico-Juridico Account*), pp. 42-43.

⁹² Mother Mary Carmelita Hartman (Scranton) elected on first ballot with 72 out of 116 possible votes. Elected councilors included Sister Mary Aquin Gallagher (Omaha); Mother Mary Bernadine Purcell (Cincinnati); Sister Mary de Neri McConologue (New York); Sister Mary Dominica McGowan (Mobile); Sister Mary Gregory Finnegan (Chicago), General Secretary; Sister Mary Thomasina O'Hara (Scranton), General Procurator.

provincial councils for their respective provinces.⁹³ The chapter finalized its work with consideration of the proposed constitutions which Carmelita Hartman subsequently submitted to the Holy See for approval.⁹⁴ So began the sixty-two year history of the Sisters of Mercy of the Union.

E. Subsequent expansion

Between 1929 and 1987, ten additional independent congregations of Sisters of Mercy united with the Sisters of Mercy of the Union in the United States.⁹⁵ These additions include Red Bluff, California (1931);⁹⁶ Belize, British Honduras (1931);⁹⁷ Charlestown, Demerara, British Guiana

⁹³ Regina Werntz remarks that the placement of the election of the general superior prior to the election of the provincial superiors of the newly formed provinces placed priority on strong national leadership. See R. WERNTZ, *Our Beloved Union. A History of the Sisters of Mercy of the Union*, Westminster, Maryland, Christian Classics, 1989, p. 221.

⁹⁴ The first approval given was provisional for a period of seven-year experimentation. See CR, Decree, Prot. no. 3970/29, January 20, 1931 in ASMU. Definitive approval was given in 1940. See CR, Decree, Prot. no. 3970-29B. 116, July 2, 1940 in ASMU.

⁹⁵ Examination of the decrees granting these unions reveals that these were extinctive unions of the second type. See *supra* p. 83.

⁹⁶ The Mercy community at Red Bluff, California, was annexed to the Province of Omaha. See CR, Decree, Prot. no. 4652/30, February 7, 1931, in ASMU. Also see Appendix II-F.

⁹⁷ The Mercy community at Belize, British Honduras, was annexed to the Province of Providence. See CR, Decree, Prot. no. 5828/31, October 9, 1931, in ASMU.

(1934);⁹⁸ Fremont, Ohio (1936);⁹⁹ Fort Scott, Kansas (1937);¹⁰⁰ Aurora, Illinois (1937);¹⁰¹ Hosororo, Northwest District, British Guiana (1939);¹⁰² Jamaica, West Indies (1953);¹⁰³ Buenos Aires, Argentina (1962);¹⁰⁴ and Worcester, Massachusetts (1987).¹⁰⁵ In addition, the Holy See responding to requests from the Union leadership, twice approved the realignment of the province structure.¹⁰⁶

⁹⁸ The Mercy community at Charlestown, Demerara, British Guiana, was annexed to the Province of Scranton. See CR, Decree, Prot. no. 5502/34, November 3, 1934, in ASMU.

⁹⁹ The Mercy community at Fremont, Ohio, was annexed to the Province of Cincinnati. See CR, Decree, Prot. no. 4012/36, June 10, 1936, in ASMU.

¹⁰⁰ The Mercy community at Fort Scott, Kansas, was annexed to the Province of Chicago. See CR, Decree, Prot. no. 7554/37, October 20, 1937, in ASMU.

¹⁰¹ The Mercy community at Aurora, Illinois, was annexed to the Province of Chicago. See CR, Decree, Prot. no. 7554/37, November 27, 1937, in ASMU.

¹⁰² The Mercy community at Hosororo, Northwest District, British Guiana, was annexed to the Province of Scranton. See CR, Decree, Prot. no. 5184/39, May 2, 1939, in ASMU.

¹⁰³ The Mercy community at Jamaica, West Indies, was annexed to the Province of Cincinnati. See CR, Decree, Prot. no. 6057/53, May 6, 1953, in ASMU.

¹⁰⁴ The Mercy community at Buenos Aires, Argentina, was annexed to the Province of Detroit. See CR, Decree, Prot. no. 5194/62. B.173, September 8, 1962, in ASMU.

¹⁰⁵ The Mercy community at Worcester, Massachusetts, was annexed to the Province of New York. See CR, Decree, Prot. no. V. 131-1/85, April 24, 1986, in ASMU. Also see Appendix II-G.

¹⁰⁶ In 1935 the Holy See divided the Province of Providence into two provinces (one centered in Providence and the other centered in New York) and the Province of Scranton into two provinces (one centered in the Diocese of Scranton

The documentation reveals the main concerns and values of the 1929 restructuring process. The need for better religious discipline, formation, and ministerial training as well as the need to bring constitutions into conformity with the 1917 code provided the motivating factors for the 1929 union. The issues of congregational debts and property, potential transfer of sisters, and opinions of bishops played prominent roles in communities' decisions to join or not to join the proposed union. While the Holy See looked favorably on these unions, it also required membership consultation and freely given consent on the part of the sisters involved. Many of these same concerns, values and procedures would resurface in the 1980s as the Sisters of Mercy in the United States considered an even more comprehensive restructuring.

IV. THE HERITAGE OF THE SISTERS OF MERCY

The first chapter described the heritage of the Sisters of Mercy. This section examines the expansion and centralization efforts which took place among the Sisters of Mercy in the United States, in light of the institute's

and the other centered in the Archdiocese of Baltimore). See CR, Decree, Prot. no. 3138/35, May 16, 1935 in ASMU.

The ninth and final province came into existence in 1940 with the division of the Province of Cincinnati into two provinces (one centered in the Archdiocese of Cincinnati and the other centered in the Archdiocese of Detroit). See CR, Prot. no., 6067/40, July 8, 1940, in ASMU.

heritage.

A. *Nature of the Sisters of Mercy*

Both aspects of the institute's nature which were described in the dissertation's first chapter became especially significant during the expanding years of the Sisters of Mercy in the United States. The institute's relationship to its ecclesiastical authorities became clearer. In addition, governmental autonomy received considerable attention and modification.

1. *Pontifical right*

United States bishops frequently understood the Sisters of Mercy as a congregation of diocesan right.¹⁰⁷ The provision in the *Rule and Constitutions* which made the bishop a legitimate superior in the institute contributed to this false

¹⁰⁷ This perception was not limited to bishops. At times, even the sisters also held that theirs was an institute of diocesan right. A letter from Mother M. Gillespie, mother superior of the Pittsburgh community, to the apostolic delegate refers to her community as "ours being a Diocesan Institute". See S. GILLESPIE, Letter to D. Falconio, March 11, 1905.

D. Falconio responds by saying: "...the Institute of the Sisters of Mercy is one approved by the Holy See, it is not and could never be considered as a purely diocesan institute..." D. FALCONIO, Letter to S. Gillespie, April 1, 1905 in ASMU.

perception.¹⁰⁸ Also, at times, young and inexperienced superiors gave additional powers to the bishop.¹⁰⁹ The division of dioceses which occurred at a tremendous rate due to population increases in the United States throughout the nineteenth century also contributed to this misunderstanding. As ecclesiastical authorities divided dioceses, newly-installed bishops who severed the juridical bonds of numerous Mercy communities gave the impression that the Sisters of Mercy maintained the status of a diocesan congregation.¹¹⁰ By 1905, however, after the promulgation of *Conditae a Christo*, which established the distinctions between institutes of pontifical right and those of diocesan right, the Holy See began to question the practice of separating branch houses from their motherhouses upon the establishment of a new diocese.¹¹¹ Finally, in 1925 a declaration issued by the

¹⁰⁸ See *Rule and Constitutions*, Part II, Chapter 1, no. 1, p. 39. James O'Connor, who became bishop of Omaha in 1876, wrote "in every diocese the Sisters of Mercy have as a major superior their own Bishop." K. HEALY, *Frances Warde*, p. 214.

¹⁰⁹ Bishop O'Conner apparently appointed (no majority had been reached after the third ballot) Josephine Cullen to succeed Frances Warde as superior of the Pittsburgh community "because she was more submissive to his ideas." *Ibid.*, p. 215.

¹¹⁰ See *supra* p. 74. Moreover, the trend of uniting Mercy communities within a given diocese supported this perception as well. See *supra* p. 76.

¹¹¹ See LEO XIII, Apostolic Constitution, *Conditae a Christo*, December 8, 1900, in *Acta Sanctae Sedis*, 33(1900), pp. 341-347. J. Sabourin relates an incident occurring in 1904 in which the Holy See declared that because of the nature of the Sisters of Mercy, the division of a diocese does not automatically necessitate that a branch house of the Sisters

Congregation for Religious settled the question of the juridic nature of the Sisters of Mercy by declaring the institute pontifical.¹¹²

2. Autonomous houses

The decline in the acceptance of autonomy as the only appropriate expression of governance for the Sisters of Mercy came about gradually but consistently during the latter part of the nineteenth century and the initial part of the twentieth century. M. Trainer attributes this decline to leadership's reinterpretation of the charism by which governance structures became a "means to an end rather than an end in itself."¹¹³ In 1929 the establishment of the Union

of Mercy should become independent of its motherhouse. See D. FALCONIO (Apostolic Delegate), letter to W. Stang (Bishop of Fall River), July 9, 1905, in J. SABOURIN, *The Amalgamation*, p. 26.

¹¹² SCR, Declaration, November 24, 1925, in *Commentarium pro religiosis et missionariis*, 7(1926), p. 83. See also AAS, 18(1926), p. 14.

A commentary on the declaration reasons that according to canon 488,3°, CIC 1917 a pontifical institute is one which has received either approval or at least a decree of praise. In the case of the Sisters of Mercy, Catherine McAuley sought and obtained approval of the Holy See for the congregation's *Rule and Constitutions*; thereby, the Sisters of Mercy became an institute of pontifical right. See J. KINANE, "Declaration Regarding the Juridical Nature of the Sisters of Mercy", in *Irish Ecclesiastical Record*, 28(1926), p. 419.

¹¹³ M. TRAINER, *A Participative Approach to Corporate Restructuring in the World of Religious Women* (Paper delivered to the Conference on Coalitions, Boston University), May, 1988, p. 17.

demonstrated this change in thinking most dramatically. Not only did the governance structure embraced by the Union depart from the autonomous house feature of the institute, it also entailed a high degree of centralization. In their governance model, although the provincial superiors were superiors in their own right, the mother general maintained unequivocal control over the entire institute.¹¹⁴ This mode of governance continued into the 1960s.

B. *Purpose of the Sisters of Mercy*

The purpose that the Sisters of Mercy embraced during their expanding years in the United States demonstrates remarkable similarity to the purpose which Catherine McAuley had incorporated into the heritage of the institute. The education of poor girls, visitation of the sick and protection of poor women of good character certainly occupied a preferential position for the United States' Sisters of Mercy

¹¹⁴ The constitutions provided for this high degree of centralization with the following provisions: "The Institute although divided into provinces, is under the entire and immediate authority of the Mother General." *Constitution of the Institute of the Religious Sisters of Mercy of the Union in the United States of America*, Washington, D.C., Sisters of Mercy, 1941, (= *Constitution 1941*), Part II, Chapter 6, no. 272, p. 102; "The Mother General, with consent of her Council and in special cases, can reserve to herself or to her Council any faculty which belongs to the Mother Provincial or the Provincial Council, after having previously advised them." *Constitution 1941*, Part II, Chapter 2, no. 245, p. 92. Admittedly the above constitutional references reflected prevailing universal law. By the 1960s, while the same principles still were applicable, more delegation of the mother general's authority became the norm.

as they expanded their services during the latter half of the nineteenth century. As had been the case in Ireland, however, different locations dictated different emphases in the services rendered. For instance, in port cities, such as New York or St. Louis, the needs dictated that the sisters provide a high degree of social services.¹¹⁵ At inland locations, such as Manchester, New Hampshire, the needs called for emphasis to be placed on staffing schools: free schools for the poor and academies for children of middle class families.¹¹⁶ A newspaper article heralding the arrival of the Sisters of Mercy in St. Louis described the congregation as an "order specifically devoted to the sick and the poor."¹¹⁷ Hence the expansion truly reflected the purpose as established by Catherine McAuley.

In several cases the documentation from unions which occurred in the United States reveals a concern regarding the fulfillment of the institute's purpose. For instance, the expectation "that better results in the practical work of the communities might be obtained" provided a rationale in the decree uniting the Connecticut houses.¹¹⁸ The petition seeking the 1929 unification sought to prepare and educate young

¹¹⁵ See H. MULDER, *Abounding in Mercy*, p. 81.

¹¹⁶ *Ibid.*

¹¹⁷ *Ibid.*

¹¹⁸ D. FALCONIO, Decree, August 28, 1911.

sisters more effectively for their teaching and nursing assignments. Also, the decree granting this union predicted that the amalgamating Sisters of Mercy "would more easily obtain their common purpose."¹¹⁹ For the first thirty years of its existence, the Sisters of Mercy of the Union carried out their purpose chiefly through their institutions: hospitals, schools, homes for children and homes for the aged. Since the completion of the Second Vatican Council, however, the Union's ministries multiplied with a renewed sense of direct service to the poor as well as the establishment of means to effect systemic change.¹²⁰ Perhaps, the Union's greatest contributions in promoting the institute's purpose resided in its ability to network sisters and their co-workers doing specific works of mercy.¹²¹

¹¹⁹ SISTERS OF MERCY, Petition to Pius XI, June 11, 1928. For the decree granting the 1929 restructuring see, CR, Decree, March 1, 1929. The Union's first constitutions reflected the congregation's purpose as the education of the young, visitation of the sick, care of the sick in hospitals and care of women, the aged, and orphans. See *Constitutions of the Religious Sisters of Mercy for the Union in the United States of America*, Bethesda, Maryland, Sisters of Mercy, 1931, (= *Constitutions* 1931), Part I, Chapter 1, no. 1, p. 1.

¹²⁰ See R. WERNTZ, *Our Beloved Union*, pp. 359-361.

¹²¹ Among the opportunities provided by the Union for Sisters of Mercy to network with others involved in a similar ministry, we could mention health care, education, higher education, prison ministry and housing ministry. *Ibid.*, pp. 364-365.

C. *Character of the Sisters of Mercy*¹²²

Dedication to the works of the apostolate, influenced the expansion and unification efforts of the Sisters of Mercy in the United States. Furthermore, the institute's fourth vow of service to the poor, sick and ignorant became a distinguishing feature of the Sisters of Mercy in the United States.

1. *Dedication to the works of the apostolate*

Active unimpeded service to God's people which, at least partially, signifies the character or identity of the Sisters of Mercy, characterized the expansion of the sisters in the United States.¹²³ Indeed, the pioneering Sisters of Mercy in the United States dedicated their lives to the works of the apostolate. In 1928 this dedication provided the motivation for the sisters to seek centralization.¹²⁴ Interestingly,

¹²² The character of the Sisters of Mercy appears to flow from the institute's purpose. Therefore, throughout the remainder of this study the ordering of the heritage's elements is transposed so that *character* follows *purpose*. It must be noted, however, that while this relationship between the institute's purpose and character is present with the Sisters of Mercy, such is not always the case with other institutes. Another institute may have a different feature of its heritage which takes on characteristic importance. An example of this would be the autonomy of governance present in the Benedictine rule. Indeed, autonomy could be considered part of the character of the Benedictine order.

¹²³ For a review of the apostolic works assumed during the expanding years, see *supra* p. 63ff.

¹²⁴ For an explanation on the contribution of centralized government to the apostolate, see [J. GALLAN], *Historico-Juridico Account*, p. 3.

however, the Union constitutions included a somewhat contradictory element, a chapter on enclosure. This chapter appears to have fulfilled the requirements of the 1917 code regarding partial enclosure for religious congregations of simple vows.¹²⁵ Thus, the first six articles in the 1941 *Constitution's* chapter, "The Enclosure", contained provisions for areas of the convent to be specifically set aside for the sisters and the conditions under which others could enter these areas.¹²⁶ Several additional articles, however, established prohibitions against the sisters leaving the convent grounds.¹²⁷ These provisions in the 1941 *Constitution* appear more restrictive than their source in the 1917 code.¹²⁸

¹²⁵ See *CIC* 1917, cc. 604-607.

¹²⁶ See *Constitution* 1941, part I, Chapter 4, nos. 28-33, pp. 14-15.

¹²⁷ See *Constitution* 1941, part I, Chapter 4, nos. 34-36, pp. 15-16.

¹²⁸ Canon 607 of the 1917 code provided: "Superiores and local ordinaries shall be vigilant to prevent religious women from going out alone without necessity." J. ABBO, *The Sacred Canons*, p. 630. "Antistitae et Ordinarii locorum serio advigilent ne religiosae, citra casum necessitatis, singulae extra domum pergant." *CIC* 1917, c. 607.

The 1941 *Constitution* also appears to be more prohibitive than its 1931 antecedent. The 1931 *Constitutions* prescribed: "Sisters are not allowed to leave the house singly without a companion, unless it is absolutely necessary." *Constitutions* 1931, Part I, Chapter 8, no. 42, p. 13. The corresponding article of the 1941 *Constitution* provided: "The Sisters are not allowed to leave the premises without the permission of the Superior. Unless there is a grave reason they may not go out without a Sister companion appointed by the Superior." *Constitution* 1941, Part I, Chapter 4, no. 35, pp. 15-16.

2. The fourth vow

In the latter part of the nineteenth century, the Holy See, which was discouraging new congregations from taking a fourth vow, eventually prohibited them from doing so.¹²⁹

Interestingly, the constitutions which resulted from the 1907 union in the ecclesiastical province of Australia (which had served as a model for the Union's constitutions) contained provisions on enclosure in a section entitled "Of Aids To Discipline and Fervor" rather than in a section devoted to enclosure. See *Rules and Constitutions of the Religious Sisters of Mercy of Victoria and Tasmania, Australia, Melbourne, Pelligrini & Co., n.d., Part I, Chapter 18, p. 51.* (The same approach was used in the *Constitutions of the Sisters of Mercy of the United Houses of the Dioceses of San Francisco, Monterey and Los Angeles, and Tucson, Arizona, San Francisco, Sisters of Mercy, November 21, 1922, Chapter 18.*) This chapter title, "Of Aids to Discipline and Fervor", may have been more appropriate. This is in light of the fact that Archbishop Murray crossed out a section on modified enclosure, which Catherine McAuley had suggested in her original composition of the Mercy rule and constitutions. Apparently, Murray did so in an effort to preserve the distinct character of the Mercy Institute. See C. McAULEY, *Rule of the Sisters of Mercy* (with suggested modifications by Archbishop Murray), photocopy of the handwritten manuscript, 1833, p. 26 in ASMNJ. The above discussion provides an example of where the Holy See in its effort to codify an obligation of enclosure for all religious may have modified an aspect of the heritage of the Sisters of Mercy.

¹²⁹ In tracing the *praxis* of the curia regarding the fourth vow, Albert Battandier gives several examples dating from 1887, 1888, and 1892 where the Holy See denied approval for a fourth vow in a new institute. However, he also states that this discipline does not modify the condition in institutes who have previously received approval for a fourth vow. See A. BATTANDIER, *Guide canonique pour les constitutiones des soeurs à vœux simples*, Paris, V. Lecoffre, 1898, pp. 93-94. In 1901 the norms which the Congregation for Bishops and Regulars developed to direct the approval of new institutes stated: "Non admittitur in novis Institutis quartum votum." CBR, *Normae secundum quas S. Congr. Episcoporum et Regularium procedere solet in approbandis novis institutis votorum simplicium*, Rome, Typis S.C. de Propaganda Fidea, 1901, no. 102.

Nevertheless, the fourth vow of the United States' Sisters of Mercy appears to have remained intact.¹³⁰ The vow formula contained in the Union's Constitutions contained the fourth vow of service to the poor, sick and ignorant.¹³¹ However, in 1951, aware of the Holy See's prohibition regarding fourth vows, Mother Bernadine Purcell, mother general of the Sisters of Mercy of the Union, sought an authentic interpretation from the Holy See on the matter.¹³² The Sacred Congregation for Religious responded "that such service is to be held as a fourth vow."¹³³ This reaffirmation of the vow formula containing the fourth vow stands in contrast to the vow formula approved in the constitutions of the congregation resulting from the 1907 Melbourne union.¹³⁴ Their constitutions

¹³⁰ While a thorough study of the incorporation of the fourth vow has not been done as part of this study, a surveying of a sampling of constitutions of United States Mercy communities indicates that the vow formula contained in the 1841 *Rule and Constitutions* has been preserved. J. Lappetito suggests, however, "retaining the service vow became questionable for some Sisters of Mercy." J. LAPPETITO, *Our Life Together in Mercy*, p. 9. This question provides an area for further study.

¹³¹ See *Constitution* 1941, Part I, Chapter 9, no. 91, p. 34.

¹³² See B. PURCELL, Letter to CR, October 20, 1951, in ASMU.

¹³³ "...praefatum servitium habendum esse uti quartum votum" CR, Rescript, Prot. II885/51, November 12, 1951, in ASMU. Also see Appendix II-H. Translation in J. LAPPETITO, *Our Life Together in Mercy*, p. 9.

¹³⁴ See *supra* note 43, p. 76.

omitted the fourth vow in the vow formula.¹³⁵ Hence, the inclusion of the vow of service to the poor, sick and ignorant appears to characterize the Sisters of Mercy in the United States.

D. *Spirit of the Sisters of Mercy*

When writing about the establishment of the Sisters of Mercy in New Orleans, H. Muldrey records that Mother Austin Carroll sought to establish "a community rooted firmly in the nourishing spirit of the foundress of the Mercy Institute. Catherine McAuley's aims, ideals and virtues were the sources of enrichment ...[which were] to nourish and inspire her young sisters."¹³⁶ The pioneering American Sisters of Mercy and the

¹³⁵ See *Rules and Constitutions of the Religious Sisters of Mercy of Victoria and Tasmania Australia*, Melbourne, Pellegrini, n.d., Part I, Chapter 8, no. 81, p. 27.

At their June, 1928, meeting (see *supra* p. 89), Mercy superiors raised concern regarding the possible omission of the fourth vow. Asked about the ability of the potential union to retain the fourth vow, V. Schaaf, the canonical consultant replied: "'Some of the Sisters may have read certain things and fear that they will have to give up the fourth vow, but I do not think you will have to give it up. While the Holy See will not admit its inclusion at the present day, it will not take the fourth vow away from any Institutes which already have it.' The Mother Superior of Portland, Oregon asked: 'What was the object of omitting the fourth vow in the Australian revision?' 'I do not know,' replied Fr. Schaaf, 'the exact situation, but I do not believe the Holy See changed it of its own accord, but did so on the recommendation of the chapter itself, which was probably under the impression that the Holy See would not permit it to be retained.'" *Report of the Meeting of Superiors*, p. 4.

¹³⁶ H. MULDREY, *Abounding in Mercy*, p. 131.

founders of the Union carried with them the spirit which Catherine McAuley had woven into the institute's heritage.

1. *Union and charity*

The Sisters of Mercy demonstrated their unity by participating in extensive personnel sharing between Mercy houses in Ireland and the United States. Josephine Warde, the sister of Frances Warde and the superior of the Mercy foundation at Cork, sent Irish girls as postulants to foundations in the United States for a period of nearly thirty years.¹³⁷ In addition, some Mercy communities in the United States initiated this practice among themselves.¹³⁸ The sisters who volunteered to participate in this type of sharing demonstrated that the Sisters of Mercy in the United States possessed a unity which transcended juridical distinctions.

Concern for unity provided a strong motivational factor in the regional unions as well as in the establishment of the Sisters of Mercy of the Union. On February 24, 1928, in a letter to Sister Mary Aquinas, superior of the Pittsburgh

¹³⁷ K. HEALY, *Frances Warde*, p. 126.

¹³⁸ For instance, as early as 1858, Bishop John Timon, the first bishop of Buffalo, went to New York to request a sister to govern a Mercy community he desired to establish in Buffalo from the Mercy community in Rochester. See G. PIERCE, *Unto All - His Mercy*, p. 23. Assistance was also rendered at greater distances. Frances Warde, superior of the Mercy congregation in Providence, Rhode Island, sent sisters to assist the Naas-founded community in Little Rock, Arkansas, as "recruits were rare in the West." K. HEALY, *Frances Warde*, p. 247.

Mercy congregation, Carmelita Hartman stated that the principal reason to amalgamate was to preserve "intact the precious legacy left us by our revered Foundress, Our Most Holy Rule..."¹³⁹ Once established, the Union recalled Catherine's ideal of "union and charity" with the inclusion of the original chapter, "Of Union and Charity", in their constitutions.¹⁴⁰ In addition, the Union's highly structured program of visitation by the mother general to provincial communities sought to "...reinforce union and charity" and "to unite all the houses more closely..."¹⁴¹

2. Flexibility and adaptability

As the Mercy institute expanded to various cities and established its works of mercy according to the needs of various locales, a second aspect of the institute's spirit,

¹³⁹ Apparently this concern centered on the fact that on July 26, 1918 the Holy See had ordered all constitutions to be revised in accordance with the 1917 code. Carmelita wrote "By the time over sixty communities of Sisters of Mercy in the United States will have inserted their own modifications, the original rule will be difficult to detect." C. HARTMAN, Letter to A. Ragen (Mother Superior, Pittsburgh), February 24, 1928 in ASMU.

¹⁴⁰ *Constitution 1941*, Part I, Chapter 21, nos. 159-163, pp. 61-64. In the document containing a proposed revision of the constitutions after the completion of the Second Vatican Council, the original chapter on *Union and Charity* was quoted in the section on Fellowship/Community Life and followed by the sentence: "The spirit of this chapter is still essentially the ideal of the Institute", in *Mercy Covenant*, Bethesda, Maryland, Sisters of Mercy of the Union, 1971, pp. F-1, F-2.

¹⁴¹ *Constitution 1941*, Part II, Chapter 2, no. 236, pp. 89-90.

"flexibility and adaptability", became apparent. However, not all American founders and those in leadership positions endorsed this feature. In fact, the specific question raised by the establishment of schools for children of middle-class families provided the single most controversial issue which impeded an earlier nation-wide unification of the Sisters of Mercy.¹⁴² Frances Warde believed that similarity in practice among the United States foundations was neither required nor desirable.¹⁴³ Mother Baptist Russell, founder and superior of the Sisters of Mercy in San Francisco, disagreed and sought to mobilize opposition against Frances in a debate which raged on both sides of the Atlantic.¹⁴⁴ While the United States

¹⁴² "In a sharp communication to Frances Warde, [Baptist Russell of San Francisco] informed her that she was no longer interested in collaborating with the American congregations toward a general chapter -- the blame, deservedly or not, being Frances Warde's because of the pension schools." E. GEORGE, *The Sisters of Mercy and the Pension School Controversy*, p. 9, in ASMU.

¹⁴³ *Ibid.*, p. 12. Other founders, such as Mother Austin, Carroll, who helped to establish the Sisters of Mercy in New Orleans, also sympathized with Frances' view. Austin did so because of the necessity to adopt prescriptions in the *Rule and Constitutions* to the near tropical weather of New Orleans. See A. CARROLL (Superior, Sisters of Mercy, New Orleans), Letter to J. O'Connor (Vicar-apostolic of Omaha), March 19, 1877, in AAO.

¹⁴⁴ See E. GEORGE, *Pension School Controversy*, pp. 7-8. B. Russell believed that if Catherine had intended pension schools, she would have provided for them in the *Rule and Constitutions*. *Ibid.*, p. 9. In Ireland, the Dublin house went on record in support of "flexibility" with its 1869 *Book of Customs* by stating that Catherine McAuley "did not in any way exclude such other good works as circumstances in various places might make desirable." *The Customs and Minor Regulations of the Religious Called Sisters of Mercy in the*

expansion ultimately embraced the "flexibility and adaptability" aspect of the Mercy spirit, this embrace met serious challenge with the formation of the Sisters of Mercy of the Union.

In their petition to form the Union the superiors stated as their first reason "the promotion of religious discipline."¹⁴⁵ Seemingly, this motivation led to the advancement of a sometimes rigid uniformity.¹⁴⁶ As a means to bring about the desired conformity, the Union leadership compiled a custom book which paralleled the *Abridgement of a Guide*.¹⁴⁷ The second version of the *Customs and Guide* which the generalate published in 1957 contained nearly four hundred pages.¹⁴⁸ The *Customs and Guide* sought to regulate virtually every aspect of the sisters' personal, professional and

Parent House, Baggot Street and its Branch Houses, Dublin, J. M. O'Toole, 1869, p. 101. Back in middle America, the community in St. Louis, which advocated a conservative approach to the question, sought clarification from the Holy See by requesting that "the fourth vow specifically prohibit service to the upper classes." The CPF responded that the works of mercy should be interpreted broadly. See E. GEORGE, *Pension School Controversy*, p. 14.

¹⁴⁵ SUPERIORS, SISTERS OF MERCY, Petition to Pope Pius XI, June 11, 1928.

¹⁴⁶ R. WERNTZ, *Our Beloved Union*, p. 20.

¹⁴⁷ *Customs and Guide of the Religious Sisters of Mercy of the Union in the United States of America*, Bethesda, Maryland, Sisters of Mercy, 1945, 171p.

¹⁴⁸ *Customs and Guide of the Institute of the Religious Sisters of Mercy of the Union in the United States of America*, Bethesda, Maryland, Sisters of Mercy, 1957, 389p.

religious life. Unlike Catherine McAuley's approach where unity did not entail uniformity, for the first thirty years of its existence, the Union's approach to unity required a rigid uniformity.¹⁴⁹

3. Action and contemplation

The extensive expansion campaign which Frances Warde conducted throughout the United States between 1843 and her death in 1884 categorized her as a woman of action. In the spirit of her institute, however, Frances balanced her affinity toward action with a burning desire for contemplation.¹⁵⁰ Nevertheless, the demands of the American apostolate, at times, severely inhibited a full embrace of the contemplative dimension of the Mercy spirituality. In the early years, novitiates were often shortened or conducted in the midst of apostolic activity. This trend inhibited a young sister's opportunity to cultivate a life of prayer. In addition, the constant service rendered by the sisters during prolonged epidemics or disasters may have contributed to a

¹⁴⁹ R. WERNTZ, *Our Beloved Union*, pp. 20-21.

The 1969 extraordinary chapter passed a proposal which gave sisters the freedom to make their own decisions in their own personal lives, thus allowing for a new degree of flexibility. *Ibid.*, p. 267.

¹⁵⁰ Frances exemplified this desire by her attraction to the arts, literature and scripture, as well as her planting of gardens as places of prayer wherever she established a Mercy community. K. HEALY, *Frances Warde*, pp. 14-15.

perception that the life of a Sister of Mercy did not necessarily include contemplation as an essential element.¹⁵¹

Since the presenting reasons for the establishment of the Union included the need to regularize novitiates, the Union sought to establish centralized novitiates in the provinces.¹⁵² Thus, the Union provided opportunity for its novices to cultivate lives of prayer in an environment removed from the institute's active apostolic life and with the guidance of sisters who were specifically designated to direct the formation process. In addition, early mothers general limited the additional responsibilities that second year novices and temporary professed sisters would assume, in an effort to provide them with maximum time to meet their spiritual obligations.¹⁵³

¹⁵¹ In 1878, to counteract this impression, Austin Carroll wrote in a local Catholic newspaper on the occasion of a reception ceremony. Austin stated "the Sisters of Mercy combine the silence, recollection and prayer of the Carmelites with the active zeal of the Sisters of Charity." A. CARROLL, "A Reception - The Order of Mercy", in *Morning Star and Catholic Messenger*, November 20, 1878 in ASMNO.

¹⁵² See *supra* p. 94.

¹⁵³ See R. WERNTZ, *Our Beloved Union*, pp. 90-91; 168.

E. Wholesome traditions of the Sisters of Mercy

Several wholesome traditions which were rooted in the institute's original heritage continued to influence the development of the Sisters of Mercy in this country. These included assertive respect for ecclesiastical authority, membership consultation and leadership development.

1. Assertive respect

The assertive respect for ecclesiastical authority which Catherine McAuley established as a wholesome tradition of the congregation experienced difficulty during the United States expansion. While the Sisters of Mercy and ecclesiastical authorities often worked well together for the building up of the Catholic Church in the United States, situations also occurred which strained these relationships.¹⁵⁴ Frances Warde appears to stand in striking contrast to Catherine McAuley in

¹⁵⁴ An example where the sisters and ecclesiastical authorities worked well together can be found in Frances Warde and Bishop David W. Bacon of Portland. In Portland, Frances maintained freedom in conducting the affairs of the congregation. Bacon never interfered in the congregation's internal government. See K. HEALY, *Frances Warde*, p. 399.

An example which shows the difficulties experienced occurred in Chicago. There, in 1856 a "docile" mother superior of the Chicago congregation, Mother Vincent McGirr, was persuaded by Bishop Anthony O'Regan of Chicago, to hand over the deeds to valuable lake shore property. When the superior assistant, Genevieve Granger, refused to consent, she was deposed by the Mother Vincent and replaced by a sister who was willing to acquiesce to the bishop's wishes. *Ibid.*, pp. 205-206.

this regard. While normally Catherine did not question the right of ecclesiastical authorities to govern, Frances tended to be far less submissive.¹⁵⁵ She often found herself in a position of confronting ecclesiastical authorities over the question of their interference in the internal affairs of the congregation.¹⁵⁶ Consequently, Frances did not engender the same kind of admiration by church authorities as Catherine McAuley.¹⁵⁷

This strain in relationships followed the Sisters of Mercy into the twentieth century. For instance, while a bishop may have intended to act in the best interests of the sisters, at times he may have communicated in an offensive manner.¹⁵⁸ Moreover, interference in the internal decision-making processes of Mercy congregations became especially evident as congregations prepared to make decisions regarding membership in the proposed 1929 union. Prelates in Cincinnati, Chicago, Hartford and San Francisco apparently lobbied against the Sisters of Mercy from those cities signing the petition seeking formation of the 1929 union.¹⁵⁹ While sisters in

¹⁵⁵ *Ibid*, p. 132. Chapter I establishes that this stance for Catherine is not without exception.

¹⁵⁶ K. HEALY, *Frances Warde*, p. 138.

¹⁵⁷ *Ibid.*, p. 472.

¹⁵⁸ See *supra* note 46, p. 78.

¹⁵⁹ Archbishop John T. McNicholas did not approve of the Sisters of Mercy in Cincinnati taking steps toward amalgamation as the petition was being prepared for the Holy

Cincinnati and Chicago joined after the Holy See approved the union, it remains questionable whether the sisters in San Francisco and Hartford ever freely decided in this regard. These instances provide examples where assertive respect of ecclesiastical authorities, at times, gave way to unwarranted interference by ecclesiastical authorities.

2. Consultation and leadership development

The wholesome tradition of leadership development accompanied the Sisters of Mercy as they expanded in the United States. Like her predecessor, Frances Warde often accompanied the sisters as they founded a new Mercy community in a distant city. Frances stayed with the community for a period of time to observe that community life and apostolate commenced in the Mercy tradition. Although always available for advice, Frances left the authority in the hands of the new

See. See J. SABOURIN, *The Amalgamation*, p. 76. On January 17, 1928, Mother M. Cyril McGurn, superior of the Chicago community, announced to Carmelita Hartman that Cardinal George Mundelein "will not hear of general government and will not permit us to participate in it." *Ibid.*, p. 85. Bishop John J. Nilan "addressed the entire community in three sections and said the amalgamation was not the wish of the Holy See and worked them up to a point that the majority was against it..." *Ibid.*, p. 227. "Archbishop [Edward J.] Hanna [San Francisco] addressed the Sisters before voting and they gleaned he did not favor the union...Bishop [John J.] Cantwell wrote her that he was not sure the Sisters in his diocese [Los Angeles] would not wish to enter the Union until they learned how it progressed....most of the negative votes came from San Francisco itself where they choose to please the Archbishop..." *Ibid.*, p. 242.

community's lawful superior.¹⁶⁰

Even though a motivating reason for at least some unions included the need for sisters equipped to govern, the tradition of leadership development met a serious challenge in the formation of the Sisters of Mercy of the Union.¹⁶¹ Regina Werntz states that the style of leadership engaged in during the first thirty years of the Union was "based on the hierarchical model used throughout the Church..."¹⁶² Study of the evolution of the role of the provincial administrator in the Union's governance structure provides a means of measuring the commitment that Union leadership gave to leadership development. From the beginning of the Union's existence, the mother general convened the provincials as a group to share common concerns and to seek their advice. Regina Werntz points out, however, that the tone of these meetings was not collegial.¹⁶³ By the mid 1950s, the centralization of power in the Union was at its peak. During this period the

¹⁶⁰ Because of the tremendous distances involved and the demands of her local community, at times Frances did not accompany sisters who were to found a new community. Thereby, she showed that she trusted in her sisters' ability to lead and govern. Because of a dearth of primary sources of Frances Warde, her tendency toward consultation is harder to ascertain. Recall, however, that Frances consulted the Sisters of Mercy in Pittsburgh before proceeding on a movement toward centralization. See *supra* p. 72.

¹⁶¹ See *supra* p. 78.

¹⁶² R. WERNTZ, *Our Beloved Union*, p. 225.

¹⁶³ *Ibid.*

constitutions provided for the appointment of all provincial officials by the mother general, with consent of her council.¹⁶⁴ Shortly, however, the pendulum began to swing. On the eve of the Second Vatican Council, the Union's sixth general chapter (1959) "placed new decision-making power in the hands of the provincials..."¹⁶⁵ The 1969 extraordinary chapter affirmed the provincials as a necessary consultative grouping with the inclusion of the provincials on the newly formed board of consultors.¹⁶⁶ This structure seems to have evolved into the general administrative conference, composed of the general council and the nine provincials, at first considered a consultative structure which later evolved into a more deliberative one by provision of the Tenth General

¹⁶⁴ Previously these officials had been elected by provincial chapters. See *Constitutions of the Institute of the Religious Sisters of Mercy in the United States of America*, Bethesda, Maryland, Sisters of Mercy, 1955, Part II, Chapter 6, no. 274, p. 103 and *Constitution 1941*, Part II, Chapter 6, nos. 287-288, pp. 107-108.

¹⁶⁵ R. WERNTZ, *Our Beloved Union*, p. 237. These additional powers included increased faculty to authorize some extraordinary expenses as well as increased authority to regulate the use of television, radio and movies. See *Some Norms and Determinations of the Sixth General Chapter of the Religious Sisters of Mercy of the Union in the United States of America*, August 26 - 31, 1959, in ASMU.

¹⁶⁶ This board was designed "to assist in the formulation of interim policies affecting the Institute." In addition to the general council and provincials, membership on the generalate board of consultors included an elected sister from each province. See R. WERNTZ, *Our Beloved Union*, p. 225.

Chapter (1977).¹⁶⁷

The collective wisdom which accrued over the decades of the United States expansion with its centralization efforts would influence the Sisters of Mercy in the generation following the Second Vatican Council. In particular, the experience of governing which the Union accumulated in their first fifty years of existence would provide valuable insights which Mercy leadership and membership of the 1980s would ponder as they prepared to face the challenges and responsibilities of the twenty-first century. After drawing conclusions for the dissertation's first part, the study continues by focusing on the processes which resulted in the unification of nearly every Sister of Mercy in the United States into a single institute.

¹⁶⁷ The proposal passed in this regard read: "That the General Administrative Conference Team and provincial administrators constitute a collegial group at the Institute level. " *Minutes of the Tenth General Chapter of the Sisters of Mercy of the Union*, April 2-9, 1977, p. 31.

SUMMARY AND CONCLUSIONS FOR PART ONE

Part One has provided the historical and canonical background for the development of the *proposed governance model* of the Institute of the Sisters of Mercy of the Americas. The first chapter described Catherine McAuley's original plan regarding the heritage of the Sisters of Mercy according to its elements -- its nature, purpose, character, spirit and wholesome traditions. The second chapter ascertained the extent to which subsequent generations of Sisters of Mercy who established the institute in the United States of America remained faithful to the founder's inspiration. From this examination, the following conclusions can be drawn.

According to Catherine McAuley's original intention, the Sisters of Mercy became a congregation of pontifical right receiving full pontifical approval on July 5, 1841. However, because of the provision in the constitutions making the local diocesan bishop the principal superior of a Mercy institute, the United States bishops often challenged this feature of the institute's nature. While the 1926 declaration from the Holy See supposedly settled the matter, some bishops continued to exert undue influence and interference in the internal operations of Mercy institutes. We see later how this treatment led to a diminishment in the wholesome tradition of

assertive respect for ecclesiastical authority.

While Catherine McAuley generally established her foundations as autonomous houses, this first part has raised serious questions as to just how deliberately Catherine intended that choice of governance structures. Rather, her choice seems to have been strongly conditioned by the historical and geographical context. A survey of the initial phases of United States Mercy history reveals that Frances Warde, Catherine McAuley's colleague and confidant, challenged this aspect of the institute's heritage less than twenty years after Catherine's death. In addition, regional unions which took place between 1880 and 1928 did not appear to impair the institute's fidelity to its founding charism. In 1929 the Holy See's approval of the petition to unite more than half of the nation's Sisters of Mercy demonstrated that the Holy See did not consider juridical autonomy to be an indispensable element of the Sisters of Mercy heritage. Herein lies an example of an aspect of an institute's heritage which may be transitory and open to development.¹

Catherine's intention regarding the purpose of the Sisters of Mercy demonstrated more deliberation on her part. Catherine had discerned that purpose over decades. Thus, she

¹ J. Gallen states, "Even in the intentions of the founder, there can have been things of primary and secondary importance; the latter usually being changeable of their nature." J. GALLEN, "Authority and Autonomy", in *Review for Religious*, 43(1984), p. 595.

established a clearly focused goal for her community: to serve the poor and the sick with a preferential care for young girls and unmarried, unemployed women. This purpose prompted bishops to request the Sisters of Mercy for their developing dioceses in the United States. Furthermore, this purpose provided a principal motivating cause for the movements toward centralization. Indeed, service to the poor with a preferential care for young unmarried women remained a constant, albeit not exclusive, focus throughout the initial phases of United States Mercy history.

The institute's character which seems to flow from the institute's purpose also remained a constant concern for the Sisters of Mercy. Dedication to the works of the apostolate and the fourth vow of service to the poor, sick and ignorant, which the character inspires, received continual endorsement during the Mercy expansion in the United States. Bishops of the frontier dioceses found the "no enclosure" feature of the Sisters of Mercy quite attractive. Even though the Sisters of Mercy of the Union included a section on a *modified* enclosure in their constitutions, this inclusion appears to have been for the sake of conformity with the 1917 code. The Union's efforts in preserving the inclusion of the fourth vow in the vow formula suggests that the Union intended to remain faithful to this valued aspect of the institute's heritage.

This part also established three manifestations of the institute's spirit: "union and charity", "flexibility and

adaptability" and "contemplation and action". The Augustinian values of union and charity became a compelling force in the founder's life. A sense of belonging, to one another and ultimately to God, held strong value for Catherine McAuley who herself had experienced being without a home for a period in her life. The concern for union among her sisters remained a constant feature during the initial phases of United States Mercy history.

The spirit's second manifestation, flexibility and adaptability, becomes apparent in Catherine McAuley's approach to establishing new foundations. She sought to allow flexibility in the establishing of the apostolic works in a new locale. In addition, Catherine's approach in writing the *Rule and Constitutions* omitted much of the detail found in the *Presentation Rules and Constitution*. Again she preferred to leave the determination of these details to the local autonomous houses she established. Interestingly, the fact that the Holy See gave definitive approval to the *Rule and Constitutions* without requiring the additional specificity recommended by the consultor, P. Secchi Murro, seems to suggest that the Holy See ratified Catherine's approach. This aspect of the spirit did meet serious challenge during the United States expansion. The question of serving children of middle class families as well as the rigidity, inherent, at times, in the Union's first thirty years of existence eventually forced the Sisters of Mercy to reexamine the

commitment Catherine had made to "flexibility and adaptability".

The spirituality Catherine formed for her institute sought to call forth a rhythmic flow between the works of mercy and union with God. This aspect met serious challenge during the expanding years. The austere circumstances which affected the pioneering Sisters of Mercy seems, at times, to have overshadowed the contemplative aspect of a Sister of Mercy's life. The Union attempted to restore a greater value to the contemplative aspect of the sisters' lives with its focus on regularizing novitiates.

Finally, the wholesome traditions of "leadership development and consultation" and "assertive respect for ecclesiastical authority" received treatment in the dissertation's first part. Long before the words "subsidiarity" and "consultation" became common church parlance, Catherine McAuley had incorporated these values into the structures of her institute. Perhaps this is due, at least in part, to Catherine's later in life involvement in church structures. She was nearly fifty years old when she became a professional church person. As she had been given responsibility and had been consulted in the decision-making which took place at Coolock House, so too, she provided the same experience for her companions at Baggot Street. While the United States expansion experience quickly allowed for the promotion of young sisters into leadership positions,

sometimes it failed to provide adequate preparation for these sisters. Even though its founding superiors intended that the formation of the Union would provide a greater access to sisters with the ability to govern, at times, the Union demonstrated a rather hierarchical approach to leadership. Consequently, this wholesome tradition experienced some set-backs during the institute's first hundred years in the United States. Admittedly, the prevailing church practices strongly influenced many of these setbacks.

Finally, Catherine McAuley provided for another wholesome tradition, an assertive respect for ecclesiastical authority. In one sense she placed herself and her fortune at the disposal of the church. However, in another sense, she did not allow herself or her institute to be defined by any merely *human* ecclesiastical authority. During the expanding years in the United States this tradition appears to have experienced difficulty. At times, it seems, church authorities took advantage of the sisters. Furthermore, the Union with its own hierarchical tendencies, became such a part of the system that it may have sacrificed some of the "assertive" edge of its respect for ecclesiastical authority.

The American generations of Sisters of Mercy appear thus far to have maintained a remarkable fidelity to Catherine McAuley's original inspiration. While some modifications did take place, these appear to be with transitory rather than permanent elements of the institute's heritage. Finally, while

at times tensions may have emerged regarding other aspects of the original Mercy heritage, these American Sisters of Mercy never lost sight of it.

PART TWO

THE FORMATION OF THE INSTITUTE OF THE SISTERS OF MERCY OF THE AMERICAS

Part Two, which contains the dissertation's third and fourth chapters, traces the canonical development of the Institute of the Sisters of the Americas. Chapter three begins by reviewing the formation of the Federation of the Sisters of Mercy of the Americas. It then outlines the steps taken between 1980 and 1985 to develop a new governance model. This chapter focuses on the evolution of the elements contained in the new Institute's governance model itself as well as the membership's contribution in shaping it through a series of formal consultations. The chapter includes some of the findings of Sister Mary Trainer (Merion), a social scientist, who has analyzed the Mercy Futures process from a sociological perspective.¹ The dissertation's fourth and final chapter considers the juridic preparation for the new Institute. This includes the formal decision-making process, the execution of that process, the submission of individual petitions to the Holy See, the response of the Holy See and the provisions for sisters not accepting membership in the new Institute.

¹ See M. TRAINER, *A Participative Approach to Corporate Restructuring in the World of Religious Women* (Paper delivered to the Conference on Coalitions, Boston University, May, 1988), 78p(= *A Participative Approach*).

CHAPTER III

MOVEMENT TOWARD RESTRUCTURING THE SISTERS OF MERCY IN THE UNITED STATES

Having considered the foundation of the Sisters of Mercy in 1831 as well as the institute's expansion in the United States of America, our attention now shifts to the primary focus of this study: the formation of the Institute of the Sisters of Mercy of the Americas. This chapter, then, discusses the immediate movement toward the restructuring.² In so doing, it begins by focusing on the development of the Federation of the Sisters of Mercy of the Americas, a precursor of the new Institute. It also outlines Federation history until 1980, when its governing body realized that its structures had become inadequate to meet present-day needs. This chapter then recounts the lengthy process, known as "Mercy Futures", which developed the *proposed governance model*. Therefore, the chapter will note how the Federation's governing body met eight times and conducted six membership consultations as well as a straw vote. It considers both the format for these consultations as well as their specific object: the variations on a possible governance model.

² This movement includes the spiritual and psychological preparation mandated in the norms for implementing the Second Vatican Council's decree on the renewal of religious life. See POPE PAUL VI, *Motu proprio, Ecclesiae sanctae*, II, August 6, 1966, no. 39, in AAS, 58(1966), pp. 781-782.

Finally, it recounts the initial contact with the Holy See regarding the new institute.

I. THE FEDERATION OF THE SISTERS OF MERCY OF THE AMERICAS

In an indirect but real way, the 1965 establishment of the Federation of the Sisters of Mercy of the Americas began the movement which led to the 1991 establishment of the Institute of the Sisters of Mercy of the Americas. This section, then, describes the formation of the Mother McAuley Conference, a precursor of the Federation, as well as the establishment and development of the Federation.

A. *The Mother McAuley Conference (1955-1965)*

On September 7, 1954, several superiors of United States Mercy congregations circulated a letter among the other Mercy general superiors of the non-amalgamated congregations asking them to consider joining together in a flexible association.³ The response to this invitation resulted in the establishment of "The Mother McAuley Conference". This association promoted

³ See L. HALLAGAN (Mother General, Sisters of Mercy, Cedar Rapids) et al., Letter to general superiors of the seventeen non-amalgamated Mercy communities in the United States, September 7, 1954, in ASMNJ. The letter went on to assure the superiors that there was "no thought of Union, Amalgamation or Federation in this plan". *Ibid.* All responded affirmatively to the invitation. The congregations were located in Albany, Auburn, Belmont, Brooklyn, Buffalo, Burlingame, Burlington, Cedar Rapids, Erie, West Hartford, Manchester, Merion Station, Pittsburgh, Plainfield, Portland, Rochester, and Worcester.

the canonization cause of Catherine McAuley as well as "her ideals by means of unified thinking and mutual exchange of ideas and interest."⁴ The Conference assisted the "exchange of ideas on topics of common interest at annual and, later biennial meetings, focusing on formation, the revision of constitutions and customs, the vows, the spiritual life, and the works of Mercy."⁵ Membership in this association, which the charter members limited to the non-amalgamated congregations initially, soon expanded to include two representatives from the Sisters of Mercy of the Union. As early as 1956, then, the stage was set for increased dialogue and subsequent collaboration among all Sisters of Mercy in the United States.

B. The establishment of the Federation

Inspired by the Second Vatican Council's call to renewal, the sisters present at the 1965 meeting of the Mother McAuley Conference in Hooksett, New Hampshire, resolved to form the Federation of the Sisters of Mercy of the Americas, whose initial goals highlighted the unity flowing from a common

⁴ A. ROTH, *The McAuley Conference 1955-65*, Potomac, Maryland, Federation of the Sisters of Mercy of the Americas, 1978, p. 2.

⁵ *Ibid.*

heritage.⁶ This newly-formed alliance wished to address the needs of those in leadership positions in the member congregations.⁷ On May 11, 1968, the Holy See issued a decree canonically approving and establishing the Federation.⁸ This

⁶ "BE IT RESOLVED: That in accordance with the wishes of the Church and expressed through the propositions on religious life of the Second Vatican Council, definite steps be taken toward a World Federation of the Sisters of Mercy; That as one such step this Mother McAuley Conference be formed into a Federation of the Sisters of Mercy of the Americas; That in such federation the autonomy of each Congregation be preserved." *Ibid.*, p. 21. The initial purposes of the Federation of the Sisters of Mercy of the Americas included promoting the unity of the institute so as to preserve the spirit of Catherine McAuley, thus enhancing the fulfillment of their mission in the Church. See *Statutes of the Federation of the Sisters of Mercy of the Americas*, Prot. no. 5733/67, May 11, 1968 (= *Federation Statutes*), art. III, p. 2 in AFSMA.

⁷ The initial functions of the Federation included to serve as a channel of communication to all member communities; provide a source of information for creating in the mind of major superiors an awareness of areas in need of study, adaptations necessary, changes warranted in keeping with the mind of the Church, the spirit of Mother McAuley, ...; bring about unity without uniformity in community living emphasizing the virtues of charity, mercy and justice. *Ibid.*, art. IV, p. 2.

⁸ See SCRIS, Decree, Prot. no. 5733/67, May 11, 1968, in AFSMA. Sister Mary Thomas Aquinas Carroll (Pittsburgh), the first Federation president, recounts a difference of opinion between two well-known canonists regarding whether or not the newly formed alliance needed authorization from the Holy See. Those founding the Federation opted in favor of the opinion of P. M. Boyle, president of the Canon Law Society of America, who "welcomed the whole movement of the Sisters of Mercy toward a federation as a new step in ecclesiastical organization of religious life..." T. CARROLL, *Federation of the Sisters of Mercy of the Americas, President's Report, 1965-1966*, pp. 1-2. M. Dortel-Claudot maintains that while a federation is not necessarily a first step toward a union, the establishment of a federation may offer in some cases appropriate juridical preparation for the establishment of a union. See M. DORTEL-CLAUDOT, *Union - fusion - fédération d'instituts religieux: Nouveau directoire pratique*, Paris,

decree stipulated that Federation membership consisted of nineteen congregations, one of them being the Sisters of Mercy of the Union.⁹

C. Federation functions expand

During the early Federation meetings the board of regents spent much time and energy developing the Federation organization.¹⁰ In addition, the Federation assisted those in leadership positions with the adaptation and renewal called for by the Second Vatican Council. During that time study commissions took shape: formation, revision of constitutions, health and social apostolate and mission. It soon became evident that some sort of coordination was necessary. As a result, on June 7, 1970, the board of regents called for the appointment of an executive director who would assist the executive council in its functions. Furthermore, the director

Comité Canonique des Religieux, 1988, p. 33.

⁹ The decree lists membership as the principal houses of these congregations: Albany, Auburn, Belmont, Bethesda, Brooklyn, Buffalo, Burlingame, Burlington, Cedar Rapids, Erie, Merion Station, North Plainfield, Pittsburgh, Portland, Rochester, St. John's, West Hartford, Windham, and Worcester. See SCRIS, Decree, Prot. no. 5733/67, May 11, 1968, in AFSMA. As stated in the text, the nine provinces of the Union (Bethesda) which were represented on the board of regents included Baltimore, Chicago, Cincinnati, Detroit, New York, Omaha, Providence, Saint Louis, and Scranton. For a description of the administrative structure of the Federation, see *Federation Statutes*, art. VI, pp. 4-8.

¹⁰ The board of regents, the Federation's governing body, consisted of the major superiors of each congregation as well as each province of the Union. *Ibid.*, art. VI, p. 4.

would assist the executive council in identifying and articulating needs "so that through study and research plans... programs will evolve, consistent with the purpose of the association."¹¹ On September 24, 1970, Sister Mary Jerome McHale (Pittsburgh) assumed duties as the Federation's first executive director. Her first report as executive director revealed her belief that the "entire membership needs to know our priorities and share our concern for achieving our long range and immediate goals."¹² In fall, 1971, Sister Jerome acted on this conviction by coordinating eight Federation sponsored regional meetings on the spirit of Catherine McAuley. As a result, membership could experience together that which leadership had been experiencing, a renewal in the spirit of the founder.

This outreach to the membership-at-large, combined with a growing sense of the nature of a federation, enabled the sisters to focus more clearly on the Federation's purpose and functions. While in its early years it concentrated on assisting those in governance positions, the statutes which the board of regents revised in 1972 called for membership to collaborate across congregational boundaries to accomplish the

¹¹ *Role of Executive Director*, April, 1972, in AFSMA. The president, vice-president, secretary, treasurer, and three members at large composed the executive council. *Federation Statutes*, art. VI, pp. 4-6.

¹² J. McHALE, *Report of Executive Director: September 24, 1970 - September 5, 1971*, September 4-5, 1971, p. 7.

goals of their institutes.¹³ The stage was now set for a multiplication of networks and projects within the Federation.

Among the networks which evolved, one of the most significant was the *Justice Desk*, initially a periodical which sought to link and motivate membership's involvement in justice issues.¹⁴ Within a few years, this network evolved into the "Mercy Justice Coalition", a movement of individual Federation members collaborating around specific justice issues.¹⁵ This coalition sought "a structural response and systemic change".¹⁶ Eventually these movements on behalf of justice would provide another indication to governing board members that a more effective response to societal injustice might require a change in the Federation's structure.

Several of the networks which developed, however,

¹³ In the early seventies, the board of regents began the process of revising statutes. The preamble of the finalized document speaks of a federation as being "a means of accomplishing goals in institutes established under one foundress..." *Constitutions and Bylaws of the Federation of the Sisters of Mercy of the Americas*, 1981, preamble, p. 1.

¹⁴ The *Justice Desk* began publication in 1980. In addition, the early eighties saw a movement toward personnel sharing with the publication of a list of ministry openings from all Mercy congregations. This publication would "give sisters a chance to broaden their experience and to work in other parts of the country." *Minutes of the Meetings of the Executive Council of the Governing Board of the Federation of the Sisters of Mercy of the Americas* (= *Executive Council Minutes*), November 23-24, 1981, p. 5 in AFSMA.

¹⁵ See *Minutes of the Governing Board of the Federation of the Sisters of Mercy of the Americas* (= *Governing Board Minutes*), June 27-30, 1982, p. 20, in AFSMA.

¹⁶ *Ibid.*

originated within the Union. Sister M. Concilia Moran (Scranton), administrator general of the Union from 1971-1977, embraced a spirit of inclusiveness as she opened up many Union-sponsored activities to the other Federation congregations. The "Searching Mercy Program", a Union program for novices which she made available to all Federation novices from its inception in 1973, provides a significant illustration of her approach.¹⁷ This trend continued throughout the 1970s and into the 1980s when the Union extended, perhaps, its most significant invitation: the Union invited the other Federation congregations to join in writing a core constitution.¹⁸ Through the various affiliations that

¹⁷ In August 1985, the three-week novitiate program, "Searching Mercy", evolved into the "Mercy Collaborative Novitiate". Another example of C. Moran's approach included the "Mercy Higher Education Colloquium" which originated in the Union in 1972. In 1976, its membership was opened to sisters in the other Federation congregations.

¹⁸ Because of the significance of this project and the Holy See's initial requirement to complete the constitutions project prior to the First Institute Chapter, a sketch of the project's history is outlined here. In October, 1979, the Union appointed a four-member committee to begin work on a constitution. Then in April, 1980, the Union invited all Federation congregations to participate in the development of common constitutions. During its next meeting in June, 1981, the governing board formally accepted the *Core Constitutions* as a Federation project. Between 1980 and 1987 the *Core Constitutions* project produced seven major drafts and conducted two partial as well as two total membership consultations. In addition, three consultations with CRIS took place regarding the proposed document. In 1986 fifteen out of eighteen member congregations' chapters approved the *Core Constitutions* as the constitutional document to be submitted to the Holy See on their behalf. Federation members whose chapters did not approve the document included Newfoundland which had not participated in the *Core Constitutions* project,

developed, the Federation moved from a type of conference of major superiors to an alliance now focused on enabling all its members to collaborate in living their fourth vow of service to the poor, sick, and ignorant.¹⁹

and two congregations (Belmont and Buffalo) which indicated support of the document but which did not hold chapters that year in which they could take the necessary vote. Then on June 3, 1987, CRIS provided observations on the 1986 draft. At its June, 1987, meeting the governing board decided to postpone dealing with the CRIS observations until after the Mercy Futures formal decision-making process was completed. Then in January of 1989, after completion of the Mercy Futures decision-making process, the governing board directed that a letter to Cardinal Hamer be sent explaining the present status of the project. In her letter, Sister Betty Smith (Chicago), Federation president, recalled the effort to distinguish the Mercy Futures project from the *Core Constitutions* project. She added that the original intent of the *Core Constitutions* project had been modified. Now rather than developing a constitutions which individual congregations would supplement with the elements necessary for a completed text, the goal of the project became to produce a full constitutional document. Thus the constitutions committee had begun to integrate the *Core Constitutions*, the *proposed governance model*, and a resolution of the Holy See's 1987 observations. B. Smith stated that the "committee believes that the Institute structures themselves will facilitate" the conversations necessary to resolve the outstanding observations. See B. SMITH (Federation President), Letter to J. Hamer (Prefect for CRIS), January 31, 1989, in AFSMA. In June, 1989, anticipating a favorable response from the Holy See regarding the establishment of the new Institute, the governing board reviewed the integrated constitutional text. The governing board affirmed this text as adequate and directed that it be submitted to the First Institute Chapter for acceptance before submission to the Holy See for approval.

¹⁹ In addition to the networks already mentioned, other opportunities for networking emerged in the early '80s. Some of these opportunities were somewhat ambiguous for the governing board to integrate into the Federation structure. These included a strong call that the Federation by-laws be revised to incorporate as a governing board function that it "be a leadership voice of the Sisters of Mercy of the Americas addressing issues of justice in the Church and Society". The minutes of the 1980 governing board Meeting suggest that this

II. MERCY FUTURES: APRIL, 1980 - JUNE, 1983

In 1980 the question of restructuring the Sisters of Mercy in the United States received formal recognition at a meeting of the Federation's governing board. One year later the governing board accepted a proposal to begin a restructuring process. This process, which became known as Mercy Futures, resulted in the establishment of the Institute of the Sisters of Mercy of the Americas.

A. Governing board meeting: April, 1980

On April 10, 1980, the members of the governing board of the Federation gathered in Holyoke, Massachusetts, for their

proposal did not receive unified support. Rather than incorporate this statement into the by-laws, the governing board agreed to retain the statement as a policy. See *Governing Board Minutes*, April 11-13, 1980, p. 5-6.

In addition, the early 1980s saw an effort spearheaded by the Mercy Ministry Committee (composed of the personnel directors from the various provinces and congregations) to establish several new foundations which would serve the poor and unchurched within the United States. Two foundations were established, one on September 8, 1984, in Pocahontas, North Carolina, and a second on September 8, 1987, in Cedar Bluff, Virginia. Questions arose early on in the planning process regarding the sponsorship of these foundations. The governing board's executive council expressed concern that the "Federation is not in the business of placing persons" and that while the "Federation is the structure which facilitates the foundation...the authority for missioning the individual rests with the congregation." *Executive Council Minutes*, February 28 - March 1, 1983, pp. 8-10.

annual meeting.²⁰ While the items on the agenda seemed fairly routine, the annual report of the Federation's executive director, Sister M. Silverius Shields (Scranton), pointed the Federation on the course of developing a dramatic change in governance structure. In her report's second part entitled "Conclusions/Forecast", S. Shields, who was retiring from her position after a seven year-tenure, stated emphatically, "For change must come."²¹ She pointed out that for two decades Federation members (and the Mother McAuley Conference participants beforehand) had examined the Mercy charism.²² Through this study, barriers that formerly had divided the Sisters of Mercy in the United States had diminished. Since the present structure could no longer meet the demands being placed upon it, the governing board needed to set a direction for the future, one marked with a greater unity of purpose and organization. In addition to suggesting some sort of

²⁰ The original statutes of the Federation provided that the board of regents, composed of the major superior of each congregation or province, administers the Federation. The revised statutes replaced the board of regents with the governing board composed of the major superior and her assistant from each congregation and province as well as the executive director who serves without vote. See *Federation Statutes*, art. 6, p. 4; *Constitution and By-Laws of the Federation of the Sisters of Mercy of the Americas*, 1973, art. 6, section 1, p. 3.

²¹ S. SHIELDS, *Report of the Executive Director of the Governing Board of the Sisters of Mercy of the Americas*, April, 1980, Section II, p. 1, in AFSMA. S. Shields was not clear as to the form of this restructuring. She indicated that she did not intend a generalate structure. *Ibid.*, p. 6.

²² *Ibid.*, p. 2.

restructuring, S. Shields also called for the governing board to consider a common constitution.²³

In response to her remarks, the governing board discussed the inadequacy of the Federation structure. Sister Madonna Moran (Windham), a member of the executive council, pointed to the increasing need for "services to individuals and to individual congregations [and] provinces."²⁴ In addition, she cited a "rapidly changing profile within provinces [and] congregations that alerts members to the need for a structure larger than that of an individual congregation as they reach out to address issues."²⁵ The governing board members then approved a suggestion that its executive council assume responsibility for the appointment of a task force to explore the structural inadequacy of the Federation.²⁶ Interestingly, at the close of this meeting, governing board members representing the various independent congregations accepted the Union's invitation extended by the chair of the Union's Constitution's Committee, Sister Helen Amos (Baltimore), to join in writing a core constitution. Indeed, the governing board had considered S. Shield's recommendations quite

²³ *Ibid.*, p. 4.

²⁴ *Governing Board Minutes*, April 11-13, 1980, p. 10.

²⁵ *Ibid.*

²⁶ *Ibid.* The governing board's executive council (= executive council) consisted of the president, president-elect, past-president, secretary-treasurer, three members-at-large and the executive director.

seriously.

B. Establishment of committees

Because the major superiors who constituted the Federation's governing board were engaged in full time ministry within their respective congregations and provinces, the governing board's executive council was accustomed to appointing committees to carry out governing board projects. Thus the executive council appointed two such committees to facilitate the restructuring process. The first, the Futures Studies Committee, which existed only one year, provided the governing board with the information it needed to embark on a restructuring process. The second, the Mercy Futures Task Force, which had a tenure of seven years, facilitated the movement into the new Institute.

1. Futures Studies Committee

On May 22, 1980, the executive council selected a committee of three sisters to carry out the governing board's April, 1980, mandate.²⁷ The newly appointed "Futures Studies Committee" then began to consider the question of a future structure for the Federation. The results of their preliminary study would serve as catalyst for discussion at the 1981

²⁷ The members of this committee included Sister Judith Heberle (Rochester), Sister Madonna Moran (Windham), and Sister Mary Ellen Quinn (Omaha), a member of the General Administrative Team of the Sisters of Mercy of the Union.

governing board meeting. When completed the study pointed out that because of their strong common heritage, membership had deepened and strengthened the bonds of unity.²⁸ The study, which also included a section on the rationale for a change, suggested reasons for greater collaboration.²⁹ Finally, the report suggested two models for the future. The first resembled the one embraced by the Australian Sisters of Mercy while the second model described a stronger Federation.³⁰

In June, 1981, nearly eighteen hundred Federation members gathered in Pittsburgh to celebrate the sesquicentennial

²⁸ The study substantiated this claim with the statement that the Union had invited Federation congregations to participate in a "variety of opportunities which have continued to highlight Sister of Mercy bondedness." The Union-sponsored programs in which the entire Federation was invited to participate included: Searching Mercy - Novices program; Higher Education Colloquium; *Core Constitutions* project; Latin American and Caribbean Conference; Leaven Movement (a educational social justice program); and the Mercy Health Conference. See M. MORAN, et al., *Future Structure of the Federation of the Sisters of Mercy of the Americas*, pp. 1-2.

²⁹ The reasons given for greater collaboration included: the need for greater witness to the Gospel and Mercy charism; greater impact in addressing injustices; the sharing of resources; national structure to provide framework for regrouping which could decrease full time administrators and staff as the number of Sisters of Mercy decreases. *Ibid.*, p. 3.

³⁰ In the first model each of the present units in the Federation (the congregations and provinces) would take on the status of a congregation with pontifical status and its own governance structure. On the national level there would be a chapter, Executive Team, the officers at the national level and the National council composed of the major superiors of each congregation. *Ibid.*, p. 4. The federation model called for an increased degree of commitment and accountability on the part of its members. *Ibid.*

(1831-1981) of Catherine McAuley's founding of the Sisters of Mercy.³¹ As the celebration concluded, the governing board convened to consider the study which the Futures Studies Committee had compiled. In its consideration of possible future directions, the board listed the pros and cons for each of three alternatives: to continue with the present structure, to strengthen the Federation, or to adopt a new structure.³² Overwhelmingly, the governing board voted in favor of adopting a new structure.³³ It then unanimously resolved:

That the Executive Council select a task force to develop, [through a process of education and consultation,] a new model of relationship for the Sisters of Mercy of the Americas, and the necessary governmental structures to implement it.³⁴

³¹ M. Trainer points out that this event resembled a family reunion in which those in attendance rediscovered their common identity. This event was also marked by the distribution of the 1981 draft of the *Core Constitutions*. See M. TRAINER, *A Participative Approach*, p. 24-25.

³² A complete compilation of the pros and cons given for each of the alternatives is found attached to the minutes of this meeting. See *Governing Board Minutes*, June 25-26, 1981.

³³ The governing board attached to the minutes of this meeting the reasons for their choices. *Ibid.* In her study, M. Trainer points out that because membership did not participate in this "diagnostic process", they would not necessarily share the assumption that change was needed. Hence, throughout the process, pockets of resistance particularly in some of the independent congregations would continually voice concern over the necessity for this change. See M. TRAINER, *A Participative Approach*, pp. 38-39. The Mercy Ireland process differed from the Mercy Futures process in this initial phase. In Ireland, membership representatives participated in its "diagnostic process". See *supra* INTRODUCTION, note 13, p. xviii.

³⁴ *Governing Board Minutes*, June 25-26, 1981, p. 6.

Finally, the board offered to the task force a number of recommendations dealing with consultation of membership as well as with the structure of the model itself.³⁵

2. Mercy Futures Task Force

On September 14, 1981, the executive council appointed Sister Doris Gottemoeller (Cincinnati) as project director for

³⁵ Provide opportunities for feedback from individuals and be sensitive to where individuals are in the process; consult governing board for steps in the process; center discussion on union and charity; balance openness with concreteness; use committee similar to Core Constitutions Committee; do not create tight hierarchical structure; emphasize charism of Mercy not of Union or congregation; assure that structure is collaborative as opposed to governmental; be attentive to language; organize to stand in solidarity with the poor. For a complete listing of the recommendations see summary attached to the minutes. *Ibid.*

The above paragraph indicates that the governing board was well aware of its obligation to consult membership regarding the shape that a new governance model would take. This obligation to consult members was rooted in the decree of the Second Vatican Council on the Renewal of Religious Life, *Perfectae caritatis*. This decree states that chapters and councils should involve an institute's entire membership in the pursuit of the good of the institute. See SECOND VATICAN COUNCIL, Decree on the Renewal of Religious Life, *Perfectae caritatis*, no. 14, in AAS, 58(1966), p. 709.

In addition, the principle contained in *Perfectae caritatis*, no. 14 would influence the coetus working on the revision of the law for institutes of consecrated life. The coetus established as one of their four working principles that the revised law allow for greatest possible degree of participation of all members in the governance of the institute. See *Communicationes* 2(1970) pp. 170-171. For a discussion of these principles see F. MORRISEY, "Introduction," in *A Handbook of Canons*: 573-746, Collegeville, Minnesota, Liturgical Press, 1985, pp. 14-20. Other universal law which addresses the right of members to be consulted in this regard includes CIC 1983, canons 212 §2-3, 618, 631 §3 and 633.

the Mercy Futures project. In addition, the council appointed Sisters Margaret Costa (New York), Judith Heberle (Rochester), Amy Hoey (Windham), Annunciata Kelleher (Buffalo), Cecilia Meighan (Scranton), Mary Ellen Quinn (Omaha/Silver Spring) and M. Michael (Joanne) Lappetito (Rochester), executive director of the Federation, to serve on the "Mercy Futures Task Force". An initial duty of the newly-formed task force included exploration of the governance model embraced by the Sisters of Mercy in Australia.³⁶ In addition, the task force formulated

³⁶ To address this task D. Gottemoeller attended the first National chapter of the Institute of the Sisters of Mercy of Australia in December, 1981. In reporting on her experience to the June, 1982, governing board meeting, D. Gottemoeller explained that from her Australian experience "it was not necessary, in fact probably impossible, to have all the details worked out before reorganization is implemented." *Governing Board Minutes*, June 27-30, 1982, p. 8.

A principal feature of the governance structure of the Institute of the Sisters of Mercy of Australia provides that its member congregations individually retain (or in the case of the provinces are granted) pontifical status. Recognizing the importance of autonomy at congregational levels, a major superior who generally has all the powers and authority granted by Church law to a general superior, governs each member congregation. In addition, the governance structure includes a national chapter, a national executive council composed of the national president and councilors, and national plenary council composed of the national executive council and major superiors of the Congregations. See *INSTITUTE OF THE SISTERS OF MERCY OF AUSTRALIA, Constitutions and Directory*, Sydney, 1987, pp. 45-54. For further information regarding the Institute of the Sisters of Mercy of Australia, see *Acts and Proceedings of the First National Chapter of the Institute of the Sisters of Mercy of Australia*, 1981, 36p; D. CAMPION, *President's Report to the Second National Chapter of the Institute of the Sisters of Mercy of Australia*, 1987, 13p; *Acts and Proceedings of the Second National Chapter of the Institute of the Sisters of Mercy of Australia*, 1987, 37p; M. TRAINER, *A Report on the Second Chapter of the Institute of the Sisters of Mercy of Australia*,

objectives for itself as well as new goals for government.³⁷ The task force then turned its attention to formulating a governance model which it presented to the governing board at the annual meeting in June, 1982. Simultaneously, the task force developed a communications and study program as a first presentation to membership-at-large. In June, 1982, when the governing board met in Omaha, the members reviewed the suggested model as well as the communications and study program.³⁸ They made some minor revisions in the suggested

1988, 14p, in AFSMA. H. DELANEY, *The Evolution of Governance Structures of the Sisters of Mercy in Australia, 1846-1990*, Ottawa, St. Paul University, 1991, xxii-277p; Also see *infra* note 102, p. 172.

³⁷ The objectives initially put forth by the Mercy Futures Task Force included: to create (conceptualize) a viable government model for the Federation; to design and conduct an Federation-wide educational and motivational program for preparation for change proposals and implementation; to implement a new central government structure. See *Minutes of the Mercy Futures Task Force*, January 10-14, 1982, p. 2, in AFSMA. Feedback on these objectives from the governing board necessitated a rewriting of the third objective. It became "To assist in implementation of decisions made by the Governing Board about the governance structure." With this change the governing board clearly took responsibility for the Mercy Futures project indicating that the Mercy Futures Task Force was clearly at the service of the governing board. See MERCY FUTURES TASK FORCE, *Revised Objectives and Goals*, April 1982, in AFSMA.

The initial goals for a new government included: to promote the articulation and on-going adaptation of charism and mission; to respect the diverse traditions; and to provide a central forum for the articulation of policy. For complete listing, see *Minutes of the Mercy Futures Task Force*, January 10-14, 1982, p. 2.

³⁸ See *Governing Board Minutes*, June 27-30, 1982, pp. 9-13.

model and authorized its incorporation into the membership-wide communications and study program scheduled for fall, 1982.³⁹ It was now, two years after S. Shields had introduced the question of restructuring, that the governing board would provide an opportunity for membership to respond.

C. Membership consultation: fall, 1982

In the fall of 1982, the governing board, assisted by the Mercy Futures Task Force, conducted the first of six membership consultations on the development of a new governance model. This consultation introduced many sisters to the possibility of restructuring. The results of this consultation demonstrated the sisters' willingness to continue the restructuring process. Members, however, did not seem ready to consider a specific model of governance.

1. Format

Between September and December of 1982, nearly 9000 out of 9198 Federation members participated in the first membership communications and study program conducted by the Mercy Futures Task Force.⁴⁰ The day's purpose included several

³⁹ *Ibid.*, pp. 16-18.

⁴⁰ The consultations which took place between the fall of 1982 and December of 1985 prepared for the formal decision-making process where a juridical significance was attached to the pre-chapter consultation conducted by the Federation in spring, 1988. See *infra* Chapter IV, Section II, A. However, in one sense, the consultations conducted between the fall of

components: to share information regarding the Mercy Futures project, to present a proposed governance model, to gather suggestions for alternatives models, and to ascertain feelings of the sisters about the governing board's pursuit of a new structure.⁴¹ During the presentation, the schedule provided an opportunity for the sisters to state their hopes, fears and questions regarding the proposed restructuring.⁴² In addition, the task force presented ten critical issues which it considered to be of paramount importance for the sisters as they worked through any change in governance structure.⁴³ Finally, the day attempted to gain a sense of the membership's readiness to embrace a change of governance model as well as its level of comfort with the suggested model.

1982 and December, 1985 were nevertheless as important as those which occurred within the formal decision-making process. The responses to the various consultations enabled the governing board to consider the objections and the suggestions of membership regarding the shaping of a new governance model.

⁴¹ For the various focuses addressed during the day, see MERCY FUTURES TASK FORCE, *Life Becomes a Journey*, fall, 1982, 14p, in AFSMA.

⁴² See MERCY FUTURES TASK FORCE, *Presentation by the Mercy Futures Task Force: Program/Script*, September - December, 1982, pp. 4-12, in AFSMA.

⁴³ The critical issues included: different backgrounds of the sisters; varying attitudes toward change; regulating the timing of the change; remaining faithful to tradition; providing adequate participation in shaping the model; the question of congregations which chose not to participate; finances; implications of canon law; authority vs. autonomy; and motivation for change. See MERCY FUTURES TASK FORCE, *Life Becomes a Journey*, p. 14 and MERCY FUTURES TASK FORCE, *Critical Issues Script*, fall, 1982, 9p in AFSMA.

2. *The 1982 model*⁴⁴

The governance model which the Mercy Futures Task Force presented to the membership in fall, 1982, resembled one adopted by the Australian Sisters of Mercy. Units formerly known as provinces of the Union and the other member congregations of the Federation comprised the membership of this proposed governance model.⁴⁵ Moreover, it identified the unit members as "congregations", each retaining or in the case of the provinces assuming pontifical status.⁴⁶ In this way, the model preserved autonomy at the local level. Accordingly, the congregations maintained their traditional governance structures, i.e., the chapter, the major superior and council.⁴⁷ At the Institute level, however, an institute chapter, an executive council, and an institute council constituted the governance structures. The model defined the Institute chapter, when in session, as "the highest and most

⁴⁴ For a description of this model, see Institute of the Sisters of Mercy of the Americas, draft, June, 1982, 6p, in AFSMA (= 1982 model). A 4p version of the same document is contained in Appendix III-A. References refer, however, to the 6p version preserved in AFSMA.

⁴⁵ In all the models presented during the Mercy Futures process, the former provinces of the Union and the other member congregations of the Federation would constitute the new institute's member congregations/provinces.

⁴⁶ In addition, the Institute itself also assumed pontifical status. See 1982 model, p. 1.

⁴⁷ All these structures would be subject to the Core Constitutions, acts of the Institute chapter, policies of the Institute, and the congregation's particular law. *Ibid.*

authoritative organ of governance in the Institute and the chief means whereby the Mercy charism may be fostered."⁴⁸ The elected president and four councilors of the Institute comprised the executive council which would serve as the "primary focus of unity and source of leadership between sessions of the Institute chapter."⁴⁹ The described purposes of the executive council seemed to envision it as an agent of the chapter and the Institute council.⁵⁰ In turn, the executive

⁴⁸ *Ibid.*, p. 2. The chapter, which would discern significant issues and decide Institute directions, would also serve as an instrument of renewal. The model also assigned functions to the Institute chapter as: challenging the members to fidelity to our charism and mission, particularly as it is expressed in the *Core Constitutions*; promoting ongoing adaption and renewal; amending the *Core Constitutions*; developing goals and policies and enacting legislation for matters of Institute-wide concern; electing the president and executive council. *Ibid.*, p. 3.

⁴⁹ *Ibid.*, p. 4.

⁵⁰ The model described the purpose of the executive council as threefold: to carry out the policies formulated by the Institute chapter and Institute council; to perform tasks delegated to it by the Institute chapter or Institute council; to make decisions according to the *Core Constitutions* and norms laid down by the Institute chapter. *Ibid.*, p. 4.

The model outlined the functions of the president as major superior of the Institute: to serve as its spiritual leader and promoter of unity; carry out appropriate administrative duties at the Institute level; with the deliberative vote of the executive council, respond to the requests from legitimate authority within a congregation to exercise internal authority in a particular situation or for a determined period of time; convoke and preside at the Institute chapter and at meetings of the Institute council; report on the state of the Institute. *Ibid.*, pp. 4-5.

The model enumerated the functions of the entire executive council: implement programs in accordance with Institute goals and established priorities; call all

council and the congregational major superiors constituted the Institute council which would promote the unity of the Institute.⁵¹ Interestingly, in comparing the functions of the executive council with those of the Institute council, it appears that the latter held more authority. The executive council, even with the Institute president included, held little authority of its own.⁵²

congregations to accountability for statutes, policies and procedures established by the Institute chapter and Institute council; implement decisions of the Institute chapter and Institute council; conduct research and develop programs for proposal to the Institute council; set administrative policy; initiate special projects on behalf of the Institute; facilitate the sharing of material and human resources among congregations; provide appropriate central services such as research, social issues development, communication, financial management and secretarial services; provide for consistent and effective representation of the Institute to various publics; participate in ecclesial and civic groups and organizations; prepare, implement and monitor the annual budget. *Ibid.*, p. 5.

⁵¹ This would be done by engaging its membership in a "process of mutual consultation, discernment and decision-making" in the "interpretation, development and implementation of the goals and policies of the Institute chapter." The model enumerated the functions of the Institute council: [e]nsure implementation of Institute chapter goals, statutes and policies; conduct long-range planning for the Institute; establish and review annual action and program priorities and set periodic program goals; determine congregational assessments and approve Institute budgets; when appropriate, reserve the right to authorize programs prior to their implementation; respond to new needs and challenges in the interim between Institute chapters; fill vacancies on the executive council. *Ibid.*, pp. 3-4.

⁵² For example, while the executive council would prepare, implement, and monitor the annual budget, the Institute council would approve it. *Ibid.*, p. 4. The lack of authority of the president regarding any of the member congregations of the Institute is highlighted with the provision that only with special authorization of the executive council and as a

3. Results

Nearly two-thirds of the total membership responded to the task force's inquiry regarding continuation in the Mercy Futures project; some of the provinces/congregations were eighty percent in favor.⁵³ The second query, regarding the degree of comfort with the proposed model, elicited responses from only about one-fifth of the Federation membership. While the majority of those who responded did so affirmatively, the small rate of response rendered the results as an indication of affirmation almost meaningless.⁵⁴ For M. Trainer, however, this lack of response demonstrated that "consideration of specific models was premature at this time."⁵⁵ In reflecting on the fall, 1982, education and consultation program, the Mercy Futures Task Force concluded that the independent

response to a request from legitimate authority in a congregation could the Institute president exercise internal authority in a congregation. *Ibid.*, p. 5.

⁵³ The exact percentage was 80.8% percent. While the rate of response of the entire community was 61.1%, the rate of those in favor of continuing the Mercy Futures Project was actually 50% of the total community. See M. TRAINER, *A Participative Approach*, Table 5, p. 41.

⁵⁴ Since the rate of response on this second question was 20.3% and the affirmative response to this question was 63.4%, the number of sisters of the total community responding affirmatively was 12.9%. *Ibid.*, Table 6, p. 42.

⁵⁵ M. TRAINER, *A Participative Approach*, p. 43. M. Trainer further concludes that several of the independent congregations registered "fairly strong opposition". This opposition, Trainer continues, "would consistently raise the question 'why can't we strengthen the Federation' instead of choosing a new model.'" *Ibid.*

congregations seemed to "emphasize the dimension of personal obedience to a major superior more than the provinces do."⁵⁶ The task force also felt that the style and attitude of congregational leadership affected the response of sisters to the idea of change and that the active participation of superiors in the presentations "helped give legitimacy to the ideas presented."⁵⁷ Finally, the task force concluded that there was a need "to identify principles of government to accompany the model."⁵⁸ Satisfied that their introduction had been reasonably successful, however, the Mercy Futures Task Force prepared for a more in-depth membership consultation in the spring.

⁵⁶ *Mercy Futures Task Force Minutes*, January 3-5, 1983, p. 1.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

D. *Membership consultation: spring, 1983*

In spring, 1983, the governing board accepted the Mercy Futures Task Force recommendation to schedule a second membership consultation. In this consultation, members considered three possible governance models. Once again, the results of this consultation left the governing board with additional questions regarding the readiness of membership to move forward.

1. *Format*

On February 25-28, 1983, the governing board met in Ossining, New York, to review the results of the fall, 1982, communications and study program and to "prepare a revised model, or alternate models, for presentation at the June meeting of the Governing Board."⁵⁹ At this time the board developed three models for presentation to membership: a strengthened Federation model, a generalate model and a revision of the 1982 model. In response to their conclusions regarding the recent membership consultation, the governing board also developed a list of "Principles of Governance."⁶⁰ The board then directed that the three models and the "Principles of Governance" be distributed to the membership with an opportunity for each sister to comment on the

⁵⁹ *Ibid.*, p. 2.

⁶⁰ See *infra* note 73, page 159.

advantages and disadvantages of each model and offer suggestions regarding the "Principles of Governance".⁶¹ These results, to be made available to the governing board for its June, 1983, meeting, would assist the board in choosing a specific governance model.⁶²

2. *The 1983 models*

In an effort to provide Federation members with a variety of options on their future governance structure, the membership consultation held in spring of 1983, presented three governance models. A packet distributed to each member described these models, which the governing board had designed. In each case, the model's description included a preamble, name designation, and an outline of the major features of its local and national governance structures.

a. *Model one: a strengthened federation*⁶³

In spring, 1983, the first model described in the information booklet which the task force distributed to the

⁶¹ See D. GOTTEMOELLER, Letter to the Governing Board and the Mercy Futures Task Force, March 7, 1983, in AFSMA.

⁶² The Mercy Futures Task Force projected that by June, 1983, the governing board would be in a position to choose the governance model. See *Mercy Futures Task Force Minutes*, April 23-24, 1983, p. 3.

⁶³ For a complete description of model one, see the packet entitled *Mercy Futures Consultation*, May, 1983, pp. 1-2 in AFSMA.

membership suggested a strengthened federation. This model's preamble stated that the present Federation would be strengthened by "adding to it an authority dimension which will operate in a collegial fashion."⁶⁴ The chief innovation in this model consisted of a "collegial assembly", a grouping of the major superiors of each congregation and province and the executive director. Ten functions were assigned to the collegial assembly ranging from amending the *Core Constitutions* to providing for an increased commitment to networking and to joint ministry projects.⁶⁵ In this model no actual change occurred in the governance structure of the independent congregations or the Sisters of Mercy of the Union.

b. *Model two: a generalate model*⁶⁶

While the description of model two indicated a generalate model, in actuality it seemed to parallel closely the 1982 model. Nevertheless, model two differed most significantly from the 1982 model regarding pontifical status. For while the Institute itself would possess pontifical status, its

⁶⁴ *Ibid.*, p. 1.

⁶⁵ *Ibid.* In light of this increased commitment, Sister Sharon Holland, I.H.M., a canonical consultant, questioned whether this model could still be considered a federation type structure which protected congregational autonomy. See S. HOLLAND (canonical consultant), Letter to D. Gottemoeller, June 14, 1983, in AFSMA.

⁶⁶ *Ibid.*, pp. 2-3.

individual units, called communities, would not. Hence, those functions requiring the intervention of the Holy See would be channeled through the Institute itself. While in model two the name "Institute Team" replaced the "executive council", its purposes and functions remained nearly the same.⁶⁷ As in the 1982 model, the two prime sources of Institute governance included the Institute chapter and the Institute council. The substance of the composition, purpose and the functioning for both these entities resembled the substance of their counterparts in the 1982 model. The Institute council, therefore, continued to hold a dominant role in model two's governance structure. This feature rendered rather superficial the distinction between the 1982 model and the 1983 model two.

⁶⁷ There was, however, a slight modification in the purposes of this entity. Unlike its counterpart in the 1982 model, model two did not provide for the Institute council delegating tasks to the Institute Team. *Ibid.*, p. 3.

In addition, model two omitted 1982 model's presidential function of responding to requests from the unit level to exercise internal authority in a unit. At first glance this omission might be seen as appropriate because in a generalate model the supreme moderator holds power over all provinces. See *CIC* 1983, canon 622. Interestingly, however, model two contained the provision under the heading, "Community Governance" that any community may request the executive council to exercise authority proper to the community, either in a particular situation or for a determined period of time. F. Morrissey, a canonical consultant, commented that the extent of this provision should be carefully spelled out. See F. MORRISSEY (Canonical consultant), Letter to D. Gottemoeller, May 23, 1983, in *AFSMA*. The functions of model two's Institute Team were identical to those of the executive council in the 1982 model. See *supra* note 50, p. 150.

c. Model three: 1982 model (revised)

The third model appeared to be a variation of the 1982 model. Once again, it provided that its member units, now called Institute communities, would retain or in the case of the provinces obtain pontifical status. While this revised model continued to include the Institute president as a member of the executive team, the model seemed to distinguish the president from the executive council more clearly than the 1982 model had done. Indeed, the model attributed to her the capacity to exercise authority within the Institute.⁶⁸ Also, instead of the four councilors foreseen in the 1982 model, the Institute president and either two or four vice-presidents constituted the executive council whose functions paralleled those attributed to the executive council in the 1982 model.⁶⁹ The purposes and functions of the Institute chapter and of the Institute council bore strong resemblance to their counterparts in the 1982 model.⁷⁰

⁶⁸ This revised model included under functions of the president the provision: "The President shall exercise authority within the Institute according to the Core Constitution, the directives of the Institute chapter and the charism of the Institute of Mercy"; see *Mercy Futures Consultation*, May, 1983, p. 5. Otherwise the functions of the president are identical to those contained in the 1982 model. See *supra* note 50, p. 150.

⁶⁹ The 1982 model had included "four councilors, the first of whom takes the place of the president when she is absent or unable to exercise her office." 1982 model, p. 4.

⁷⁰ See *supra* p. 149.

3. Results

M. Trainer, who offers an analysis of the spring, 1983, membership consultation, states that the instrument used for this consultation lacked some of the components necessary for a true assessment of membership's response to the three proposed models.⁷¹ After citing several weaknesses in the instrument used, she states "Perhaps the most serious omission in the instrument was the failure to ask the direct question: Which model do you prefer?"⁷² She also establishes that, in general, the "Principles of Governance" were perceived as adequate.⁷³ She suggests, therefore, that while the consultation had yielded "insight into common values [it gave] no clear resolution of which model could best embody those

⁷¹ See M. TRAINER, *Report on the Mercy Futures Consultation*, May 1983, August 21, 1983, p. 4, in AFSMA.

⁷² *Ibid.*

⁷³ *Ibid.*, p. 17. The "Principles of Governance" included: fidelity to law, mission of church, charism of Institute, especially in its mission to poor, sick and ignorant; respect for identity and traditions of each congregation within bond of union and charity...; clear delineation of authority and responsibility at all levels of governance, without the rigidity imposed by excessive detail; safeguarding of rights...; flexibility which allows for adaptation to new needs; appropriate representation and participation of members...; promotion of collaboration, mutuality, and co-responsibility between and among individuals, congregations and Institute; decision-making processes which remain as close as possible to those affected by the decisions and which enable members to take responsibility for the ongoing life and mission of the Institute; and an understanding of leadership as a service to the life and mission of the Institute as a whole and therefore to each member. See *Mercy Futures Consultation*, May 1983, p. 5.

values."⁷⁴ The common values included unity, the retention of pontifical status, preservation of the autonomy and heritage of individual communities, membership participation in decision-making and clarification of relationships both internal and external to the Sisters of Mercy.⁷⁵ In any event, the results of the spring, 1983, membership consultation questioned membership's readiness to agree on a governance model.⁷⁶

⁷⁴ M. TRAINER, *A Participative Approach*, p. 46.

⁷⁵ See M. TRAINER, *Report on the Mercy Futures Consultation*, pp. 21-22.

⁷⁶ There were various additional indications of discontent at this point in the process. For instance, seventy-two Sisters of Mercy of Rochester wrote to the governing board expressing concern questioning the fairness of "one small group to wear both hats of designing and promoting sponsored models while tabling, filtering or rejecting alternative models..." SEVENTY-TWO SISTERS OF MERCY, ROCHESTER, Letter to Governing Board Members, May 26, 1983, in AFSMA.

A recurring criticism of membership in the Mercy Futures process appeared to concern the absence of a spiritual tone in the rationale for change in governance structure. See M. TRAINER, *Report on the Mercy Futures Consultation May 1983*, p. 17 in AFSMA. Later in the year, Barbara Valukas, S.S.N.D., a consultant to the Mercy Futures Task Force, suggested that the Mercy Futures process may have lacked a reflective element when she said that the "RSM's seem to have a corporate personality that tends to rapid closure of action." *Mercy Futures Facilitators' Report*, December 20, 1983, p. 15 in AFSMA. This concern surfaced again in the Spring 1984 Membership Consultation. See *Summary Spring 1984 Mercy Futures Consultation*, p. 3 in AFSMA.

III. RESHAPING THE MERCY FUTURES PROCESS AND MODEL:
JUNE, 1983 - JUNE, 1984

By spring, 1983, many Federation members still were not ready to embrace a change in governance. While Federation members who belonged to the Sisters of Mercy of the Union had grown accustomed to centralized government, some members in the other autonomous congregations were strongly resisting such a change. Their voice of resistance which had been heard in the results of the spring, 1983, membership consultation demanded the attention of the governing board at their June, 1983, meeting.

A. Governing board meeting: June, 1983

In retrospect it becomes apparent that the June, 1983, governing board meeting which set a new course for the Mercy Futures process may have provided the most critical point of the entire process. While the goals which the task force set for that meeting included having the governing board choose a model for endorsement, some governing board members objected to that direction. Upon seeing the ambivalence of the consultation's results, they questioned the advisability of choosing one specific governance model "before further information and education be given to the sisters at large who do not presently experience the need for structural change to

achieve unity."⁷⁷ The minutes of this meeting further suggest that some challenged this approach saying that "more of the benefits of the model are felt by the church and community leadership than by the individual sister."⁷⁸ In the end, however, the board accepted a change in the goals of the next membership consultation: from presenting "as a working draft the model affirmed by the Governing Board" to identifying "the elements and values that the sisters wish to ensure in the future structure of our relationships with one another."⁷⁹ In addition, the governing board attempted to bridge the gap between leadership and membership by suggesting the appointment of Mercy Futures facilitators within each congregation and province. The board also determined that the facilitators' functions would include assisting in the design, implementation and dissemination of the results of the

⁷⁷ *Governing Board Minutes*, June 19-23, 1983, p. 4. At this point a poll was conducted to determine if those present perceived that the congregations or provinces they represented were ready to embrace structural change. The results indicated that the a large percentage were not ready. For complete results, see M. TRAINER, *A Participative Approach*, Table 8, p. 50.

⁷⁸ *Governing Board Minutes*, June 19-23, 1983, p. 4.

⁷⁹ *Ibid.*, p. 21. In her analysis of this point of the process, M. Trainer remarks: "This represents a major shift. Instead of coming back to the sisters with 'tell and sell' around one more model as if none of the objections raised in the Spring consultation had been heard, the governing board shifted to a normative re-educative process. They retraced their own steps to go back and ask the sisters what values and elements they wanted to shape their future together." M. TRAINER, *A Participative Approach*, p. 54.

membership consultations as well as assisting in the design of the governance model.⁸⁰ With these developments, the June, 1983, governing board meeting represented a critical juncture in the Mercy Futures process. Now there would be no turning back on a commitment to involve membership in all stages of development for the Mercy Futures governance model.

B. Further steps: summer, 1983 - spring, 1984

During summer, 1983, Mercy Futures facilitators assisted in designing the membership consultation for the following autumn in accordance with the needs of their particular provinces or congregations. Those designing these consultations did so attempting to explore "feelings, attitudes, values, perceptions, hopes and fears" relative to the Mercy Futures process.⁸¹ In December, 1983, the facilitators representing twenty-six Federation units assembled in Ossining, New York to compile their findings. Here they synthesized the hopes, fears, values, elements, information needed, and road blocks which had emerged in the

⁸⁰ See *Governing Board Minutes*, June 19-23, 1983, (attachment). M. Trainer attaches a great deal of significance to the appointment of facilitators. She sees the facilitators as "an ad hoc group to keep the voice of membership close to leadership's awareness as they sought to build a consensus regarding the shape of any future structure." M. TRAINER, *A Participative Approach*, p. 56. M. Trainer also sees this group in contrast to the elected leaders and as representing membership somewhat like chapters do in religious institutes. *Ibid.*

⁸¹ *Ibid.*

fall, 1983, membership consultation. They also gave interpretative statements in each category.⁸² Finally, the facilitators reported on the perceived readiness of their units to move forward: twelve said "go forward", eleven said "slow down", and three gave no response.⁸³

On January 30, 1984, consistent with its new commitment to membership involvement in all phases of the Mercy Futures process, the governing board convened in Philadelphia with the Mercy Futures facilitators in attendance.⁸⁴ Those attending this meeting heard two canonists, Margaret Mary Modde, O.S.F., and Francis G. Morrissey, O.M.I., address the canonical aspects of the proposed restructuring.⁸⁵ From the content of this

⁸² For a complete compilation, see *Mercy Futures Facilitators' Report*, December 20, 1983, p. 1-15.

⁸³ See M. TRAINER, *A Participative Approach*, Table 9, p. 57.

⁸⁴ Minutes of the executive council reveal concern over the ambiguity of the role of the Mercy Futures facilitators at governing board meetings. The executive council issued a caution that the introduction of the facilitators "creates the need for greater clarity in the role definition among task force members, the governing board and facilitators. It was noted that some facilitators with limited information seemed willing to speak for the congregation rather than speak with the congregation...the role of the facilitator is evolving..." *Executive Council Minutes*, February 3, 1984, p. 2. Apparently, the executive council was addressing the concern that as valuable a contribution as the Mercy Futures facilitators were making, decisions regarding the process needed to remain in the hands of legitimately elected leadership.

⁸⁵ Some of the more salient points mentioned included: "canon law's emphasis on the rights of the individual member of a community, which is a shift from the past; need for a referendum to approve any change of this nature; the distinction of Roman law from American law; avoidance of the

conference, governing board members and facilitators formulated answers to questions which had emerged in the fall, 1983, consultation. These questions and answers attempted to explore the rationale for change, financial issues and canonical concerns more fully. During the 1984 consultation the task force circulated this information in a composite entitled "Questions and Answers" accompanied by a questionnaire which attempted to ascertain membership satisfaction with the "Questions and Answers" as well as their present feelings regarding the process.⁸⁶ The results of the consultation indicated that among those who responded 75% affirmed the Mercy Futures process and 84-85% agreed with the information contained in the "Questions and Answers."⁸⁷ March, 1984, also saw the appointment of a new Mercy Futures Task

arbitrary in the language of canon law; the importance of a historical perspective about changes in community structures; and the precedent of the Australian Mercy experience." Modde pointed out that the "juridical aspects of changing structures were relatively simple compared to the spiritual and psychological aspects." Morrissey noted the "five aspects of charism that were essential to the basis of any change: intention of founder, nature of institute, purpose of community, spirit of institute (sound traditions) and character of the order." E. BRADY, "Canon Lawyers Address Federation Meeting", in *Mercy Life*, 10(1984), no. 3, p. 2.

⁸⁶ See *Mercy Futures Consultation: Questions and Answers*, Spring, 1984, 5p, in AFSMA.

⁸⁷ See MERCY FUTURES TASK FORCE, *Summary: Mercy Futures Consultation*, Spring, 1984, pp. 1-2. However, the response rate for this membership consultation was one of the lowest of all the membership consultations, 39.2%. With this rate of response, the actual rate of affirmation on the part of the entire community equaled only 30.2% of the total membership. See M. TRAINER, *A Participative Approach*, p. 73.

Force: Sisters Doris Gottemoeller, Chair (Cincinnati), Amy Hoey (Windham), Rosemary Jeffries (New Jersey), Cecilia Meighan (Scranton), Mary Trainer (Merion) and Joanne Lappetito (Rochester), the executive director of the Federation.⁸⁸ Indeed, the period from June, 1983, to June, 1984, provided leadership as well as membership with a time for reflection on and revamping of the Mercy Futures process.

C. Formulation of the proposed governance model

The results of the fall, 1983, and spring, 1984, membership consultations convinced the governing board members that they had dealt adequately with the feelings, attitudes and perceptions of membership regarding Mercy Futures. In addition, these consultations provided members with the kind of information they needed to make informed decisions concerning the design of a new governance model. Therefore, the governing board began to involve membership in designing the *proposed governance model*.

1. Governing board meeting: June, 1984

As the governing board gathered in Burlingame, California for its June, 1984, meeting, the members were well aware that

⁸⁸ The mandate given to the task force included the charge to continue to engage membership in education and consultation essential to the development of a new governance structure and to facilitate the governing board's direction of the movement. See *Executive Council Minutes*, March 19-20, 1984, p. 8.

much had transpired in the past year. With the gap between leadership and membership lessening, optimism replaced the pessimism of the June, 1983, meeting. Now with Mercy Futures facilitators present, the governing board could begin the task of developing a governance model. Rather than begin with a "pre-fabricated" model, however, the members chose to use an inductive approach. They would construct a governance model only after the entire Mercy community reached a consensus on the elements that were to make up the model. The work of this meeting entailed facilitating the governing board, itself, to a consensus on the locus of authority (central or unit) for the various functions of authority. Then the governing board would suggest these loci to membership for their feedback.⁹⁹

2. Membership consultation: fall, 1984

From the governing board's conclusions regarding the placement of the loci of authority for the various authority functions, the task force constructed a questionnaire divided into four parts.⁹⁰ The first part listed functions that the governing board agreed unanimously should be placed at the central locus of authority, while the second part listed those functions of the unit locus. The third part listed those

⁹⁹ For a description of the process used at this meeting, see M. TRAINER, *A Participative Approach*, p. 63.

⁹⁰ See *Consultation Questionnaire on Functions of Authority*, Fall, 1984; for complete questionnaire, see Appendix III-B.

functions which could be placed at both loci. The questionnaire then provided space for members to indicate the degree of approval which they would assign to each of the governing board's selections. The questionnaire's fourth part listed the functions for which the governing board had not reached a consensus regarding the locus of authority. Here the questionnaire provided space for the membership to choose one of four possibilities: central, unit, both, uncertain. In her analysis of the results of this consultation, M. Trainer states that "seventy percent of the respondents...agreed with the overall placement of authority, particularly at the most sensitive placement at the Institute level."⁹¹ These results gave the members of the governing board the information they needed to shape a governance model to which membership would eventually assent.

3. The spring, 1985, model

On January 29, 1985, the governing board gathered in Weston, Massachusetts, to consider two alternatives for a governance model: the Australian model (the 1982 model) and a centralized government model. The basic differences in these models included the locus of membership, the placement of

⁹¹ M. TRAINER, *A Participative Approach*, p. 63.

authority, and the grant of pontifical status.⁹² The information that the governing board had acquired concerning the desires of membership regarding the loci of authority and the input of their canonical consultant, F. Morrissey, led them to propose a generalate model for governance. The new entity which would be known as "The Institute of the Sisters of Mercy of the Americas", would obtain pontifical status. Units, called congregations, which formerly comprised the provinces of the Union and the other member congregations of the Federation would comprise the Institute.⁹³ Furthermore, each congregation's authority would be vested in its chapter and its major superior and council in accordance with the Institute constitution and congregational government plan. The model assigned to the congregational chapter eight functions regarding congregational governance.⁹⁴ It also ascribed to the

⁹² In the Australian model membership was in the local unit while in the generalate model, membership would be in the larger institute.

⁹³ The individual congregations would not have pontifical status. Rather they would be the canonical equivalent of a province governed by a major superior. See *CIC* 1983, cc. 621-622.

⁹⁴ The model assigned the following functions to the congregational chapter which would have policy-making authority subject to the Institute's constitutions, chapter acts, appropriate policies and congregational government plan: determine a congregational governance structure; challenge the congregation to fidelity to charism and mission; foster appropriate renewal within the congregation; amend the particular law of the congregation; plan, set goals, and determine policies for the congregation; elect congregational leadership (major superior and council); determine the process for selection of delegates to the Institute chapter; and make

congregation's major superior personal authority in accordance with the Institute constitutions and congregational government plan.⁹⁵ Likewise, the model provided for the congregation's major superior and council to assume responsibility for congregational administration.⁹⁶

The next section of the model dealt with Institute structures: the chapter, the leadership conference, the president and council. In substance, the purpose of the Institute chapter as the "highest authority in the Institute and the principal means whereby the Mercy charism is fostered" closely resembled its counterparts in previous models.⁹⁷ The chapter's functions, however, took on added precision. For

recommendations to the Institute chapter on behalf of the congregation. See *Mercy Futures Project: Study of Governance Model and Membership Survey*, Spring Consultation, March 15-May 15, 1985 (=spring, 1985, model), p. 2 in AFSMA.

⁹⁵ The model attributed four specific functions to the congregational major superior: serve as spiritual leader and promoter of unity; represent the congregation to ecclesial and civic publics; participate in the Institute leadership conference; and convoke and preside at the congregational chapter. *Ibid.*

⁹⁶ The model assigned five functions to the congregational major superiors and council: integration of the charism and promotion of appropriate adaptation and renewal; formation, community life, and on-going development of membership; administration of the congregational assets and approval of congregational budgets; congregational ministries and the missioning of sisters; and all appropriate legal and corporate functions of the congregation. *Ibid.*

⁹⁷ *Ibid.*, p. 3. This reflects the purpose of the religious institute's chapter put forth in universal law as holding supreme authority in the institute and having a foremost duty to protect the heritage of the institute. See CIC 1983, canon 631.

instance, a new function provided that it "articulate the vision of the Institute, evaluate and give direction to the mission and works proper to the Institute."⁹⁸ Apparently, the governing board was attempting to distinguish features of the Mercy charism rather than refer to the institute's charism only in abstract terms.

The Institute president and council, as well as the major superiors of the congregations, would constitute the Institute leadership conference which would foster the unity and intercongregational life of the Institute. As with the leadership conference's counterparts in previous models, the governing board intended that the conference provide for the collaborative development and implementation of the goals and policies of the Institute chapter. The description of the conference's functions, however, represents a clear departure from its description in previous models.⁹⁹ The president and

⁹⁸ *Mercy Futures Project: Study of Governance Model and Membership Survey*, Spring Consultation, March 15-May 15, 1985, p. 3. The additional chapter functions included: challenge the members to fidelity to the charism and mission of the Institute; propose amendments to the *Constitutions* and amend the *Institute Directory*; foster appropriate renewal within the Institute; develop goals and policies and enact legislation for the Institute; and elect the president and council. *Ibid.*

⁹⁹ The Institute leadership conference shall: promote appropriate adaptation and renewal in collaboration with the president and council; do long range and strategic planning; give [advice] to the president and council in determining formulas for assessments and fees; facilitate inter-congregational cooperation, collaboration, and sharing of resources; review and make recommendations concerning the Institute budget; and respond to new needs and challenges in the interim between Institute chapters. *Ibid.*, p. 4.

council are not solely at the service of the Institute leadership conference. Rather, the Institute leadership conference works in collaboration with the Institute president and council. For instance, rather than *determine* formulas for Institute assessments or approve the Institute budget, the Institute leadership conference would *advise* the president and council in this regard.¹⁰⁰ Hence, the Institute leadership conference with its mission of fostering "intercongregational cooperation, collaboration and sharing of resources", would be primarily -- although not exclusively -- a consultative body responsible for on-going planning.¹⁰¹

As in previous governance models, the spring, 1985, model proposed that the Institute president and council would provide the primary focus of unity and the locus of leadership for the Institute when the chapter was not in session. The spring, 1985, model, however, contained a significant innovation regarding the membership of the council. It clearly distinguished the Institute president from her council. In other words the president was not a member of the council.¹⁰²

¹⁰⁰ *Ibid.*

¹⁰¹ *Ibid.*

¹⁰² The fact that the president is not a member of the council holds canonical significance. In this model the president as well as the congregational major superiors would possess personal authority proper to a superior in contrast to authority that belongs to a group such as a superior's council. This distinction is in keeping with canon 618 which states that a superior's power to govern comes from God through the ministry of the Church. See *CIC* 1983, canon 618.

Moreover, the additional functions assigned to the president

In addition, since membership is defined to be in the Institute, both the Institute president and the major superiors of the member congregations possess authority over members. This feature of the Institute president possessing personal authority over individual members is one of its prime distinguishing features from the Australian model. For a discussion concerning the question of personal authority for the Australian Institute president, see D. CAMPION, *Second National Chapter: President's Report 1982-1987*, n.d., pp. 5-6; also see *supra* note 36, p. 145.

The question of a superior possessing personal authority versus a collegial governance model in a religious institute has been the subject of extensive discussion in the years following the Second Vatican Council. The council addresses the question of the extent of a superior's authority in the decree on the renewal of religious life, *Perfectae caritatis*. The council decrees that while a superior should promote consultation and cooperation, in the end the superior possesses decision-making authority. See SECOND VATICAN COUNCIL, Decree on the Renewal of Religious Life, *Perfectae Caritatis*, no. 14, in AAS, 58(1966), pp. 708-709. This stipulation receives further attention in several post conciliar documents. For instance, Pope Paul VI in his apostolic exhortation on the renewal of religious life, sees superiors as constitutive of a religious community. See PAUL VI, Apostolic Exhortation, *Evangelica testificatio*, June 21, 1971, no. 25, in AAS, 63(1971), p. 511. For a response of the Sacred Congregation for Religious and Secular Institutes to a *dubium* regarding the admission of a collegial form of governance in a religious institute, see *Canon Law Digest* 7(1974), pp. 484-485.

Other discussions of this subject can be found in: S. HOLLAND, "What is meant by the 'personal authority' of religious superiors?", in *Bulletin on Issues of Religious Law*, 1(1985), no. 2, pp. 1-2; E. O'HARA, "Can a religious institute adopt a collegial form of government?", in *Bulletin on Issues of Religious Law* 1(1985), no. 2, pp. 3-5. In addition, two general studies concerning the authority of superiors in religious institutes include: D. ANDRÉS, *Los superiores religiosos segun el codigo: Guia de súbditos y de superiores*, Madrid, Publicaciones Claretianas, 1985, 225p; J. AYMANATHIL, *Personal Authority of the Religious Superior in the Legislation of the Church*, (extract from doctoral dissertation), Rome, Salesian Pontifical University, 1989, 117p.

and to the council also provided a clear departure from previous models. For instance, the president would now "act [on] behalf of the Institute in those matters specified by Canon Law" and would "represent the Institute to the Holy See."¹⁰³ In addition, the Institute council would take on a more authoritative function by giving a practical interpretation of the constitutions, developing Institute policies, approving Institute budgets and serving as an instance of appeal.¹⁰⁴ Hence the spring, 1985, model provided a shift in the chief executive authority to the president and her council from the previous counterparts of the Institute leadership conference. Once again, the governing board prepared to consult the membership to see if, in fact, they would embrace this governance model.

¹⁰³ *Mercy Futures Project: Study of Governance Model and Membership Survey*, Spring Consultation, March 15-May 15, 1985, p. 4. Other functions of the president included serving as the spiritual leader, promoting unity and charity, and convoking and presiding at Institute chapters.

¹⁰⁴ The additional functions attributed to the Institute council included interpreting the charism of the Institute; promoting appropriate adaptation and renewal; control and administering Institute policies; representing the Institute to ecclesial and civic publics; and providing appropriate central services such as record keeping, communications, financial management and secretarial services. *Ibid.*, p. 5.

4. Membership consultation: spring, 1985

The format for the spring, 1985, consultation included a booklet and a questionnaire.¹⁰⁵ The booklet offered a description of the model, further information in the form of "Questions and Answers", and a compilation of the governing board's rationale for choosing this model.¹⁰⁶ The questionnaire which listed fifteen values and elements which the sisters had previously recommended also asked membership to decide if the spring, 1985, model adequately provided for these values and elements.¹⁰⁷ In addition, the questionnaire sought to determine

¹⁰⁵ See *Mercy Futures Project: Study of Governance Model and Membership Survey*, March 15 - May 15, 1985, 11p, and *Mercy Futures Spring 1985 Membership Consultation Questionnaire*, 2p, AFSMA.

¹⁰⁶ The "Questions and Answers" section contained twenty-one questions and answers on topics ranging from the effects that this model would have on the sisters as individuals and on their individual units (congregations) to concerns regarding finances and lines of authority. See *Mercy Futures Project: Study of Governance Model and Membership Survey*, March 15 - May 15, 1985, pp. 5-9. The governing board's rationale included: the locus of membership; desire to manifest unity of hearts in a single institute; respect for autonomy at every level of governance; formation of single institute while not in crisis; gives assurance that Institute can be restructured in future as needs arose without continual returning to Holy See for approval. *Ibid.*, pp. 9-11.

¹⁰⁷ These values included union and charity, fidelity to Mercy charism, development of a unified Mercy vision, participatory decision-making, collegiality, subsidiarity, accountability, flexibility for the future, local autonomy, congregational identity, promotion of effectiveness in ministry, financial stability, clear delineation of authority/responsibility at all levels of governance, promotion of collaboration between/among congregations. See *Mercy Futures Spring 1985 Membership Consultation Questionnaire*, p. 1.

whether the members had sufficient information to make an informed decision regarding their congregation's membership in the new Institute.

The results of this consultation demonstrated that, in fact, the governing board had chosen a model that adequately provided for the values and elements recommended by the membership.¹⁰⁸ Of those responding to the questionnaire, 85% concurred with the choices made by the governing board.¹⁰⁹ In addition, 82% of the respondents replied affirmatively to the question: do you have sufficient information to make an informed decision? Encouraged by these results, governing board members made plans to conduct a "straw vote" of all sisters regarding their units' membership in the proposed institute.

D. The straw vote: December, 1985

Minutes of the June, 1985, governing board meeting held in St. Louis, Missouri, reveal that in addition to reviewing the results of the spring, 1985, membership consultation, the

¹⁰⁸ The return rate was 58%, 10% more than in the previous consultation. See *Governing Board Minutes*, June 8-12, 1985, p. 25.

¹⁰⁹ See M. TRAINER, *A Participative Approach*, Table 11, p. 67. Because the response rate in this survey was 57.9%, the 85% affirmative response represented 49.3% of the total membership. *Ibid.*, Table 13, p. 73.

members made some minor revisions in the model.¹¹⁰ They also turned their attention to reviewing documents that would be distributed to the sisters in the fall. Finally, the governing board discussed the implications of the straw vote, noting that while "no consequences necessarily flow from the straw vote", it would indicate "the first clear reading on the issue of the proposed new Institute."¹¹¹ The governing board thus commissioned the task force to make the necessary preparations for the straw vote.

At the direction of the governing board, the task force distributed an information packet in preparation for the straw vote. This packet which presented the slightly revised spring, 1985, model also attempted to give sisters additional information through another composite entitled "Questions and

¹¹⁰ These changes included: under congregational chapter "Elect congregational leadership (major superior and council)" was changed to "Determine the process by which the Congregation selects its leadership" under major superior and council. "Integration of the charism and promotion of appropriate adaptation and renewal" was changed to "Interpretation of the charism and..." Under major superior and council, the governing board added: "Congregational long-range and strategic planning." *Governing Board Minutes*, June 8-12, 1985, p. 27.

¹¹¹ Ibid., p. 31. The minutes of a meeting between the Congregation for Religious and representatives of the Federation reveal that the Congregation for Religious' outlook on the "straw vote" was that although "there is nothing against it, ... it should be made clear that even if a majority favor it, this vote does not commit the institute at this stage." CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES (=CRIS), *Minutes of the meeting with representatives of the Federation of the Sisters of Mercy of the Americas*, December 3, 1984, p. 2.

Answers".¹¹² The packet then described the "straw vote" as a "non-binding expression of opinion by all professed members."¹¹³ The results of the straw vote would supply the governing board as well as individual congregations with the information they needed to determine their continuation in the Mercy Futures project.

On or about December 12, 1985, each congregation and province conducted the straw vote on the question: "Do you wish your congregation to be part of the proposed new institute?" The ballot provided space for "yes" or "no" responses as well as an indication of profession category. M. Trainer points out that 88% of the total membership voted and that "of those casting valid votes 77% were in favor of their community joining the Institute."¹¹⁴ As important as the total results, however, were the results of the individual units.¹¹⁵

¹¹² These questions and answers focused on the difference between a straw vote and a referendum, options for congregations who do not chose to join the Institute, options for sisters not accepting membership in the new Institute, future realignments of the Institute, finances, confirmation of a congregation's elections or chapter enactments, and transferral of vows into the new Institute. See *Mercy Futures Project Study of Governance Model and Membership Survey*, Fall Consultation, September 20 - December 12, 1985, pp. 5-8.

¹¹³ "Novices and candidates would also be polled." Also because the vote was "non-binding" no size majority was required. *Ibid.*, pp. 5-6.

¹¹⁴ M. Trainer continues by saying that "...these valid votes represented 68% of the total membership." M. TRAINER, *A Participative Approach*, p. 66.

¹¹⁵ For complete listing of results, see Appendix IV-A.

The affirmative response among the Union provinces ranged from 97% in Chicago to 78% in Scranton, and with the remaining Union provinces ranging from 84-95%. In contrast, the independent congregations ranged from 92% (Auburn) to 42% (Burlington) with seven of the seventeen independent congregations falling below a two-thirds favorable response.¹¹⁶ While the overall rate of affirmation was strongly favorable, these results also disclosed that several of the independent congregations were far from unanimous.

E. Consultation with the Holy See: November, 1984

On November 28, 1984, a year prior to the straw vote, a series of three meetings began between representatives of the Federation and the Congregation for Religious and Secular Institutes. Their purpose was two-fold: to obtain the Congregation's observations regarding a provisional text of the *Core Constitutions*, and to acquaint the Holy See with the Mercy Futures project. Representing the Federation at this meeting were Sisters Terese Marie Perry (Burlingame), president of the Federation, Helen Amos, project director for the *Core Constitutions* and Doris Gottemoeller, project director for Mercy Futures. At the outset of the discussion regarding Mercy Futures, Archbishop (later Cardinal) Jerome Hamer, pro-prefect of the Congregation for Religious asked a

¹¹⁶ These congregations included Burlington, Cedar Rapids, Erie, Philadelphia, Plainfield, Portland, Rochester.

question concerning the origin of the various units seeking restructuring. Being assured that theirs was a common founder in Catherine McAuley, the archbishop suggested that the Holy See would approve the "merger" if its purpose was to benefit religious life and not merely to form a large institute.¹¹⁷ In

¹¹⁷ CRIS, *Minutes of the meeting with representatives of the Federation of the Sisters of Mercy of the Americas*, prot. no. B. 220 - 1/81, December 3, 1984, pp. 1,3.

Evident in the correspondence between the Federation and the Congregation for Religious is confusion over the type of restructuring which was to take place. A prime reason for this confusion may have been the lack of clarification of terms in this regard. In this conversation, Cardinal Hamer used the word "merger". Later he would use the word "fusion" to describe the restructuring. See CRIS, Circular letter to bishops in dioceses which contain the principal house of a member congregation of the Federation of the Sisters of Mercy of the Americas, July 8, 1987.

While some commentators contend that merger has been used as a generic term for either fusion or union, other commentators on canon 582 of the 1983 code contend that merger is equivalent to fusion, a type of restructuring in which an institute or several institutes are absorbed into another existing institute. This is in contrast to a union in which all entities relinquish their previous juridical identities to form an entirely new juridic person. An examination of commentaries reveals some variation regarding the use of the word "merger". See M. BAIR and J. HITE, "The Merger and Union of Religious Institutes", in *Bulletin on Issues of Religious Life*, 3(1987), no. 1, pp. 1-2; M. DORTEL-LEJDOT, *Union - fusion - fédération d'instituts religieux: Normes au directoire pratique*, Paris, Comité Canonique des Religieux, 1988, 48p; R. HILL, "Combining Religious Institutes", in *Review for Religious*, 47(1988), pp. 142-143; S. HOLLAND, "Norms Common to All Institutes of Consecrated Life", in J. CORIDEN et al. (eds.), *The Code of Canon Law: A Text and Commentary*, New York, Paulist Press, p. 458; E. O'HARA, "Issues of Aggregation, Merger, and Dissolution", in *Proceedings of the Forty-Ninth Annual Meeting of the Canon Law Society of America*, 49(1987), p. 160.

At first glance the proposed restructuring might be considered along the lines of a union rather than a fusion.

addition to offering observations on specific points contained in the proposed constitutions, the Congregation for Religious and Secular Institutes also envisioned the *Core Constitutions* project as distinct from the Mercy Futures project. Accordingly, a congregation might wish to adopt the *Core Constitutions* but not want to be a part of a new institute.¹¹⁸ The Holy See also seemed to expect that the Federation would complete work on the *Core Constitutions* prior to the formation of a new institute.¹¹⁹ While it communicated no decision regarding Mercy Futures during this series of meetings, the Congregation did set several parameters within which the Mercy Futures process should progress.

The straw vote which had occurred in December, 1985, brought to a close the spiritual and psychological preparation for the formation of a new institute. Now as the Federation

This thinking was reflected in the finalized wording of the pre-chapter written consultation ballot. See *infra* Chapter Four, Section II, A. However, if this restructuring is to be considered as a union, it departs from the sense of extinctive union described in Chapter II, Section II, B, b. The fact that the potential units of the new institute would retain their juridic personality means that neither "fusion" nor "union" would adequately express the new reality.

¹¹⁸ See CRIS, *Minutes of the Meeting with the Representatives of the Federation of the Sisters of Mercy of the Americas*, prot. no. B. 220 - 1/81, December 3, 1984, p. 5.

¹¹⁹ D. Gottemoeller reflects that "SCRIS felt the completion of Mercy Futures should follow the completion of the *Core Constitutions*, because successful completion would be an expression of our unity." P. GOULD (ed.), "Reflections on the Visitation to Rome", in *Mercy Life Newsletter*, 10(1985), no. 6, p. 3.

moved into the formal decision-making process, which the following chapter discusses, the fall 1985 model offered a distinct alternative both to membership for definitive acceptance and to the Holy See for its consideration.¹²⁰

¹²⁰ The fall, 1985, model, in fact, became the basic structure of governance for the Institute of the Sisters of Mercy of the Americas. The governing board would slightly amend the fall, 1985, model after additional consultation with the Holy See.

CHAPTER IV

FORMAL JURIDIC PREPARATION FOR THE FORMATION OF A SINGLE INSTITUTE

Having traced the Mercy Futures project from its inception in 1980, we have considered its spiritual and psychological preparation as mandated by the norms implementing the Second Vatican Council's decree on the renewal of religious life.¹ This chapter, then, considers the required juridical preparation which took place between January, 1986, and the establishment of the Institute of the Sisters of Mercy of the Americas on July 20, 1991.² This consideration includes the interaction between the governing board and the Holy See regarding the finalization of the *proposed governance model* as well as a decision-making process acceptable to both. Then, the chapter recounts the three-phase formal decision-making process which took place between April and September, 1988. Thirdly, it describes the content of the formal petitions which seventeen petitioning congregations submitted to the Holy See. Finally, the chapter reviews the action taken by the Holy See on these petitions

¹ See POPE PAUL VI, *Motu proprio, Ecclesiae sanctae*, II, August 6, 1966, nos. 39-41, in AAS, 58(1966), pp. 781-782.

² Pope Paul VI in his *motu proprio, Ecclesiae sanctae*, also required that juridical preparation precede the restructuring of religious institutes. *Ibid.*

as well as the provision made for sisters not accepting membership in the new Institute.

**I. FORMULATION OF THE DECISION-MAKING PROCESS --
FINALIZATION OF THE PROPOSED GOVERNANCE MODEL**

The results of the December, 1985, straw vote indicated that membership was ready to begin the formal juridical preparation for the formation of a single institute. However, in order to commence the juridical preparation, two tasks needed to be done. First, the governing board presented to the Holy See for its approval a formal decision-making process in which the seventeen participating member congregations would participate. Secondly, the governing board finalized the *proposed governance model* for submission to the Holy See for its approval.

**A. Governing board endorses formal consideration:
January, 1986**

On January 5, 1986, the governing board assembled in Cedar Rapids, Iowa, to review the straw vote results. It then decided on the next steps of the Mercy Futures project. As the governing board reviewed the data, it noted certain discrepancies in the methods that various congregations and provinces used to report their results.¹ The board members, noting the need for greater precision regarding community

¹ See *Mercy Futures Task Force Minutes*, January 4-5, 8, 1986, p. 1.

statistics, raised further concerns pertaining to the number of abstentions and their impact on the statistics, the reporting of results, and the determination of competency/incompetency to vote.⁴ In retrospect, it becomes apparent that in addition to providing the governing board with an indication of membership acceptability of the fall, 1985, model, the straw vote had served another purpose as well: it had provided an opportunity for the governing board to conduct a large scale formalized balloting in which precision and fairness concerned all involved. Hence, the concerns that surfaced regarding the straw vote necessitated clarification prior to the design of a formal decision-making process.⁵ The governing board then designed two tables for dissemination of the results of the straw vote.⁶ In addition, the board affirmed the movement of Federation congregations toward formal consideration of the Mercy Futures project.⁷ In

⁴ See *Governing Board Minutes*, January 5-7, 1986, p. 2.

⁵ So that the discrepancies and inconsistencies on computation of the straw vote would not reoccur, the governing board with the assistance of F. Morrissey developed a set of guidelines for major superiors and tellers for the Mercy Futures referenda. These guidelines indicated how those counting the votes would determine vote validity as well as how to tally abstentions. See *Governing Board Minutes*, June 18-20, 1987, (attachment), in AFSMA.

⁶ For a display of these tables see Appendix IV-A.

⁷ The governing board did so by unanimously passing the resolution: "We affirm that the Mercy Futures project move forward toward formal consideration by our Congregations. To this end we are committed to designing the formats for the referendum and the chapter consideration and to consulting

so doing, the governing board shaped much of its agenda for the next two and a half years. Minutes of this governing board meeting suggest that the immediate tasks included the design of the formal decision-making process and the editing of the governance model into an acceptable constitutional format.⁸ As this work began, Sister Norita Cooney (Omaha), Federation president, initiating the contact with CRIS, requested an October meeting in Rome.⁹

CRIS about these and about the proposed model." *Governing Board Minutes*, January 5-7, 1986, p. 3.

⁸ *Ibid.*, pp. 3-4. The task of editing the governance model into a constitutional format was eventually refocused. As a result, the 1986 draft of the *Core Constitutions* was revised so as to incorporate the *proposed governance model*. See *infra* p. 191. It is important to note that in addition to the tasks at hand the governing board also saw the need to organize congregational and intercongregational activities to mark this point of Mercy history. Likewise, at this meeting the governing board passed the following resolution regarding the *Core Constitutions*: "We affirm that the congregations will have the opportunity, in chapter, to adopt/not adopt the *Core Constitutions* (March, 1986 draft); and that those congregations who do adopt the document may expect to remain in collaboration toward presentation to CRIS." *Governing Board Minutes*, January 5-7, 1986, pp. 5 - 9.

⁹ See N. COONEY, Letter to Cardinal Jerome Hamer, March 6, 1986, in AFSMA.

B. Formulation of the decision-making process

Arriving at the formulation of a decision-making process acceptable to the governing board as well as to the Holy See presented no easy task. Indeed, the fact that the Federation was proposing a most comprehensive restructuring, involving over 7000 sisters and seventeen autonomous congregations, contributed to the complexity of this task. In addition, throughout its development those designing the decision-making process sought to protect the sisters' acquired rights as well as each congregation's autonomy of governance.

1. The initial draft

On March 15, 1986, the Mercy Futures Task Force gathered with Francis G. Morrissey, O.M.I., their canonical consultant, in Merion, Pennsylvania, to design a decision-making process regarding the formation of a single institute. This meeting produced a document which contained four sections:

1. Participation in the referenda; 2. Processes for the referenda; 3. Chapter consultation; and 4. A timeline.¹⁰ The

¹⁰ Apparently, the timeline created continual difficulties for the governing board. The Holy See did not give assent to a timeline prior to giving formal approval to the establishment of the new institute in January 1990. The reason for CRIS' approach apparently involved its intention to adopt a "pace which allows for full reflection..." V. FAGIOLO (Secretary of CRIS), Letter to E. Head (Bishop of Buffalo), Prot. no. B 220 - 1/86, July 8, 1987, in AFSMA. Nevertheless this approach caused the governing board a great deal of concern. In a letter to Sister Mary Linscott of CRIS, D. Gottemoeller indicated concern "about any change in the

first section provided that all "professed sisters who are canonically eligible may vote."¹¹ The second section described the two referenda which congregations would conduct, one prior to their respective chapters and one after them. The question on the first of these referenda, *Referendum A*, succinctly stated:

proposed timeline for decision-making, since the chapters have all been scheduled between January 1 and April 30th. Rescheduling might take another year, in addition to imposing a grave financial hardship on some communities where delegates have to travel great distances." D. GOTTEMOELLER, Letter to M. Linscott, September 4, 1987, in AFSMA. Several months later, however, D. Gottemoeller, who had recently returned from a meeting with CRIS, explained to a sister who had written her regarding timing, "CRIS's stance does not seem to be one of trying to delay the project, but rather of making sure that everyone understands what is at stake and that everyone's rights are safeguarded." D. GOTTEMOELLER, Letter to P. Hartigan (Brooklyn), January 23, 1988, in AFSMA. This concern regarding timing apparently has a precedent with Catherine McAuley when she was seeking confirmation of the *Rule and Constitutions*. See *supra* Chapter I, Section I, 2, d.

¹¹ *Mercy Futures Task Force Minutes*, March 15-17, 1986, attachment, p. 1. The statement continued by noting that those who lack eligibility to vote are those who are incapable of a human act as well as those who lack active voice. Here the document referred to canon 687 as specifying that those on exclaustation lack active voice. In addition, the document suggested that incapacity be attested to by two medical doctors. *Ibid.*

Having been informed of the project to establish the Institute of the Sisters of Mercy of the Americas, and having prayerfully considered its implications, both for your congregation and for yourself, do you wish your congregation to join the Institute? Yes _____ No _____¹²

The form for *Referendum B*, the referendum which would occur after the congregational chapters, appeared more complex. Depending on the outcome of *Referendum A* and its chapter vote, a congregation would use one of three referendum questions.¹³ The crux of this question dealt with the individual sister accepting membership in the new institute should the Holy See establish it.¹⁴ The document which then described the method of ballot distribution, also made several canonical distinctions.¹⁵ The document's next section described

¹² *Ibid.* While the format for this referendum did not provide a space for a signature, it did provide space to indicate the year of first profession.

¹³ The first question concerned an "in-favor" congregational vote and an "in-favor" chapter vote. The second question concerned an "in-favor" congregational vote and a "not-in-favor" chapter vote. The third question concerned an "in-favor" chapter vote and a "not-in-favor" congregational vote. *Ibid.*, pp. 1-2.

¹⁴ The format for this referendum provided space for the sister's signature as well as her date of first profession. *Ibid.*, p. 2.

¹⁵ "A valid vote is one which is free, secret, certain, absolute and determinate (canon 172). An abstention is a ballot on which no preference is expressed or one which is not returned. Invalid votes and abstentions will be counted in the total number of votes cast. Percentages will be calculated of affirmative votes, of negative votes, and of invalid votes and abstentions on the basis of the total number in a congregation eligible to vote." *Ibid.*

the chapter consultation stating that the congregational chapter would consider the question of a new institute some time after *Referendum A's* results became known.¹⁶ The question which the chapter would consider read as follows:

Having been informed of the project to establish the Institute of the Sisters of Mercy of the Americas, and having prayerfully considered its implications for your congregation, do you wish your congregation to join the Institute?
Yes _____ No _____¹⁷

The document then directed the chapter to formulate succinctly its rationale which would be forwarded to the Holy See with the chapter vote. At its next meeting, the Mercy Futures Task Force, who reviewed this initial draft edited it slightly. In addition to modifying cosmetically the arrangement of the referenda and chapter consultation, the task force added an additional two-part question to *Referendum B*:

If you answered no, is it your intention to transfer to another community? Yes _____ No _____ ;
to seek dispensation from your religious vows?
Yes _____ ; No _____.¹⁸

¹⁶ This chapter consultation would occur at a regularly scheduled chapter (at a regular session or at a special session) or at an extraordinary chapter held for the purpose of considering the Institute question. *Ibid.*

¹⁷ *Ibid.*, p. 3.

¹⁸ MERCY FUTURES TASK FORCE, Letter to Members of the Governing Board, June 2, 1986, enclosure, p. 2. Also, see *Mercy Futures Task Force Minutes*, April 27-28, 1986, p. 3

The Mercy Futures Task Force then distributed this edited version of the decision-making process to all governing board members who would consider it at their June, 1986, meeting.

2. Governing board revisions

Minutes of the June, 1986, governing board meeting reveal that the Mercy Futures project occupied most of its agenda. In addition to clarifying among themselves various aspects of the decision-making process, governing board members consulted (via transatlantic phone) F. Morrissey on various canonical matters.¹⁹ Furthermore, the members considered a first draft of the *Core Constitutions* which incorporated the *proposed governance model*.²⁰ Then they turned their attention toward reviewing and revising the decision-making process.

While the governing board accepted the general format of the process which the task force had prepared, it also made

¹⁹ The questions presented included those concerned with the validity/invalidity of ballots as well as the capacity/incapacity of the voter. In addition, F. Morrissey responded to questions concerning transfers, timing of phases of the decision-making process, finances and the wording of the referenda. For a transcript of the interchange, see *Governing Board Minutes*, June 20-24, 1986, pp. 9-12.

²⁰ Apparently, the process of constitution review was intended to give the Constitutions Committee a sense of the acceptability of this initial draft which incorporated the *proposed governance model*. No formal acceptance took place. D. Gottemoeller, however, did articulate two values which were to be observed in this integration: representing "ourselves as accurately and as well as possible to CRIS" and being sensitive "not to send any false signals to the sisters; or to confuse the two projects (*Core Constitutions* and *Mercy Futures*)." *Ibid.*, p. 9.

several significant revisions in its presentation. For instance, to the second section which it now labeled "Processes for the Referendum A, Congregational referendum, Phase I", it added a statement which seemed to establish a requisite majority on this first step in the decision-making process.²¹ Finally, the board significantly simplified the format of the referendum's second phase.²² Also, for those sisters responding "NO" in this phase, they provided the opportunity to express one of four intentions: to seek transfer to another religious institute (Mercy or otherwise), to seek dispensation from religious vows, to take more time

²¹ "A two-thirds majority of those eligible to vote will be considered a favorable response." *Ibid.*, p. 16. Apparently, some members of the governing board had been shocked "to hear that there is possibility that CRIS may approve/require a unit's membership, where there is not support for this in the congregation's vote." *Governing Board Minutes*, June 20-24, 1986, p. 3. It seems that this provision would attempt to eliminate that possibility because if the results of Referendum, Phase I were not favorable and the chapter vote was not affirmative, then a congregation would not proceed to Congregational Referendum, Phase II. See *FEDERATION OF THE SISTERS OF MERCY OF THE AMERICAS, Presentation of the Mercy Futures Project to the Sacred Congregation for Religious*, October 13, 1986 (= *FEDERATION, Presentation of the Mercy Futures Project*, 1986), p. 7.

²² The question now stated: "Knowing that the results of the referendum in your congregation were:

	#	%
Yes	_____	_____
No	_____	_____
Abstentions	_____	_____

and that the chapter decision in your congregation was (favorable/unfavorable) to membership in the Institute, if the Holy See approves the establishment of the Institute and the inclusion of your congregation in it, will you choose membership in it? Yes _____ No _____ *Ibid.*

for personal discernment, or other (please explain).²³ Having made these revisions, the governing board endorsed the proposed decision-making process for presentation to the Holy See.²⁴

C. Consultation with the Holy See: October, 1986

On October 13, 1986, Sister Anne Marie Fitzsimmons (Buffalo), the Federation president, D. Gottemoeller, chair of the Mercy Futures Task Force, and H. Amos, project director for the *Core Constitutions* began a series of meetings with CRIS representatives.²⁵ During these meetings the Federation representatives intended to seek approval of the fall, 1985, model, the proposed decision-making process, and a projected timeline. In addition, they anticipated that they would obtain

²³ See *Governing Board Minutes*, June 20 - 24, 1986, p. 17.

²⁴ In the document that the Federation presented to the Holy See in October, 1986, an additional statement appeared for which there is no record in the governing board Minutes. That statement which appeared in the document's first section, "Participation in the Referendum", read: "A sister may voluntarily declare herself ineligible to participate. In this case the understanding is that she will not receive a ballot and that she will abide by the wishes of the majority of her congregation." *FEDERATION, Presentation of the Mercy Futures Project*, 1986, p. 6.

²⁵ In addition to meeting briefly with Cardinal Jerome Hamer, prefect; Archbishop Vincenzo Fagiolo, secretary; and Reverend Jesús Torres, undersecretary, Federation representatives met more extensively with CRIS staff members: Sister Mary Linscott, S.N.D.; Reverend Patrick Mallia, O.S.A.; Sister Miriam Cerletty, S.D.S., and Reverend Aloysius Callaghan. See H. AMOS, "Roman Consultation Continues Federation Projects", in *Mercy Life*, 12(1986), p. 1.

information on further CRIS requirements for approval of the proposed restructuring.²⁶

1. *Observations on the fall, 1985, model*

During the course of the discussions, CRIS representatives who shared their observations on the fall, 1985, model indicated a general desire for "clarity and specificity in the outline of the proposed structure."²⁷ CRIS then offered two general observations on the format of the model. First, it suggested that the words "province/provincial" should replace "congregation/congregational" which the model used to designate individual units.²⁸ Secondly, because the "Church approves the Institute of which the provinces are so many local presences", CRIS suggested that the provisions for the Institute as a whole should precede provisions for the

²⁶ In addition, H. Amos, project director for the *Core Constitutions*, hoped "to share information on the action of congregation chapters with regard to the *Core Constitutions* draft". N. COONEY, Letter to J. Hamer, March 6, 1986.

²⁷ H. AMOS, "Roman Consultation Continues Federation Projects", in *Mercy Life*, p. 1. H. Amos explains this requirement by saying that CRIS saw this as necessary because the first congresso would be reviewing the model apart from the *Core Constitutions* which distinguish the Institute's structure and relationships. *Ibid.*

²⁸ See CRIS, *Observations on the proposed model of governance for the Institute of the Sisters of Mercy of the Americas*, Prot. no. B 220-1/86, October 14, 1986 (= CRIS, *Observations on the proposed model*, 1986), p. 1.

individual units.²⁹ In addition, CRIS offered a series of particular observations. The first concerned the preservation of the personal authority of the Institute president and of the major superiors of the member units.³⁰ For instance, where the model's preamble stated the proposed relationship among the Sisters of Mercy of the Americas would embrace a dimension of authority which would "operate in a collegial fashion," CRIS suggested replacing "in a collegial fashion" with the phrase, "with shared responsibility".³¹ Also, in several instances where the model seemed to present major superior and council or president and council jointly, CRIS suggested that the governance model distinguish the Institute president and unit major superiors from their respective councils.³² Likewise, it suggested that several functions assigned to the council should be transferred to the Institute president.³³

²⁹ *Ibid.*

³⁰ CRIS suggested that the first mention of the Institute president in the model be preceded by the words, "the General Superior, hereafter called the President". In addition, CRIS suggested eliminating the words: "when the chapter is not in session" as modifying the president and council's leadership role in the Institute. *Ibid.*, p. 2.

³¹ *Ibid.*, p. 1.

³² This meant replacing the conjunction "and" with phrases such as "with the assistance of", "aided by" or "with the advice of". *Ibid.*, pp. 1-2.

³³ These included: giving practical interpretation to the Constitutions, representing the Institute to ecclesial and civil publics and serving as an instance of appeal. *Ibid.*, p. 2.

Then, again, in several instances, CRIS expressed concern that the fall, 1985, model did not adequately provide for accountability of the unit level to the Institute president and her council.³⁴ Finally, CRIS suggested that the Institute Leadership Conference function exclusively in a consultative and evaluative function.³⁵

³⁴ To this effect, CRIS suggested the section referring to the "provincial government plan" be modified with the words "approved by the President with the consent of her Council." In addition, it suggested that the administration of provincial assets and the approval of provincial budgets be "in accountability to the President and her Council." Similarly CRIS indicated that the Institute's constitutions "should indicate the principal common elements...[and determine] the main lines of provincial governance structure." *Ibid.*, p. 1.

In like manner, CRIS suggested that "the Institute chapter, in accordance with the Institute Constitutions which should indicate the principal common elements, determines the main lines of provincial governance structures." *Ibid.*

CRIS also suggested that the authority of the provincial major superiors be more clearly delineated, specifically adding as a function of the major superior: "The Major Superior also governs the province, visits the houses etc." In addition, it suggested that the major superior and council's responsibility for missioning sisters be limited to sisters "within the province." *Ibid.*

³⁵ To this end, in the sentence, "The Conference provides for the collaborative development and implementation of the goals and policies of Institute chapters...", CRIS suggested replacing "provides" with "evaluates." Also in the Conference's function, "respond to new needs and challenges in the interim between Institute chapters," CRIS suggested replacing "respond to" with words "studies and makes proposals regarding". *Ibid.*, p. 2. The final CRIS suggestion mentioned above was not adopted in the proposed governance model nor was it adopted in the constitutions which the First Institute Chapter ratified for submission to the Holy See. See *Constitutions of the Institute of the Sisters of Mercy of the Americas*, April 10, 1991 draft (=proposed Institute Constitutions), no. 69.

Another group of observations sought to articulate more clearly several relevant principles of universal law. In a number of instances CRIS suggested that some form of the phrase "in accordance with Church law" be added to the delineation of the various authority structures in the model.³⁶ To the Institute chapter function, "propose amendments to the *Constitutions* and amend the *Institute Directory*", CRIS suggested adding the qualification:

by a two-thirds vote. Amendments to the *Constitutions* require the permission of the Holy See to whom also authentic interpretation is reserved.³⁷

³⁶ *Ibid.*, p. 1.

³⁷ *Ibid.*, p. 2. Here CRIS seems to be applying the principle contained in canon 587 §2 which states that the constitutions approved by a competent authority can be changed only with its consent. See *CIC* 1983, canon 587 §2. Also since the legislator of the constitutions is the legislator who approves them, that same legislator is competent to interpret them authentically. This is so by virtue of canon 16 §1 which states that laws are authentically interpreted by the legislator. See *CIC* 1983, canon 16 §1. The question regarding who is the legislator of the constitutions, the general chapter or the authority which approves them, appears to be a disputed question. Another opinion which is not the commonly held suggests that the general chapter is the legislator. Those holding this opinion suggest that the reason that the Holy See reserves authentic interpretation to itself is because it has approved the document. The finalized proposed governance model did not incorporate the phrase "to whom also authentic interpretation is reserved." However, a question later arose regarding the incorporation of the concept of the reservation of authentic interpretation to the Holy See at the time of negotiations regarding the approval of the *Institute Constitutions*. In April, 1991, Sister Sharon Holland, I.H.M. (of CICL) suggested that the addition might be needed for approval. See *TAC Minutes*, April 12-15, 1991, p. 5. The delegates at the First Institute Chapter decided, however, that the constitutions would be submitted to CICL without an

Rather than the open-ended function of the provincial chapter: "determine the processes by which the province selects its leadership", CRIS suggested an incorporation of the principles found in canon 625 §3 which states that if superiors other than the supreme moderator are elected they need confirmation by the competent major superior.³⁸ Or, if these superiors are appointed, suitable consultation must proceed.³⁹ Then in keeping with its praxis, CRIS suggested an addition to the section on the Institute chapter's composition: "The delegates must outnumber the ex officio members."⁴⁰ Finally, CRIS applied a fundamental principle of the 1983 code that the general chapter preserve the institute's heritage.⁴¹

explicit reference of this reservation. See *Running Minutes of the First Institute Chapter*, July 27, 1991, Morning Session, in AISMA.

³⁸ The statement of CRIS in this regard was: "the method of choice should be given: either elects, with confirmation by the President acting with the consent of the Council, or appoints after suitable consultation." *Ibid.*, p. 1. Also, see 1983 CIC, canon 625 §3.

³⁹ See CIC 1983, canon 625 §3.

⁴⁰ CRIS, *Observations on the proposed model*, 1986, p. 2. E. Gambari states that "according to the praxis of the Holy See, the number of delegates should not be less than the number of members who attend by right." E. GAMBARI, *Religious Life According to Vatican II and the New Code of Canon Law*, trans. Daughters of St. Paul, Boston, St. Paul's Editions, 1986, p. 536.

⁴¹ CRIS suggested adding the words "always in fidelity to the Mercy spiritual heritage" to the definition of the Institute chapter. See CRIS, *Observations on the proposed model*, 1986, p. 2. Under the section "Name", CRIS had also indicated that elements in the Institute's nature should be clearly articulated: "This religious institute of pontifical

2. *Observations on the decision-making process*

The CRIS observations on the decision-making process" appear to include a desire for less specific detail. For instance, CRIS indicated that specific numbers of individual sisters seeking transfer or dispensation from vows need not be forwarded to the Holy See at the time of the formal petition. Rather, congregations only needed to indicate that provision will be made for sisters not choosing membership in the Institute.⁴² CRIS then gave an overview of its internal processes through which the Holy See would render a judgment on the formal Mercy Futures petition. Apparently CRIS would study the Mercy Futures project in at least two *congressi*.⁴³ Before the first *congresso*, the Federation would submit a formal petition which would include reasons, history, proposed

right devoted to the works of the apostolate..." *Ibid.*, p. 1.

⁴² The congregations could forward the more specific information at a later date. CRIS also corrected the statement in the Federation document under *Participation in the Referendum* which states that a sister may declare herself ineligible to vote. See FEDERATION, *Presentation of the Mercy Futures Project*, 1986, p. 6. Rather CRIS indicated that "no sister could declare herself ineligible to vote." *Governing Board Minutes*, January 19-21, 1987, p. 2.

⁴³ *Ibid.* A *congresso* is a working body of CRIS which would include at least eleven persons and is presided over by the cardinal prefect or secretary of the congregation. Other members might include an undersecretary or other official who has been working on an issue under consideration. M. Linscott states that the *congresso* provides a way to gain a variety of opinions on a matter of importance. See M. LINSOTT, "Offices of the Roman Curia Affecting Religious Life", in *Bulletin on Issues of Religious Law*, 2(1986), no. 2, p. 9.

model, statistics of the sisters involved, and the results of the straw vote. This *congresso* would review the general principles contained in both the *proposed governance model* and decision-making process. Approval granted in this first *congresso* would mean that the Holy See approved the general principles contained in the *proposed governance model* as well as the specific steps of the process. Then, CRIS would direct that individual congregations could proceed with the formal decision-making process.⁴⁴ Upon completion of the process, individual congregations would submit formal petitions to join in establishing the new institute.⁴⁵ Approval of these petitions would require another *congresso*. Cardinal Jerome Hamer, who briefly met with the Federation representatives, indicated that approval would be forthcoming to the extent that the Mercy Futures project holds "promise for the

⁴⁴ Throughout the process CRIS intended to ensure that each of the Federation congregations not be deprived of their rightful autonomy of life and of governance. See CIC 1983, canon 586.

⁴⁵ *Governing Board Minutes*, January 19-21, 1987, p. 2. These minutes also indicated the contents of these petitions: "At the time of the second *congresso*, each unit seeking membership in the Institute will forward to Rome the results of the referendum and chapters. These must be accompanied by a generic statement that provision will be made for each sister who does not choose to become a member of the institute. In addition, the statistics, preliminary provision for temporal goods, and reasons for the request must be included. There will be no transfer of assets but there needs to be changes in corporation by-laws." *Ibid*.

'strengthening of religious life' now and in the future."⁴⁶ Thus the Federation representatives returned home with a clearer idea of the comprehensive process and the Holy See's requirements for approval.

3. *Governing board's response: January, 1987*

Upon her return from Rome, A. Fitzsimmons sent a memorandum to each member of the governing board.⁴⁷ In addition to apprising governing board members of the CRIS consultation, she commented on the observations regarding the *proposed governance model*. She indicated that after the three Federation representatives reviewed the suggested changes, they incorporated several of the "language" changes into the proposed model. Furthermore, she mentioned her intention to present the edited model to the Federation's executive council for its approval before submitting the formal petition to the Holy See.⁴⁸ However, the executive council did not feel authorized to approve such changes without input from the entire governing board.⁴⁹ The next step, then, entailed

⁴⁶ H. Amos, "Roman Consultation Continues Federation Projects", p. 1.

⁴⁷ See A. FITZSIMMONS, Memorandum to members of the Governing Board, October 23, 1986, in AFSMA.

⁴⁸ *Ibid.*

⁴⁹ A. Fitzsimmons stated in her memorandum that if the executive council "feels the changes are such that they need governing board approval, we will wait until February to take the next step." *Ibid.*

presentation of the edited governance model to the board itself.

On January 19, 1987, the members of the governing board assembled in Fort Lauderdale, Florida, for the purpose of reviewing the October, 1986, CRIS consultation and the recently edited *proposed governance model*. They would then finalize the *proposed governance model* and the decision-making process for submission to the Holy See.

a. *Proposed governance model*

The governing board readily accepted most of the changes which CRIS had suggested and the Federation representatives had viewed as necessary for clarity and specificity.⁵⁰ Significant among these were several that related to the personal authority of the Institute president. For instance, the governing board accepted the change in the description in the model's preamble now referring to authority as operating "with shared responsibility".⁵¹ The finalized model seemed to offer a compromise to the CRIS suggestion that "...major superior and council, governing" be changed to "major superior

⁵⁰ The minutes of this governing board meeting disclose that with only minor modifications the governing board approved the version of the governance structure which had been edited by the Federation representatives after their meetings with CRIS. See *Governing Board Minutes*, January 19-21, 1987, p. 3-4. For a presentation of the edited model, see A. HOEY, Memorandum to Mercy Futures Task Force, October 28, 1986, enclosure, in AFSMA.

⁵¹ *Ibid.*, p. 1.

governing with the assistance of her council..."⁵² The revised model incorporated the wording: "...major superior, governing with her Council..."⁵³ By accepting these suggested changes, the governing board appeared to accommodate CRIS' concerns regarding the preservation of the personal authority of the Institute president and the other major superiors.

Perhaps as significant, however, are the observations which the governing board did not accept. Herein may lie insights as to the intentions of the founders. For instance, while the finalized model eliminated the designation, "congregation/congregational" for the Institute's component parts, the governing board did not incorporate the suggestion that "province/provincial" be used. Rather in sensitivity to the fact that the Union had used the term "province" and desiring to express a new reality, the finalized model used the term "unit".⁵⁴ In addition, the board did not seem to

⁵² See *supra* p. 195.

⁵³ A. HOEY, Memorandum to Mercy Futures Task Force, October 28, 1986, enclosure, p. 3. Interestingly, the finalized model did not incorporate the suggestion that "The President and four councilors provide the primary focus..." be changed to "The President aided by her four councilors..." *Ibid.* Also while the finalized model did not change the several functions from the Institute council to the Institute president, it changed the heading "Institute Council" to "The President and Council", thereby accommodating the spirit behind this suggested modification. *Ibid.* For those several suggested functions, see *supra* note 32, p. 195.

⁵⁴ See A. HOEY (Federation Executive Director), Memorandum to Mercy Futures Task Force, October 28, 1986, enclosure, pp. 3-4. The draft of the proposed constitutions submitted to the First Institute Chapter used the term "regional community."

accept the suggested changes dealing with unit accountability at the Institute level.⁵⁵ Another suggested revision which the governing board viewed as problematic, dealt with the election of delegates to the Institute chapter. While CRIS apparently desired uniformity in each unit's mode of election, the governing board chose to preserve "flexibility and adaptability" to local circumstance by merely incorporating the wording "Four delegates elected from each unit."⁵⁶ Finally, the governing board accepted none of the suggested changes regarding the Institute Leadership Conference, thus maintaining the role it had initially proposed for the Conference.⁵⁷

See proposed *Institute Constitutions*, nos. 70-77. However, the final membership consultation conducted in fall, 1990, on the proposed constitutions had suggested that the designation "regional community" needed more consideration. See *Mercy Midpoints*, May 1991, p. 3. The First Institute Chapter decided to retain the title "regional community".

⁵⁵ See *supra* note 34, p. 196.

⁵⁶ *Governing Board Minutes*, January 19-21, 1987, p. 3. The model which the governing board had joined to its October, 1986, presentation included the statement: "four delegates from each congregation, elected according to procedures determined by the congregations" under the section "Membership in the Institute chapter". See *FEDERATION, Presentation of the Mercy Futures Project*, 1986, p. 3. CRIS had suggested that this statement be amended to read: "delegates from each province, elected according to the Institute Constitutions. The delegates must outnumber the ex officio members." CRIS, *Observations on the Proposed Model*, 1986, p. 2.

⁵⁷ See *supra* note 35, p. 196.

b. *Decision-making process*

The governing board seemed to respond to CRIS' suggestion that it eliminate unnecessary detail in the decision-making process. For instance, under *Participation in the Referendum*, the board removed the paragraph on the method of determining a sister's incapacity to vote.⁵⁸ It also made two rather significant revisions in the section designated "Congregational Referendum" in their October, 1986, presentation. The board changed the question from "...will you choose membership in it?" to "...will you accept membership in it?"⁵⁹ The governing board also eliminated the choices of

⁵⁸ Also, in that section, the governing board accepted the suggestion that no sister can declare herself ineligible to vote. Further, it eliminated an addition made to the proposed process in the previous governing board meeting. This addition, "A two-thirds majority of those eligible to vote will be considered a favorable response", had been attached to Phase I of the Referendum. Minutes of the January, 1987, governing board meeting also indicated that some members raised questions regarding this point as "it was the understanding of some [governing board members] that every unit would have a referendum [first phase] and chapter vote regardless of the outcome of the referendum [first phase]." *Governing Board Minutes*, January 19-21, 1987, pp. 2-4.

⁵⁹ The governing board minutes do not indicate any discussion on this point. Rather it indicated that the decision-making process as revised was approved unanimously. See *Governing Board Minutes*, January 19-21, 1987, p. 4 and *FEDERATION OF THE SISTERS OF MERCY OF THE AMERICAS, Petition for Approval of Governance Model and Decision-making Process Leading to the Establishment of a New Institute*, February 2, 1987 (= *FEDERATION, Petition*, 1987), p. 14. Another communication indicates that this change in language came about in an effort to be sensitive to those who while not agreeing with the formation of the Institute, would be asked to become members of it. See A. HOEY (Federation Executive Director), Letter to F. Morrissey (Canonical Consultant),

those who would answer "No."⁶⁰ Another modification concerned the question to be asked at the general chapters. The board changed the last clause of that question from: "Do you want your congregation to join the Institute?" to "Do you want to petition the Holy See for your congregation to join the Institute?"⁶¹ With the revisions now completed, the Federation leadership prepared to send the Holy See the formal petition seeking the formation of a single institute.

D. General petition submitted to the Holy See: February, 1987

On February 2, 1987, the Federation submitted its petition for approval of the *proposed governance model* and the decision-making process leading to the establishment of a single institute.⁶² Since this study has already considered

November 4, 1987, in AFSMA.

⁶⁰ The governing board then eliminated the four choices which it had added to the decision-making process at its previous meeting. See *supra* p. 192. Instead it merely inserted the choice: "I need more time to make a decision ____". In addition, the board eliminated the space for indicating the date of profession. See *Governing Board Minutes*, January 19-21, 1987, p. 4.

⁶¹ *Ibid.*, January 19-21, 1987, p. 4 and *FEDERATION, Petition*, 1987, p. 13. Here the governing board affirmed the competency of the Holy See, alone, to establish a new institute. See *CIC* 1983, canon 582.

⁶² See *FEDERATION, Petition*, 1987, 16p. This sixteen page document contained six elements. In addition to the *proposed governance model* and decision-making process, the petition included a letter addressed to Cardinal Hamer, an outline of the history of the Mercy Futures project, a page of statistics on the membership of the various congregations of the Federation and the results of the December, 1985, straw vote.

most of the petition's other elements, attention in this section will focus on the Federation's actual letter of petition.

In her letter to Cardinal J. Hamer, prefect of CRIS, A. Fitzsimmons, the Federation president, focused on the reasons for unification and the nature of the proposed institute.⁶³ She cited the fact that a closer relationship among its member institutes had developed since the inception of the Federation in 1965.⁶⁴ Accordingly, the common charism, history, and mission "have been profoundly enriched as a result of the sharing of vision occasioned by the Federation."⁶⁵ Here she mentioned specifically the common constitutions on which member institutes had successfully collaborated and through which a deeper understanding of the Mercy vocation had evolved.⁶⁶ In addition, referring to the current avenues of collaboration, she noted that the proposed reorganization would facilitate increased collaboration "between and among

For the statistics on membership in the Federation, see Appendix IV-C.

⁶³ *Ibid.*, pp. 1-2. In terms of the nature of the institute, A. Fitzsimmons stated that the request is to establish "a single religious institute of pontifical right, which would subsume the present member institutes of the Federation (or as many as would wish to join). The present provinces of the Sisters of Mercy of the Union would become individual units in the new institute." *Ibid.*, p. 2.

⁶⁴ *Ibid.*, p. 1.

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

individual sisters and Mercy units."⁶⁷ She also indicated that the present structures of the Federation and of the Union often lead to duplication of efforts and expenses.⁶⁸ As a final point in her rationale section, A. Fitzsimmons asserted that a single institute "will best prepare us to face our future in the light of complex ministry demands, lessening numbers, and the need for leadership."⁶⁹ On February 27, 1987, Archbishop V. Fagiolo, secretary of the Congregation, acknowledged receipt of the Federation's petition.⁷⁰

E. Holy See requests opinions of bishops: July, 1987

On July 8, 1987, when the Federation was anticipating final resolution of the petition, CRIS informed A. Fitzsimmons that the congresso held on June 26, 1987, could not accede to the Federation's request immediately.⁷¹ Rather the congresso needed to hear the "views of the bishops whose local churches would inevitably be affected by a major change in the lives

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*, p. 2.

⁶⁹ *Ibid.*

⁷⁰ See V. FAGIOLO (Secretary of CRIS), Letter to A. Fitzsimmons (Federation President), B. 220-1/86, February 27, 1987, in AFSMA.

⁷¹ See V. FAGIOLO (Secretary of CRIS), Letter to A. Fitzsimmons (Federation President), Prot. no. B 220 - 1/86, July 8, 1987, in AFSMA. In this letter, CRIS used the word "fusion" to refer to the requested restructuring. For a discussion on the possible significance of the use of the word "fusion", see *infra* note 74, p. 209.

and organization of so many religious."⁷² To this end, Archbishop Fagiolo wrote to diocesan bishops of dioceses in which the principal houses of the potential units of the proposed institute were located.⁷³

This letter which attempted to inform the bishops of the project under consideration also sought their opinions regarding any deprivation the restructuring might cause a particular church.⁷⁴ The request also concerned the Sisters of Mercy as a whole.⁷⁵ In addition, Archbishop Fagiolo suggested that the bishops might wish to consult with other bishops "who have Sisters of Mercy, but no motherhouse or

⁷² V. FAGIOLO, Letter to A. Fitzsimmons, July 8, 1987.

⁷³ See V. FAGIOLO, Letter to E. Head, July 8, 1987.

⁷⁴ This letter may also provide some valuable insights into the Holy See's understanding of the Mercy Futures project as of July, 1987. For instance, while the first paragraph of the letter referred to the Mercy Futures project as one which would provide for the "unification of the present members of the Federation...into a single religious institute," the second paragraph indicates that perhaps CRIS lacked some clarity as to the nature of this restructuring. In that paragraph, V. Fagiolo refers to canon 582 which reserves fusions and unions to the Apostolic See. The paragraph then continues by citing reasons for such "fusions." The paragraph's last sentence, however, implies that the requested restructuring is an "absorption of small, independent religious institutes into a larger body..." In addition throughout the remainder of the letter, V. Fagiolo referred to the restructuring as a "fusion". From this one can conclude one of two possibilities: either CRIS used the term, "fusion" imprecisely or it was not clear as to the precise nature of the proposed restructuring. *Ibid.*

⁷⁵ "We therefore respectfully ask your Excellency to send us your own opinion about the proposal described above that the Sisters of Mercy fuse into one large institute." *Ibid.*

provincial house in their dioceses."⁷⁶ This, he said, is because our "object is to have as broad and informed a sounding as possible."⁷⁷ While the Holy See awaited the bishops' response, the Mercy Futures project appeared to arrive at a temporary standstill.

*F. Federation representatives meet CRIS commission:
January, 1988*

Apparently, the response of the bishops raised additional questions for which CRIS needed clarification prior to taking action on the petition.⁷⁸ To this end, Sisters Rita Powell (Merion), Federation president, Amy Hoey, Federation executive director and Doris Gottemoeller, chair of the Mercy Futures Task Force represented the Federation at a CRIS commission held in Rome between January 18 and 20, 1988. The meetings began with an attempt to focus more clearly the nature of the

⁷⁶ *Ibid.*

⁷⁷ *Ibid.* While the bishops' actual responses are preserved in the archives of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, members of the governing board did contact their respective bishops to learn of their response. Generally, the bishops appeared to appreciate the significance of the project and to support its aims. See D. GOTTEMOELLER, Letter to M. Linscott, September 4, 1987, in AFSMA. For at least one unfavorable opinion see, *infra* note 140, p. 230.

⁷⁸ CRIS proposed an agenda to begin this meeting based on "the questions of the last congresso, questions that had developed as a result of their reading of the bishop's letters and the letters they had received from individual sisters within the Federation." *Governing Board Minutes*, January 25-27, 1988, p. 2.

proposed institute. Apparently for some bishops, there had been "a certain lack of clarity about the question of autonomy."⁷⁹ A second concern which surfaced came from bishops of dioceses where the independent congregations were located.⁸⁰ This primarily related to the effects of the restructuring on the diocese.⁸¹ Another concern involved provisions for sisters who had abstained or voted "no" in the straw vote.⁸²

The meeting also provided Federation representatives with more specifics on CRIS' eventual requirements for the definitive approval of the Institute. Specifically, CRIS suggested to Federation representatives its *praxis* required an 80% favorable response to the post-chapter referendum.⁸³

The meeting's most significant dialogue, however, occurred around the wording of the question which the petition indicated would be asked of membership prior to the chapter.⁸⁴ In an effort to ensure that the wording of the ballot be as precise and as unambiguous as possible, this question received considerable attention. When those present at the commission realized that the presently proposed wording of this pre-

⁷⁹ *Ibid.*

⁸⁰ *Ibid.*

⁸¹ *Ibid.*

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴ See FEDERATION, *Petition*, 1987, p. 13; also, see *supra* p. 189.

chapter ballot may not accurately portray the reality, they agreed to modify the question, "do you want your congregation to join the institute..."⁸⁵ Instead, they provided two options from which the sisters could choose: "I wish my congregation to form part of the new Institute", or "I wish my congregation to remain autonomous and independent as at present".⁸⁶ In addition, those attending the commission meeting collaborated on the wording of several paragraphs that would precede the presentation of the two actual choices on the ballot. The commission designed these paragraphs to ensure an informed voting.⁸⁷ Having had its questions clarified, CRIS indicated a moral commitment to schedule a congresso on February 5, 1988, for formal consideration of the Federation petition.

The Federation representatives returned home in time to report to the January 25 - 27, 1988, governing board meeting. The board once again reviewed the ballots to be used both before and after the chapter and made a number of "editorial" modifications.⁸⁸ In addition, the board set in motion a

⁸⁵ *Ibid.* They realized that "...to join the institute..." may imply that congregations are asking to join a preexisting entity.

⁸⁶ A. HOEY, *Notes/Working Papers from CRIS Commission*, January, 1988-20, 1988, in AFSMA.

⁸⁷ For the final form of these explanatory paragraphs, see *infra* p. 220.

⁸⁸ In the ballot to be used before the chapter the governing board removed the adverb "completely" from the statement "I understand that I am voting with regard to the establishment of a completely new religious institute..." in

planning process for the transition period."⁹⁹

G. Holy See grants permission to proceed: March, 1988

On March 1, 1988, the Holy See granted permission for the Federation to proceed with its suggested decision-making

order "to avoid confusion about the continuity of the charism." Also to add clarity to the choice, the governing board changed the second choice on this ballot paper to read "I do not wish my congregation to form part of the new Institute but to remain autonomous and independent as at present". In order to simplify the compilation, the governing board made one final modification on this ballot changing "Years" to "Year" in the statement "Years of first profession".

In the ballot to be used after the chapter "editorial modifications" seemed to include a substantive change. The governing board modified the statement "Will you accept membership in [the Institute]?" to "will you go along with the decision of your chapter?" *Governing Board Minutes*, January 25-27, 1988, pp. 3-4 and A. HOEY, Letter to M. Linscott, April 6, 1988, in AFSMA. This final change in the post-referendum ballot is not without significance. However unknowingly, this modification could be perceived as an attempt to transfer the burden from the congregation who would have to provide for those not accepting membership in the new Institute to the individual religious to accept in obedience a decree of her congregational chapter. One might argue that this final modification, then, detracted from the purpose of the post-chapter referendum. Eventually the Holy See approved these modifications. See *infra* note 107, p. 218. Interestingly, the wording of the corresponding ballot in the Mercy Ireland process reads: "...are you willing to become a member of the new Congregation..." *Minutes of Plenary Council Meeting, Mercy Ireland*, February 22-24, 1991, p. 4 in AMI.

⁹⁹ To this effect, the governing board authorized the appointment of a task force charged with developing an interim plan which would establish the "processes and procedures to honor the decisions we have already made and which would be appropriate in light of the restructuring envisioned in *Mercy Futures*." *Governing Board Minutes*, January 25-27, 1988, p. 5.

process.⁹⁰ In a letter signed by Archbishop Vincenzo Fagiolo (secretary for CRIS) and addressed to Federation president, R. Powell, CRIS noted that the Federation's February 2, 1987, petition "is not the actual petition for the recognition of a new institute but rather a putting before this Congregation of the process proposed in order to arrive at a petition."⁹¹ Further, the letter noted the extensive efforts that CRIS had made to examine both the advantages and the disadvantages of the *proposed governance model* and the decision-making process.⁹² Then, it outlined the three-step decision-making process which had been suggested and approved.⁹³ The letter underscored the fact that in the general chapters, a two-thirds majority in favor of the project would allow that

⁹⁰ See V. FAGIOLO, Letter to R. Powell (Federation President), Prot. no. B 220-1/86, March 1, 1988, in AISMA. Also see Appendix IV-D. Interestingly, in this letter the Holy See indicated no formal approval for the *proposed governance model*.

⁹¹ *Ibid.* Once again CRIS intended to provide each congregation with its rightful autonomy of life and governance.

⁹² "Your own letter of February 2, 1987, the visits of representatives of the Mercy Futures Project and of the Federation to this office, the consultation of many bishops in the United States, and our own long discussion in three congressi on your request have clarified both the advantages and the inherent difficulties of your proposal and of the process which you suggest." *Ibid.*

⁹³ 1. A written consultation of all the sisters; 2. the celebration of a general chapter in each autonomous institute; and 3. a referendum to be held involving all the sisters individually. *Ibid.*

congregation to hold its (post-chapter) referendum.⁹⁴ In order to become a founding member of the new Institute, CRIS would require that congregations obtain "a majority of more than 80% in favour" in the post-chapter referendum.⁹⁵ CRIS also requested that the results of all congregational processes, even those without the requisite majorities, be sent to the Holy See.⁹⁶ Furthermore, CRIS listed the documentation to accompany the petition.⁹⁷ The letter closed with several paragraphs highlighting the need for a prayerful reflective process devoid of pressure, a process which respects the freedom of individual institutes.⁹⁸ Finally, CRIS attached to the letter an enclosure which contained the text of the question which the commission had reconstructed in January,

⁹⁴ *Ibid.*

⁹⁵ *Ibid.* The CRIS letter did not designate a requisite majority for the pre-chapter written consultation.

⁹⁶ This would provide a "better picture of the over-all scene". *Ibid.*

⁹⁷ "Statistics of the institute by numbers and by age; analysis of the chapter and referendum voting; the proposals made for Sisters who do not accept the project; the financial state of the institute including all assets and debts; the list of houses composing the institute and their ministry; a letter from the Superior General making the petition with consent of their council; the nihil obstat of the Bishop concerned if the institute, though of pontifical right is spread in only one or few dioceses." *Ibid.*

⁹⁸ The letter stated that there should be freedom which would allow an individual institute to "meet now the requirements to form a new institute, or to need more time to arrive at a decision, or to choose to retain their present autonomous status. In similar situations we have precedents for all three alternatives." *Ibid.*

1988, with the Federation representatives present.⁹⁹

H. *Further clarifications on the post-chapter referendum:
spring, 1988*

On April 6, 1988, A. Hoey, Federation executive director, informed CRIS of the editorial modifications on the ballots which the governing board suggested at its January, 1988, meeting.¹⁰⁰ While the Federation was awaiting a response on those modifications, another communication elicited additional questions on the format of the ballots being presented to the sisters before and after the chapter. On May 4, 1988, Sister Jean Marie Kearse, superior general of the Sisters of Mercy of Rochester, raised several questions regarding the format and the nature of the two ballots.¹⁰¹ In essence, she pointed out that the wording of CRIS's March 1, 1988, letter could be construed as anticipating that the "reconstructed ballot"

⁹⁹ See *infra* p. 220. This reconstructed question evolved from the question that the Federation's February 2, 1987, petition had designated as the "Congregational Referendum" to be held prior to the chapter. The Federation, then, understood that this "reconstructed ballot" would be the one used in what the March 1, 1988 CRIS letter had designated as the "written consultation of all the sisters" prior to chapter. Since, however, the heading on the attached sheet read "Referendum on the Mercy Futures Ballot Paper", a question arose at a later date as to exactly when CRIS intended this ballot paper to be used. See *infra* note 102, p. 217.

¹⁰⁰ See *supra* note 88, p. 212 and A. HOEY (Federation Executive Director), Letter to M. Linscott (CRIS Staff Member), April 6, 1988, AFSMA.

¹⁰¹ See J. KEARSE (Superior General of the Sisters of Mercy, Rochester), Letter to D. Gottemoeller (Chair of the Mercy Futures Task Force), May 4, 1988, in AFSMA.

would be used in the balloting both before and after the chapter.¹⁰² In that case, the question that the Federation regarded as the question for the post-chapter referendum (regarding an individual sister's intentions) would, in fact, indicate a fourth step in the process.¹⁰³ J. Kearse continued by noting that in the Federation's present understanding, the sisters in Rochester were questioning whether the post-chapter referendum truly reflected a referendum on the question of forming the institute. Rather the question as formulated seemed to signify a statement of each individual sister's intentions.¹⁰⁴

¹⁰² J. Kearse refers to the statement in the March 1, 1988 CRIS letter: "In connection with the process, we would note that *for the consultation of the Sisters and for the referendum, where this is held, the form-sheet worked out at the meetings on January 18-19, 1988 will be used. A copy of this form-sheet is enclosed....*" *Ibid.*

J. Kearse also questioned if the content of the (post-chapter) referendum, as the Federation understood it, is the question for which CRIS is seeking an 80% affirmative response. J. Kearse states "The 3/1/88 CRIS letter states, 'the results of this referendum must account for all the sisters in the institute and there must be a majority of more than 80% in favor for the Institute to request participation in forming of the new entity.' To ask if one 'goes along with the Chapter decision' is a different question with different ramifications." *Ibid.*

¹⁰³ *Ibid.*

¹⁰⁴ "The form we are calling the referendum ballot is not a true referendum in which each sister is given the opportunity with full knowledge of the chapter vote to vote 'yes' or 'no' to forming the Institute. Up to this point each sister has only been asked to advise the chapter through a consultative, non-binding ballot which used the referendum format." *Ibid.*

D. Gottemoeller's response to J. Kearse indicates serious consideration by the entire Mercy Futures Task Force.¹⁰⁵ Then, in order to ascertain CRIS's understanding of the post-chapter referendum, D. Gottemoeller telephoned CRIS.¹⁰⁶ That conversation confirmed that "CRIS did not intend to modify the process we had proposed in February 1987."¹⁰⁷ While it seemed as though the Federation had perceived the process correctly, nevertheless, J. Kearse's letter had raised several legitimate concerns regarding the use of language as well as the nature of the various ballots.¹⁰⁸ Now, however, the Federation would proceed to the first of a three-phase formal decision-making process: the pre-chapter written consultation of all sisters.

¹⁰⁵ D. GOTTEMOELLER (Chair of Mercy Futures Task Force), Letter to J. Kearse (Superior General, Sisters of Mercy, Rochester), May 9, 1988, in AFSMA.

¹⁰⁶ *Ibid.*

¹⁰⁷ *Ibid.* That conversation also confirmed that a favorable response to A. Hoey's letter seeking CRIS approval to the governing board's modifications in the decision-making process was in the mail. *Ibid.* For a text of the letter approving the requested changes, see V. FAGIOLO, Letter to A. Hoey (Federation Executive Director), Prot. no. B 220-1/86, May 5, 1988, in AFSMA.

¹⁰⁸ An exchange of letters between the pro-nuncio, Pio Laghi, and the Federation president, R. Powell, in September, 1988, also indicated a lack of clarity regarding the decision-making process. Apparently some sisters had contacted local bishops while other sisters had contacted the Apostolic Nunciature, with questions regarding the steps in the decision-making process. See P. LAGHI (Apostolic Pro-Nuncio), Letter to R. Powell (Federation President), Prot. no. 4040/88/6, September 14, 1988 and R. POWELL, Letter to P. Laghi, September 24, 1988, in AFSMA.

II. FORMAL DECISION-MAKING PROCESS COMMENCES

In April, 1988, seventeen out of the eighteen member congregations of the Federation of the Sisters of Mercy of the Americas commenced their participation in the formal decision-making process leading to the establishment of a single institute.¹⁰⁹ Even though one of these institutes, the Union, encompassed nine potential units in the new Institute, Sister Helen Amos, the Union president, presented one petition on behalf of the entire congregation.¹¹⁰

A. Pre-chapter written consultation: April, 1988

Between April 9-17, 1988, each of the twenty-five potential units of the proposed institute conducted a written

¹⁰⁹ The participating autonomous congregations included the congregations of Sisters of Mercy located in Albany, Auburn, Belmont, Brooklyn, Buffalo, Burlingame, Burlington, Cedar Rapids, Erie, Merion, Pittsburgh, Plainfield, Portland, Rochester, West Hartford, Windham, and the Sisters of Mercy of the Union. The Sisters of Mercy of Newfoundland had chosen some years before not to participate in the Mercy Futures Project. Newfoundland had discontinued its participation in the process because of its concerns regarding the different culture, systems of education, health care, social welfare, and experiences of church. In addition, in reflecting back on that decision Sister Patricia Maher, general superior of the Newfoundland congregation, cited geographical location, additional expenses and fear of loss of identity as reasons for the Newfoundland decision not to participate. See P. MAHER, *Presentation to the Annual Meeting of the Federation of the Sisters of Mercy of the Americas*, June 23-17, 1989, in ASMSJ.

¹¹⁰ The nine provinces which potentially formed nine units of the proposed institute included Baltimore, Chicago, Cincinnati, Dallas (formerly known as Scranton), Detroit, New York, Omaha, Providence, and St. Louis.

consultation of all members on the question:

1. I understand that I am voting with regard to the establishment of a new religious Institute: the Sisters of Mercy of the Americas. The establishment of this new Institute will necessarily involve the dissolution as independent institutes of those presently autonomous congregations who may wish to form it.¹¹¹ Such presently autonomous congregations will become units of the new Institute. The loss of present autonomy by each participating congregation, including the Union, would be effected by the decree establishing the new Institute. The provinces of the Union would become units of the new Institute although the Union itself would be dissolved.

2. The new Institute would have one Superior General (President) and Council and one set of Constitutions. These would be the present Core Constitutions completed to meet the needs of a single Institute. Each unit would have a major superior and council, and a Directory in harmony with the Constitutions.

Having prayerfully considered the implications, both for my congregation and for myself, of the project to form the new Institute: the Sisters of Mercy of the Americas, I vote as follows
PLEASE CHECK ONE ONLY:

I wish my congregation to form part of
the new Institute []

I do not wish my congregation to form
part of the new Institute but to remain
autonomous and independent as at present []¹¹²

¹¹¹ The use of the word "dissolution" in this statement is somewhat confusing. Actually, the juridic personality of the potential units of the new Institute would remain intact. Only the juridic personality of the Union would be dissolved. The juridic personality of the Union provinces and other autonomous congregations would undergo a change in status or relationship rather than a dissolution.

¹¹² *Ballot for pre-chapter written consultation, April 9-17, 1988, in AFSMA.*

The official results of this written consultation indicated that of those sisters eligible to vote, 84% voted in favor of their congregation forming part of the new institute.¹¹³ Over half of the twenty-five potential units voted with an affirmative response of over 90%.¹¹⁴ The results of several units, however, clearly indicated a lack of unanimity.¹¹⁵ Yet, since the Holy See required no specific majority in this first step, the seventeen congregations brought the matter to their general chapters.

B. General chapters vote: April - August, 1988

Between April 23 and August 7, 1988, seventeen general chapters met to consider whether or not their congregation should join in forming the Institute of the Sisters of Mercy of the Americas.¹¹⁶ The question asked each chapter:

¹¹³ For the complete results, see Appendix IV-E.

¹¹⁴ These included the autonomous congregations of Albany, Auburn, Buffalo, Burlingame, Pittsburgh, and West Hartford as well as the Union provinces of Baltimore, Chicago, Cincinnati, Detroit, New York, Omaha, St. Louis, and Dallas.

¹¹⁵ These included Merion with 47.5%, Plainfield (New Jersey) with 54.8%, and Portland with 55% respective affirmative responses.

¹¹⁶ In July, 1987, in its Twelfth General Chapter, the Sisters of Mercy of the Union directed that the question concerning the formation of the new Institute be considered in provincial chapters/assemblies prior to its consideration in the Union's Thirteenth General Chapter. See *Official Minutes of the Twelfth General Chapter, Second Session, Sisters of Mercy of the Union, July 22-27, 1986*, in ASMU. To this effect the provincial chapters/assemblies held between July 23, 1987 and March 19, 1988 considered the question of

Having been informed of the project to establish the Institute of the Sisters of Mercy of the Americas and of the results of your congregational referendum, and having prayerfully considered the implications for your congregation, do you want to petition the Holy See for your congregation to form part of the new Institute?

Yes _____ No _____¹¹⁷

As indicated in CRIS' March 1, 1988, letter, participation in this final stage of the process required a two-thirds majority of each general chapter in favor of the project.¹¹⁸ Since each of the general chapters obtained the required majority, all seventeen congregations would now turn their attention to the post-chapter referendum.¹¹⁹

C. Post-chapter referendum: September, 1988

Between September 1 - 15, 1988, all potential units of the new institute participated in the post-chapter referendum. The question for consideration stated:

participating in the formation of a new institute. This consideration, which the Union considered consultative to its Thirteenth General Chapter, yielded in-favor responses of at least ninety-one percent at each of the nine provincial chapters/assemblies. See GENERAL CHAPTER STEERING COMMITTEE, "Results of Corporate Consultations in the Union Provinces", in *Minutes of the Thirteenth General Chapter of the Sisters of Mercy of the Union*, April 24-30, 1988, Appendix 14 in ASMU.

¹¹⁷ Ballot for General Chapters, April - August 1988, in AFSMA.

¹¹⁸ See J. HAMER, Letter to R. Powell, March 1, 1988.

¹¹⁹ For the results of the votes of the general chapters, see Appendix IV-F.

Knowing that the results of the referendum in your congregation were

	#	%
Yes	_____	_____
No	_____	_____
Abstentions	_____	_____

and that the chapter has decided to petition for membership in the Institute, if the Holy See approves the establishment of the Institute and the inclusion of your congregation in it, will you go along with the decision of your Chapter?

Yes _____ No _____¹²⁰

Sixteen out of seventeen congregations obtained the requisite majority of over 80%.¹²¹ The Congregation of the Sisters of Mercy of Portland, however, voted four percentage points below the required majority.¹²² Even though Portland did not obtain the required majority, Sister M. George O'Toole, Portland's general superior, decided, with the unanimous vote of her council, to petition the Holy See for inclusion in the new

¹²⁰ This ballot contained space for a signature, year of first profession, and the name of the congregation. Recall that the actual question on this ballot (will you go along with the decision of your Chapter?) had undergone modification. See *supra* note 88, 110, 120, p. 213, 220, 223.

¹²¹ All of these congregations obtained at least a 90% affirmative response. The congregations of Merion and Plainfield for which the pre-chapter written consultation was not decisive obtained affirmative responses of 99.8% and 97.3%, respectively. For the complete results of the post-chapter referendum, see Appendix IV-G.

¹²² The Sisters of Mercy of Portland responded with a 76% affirmative response.

Institute.¹²³ Therefore, all seventeen participating congregations prepared to send to the Holy See their formal petitions for inclusion in the Institute of the Sisters of Mercy of the Americas.

D. Locus of authority to petition the Holy See

The question of where the capacity to petition the Holy See for inclusion in the new Institute resided elicits several fundamental canonical principles. While some would like an unambiguous response, either within membership or in the general chapter, the study of this particular process yields a more complex explanation. Formulating these fundamental principles necessitates briefly considering each of the three stages of the decision-making process.

At first glance, the general chapters seemed to have provided the locus of authority for congregations to petition the Holy See for inclusion in the new institute.¹²⁴ The fact that the Holy See set no pre-conditions for general chapters to consider the Institute question lends support to this

¹²³ See M. G. O'TOOLE (Superior General, Sisters of Mercy, Portland), Letter to J. Hamer (Prefect for CRIS), October 1, 1988, in ASMP.

¹²⁴ This approach appears to reflect the principles contained in canon 631 which states that the general chapter which holds the highest authority in an institute must protect the institute's heritage, promote suitable renewal and make decisions concerning major business matters. See CIC 1983, canon 631.

viewpoint.¹²⁵ In addition, the Holy See established that a favorable chapter vote required a two-thirds majority. Without this majority, a congregation could not proceed to the post-chapter referendum, thereby excluding itself from petitioning the Holy See to join in forming the new Institute.

Also important to consider, however, are the first and third phases of the decision-making process. While the Holy See did not require a definitive majority in the pre-chapter written consultation, the phase, itself, does provide a constitutive element in the decision-making process. The results of the pre-chapter written consultation furnished general chapters with information essential for them to decide on the question of the new Institute.¹²⁶ Also, unlike the six membership consultations which occurred prior to the straw vote in December, 1985, this new consultation possessed juridical significance. Since the Holy See had required that each congregation conduct this consultation prior to the celebration of its general chapter, without this consultation a chapter decision to petition the Holy See could have been

¹²⁵ The pre-condition could have been a requisite majority in the pre-chapter written consultation. Here the Holy See seemed to be using the value contained in canon 586 of the 1983 code which provides for autonomy of governance in religious institutes. See *CIC* 1983, 586.

¹²⁶ Universal law provides individual members with the right to inform chapters of their wishes. See *CIC* 1983, canon 631 §3.

regarded as invalid.¹²⁷ While this pre-chapter written consultation did not bind chapter delegates, it did supply, however, a distinct and essential element in the decision-making process.

The question on the post-chapter referendum asked if individual sisters agreed to go along with their chapter's decision. Therefore, the Holy See seemed to be modifying a principle contained in the ancient rule of law that declares that decisions that affect all must be approved by all.¹²⁸ In

¹²⁷ Here we see an application of the principle contained in canon 127 §2, 2 which provides that when in order to place a certain act a superior is required by law to seek the advice of others as individuals, that superior must do so for validity of the act. See *CIC* 1983, canon 127 §2, 2.

¹²⁸ "Quod omnes tangit debet ab omnibus approbari." Reg. 2, R. J. in VI°. One may ask about the applicability of canon 119, 3° of the 1983 code which provides that "With regard to collegial acts, unless provision is made otherwise by law or statute: what touches all, as individuals, must be approved by all." "Ad actus collegiales quod attinet, nisi iure vel statutis aliud caveatur: quod autem omnes uti singulos tagit, ab omnibus approbari debet." *CIC* 1983, canon 119 3°. English translation from *Code of Canon Law: Latin-English Edition*, Washington, D.C., The Canon Law Society of America, 1983. In theory this canon may apply in a situation similar to the one under consideration. For on one hand, the decision to petition the Holy See is a decision which touches each individual since the forming of a single institute would affect the locus of one's membership, thereby, affecting each individual's acquired rights. However, the introductory phrase of the canon, "unless provision is made otherwise in law or statute", precludes the application of the canon in this situation. In this case "the law" is CRIS' March 1, 1988, letter which outlined the approved process. See *supra* p. 213. Since this letter applies to each of the participating congregations, its provisions override universal law in this particular situation. Indeed, the Holy See seems to have chosen to regulate the exercise of this right of approval in the interest of the common good. See *CIC* 1983, canon 223 §2.

this case, however, the Holy See appeared to have insisted that this decision which does affect all by changing the locus of each sister's membership be *accepted* (not necessarily *approved* of) by over 80% of a congregation's membership. According to its March 1, 1988 letter, CRIS set this degree of acceptance as a pre-condition for petitioning the Holy See to present a formal petition.¹²⁹ Acceptance by membership of the chapter decision to petition the Holy See, therefore, provided another constitutive element in this decision-making process.¹³⁰ We may conclude, therefore, that the capacity to decide whether a congregation would petition the Holy See for inclusion in the new institute resided *fully* in neither the general chapter nor in the congregation's membership. Rather, it resided *jointly* in both.¹³¹

¹²⁹ See J. HAMER, Letter to R. Powell, March 1, 1988.

¹³⁰ This statement received verification when in the initial non-approval of three congregation's petitions, the Holy See cited concerns in the congregations' post-chapter referendum. See *infra* p. 238.

¹³¹ R. Powell, Federation president, indicates the need for considering both elements when she stated in a letter to the pro-nuncio, Archbishop Pio Laghi, "We believe the Chapter is the body that makes the decision to petition for participation in the Institute and that Rome will either give or withhold its consent according to the percentages of sisters that will or will not accept participation in the Institute." See R. POWELL, Letter to P. Laghi, September 24, 1988.

III. CONGREGATIONS' INDIVIDUAL PETITIONS
SUBMITTED TO THE HOLY SEE: FALL, 1988

On October 7, 1988, Sister Betty Smith (Chicago), the Federation president, forwarded to Cardinal Jerome Hamer the formal individual petitions of the seventeen member congregations requesting the formation of the Institute of the Sisters of Mercy of the Americas.¹³² In her cover letter, she noted that the Federation recognized that CRIS would make its decisions "on an institute by institute basis."¹³³ She also referred to the overall results of the post-chapter referendum which reflected a 97.9% affirmative response on the part of the 7400 sisters eligible to vote.¹³⁴ She closed her letter by expressing the hope that the formation of the new institute "would be a blessing for our religious life and for the Church."¹³⁵

¹³² These seventeen petitions included those of the sixteen congregations who had met the criteria which CRIS had established, i.e., a two-thirds vote of chapter and an over 80% affirmation in the post-chapter referendum. The mailing also included Portland's petition which reflected a two-thirds vote of chapter but a 76% affirmation in the post-chapter referendum, thereby failing to meet the criteria set by CRIS.

¹³³ B. SMITH, Letter to J. Hamer (Prefect of CRIS), October 7, 1988, in AFSMA.

¹³⁴ *Ibid.*

¹³⁵ *Ibid.*

A. Format

The actual presentation of the individual petitions of the seventeen congregations reflected the "unique styles and local differences" of the congregations.¹³⁶ All petitions, however, included the general superior's cover letter which reported on the results of the pre-chapter written consultation, the chapter vote and its rationale, and the post-chapter referendum.¹³⁷ In addition, each general superior gave an estimated number of those who might leave the congregation if the Holy See responded favorably to the petition. They also mentioned the provisions that their congregations would make for these sisters.¹³⁸ Finally, each of these letters indicated that the general superior's decision to present the congregation's formal petition had received the consent of her council. In addition to the letter, each petition included statistical information as well as a financial report.¹³⁹ Finally, most petitions included the *nihil*

¹³⁶ A. HOEY, Letter to J. Galante (Undersecretary of CRIS), October 6, 1988, in AFSMA.

¹³⁷ Both the pre-chapter written consultation and the post-chapter referendum results were displayed by profession date.

¹³⁸ See *infra* p. 244.

¹³⁹ This statistical information included a listing of each member with her present ministry as well as an analysis of membership in terms of the congregation's median age and percentages of members in principal categories of ministry. Moreover, the petitions included a listing of addresses of each congregation's houses as well as a listing of works and

obstat of the bishop of the principal house of the diocese in which the congregation was located.¹⁴⁰

B. Rationale

The approved decision-making process provided that each general chapter which voted affirmatively on the question of establishing a single institute formulate succinct reasons for its decision.¹⁴¹ The reasons expressed in the seventeen petitions reflected remarkable similarity. This section attempts to summarize them.

Thus, the rationale section of each petition included a reference to the founding charism of the Sisters of Mercy. For instance, the Burlingame congregation expressed the hope that the new Institute could reflect for it "the unity that is the legacy entrusted to us by Catherine McAuley."¹⁴² Most petitions

institutions owned and operated by the congregation. The financial report included information on the congregation's general financial condition as well as an audited financial statement for the most recent fiscal year.

¹⁴⁰ The petition from the Sisters of Mercy of Portland was forwarded to the Holy See without this *nihil obstat*. Sister Mary George O'Toole, the general superior, enclosed a copy of the letter which Bishop Edward O'Leary had previously sent to Archbishop Fagiolo when his opinion was sought in July of 1987. In his letter, Bishop E. O'Leary had expressed reservations concerning the proposed Institute. See E. O'LEARY (Bishop of Portland), Letter to V. Fagiolo, October 27, 1987, in AFSMA.

¹⁴¹ FEDERATION, *Petition*, 1987, pp. 13 - 14.

¹⁴² T. PERRY (Superior General, Sisters of Mercy, Burlingame), Letter to J. Hamer, September 27, 1988, in AFSMA.

also referred to the deep sense of bonding and networking already present among the petitioning groups. In so doing, the Cedar Rapids petition suggested that the proposed institute would affirm "what is already happening".¹⁴³ The rationale sections also seemed to include some reference to increasing the effectiveness of the church's mission. For instance, the Connecticut petition envisioned that the Institute would enable the sisters to find strength for their ministry both within the United States and in their mission to the third world.¹⁴⁴ Furthermore, many petitions also included a specific reference to the fourth vow traditionally taken by Sisters of Mercy. One of these, the Union's petition, expressed its support in the hope that "we, and those who come after us will be enabled to serve the poor, the sick and the ignorant of our world with vitality and courage."¹⁴⁵ Several of the general chapters expressed a hope that forming a single institute would effect a "deeper renewal and revitalization of our religious life..."¹⁴⁶ While many chapters reflected that the

¹⁴³ J. DONOHUE (Major Superior, Sisters of Mercy, Cedar Rapids), Letter to J. Hamer, September 22, 1988, in AFSMA.

¹⁴⁴ See M. SYNKEWECZ (Superior General, Sisters of Mercy, Hartford), Letter to J. Hamer, September 19, 1988, in AFSMA.

¹⁴⁵ H. AMOS (President, Sisters of Mercy of the Union), Letter to J. Hamer, September 30, 1988, in AFSMA.

¹⁴⁶ M. POWER (Superior General, Sisters of Mercy, Auburn), Letter to J. Hamer, September 26, 1988, in AFSMA. In addition, Albany saw the new Institute as providing for stronger formation programs. See K. MARCIL (President, Sisters of Mercy, Albany), Letter to J. Hamer, n.d., in AFSMA.

Institute would provide a more global perspective, the Erie petition saw the new Institute as also enhancing "the Mercy tradition in the Erie diocese".¹⁴⁷ In addition to including the reasons in favor of forming a single institute, two institutes included the reasons which those who held a dissenting position had put forward.¹⁴⁸ One of these, the Sisters of Mercy of Merion, mentioned "pivotal issues" which enabled their seriously-divided congregation to arrive at an affirmative position.¹⁴⁹ Now as the Sisters of Mercy awaited the Holy See's response, the Federation's governing board turned its attention to planning and providing for the founding of the

¹⁴⁷ M. SMITH (Superior, Sisters of Mercy, Erie), Letter to J. Hamer, September 30, 1988, in AFSMA.

¹⁴⁸ The Rochester petition included statements concerning the loss of autonomy, disagreement with the model, reluctance to move into a new model with so many unknowns, finances and the desire to remain "as we are..." as "the major reasons expressed by the minority not favoring the petition..." J. KEARSE (Superior General, Sisters of Mercy, Rochester), Letter to J. Hamer, September 30, 1988, in AFSMA.

The Merion petition included statements concerning the establishment of a governance structure removed from membership, the unknowns of the new Institute, the division within their congregation, and a lack of conviction that the new Institute will deepen religious life. See R. POWELL (Superior General, Sisters of Mercy, Merion), Letter to J. Hamer, September 24, 1988, in AFSMA.

¹⁴⁹ These "pivotal issues" included statements concerning "the desire to preserve Catherine McAuley's legacy of union and charity"; the inevitability of eventually joining, but to do so now so as to contribute to the shaping of the new institute; potential loss of a significant number of sisters if Merion's decision was to be negative; the "conviction that those opposed would accept an affirmative decision; and the unanimous desire of those in Initial Formation and the wish of the majority of those professed since 1960..." *Ibid.*

new institute.¹⁵⁰

¹⁵⁰ While a detailed study of the transition period is beyond the scope of this study, some comments concerning this period provide a necessary link between the Federation experience and the establishment of the Institute of the Sisters of Mercy of the Americas. At its June 14-18, 1988, meeting, the governing board accepted the recommendations of the Transition Task Force which it had previously appointed. (see *supra* note 89, p. 213) At this time the board provided for a number of transition committees which included a Constitution Committee, a Visioning Committee, a Finance Committee, and a Chapter Steering Committee. For a description of the functions and membership of these committees, see "Transition Committees Begin Work," in *Mercy Life*, 14(1989), no. 3. pp. 1, 3-8.

At its January 23-25, 1989, meeting, the governing board set in motion a transition process designed to displace the active functioning of the Federation until the Holy See establishes the new Institute: "RESOLVED, That the Federation appoint a Transition Administrative Group (= TAG) of three sisters and a Transition Advisory Council (= TAC) of major superiors of each unit to handle transitional matters as delegates of the executive council and governing board of the Federation until such time as the new Institute receives appropriate approvals and is established." *Governing Board Minutes*, January 23-25, 1989, p. 7.

At its June 23-27, 1989, meeting, the governing board endorsed the recommendation of the Transition Task Force in the appointment of Sisters Judith Carle (Burlingame), Margaret Costa (New York) and Amy Hoey (New Hampshire) to TAG. TAG assumed the responsibilities which the governing board designated on September 1, 1989. For a listing of these responsibilities, see "Role Description for the Transition Administrative Group, Sisters of Mercy of the Americas", in AFSMA. TAG reported on its relationships and functions during the transition period to the First Institute Chapter. See TAG, *Accountability Report*, July 22, 1991, 52p. in AISMA. As the transition process proceeded it became evident that the lack of two-way communication between the Holy See and the governing board (each informing the other of its plans and progress) proved less than helpful. See *TAC Meeting Minutes*, April 12-15, 1991, p. 7.

IV. ACTION TAKEN BY THE HOLY SEE: JANUARY, 1990 - JUNE, 1991

With their March 1, 1988, letter giving the Federation permission to proceed with the formal decision-making process, the Holy See had approved, in concept, the formation of the Institute of the Sisters of Mercy in the United States. However, the petitions which member congregations of the Federation submitted in fall, 1988, also required the Holy See's consideration. Approval granted at this stage permitted individual congregations to join in founding the Institute.

A. *Approval granted to fourteen congregations*

On January 18, 1990, the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CICL) responded to the seventeen individual petitions to join in forming a single institute.¹⁵¹ In its letter, CICL noted that its study of the petitions had incorporated two distinct functions. With the first, CICL determined which congregations had "qualified to become founding members of the new institute."¹⁵² The letter then named fourteen of the seventeen

¹⁵¹ On July 28, 1988, Pope John Paul II promulgated an apostolic constitution which changed the name of the Congregation for Religious and Secular Institutes (CRIS) to the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (= CICL). See POPE JOHN PAUL II, *Apostolic Constitution, Pastor bonus*, June 28, 1988, no. 105, in *AAS*, 80(1988), p. 886.

¹⁵² J. HAMER (Prefect of CICL), Letter to H. Amos (President, Sisters of Mercy of the Union), Prot. no. B 220-1/86, January 18, 1990, in *ASMU*. The letter to each of the

congregations as founding congregations.¹⁵³ The study's second aspect set in motion a process intended to assist the founding congregations during the transition period.¹⁵⁴ The fundamental element in this process included CICL's appointment of three assistants with specific expertise: Sister Elizabeth McDonough, O.P., as chairperson and canonist, Brother Peter Campbell, C.F.X., for financial and civil law expertise, and Sister Bette Moslander, C.S.J., for general chapter experience.¹⁵⁵ In addition, the letter outlined a seven-point mandate which CICL had presented to the Committee of Assistants, commenting on two specific points of that mandate.¹⁵⁶ The first comment concerned the assistants' role as

general superiors of the fourteen congregations initially named as founding members of the new institute was identical. For a complete text of this letter, see Appendix IV-H.

¹⁵³ These congregations included: Albany, Auburn, Belmont, Brooklyn, Buffalo, Burlingame, Burlington, Cedar Rapids, Erie, Hartford, Pittsburgh, Rochester, Windham, and the Union. *Ibid.* The letter went on to state that the three other general superiors (Merion, New Jersey and Portland) had been notified explaining their individual situations. *Ibid.*

¹⁵⁴ *Ibid.*

¹⁵⁵ *Ibid.* On February 20, 1991, CICL notified the TAG that it had accepted the resignation of E. McDonough as assistant in the project. CICL named no additional assistant. See J. TORRÉS (Undersecretary for CICL), Letter to J. Carle (Member of TAG), Prot. no. B. 220 - 1/86, February 2, 1991, in AISMA.

¹⁵⁶ "This team of Assistants has been given the following mandate: 1. acting as the interim authority for the fourteen founding congregations from the promulgation of the decree of erection of the new institute until the election of a superior general and council at its first general chapter; 2. presenting to this Congregation for Institutes of Consecrated Life and Societies of Apostolic Life for the decree of

interim authority. Here CICL intended to minimize "the interval and probable cases" which could necessitate that the assistants would function as interim authority.¹⁵⁷ The letter then highlighted the mandate's second point regarding the constitutions, saying that "priority should be given to work toward the completion of that text, already approved in substance as the *Core Constitutions*."¹⁵⁸ The letter then

approval the presently approved *Core Constitutions* completed by the constitutional appendices already indicated and by any other amendments required by the new situation; 3. convoking and preparing the first general chapter with the assistance of a committee composed of the superiors general of each of the fourteen founding congregations; 4. presiding [at] the general chapter until the election of a superior general; 5. overseeing the financial arrangements involved in the fusion; 6. ensuring that the individual congregations make proper provision for the sisters who may finally refuse to join the new institute; and 7. accompanying the new institute as consultants for some time after the first general chapter, as experience in similar cases of fusion shows that tensions regarding mobility, missioning, finance and operation of structures do not always show up at once." J. HAMER, Letter to H. Amos, January 18, 1990.

¹⁵⁷ *Ibid.* On April 10, 1991, at a meeting of the Committee of Assistants (COA) and TAG on canonical matters, the role of the "interim authority" role of the COA received clarification. After the convening of the First Institute Chapter and prior to the election of the Institute president, the major superior of each congregation will remain the legal representatives of the respective congregations. Should a need arise for a legal representative at the Institute level, Bette Moslander of the COA would act as interim authority. Since the election is scheduled for one week after the convening of the chapter, COA and TAG did not envision the need for the provision of the interim authority to become operative. See *Minutes of the Meeting of Committee of Assistants and Transition Administrative Group on Canonical Matters*, April 10, 1991, p. 2.

¹⁵⁸ *Ibid.* Subsequently, TAG renegotiated with CICL the timing of the approval of constitutions from before until after the First Institute Chapter. Since the new Institute was

expressed the hope that the transition period would be marked by a spirit of peace and collaboration for the "spiritual benefit of the sisters and the many people served by the Sisters of Mercy."¹⁵⁹ The letter closed with a request that each general superior communicate with the bishop who wrote

not yet in existence, there was no vehicle to provide the necessary ownership of the proposed constitutions. While individual congregations had demonstrated support of the document, only the First Institute Chapter would have the authority to speak on behalf of the new Institute. When presented with this rationale, CICL agreed to change the sequence. The First Institute Chapter would accept the document prior to its submission to the Holy See for definitive approval.

E. McDonough, the assistant named for canonical affairs, stated that this renegotiated sequence presupposed that: 1. the membership have given the proposed constitutions substantive approval; 2. CICL staff members have reviewed the text and indicated that the proposed constitutions are "approvable"; 3. Necessary changes from nos. 1 and 2 above have been incorporated into the text to be adopted by the Institute chapter; and 4. that the Institute chapter adopts the Constitutions without making substantive changes in it. See E. McDONOUGH (Assistant), Memorandum To TAG, April 17, 1990, in AISMA.

In an effort to ensure that a text which would be able to be approved by CICL be submitted to the First Institute Chapter, various canonical consultations took place between April and December, 1990. Those examining the text in this regard included E. McDonough (Assistant), Jordan Hite, T.O.R., (Canonist appointed by TAG), and S. Holland and J. Galante (CICL). In the fall of 1990, a final total membership consultation took place resulting in an overall positive response. In January at the pre-chapter meeting for the First Institute Chapter, chapter members received the Constitutions Committee's report and then identified areas which warranted continued conversation at the First Institute Chapter. On April 9, 1991, the Constitutions Committee met with S. Holland for further consultation. On the basis of all the consultations the text was further revised and finalized for consideration at the First Institute Chapter.

¹⁵⁹ J. HAMER, Letter to H. Amos, January 18, 1990.

on her congregation's behalf.

B. Approval initially withheld from three congregations

As fourteen congregations received word that CICL had approved their petitions, their spirits were dampened as they learned that the petitions of the Merion, New Jersey and Portland congregations had not been accepted.¹⁶⁰ In each case, the Holy See expressed concerns about the post-chapter referendum.

1. Merion

On January 18, 1990, CICL notified Sister Rita Powell, superior general of the Sisters of Mercy of Merion, that the Holy See had not approved Merion's petition to join in forming the new Mercy Institute.¹⁶¹ In its letter, CICL pointed out that the *congresso* had questioned the wording of their post-chapter referendum.¹⁶² Since Merion had modified the formula which the Holy See had approved for this step, the *congresso*

¹⁶⁰ At a later date, TAG expressed to the Committee of Assistants and to S. Holland (CICL) concern regarding the timing of the communication about the three units whose petitions were not initially accepted by CICL. "Prior notification would have allowed them time to adjust to their situation..." *Minutes of TAC Meeting, April 12-15, 1991, p. 7.*

¹⁶¹ See J. HAMER (Prefect for CICL), Letter to R. Powell (Superior General, Sisters of Mercy, Merion), Prot. no. B 220-1/86, January 18, 1990, in ASMM.

¹⁶² *Ibid.*

would not accept its result as truly representing a 99% affirmative response.¹⁶³ The letter went on to suggest that if Merion would desire to pursue membership in the new Institute, then R. Powell should repeat the post-chapter referendum with the approved formula.¹⁶⁴ She responded swiftly to the Holy See's letter by calling her congregation to repeat the post-chapter referendum on February 11, 1990.¹⁶⁵ Then on February 21, 1990, R. Powell notified CICL of the results: 95.7% of

¹⁶³ In addition to the "Yes" and "No" choices which the approved ballot included, the Merion ballot included a "qualified yes" choice. This choice read: "Yes, if the Holy See approves the establishment of the Institute and the inclusion of our congregation in it, I will go along with the decision of our Chapter, *even though I am not personally in favor of joining the Institute* (italics designates Merion's qualification). In her cover letter for her congregation's petition, R. Powell attempted to justify the inclusion of this "qualified yes" choice on Merion's post-chapter referendum ballot. She stated that this choice was offered for the sake of their sisters, who although they would agree to abide by the chapter decision, felt a "lack of integrity in themselves to say 'yes' to the decision." This "qualified yes" choice attempted to relieve certain sisters' inward struggle. It was the understanding, however, that the "qualified yes" responses would count as "yes" responses. See R. POWELL, Letter to J. Hamer, September 24, 1988 in ASMM.

¹⁶⁴ *Ibid.*

¹⁶⁵ On January 29, 1990, the day on which she received the letter from the Holy See, R. Powell sent a letter to her congregation apprising her sisters of the Holy See's response to their petition to join in forming the new Institute. Further, she designated February 10, 1990 as a day of prayer and fasting in preparation for the referendum to be held the following day. Moreover, R. Powell invited her sisters to view the "re-opening of this question [as a time to] provide us all with an opportunity to be healed from the depth of our being..." R. POWELL, Letter to the Sisters of Mercy of Merion, January 29, 1990, in ASMM.

sisters eligible voted affirmatively.¹⁶⁶ Subsequently, on March 23, 1990, CICL officially notified R. Powell that it had approved Merion's petition to be a founding congregation of the new institute.¹⁶⁷

2. New Jersey

On January 18, 1990, CICL also notified Sister M. Theresina Flannery, major superior of the Sisters of Mercy of New Jersey, that although her congregation had met the statistical criteria established for founding congregations, questions had arisen regarding their post-chapter referendum results, as well.¹⁶⁸ The letter then recalled that although the New Jersey congregation had obtained a 97.3% affirmative vote in the post-chapter referendum, in the pre-chapter written consultation held the previous April, the congregation had

¹⁶⁶ R. POWELL, Letter to J. Hamer, February 21, 1990, in ASMM. R. Powell also indicated that 4.1% voted No and one sister abstained. *Ibid.*

¹⁶⁷ See J. HAMER, Letter to R. Powell, Prot. no. B. 220-1/86, March 23, 1990, in ASMM. Actually, R. Powell as well as T. Flannery (see *infra* note 167, 174, p. 240, 242) learned of CICL'S acceptance of their congregations' petitions in a meeting with Msgr. Joseph Galante and Sister Sharon Holland, I.H.M., at CICL on March 21, 1990.

¹⁶⁸ See J. HAMER, Letter to T. Flannery (Major Superior, Sisters of Mercy, New Jersey), Prot. no. B 220-1/86, January 18, 1990, in ASMNJ. While the Sisters of Mercy of New Jersey officially referred to their canonical head as "major superior", in reality, she was the congregation's general superior. In addition, the reader will note that the New Jersey congregation had been known by other designations. See INTRODUCTION, note 4, p. xiii.

attained only a 54.8% affirmative response. The congresso, therefore, needed an explanation for such a sharp increase in so short a time.¹⁶⁹ The Holy See wished to be certain that the post-chapter referendum results clearly represented "a peaceful and harmonious decision of the membership to move forward."¹⁷⁰ Moreover, the letter pointed out that CICL was not asking the New Jersey congregation to repeat any part of the process, only to provide an explanation for the sharp increase.

On February 28, 1990, T. Flannery replied to the Holy See; her reply culminated a month-long process which involved the entire New Jersey congregation.¹⁷¹ In her response, she noted that the first and most basic reason for the dramatic change concerned the fact that the question used in the pre-chapter written consultation differed significantly from the

¹⁶⁹ *Ibid.*

¹⁷⁰ *Ibid.*

¹⁷¹ While the process involved the entire congregation, a special concern included those sisters who had changed from a negative response on the pre-chapter written consultation to an affirmative response on the post-chapter referendum. As part of this process, T. Flannery circulated among her congregation a draft response in which she suggested her explanation for the dramatic increase in membership approval of the new institute in the post-chapter referendum. Receiving the feedback on this first draft, she and her council revised the draft which they then circulated to the members of the congregation's general chapter who were meeting on February 23, 1990. Receiving the assurance that the draft truly reflected the sisters' reasons for changing their negative response to a positive one, M. Flannery responded to CICL. See M. FLANNERY (Major Superior, the Sisters of Mercy of New Jersey), Letter to J. Hamer, February 28, 1990, in ASMNJ.

question used in the post-chapter referendum.¹⁷² T. Flannery then expressed the belief that the chapter decision, itself, had profoundly affected some sisters' personal discernment. She also indicated, however, that other sisters responded "yes" in the post-chapter referendum for a different reason: due to a lack of what they perceived as viable alternatives.¹⁷³ On March 23, 1990, CICL responded affirmatively to T. Flannery's explanation in a letter which named the Sisters of Mercy of New Jersey a founding member of the new Institute.¹⁷⁴

3. Portland

On January 18, 1990, CICL also notified Sister Mary Labouré Morin, general superior of the Sisters of Mercy of Portland, that the *congresso* could not accept the Portland congregation's petition to join in forming the new Institute.¹⁷⁵ The letter cited the fact that the Portland congregation had not fulfilled the fundamental criteria set

¹⁷² *Ibid.* J. Kearse had also pointed out the difference in the wording of the two ballots, see *supra* note 102, p. 217.

¹⁷³ See T. FLANNERY, Letter to J. Hamer, February 28, 1990 in ASMNJ.

¹⁷⁴ See J. HAMER, Letter to T. Flannery, Prot. no. B. 220-1/86, March 23, 1990, in ASMNJ.

¹⁷⁵ See J. HAMER, Letter to M. Morin (Superior General, Sisters of Mercy, Portland), Prot. no. B 220-1/86, January 18, 1990, in ASMP.

by the Holy See to be considered a founding congregation.¹⁷⁶ While they had obtained the necessary majority in their chapter vote, the Portland sisters had not sufficiently agreed to abide by the chapter decision in the post-chapter referendum. Furthermore, the letter indicated that this response did not preclude another referendum and subsequent petition to the Holy See.¹⁷⁷ On February 17, 1990, the Sisters of Mercy of Portland gathered for a day of prayer and reflection. Then on May 24, 1990, the Portland congregation repeated its post-chapter referendum. This time it surpassed the requisite majority by obtaining an affirmative response of 90%.¹⁷⁸ So, on June 13, 1990, CICL acknowledged the resubmission of the Portland petition in a letter declaring the Sisters of Mercy of Portland to be the seventeenth founding congregation of the new Institute.¹⁷⁹ This final letter of approval brought to completion the Federation's process of petitioning the Holy See to form the Institute of the Sisters of Mercy of the Americas.

¹⁷⁶ *Ibid.*

¹⁷⁷ *Ibid.*

¹⁷⁸ See M. MORIN (General Superior, Sisters of Mercy, Portland), Letter to J. Hamer, June 7, 1990, in ASMP.

¹⁷⁹ See J. HAMER, Letter to M. Morin, Prot. no. B 220-1/86, June 13, 1990, in ASMP.

C. *Provisions for sisters not accepting membership in the Institute*

From early on in the project, canonists advising the Mercy Futures Task Force cautioned that the proposed restructuring must protect the sisters' acquired rights.¹⁸⁰ For instance, a sister by virtue of her perpetual religious profession acquires the right to live her entire life in the institute of her profession.¹⁸¹ In other words, a religious cannot be forced to accept membership in a new institute, "even if there is a high degree of support for the new."¹⁸² In addition, the consultations with the Holy See which occurred in both October, 1986, and January, 1988, highlighted its concern that provision be made for sisters not accepting membership in the new Institute. The Holy See, then, directed

¹⁸⁰ See F. MORRISEY, Letter to D. Gottemoeller, June 5, 1982 in AFSMA. An acquired right, sometimes referred to as a vested right, is one which is provided for in the law and which requires that some juridic act be completed in order to obtain the right in question.

¹⁸¹ See S. HOLLAND (Canonical Consultant), Letter to D. Gottemoeller, June 14, 1983, in AFSMA. S. Holland also commented that in the case where a restructuring takes place at a time when the existing institutes would be able to survive on their own, "there would be even less reason to suggest the necessity of moving from the congregation one joined and [become] incorporated into ... a new one, in which rights and obligations might be changed." *Ibid.*

¹⁸² *Ibid.* S. Holland draws the analogy that a religious cannot be forced to transfer to another institute. *Ibid.*

that the general chapters formulate these provisions.¹⁸³ The post-chapter referendum provided sisters with the opportunity to declare their intentions regarding membership in the Institute.¹⁸⁴

1. *The available alternatives*

The available alternatives which were known to the sisters not accepting membership in the new Institute seemed to expand as the process evolved. Information given to them prior to the December, 1985, straw vote listed the two alternatives for those refusing to go along with the majority of their congregation: "to transfer to another congregation...or to request a dispensation."¹⁸⁵ On July 27,

¹⁸³ On June 23, 1988, a telephone conversation between D. Gottemoeller and M. Linscott (CRIS) confirmed that a general chapter could state that the responsibility for the provision rests with the major superior and council. See A. HOEY (Federation Executive Director), Memorandum to Major Superiors, June 23, 1988, in AFSMA. Rather than dealing with specifics, therefore, the provisions in all the petitions attempted to assure the Holy See that sisters who might choose to leave the congregation would be assisted in an appropriate, equitable, and individual manner and in one that is in keeping with current congregational practice. The predominant thrust of these provisions seemed to deal with material support.

¹⁸⁴ See *supra* p. 222. Universal law provides that each individual is entitled to freedom of choice in this regard. See POPE PAUL VI, *Motu proprio, Ecclesiae sanctae*, II, August 6, 1966, no. 40, in AAS, 58(1966), p. 782.

¹⁸⁵ *Mercy Futures Project Study of Governance Model and Membership Survey*, Fall Consultation: September 20 - December 12, 1985, Part 2: Questions and Answers, no. 5. In his practical guide on fusions, unions and federations of religious institutes, M. Dortel-Claudot seems to limit the possible alternatives to transfer to another religious

1988, when a question arose regarding another alternative, that of a group of sisters founding a new religious congregation, F. Morrissey turned to the principles contained in the "Directives for Mutual Relations between Bishops and Religious in the Church" issued by the Holy See in 1978.¹⁸⁶ These directives cautioned that those responsible for discerning the authenticity of a new foundation must find an indication of a credible presence of the Holy Spirit as well as an assurance of sufficient resources.¹⁸⁷ Consequently while the possible options for those not accepting membership in the Institute might theoretically include the establishment of a new religious institute, F. Morrissey seemed to conclude that the Holy See would not consider a new establishment to be a viable alternative.¹⁸⁸ Then on November 26, 1990, E. McDonough, the CICL assistant for canonical affairs, suggested that the

institute or dispensation from vows, a possibility which he seems to discourage strongly. See M. DORTEL CLAUDOT, *Union - fusion - fédération d'instituts religieux*, pp. 20-22.

¹⁸⁶ See SCRIS and SCB, *Notae directivae: Pro mutuis relationibus inter episcopos et religiosos in ecclesia, Mutuae relationes*, April 23, 1978, in AAS, 70(1978), pp. 473-506. This question arose during the extraordinary general chapter of the Sisters of Mercy of New Jersey which had been convoked to consider the question of joining the proposed institute. See *Minutes of the Extraordinary Chapter of the Sisters of Mercy of New Jersey: Unedited Transcript of Canonical Consultation*, June 27, 1988, pp. 5-6, in ASMNJ.

¹⁸⁷ See SCRIS and SCB, *Mutuae relationes*, April 23, 1978, no. 51, in AAS, 70(1978), p. 499.

¹⁸⁸ See *Unedited Transcript of Canonical Consultation*, p. 6.

possibility of initiating a new institute with the proper permissions and approvals existed as a viable option to those not accepting membership in the new Institute.¹⁸⁹ Finally, on December 12, 1990, the Holy See issued a letter regarding the alternatives for sisters not choosing membership in the Institute. In its letter, Msgr. Joseph Galante, undersecretary for CICL, stated:

While it is always possible that an individual sister may feel herself called to initiate a new community in the Church, the concept of making a new foundation cannot be put forth as a canonical right equally available to each person who may not wish to belong to the Institute which has now been approved.¹⁹⁰

CICL now outlined three *basic* alternatives for sisters not accepting membership in the Institute: transfer, exclaustation (granted by the general superior for up to three years), and definitive separation.¹⁹¹ Apparently, the

¹⁸⁹ See E. McDONOUGH (Assistant), Memorandum to Major Superiors of the "Founding Communities" of the Institute of the Sisters of Mercy of the Americas, November 26, 1990, in AISMA. E. McDonough made this recommendation in the context of reminding the major superiors of the obligation that exists to see that all sisters are informed of their rights and options; that all sisters maintain their free exercise of rights and that provision be made for "those who eventually choose not to join the new Institute." *Ibid.*

¹⁹⁰ J. GALANTE (Undersecretary for CICL), Letter to J. Carle, Prot. no. B 220-1/86, December 12, 1990, in AISMA.

¹⁹¹ *Ibid.* The letter also states that exclaustation may be a step to another option. In exclaustation while a religious remains a member of her institute, she is freed from obligations which are incompatible with the new condition. The exclaustated religious does remain, however, subject to the

Holy See regarded the establishment of a new religious institute as an extraordinary alternative.¹⁹²

2. *Twelve Portland sisters become a diocesan institute*

By fall, 1990, it became apparent that some members of the Sisters of Mercy of Portland who would not accept membership in the new Institute would pursue an extraordinary

care of superiors. For the universal law on exclaustation, see CIC 1983, canons 686, 687. In each of these alternatives, universal law provides that the material as well as the spiritual needs of the sisters must be satisfied. Basically this obligation flows from canon 670 which states that an institute must provide for its members those things which according to the institute's constitutions are necessary for the members' vocation. See CIC 1983, canon 670. Hence the principle contained in canon 670 would have direct bearing on situations of transfer and exclaustation. Other universal law prescriptions affecting the transfer of a religious from one institute to another are contained in CIC 1983, canons 684-685. In the case of definitive departure from a religious institute, universal law provides that while the religious cannot claim recompense for work done in it, those leaving religious institutes are to be dealt with equitably and charitably. See CIC 1983, canon 702. Canonical tradition in this regard suggests that the needs of the individual, the financial condition of the institute and its ability to provide for its members as well as the provisions available in society all should influence a financial settlement in a particular circumstance. See SCRIS, Decree, January 25, 1974, in *Canon Law Digest*, 8(1978), pp. 424-427.

¹⁹² To grant permission to pursue an extraordinary alternative, the Holy See would need to be assured that those founding a new institute have the resources to provide for their own sustenance as well as for the constitutive elements of a religious institute. In addition, usually a diocesan bishop would need to be willing to establish the institute in his diocese. Finally, the decree on the renewal of religious life cautioned against an unnecessary multiplication of religious institutes. See SECOND VATICAN COUNCIL, Decree on the Renewal of Religious Life, *Perfectae caritatis*, no. 19, in *AAS*, 58(1966), p. 711.

alternative.¹⁹³ Bishop Joseph J. Gerry of Portland had agreed to establish these sisters as a diocesan institute, provided he receive the necessary approvals of the Holy See.¹⁹⁴ On March 14, 1991, then, Bishop Gerry submitted a petition to CICL on behalf of twelve Sisters of Mercy of Portland. With the help of P. Campbell, the CICL assistant named for financial and civil law expertise, a financial agreement, subject to the approval of CICL, had been worked out between the twelve sisters and their congregation.

On May 31, 1991, Cardinal Jerome Hamer (prefect for CICL) informed Bishop Gerry that the Holy See granted the "requested *nihil obstat* to erect the group of twelve Sisters named, as

¹⁹³ In light of the fact that CICL approved the requests of all the petitioning congregations to join in forming the Institute, the possibility for a sister not accepting membership to transfer to another Mercy congregation became virtually non-existent. It appears, therefore, that what might have been considered an extraordinary alternative became a more reasonable one when faced with definitive separation as the only other viable option for one to avoid membership in the Institute outside of transferring to an entirely different religious institute. Indeed, the right to continue in religious life as a Sister of Mercy would outweigh the Holy See's concerns of proceeding cautiously in establishing new institutes. Other factors, such as, a previously approved (by the Holy See) constitutions, a bishop willing to establish the group as a diocesan institute, the resolution of a financial agreement between the departing sisters and their congregation and the fact that the twelve departing sisters represented a varied age span also would have influenced CICL in its decision.

¹⁹⁴ Universal law provides that a diocesan bishop can establish a diocesan institute within his diocese provided that he has consulted with the Holy See. The normal *praxis* in this situation is for the Holy See to issue a *nihil obstat* which would leave the bishop free to proceed. See CIC 1983, canon 579.

a religious institute to be known as the Diocesan Sisters of Mercy of Portland."¹⁹⁵ Furthermore, Cardinal Hamer noted that CICL did not object to the financial arrangements previously agreed upon by the Sisters of Mercy of Portland and the twelve sisters who sought to establish the diocesan congregation. Cardinal Hamer also suggested that the timing for the establishment of the diocesan congregation coincide with that of the Institute of the Sisters of Mercy of the Americas. Finally, the letter cautioned that while the new diocesan institute "will be able to receive perpetually professed sisters in a process of transfer, they will need some time to establish their internal structures of governance first."¹⁹⁶ In a decree dated June 18, 1991, and effective on July 20, 1991, Bishop Gerry established the Diocesan Sisters of Mercy of Portland.¹⁹⁷ In the same decree he approved their constitutions and announced that he would set a date for the convocation of a chapter after consultation with the newly established

¹⁹⁵ J. HAMER (Prefect for CICL), Letter to J. Gerry (Bishop of Portland), Prot. no. DD 2251-1/91, May 31, 1991, in ADP and in Appendix IV-I. In the same paragraph the letter acknowledged that the sisters would retain the same condition of their profession and live according to constitutions which had been previously approved by the Holy See and now approved by Bishop Gerry with the necessary adjustments for a diocesan congregation. *Ibid.*

¹⁹⁶ *Ibid.*

¹⁹⁷ See J. GERRY (Bishop of Portland), Decree of Establishment, June 18, 1991, in ADP and Appendix IV-J.

institute.¹⁹⁸

D. *The decree of establishment*

On June 8, 1991, the Holy See issued the decree granting permission for the establishment of the Institute of the Sisters of the Americas.¹⁹⁹ This decree, which took effect on July 20, 1991, the occasion of the formal convening of the First Institute Chapter, noted that all members had been consulted; the majority had responded affirmatively. The decree then listed the seventeen autonomous congregations which had petitioned the Holy See to form a single institute.²⁰⁰ Next the decree went on to state that CICL, which had consulted the respective diocesan bishops, had carefully considered the requests "to form a single institute".²⁰¹ It also noted that the change in locus of membership of the sisters forming part of the Institute did not change their

¹⁹⁸ *Ibid.*

¹⁹⁹ See CICL, Decree, Prot. no. B 220-1/86, June 8, 1991 in AISMA and Appendix IV-K.

²⁰⁰ The Sisters of Mercy of Albany, Auburn, Belmont, Brooklyn, Buffalo, Burlingame, Burlington, Cedar Rapids, Erie, Hartford, Merion, Pittsburgh, Plainfield-Watchung, Portland, Rochester, Windham, and the Union with its nine provinces: Baltimore, Chicago, Cincinnati, Detroit, New York, Omaha, Providence, Saint Louis and Scranton. *Ibid.*

²⁰¹ *Ibid.* Not without significance did CICL refer to the type of restructuring taking place with the phrase "to form a single institute". Certainly, this phrase conveys the reality more accurately than either "fusion" or "union" in their *extinctive* sense.

condition with respect to religious profession. Next, the decree implicitly confirmed that the initial provinces, the regional communities, of the Institute would maintain their juridic personality with the capacity to acquire, possess, administer and alienate temporal goods.²⁰² Finally the decree contained a paragraph directing that for special funds or pious bequests, the intention of donors be observed.²⁰³

V. THE FIRST INSTITUTE CHAPTER: JULY 20 - AUGUST 3, 1991

On June 15, 1990, the CICL assistants, P. Campbell, E. McDonough and B. Moslander, convoked the first General Chapter of the Institute of the Sisters of Mercy of the Americas. Their letter of convocation scheduled the First Institute Chapter to begin on July 20, 1991 in Buffalo, New York.²⁰⁴

²⁰² Two different statements lead to this conclusion. In the first the document decrees that the major superiors of the regional communities remain the legal representatives of their respective communities. The second establishes that temporal goods remain the property of the respective regional communities. For a listing of these regional communities, see INTRODUCTION, note 4, p. xiii.

²⁰³ The respect for the will of the donors is a fundamental principle contained in universal law. This principle as it relates to the combining of public juridic persons is contained in CIC 1983, canon 121. An application of this stipulation may be seen in the transfer of the two multimillion dollar corporations, Mercy Action, Inc. and McAuley Institute, Inc. from the Union to the Institute.

²⁰⁴ See P. CAMPBELL, E. McDONOUGH, and B. MOSLANDER (CICL Assistants), Letter to Sisters of Founding Congregations, June 15, 1990, in AISMA. This action of the Committee of Assistants was in accordance with its mandate. See *supra* note 156, no. 3, p. 236.

According to the proposed *Institute Constitutions*, chapter membership consisted of five delegates (four elected and the president) from each regional community.²⁰⁵ The CICL assistants also affirmed the request of the Transition Advisory Council to include the current president of the Sisters of Mercy of the Union, Sister Helen Amos, in the membership of this First Institute Chapter. Furthermore, at its pre-chapter meeting held on January 25-27, 1991, chapter members decided to include four representatives from the Institute's Central American, South American and Caribbean members in the First Institute Chapter.²⁰⁶

The basic agenda of the chapter included the election of Institute leadership, consideration of the proposed *Institute Constitutions* for submission to the Holy See and direction setting for the Institute's first four years.²⁰⁷ The Chapter elected five sisters to serve for four years as Institute leadership: Doris Gottemoeller (Cincinnati) as president, and

²⁰⁵ See *Proposed Institute Constitutions*, no. 58; *Proposed Institute Directory*, no. 58.1.

²⁰⁶ For a listing of the Central, South American and Caribbean countries with Institute members, see INTRODUCTION note 1, p. xii. This choice of chapter membership was confirmed by CICL assistants, B. Moslander and P. Campbell. See B. MOSLANDER and P. CAMPBELL, Letter to S. Deliee (Chair of Latin American/Caribbean Conference), February 4, 1991, in AISMA.

²⁰⁷ Beginning in September, 1989, several thousand sisters participated in a pre-chapter "visioning" process which was intended to provide for the participation of membership in the direction setting process.

Patricia McCann (Pittsburgh), Marie Chin (Cincinnati/Jamaica region), Amy Hoey (New Hampshire) and Mary Waskowiak (Burlingame) to serve on the Institute council. The chapter delegates accepted the proposed *Institute Constitutions* for submission to the Holy See. Finally, the First Institute Chapter pointed the Institute on a three-fold direction for the next four years. As a result, Institute leadership and membership would stand in solidarity with the economically poor, especially women and children; with women seeking fullness of life and equality in church and society; and with one another as they embrace their multicultural multinational reality. On August 3, 1991, D. Gottemoeller, the newly elected Institute president, imparted a final blessing to all in attendance at the First Institute Chapter. Now the Sisters of Mercy of the Americas would begin to live their new reality in the spirit of Venerable Catherine McAuley.

SUMMARY AND CONCLUSIONS FOR PART TWO

Part Two has examined the formation of the Institute of the Sisters of Mercy of the Americas. Within twenty-five years after the establishing of the Sisters of Mercy of the Union, superiors of the non-amalgamated congregations began to realize the benefits that would accrue by relating to one another. Hence, from the foundation of the Mother McAuley Conference in 1955, there has been a gradual, constant and inevitable movement toward the formation of a single institute. In 1965, when the major superiors deemed the Conference structure inadequate, they petitioned the Holy See to form the Federation. Eventually the Federation experience which had provided for the juridical autonomy of its member congregations led the Sisters of Mercy in the United States to seek a more comprehensive juridic unity. The ten year process of restructuring and the product of that process, the *proposed governance model*, appear to have reflected in varying degrees the heritage of the Sisters of Mercy as established by Catherine McAuley.

This dissertation's second part reveals that the Holy See sought to protect the heritage of the individual institutes. In general, the Holy See needed an assurance that the purpose of the proposed restructuring would provide for a deeper and fuller religious life. Early in the process, it established

that the proposed restructuring would not take place if it merely intended to eliminate duplication of services. Rather, the key elements of religious life--vowed consecration, prayer, community life, ecclesial witness and mission--needed to be enhanced.¹ More specifically, however, we can deal with the individual aspects of the Mercy heritage: its nature, purpose, character, spirit and wholesome traditions. These conclusions will illustrate how both the Sisters of Mercy as well as the Holy See sought to protect the heritage of the seventeen individual institutes during this restructuring process.

The *proposed governance model* clearly provided for the Institute to assume the status of an institute of pontifical right. The movement away from the Australian model (the 1982 model) where the capacity to relate to the Holy See resided at the unit level to the finalized *proposed governance model* where this capacity shifted to the Institute level significantly affected the founding institutes' juridical status. For the sixteen congregations other than the Union this feature represented a major shift in governance structures. Likewise for the same sixteen congregations, the movement from being an autonomous institute to becoming a canonical province in a larger institute represented another

¹ These values were most clearly articulated in the letter sent to the diocesan bishops seeking their opinion regarding this restructuring. See V. FAGIOLO, Letter to E. Head, July 8, 1987.

major shift. Consequently throughout the process, the Holy See as well as the governing board sought to ensure an institute's rightful autonomy of life regarding its participation in the formal decision-making process. For instance, they insisted that the process maintain a distinction between the Mercy Futures project and the *Core Constitutions* project. In other words, a congregation's acceptance of the *Core Constitutions* did not imply automatically its acceptance of a Mercy Futures governance model. Furthermore, they placed tremendous value on the decision-making capacity of the general chapters. Consequently, they sought to ensure that each chapter would make its decision in the midst of a discerning community which was well informed as to the implications of its decision. Also, they sought to protect the freedom of the individual sister to discern God's will prayerfully for her congregation as well as for herself. In order to do this, they considered it essential that each individual sister fully realize the implications of her choices. Thus the governing board and the Holy See collaborated on changes in the wording of the various ballots to ensure the needed clarity.² Finally, throughout the process, the Holy See realized that because of these

² The confusion which took place regarding the post-chapter referendum indicates that these efforts were not entirely successful. Apparently, during the Mercy Ireland process it became known that the CICL "had learned from the process used by the American Mercies that it was important that the formula be free from all ambiguity." *Minutes of Plenary Council Meeting, Mercy Ireland, February 22-24, 1991*, p. 3 in AMI.

fundamental shifts in the nature of their religious institutes, not all sisters would choose to belong to the new Institute. By requiring that the individual congregations provide for sisters not joining the new Institute and by granting the *nihil obstat* in the Portland situation, the Holy See sought to protect each sister's acquired rights.

The Mercy institute's purpose and its character which the fourth vow of service to the poor, sick and ignorant adequately reflects occupied a central position during this restructuring process. With the revision of the Federation statutes in the 1970s came a new way of thinking regarding the Federation. Rather than functioning as a conference of major superiors, the Federation began to provide the avenue for extensive networking among individual sisters, assisting them in fulfilling their fourth vow. Between 1972 and 1983 these networks multiplied with an enhanced emphasis on direct service to the poor and on systemic change on behalf of justice. While no one of these projects necessitated the formation of a single institute, all of them combined to produce momentum sufficient to sustain the long and, at times, arduous restructuring process.

The spirit of the institute as reflected in its embrace of union and charity became pivotal in the development of the proposed governance model. This dissertation's second part clearly establishes that the governing board which played a key role in directing the restructuring process provided the

means for developing union among the Federation member congregations.³ By facilitating the formulation of a governance structure as well as acceptance by membership of the *Core Constitutions*, the governing board during this time frame extended for the Sisters of Mercy of the Americas what Catherine McAuley had begun for the Institute of Mercy. In addition, the Holy See also played a major role in seeking to maintain unity within the given institutes. In January, 1990, when the Holy See issued its individual response to each of the seventeen individual petitions, the importance that CICL placed on the post-chapter referendum became evident. It wanted to ensure that the sum of individual responses reflected a unified, communal decision. While ultimately it would agree to the splintering of the Sisters of Mercy of Portland, CICL seemed to perceive this solution as a last resort. Moreover, its insistence on providing for an accountability of the provincial unit to the Institute itself attempted to ensure that the *proposed governance model* itself fostered unity in its governance structures.

The "flexibility and adaptability" feature of the institute's spirit received considerable attention during the

³ Indeed, history will recount that the governing board members between 1980 and 1988 at least partially founded the Institute of the Sisters of Mercy of the Americas. P. Allard enlarges the notion of founder to involve groups of persons in the case of a restructuring. See P. ALLARD, *Le canon 578 and son application à la Société de Marie: Le patrimoine de l'institut*, Ottawa, Université Saint-Paul, 1989, p. 84.

Mercy Futures process. From its beginning, those facilitating the process as well as the participants expressed concern that the identity, values and traditions of each community be respected. The characteristics of flexibility and adaptability seem to have assisted the Sisters of Mercy of the Americas in embracing their multicultural and multinational realities. The move by the delegates to the First Institute Chapter to include representation from its Central, South American and Caribbean sisters suggests, however, that the proposed governance model did not adequately provide for this fundamental aspect of the Institute's spirit.⁴

The connection of the proposed governance model with the community's spirituality is perhaps more difficult to find. At first glance, this may be partially due to the fact that the governance model involves governance, not spirituality. In spite of this, a recurring criticism of membership in the Mercy Futures process appeared to concern the absence of a spiritual tone in the rationale for change in governance structures. In spite of the fact that the Holy See reiterated the need for the proposed restructuring to enhance the living of religious life, this feature does not appear to have been adequately articulated in the process.

Finally, we turn our attention to some conclusions

⁴ The proposed *Institute Directory* was amended by the *First Institute Chapter* to include a provision for representation from sisters who reside in countries other than the United States. See proposed *Institute Directory*, no. 58.2.

regarding the wholesome traditions of consultation, leadership development and the assertive respect for ecclesiastical authority. If there was one learning which occurred during the Mercy Futures process, it was the need for systematic and thorough membership consultation. Initially, those directing the Mercy Futures process had not given this dimension ample consideration. In a sense they had fallen short of the example which Catherine McAuley set many years before. They took a major step forward, however, when they asked membership to identify the elements of a new governance model. In addition, the incorporation of the Mercy Futures facilitators into the process provided a new avenue to elicit membership's response to the proposed change. By acknowledging the reasons given by those holding the dissenting position in their congregations' individual petitions to the Holy See, the Sisters of Mercy of Merion and of Rochester acknowledged the contribution of all their sisters. Finally, the renegotiation of the CICL mandate to have the constitutions approved prior to the First Institute Chapter sent a strong message that the deliberative contribution of membership as represented in chapter was essential in framing the proposed *Institute Constitutions*.

At times during the development of the *proposed governance model*, the embrace of the "leadership development" aspect of the Mercy heritage became challenging. The question of who would make decisions in the new institute became a pervasive one as the Mercy Futures process proceeded.

Initially, the distinction between the concepts of "collegiality" and "subsidiarity" seemed blurred in the development of the *proposed governance model*. As the development proceeded, however, clearer distinctions were made. The finalized governance model which incorporates the value of subsidiarity, also provides that the presidents (institute and regional) possess the personal authority appropriate to their offices.

The tradition of assertive respect for ecclesiastical authority also became evident as the Mercy Futures project progressed. In their three face-to-face meetings prior to the submission of the congregations' individual petitions, Federation leadership and CRIS representatives listened to each other. Together they attempted to resolve inconsistencies in the wording of the various ballots as well as certain unacceptable features of the governance model. Interestingly, all of the CRIS suggestions regarding the needed changes in the model of governance were not automatically accepted by the governing board. Apparently it understood the Holy See's 1986 observations as consultative rather than binding. The governing board saw its primary responsibility as the designing of a governance model which would reflect the lived reality of the new Institute while remaining acceptable to membership. Eventually the Holy See granted permission for the Federation to proceed with the formal decision-making

process without requiring some of these changes.⁵ In addition, when presented with a sound rationale for changing the timing for the approval of the proposed *Institute Constitutions* from before to after the First Institute Chapter, CICL agreed to change the sequence. Finally, the Holy See demonstrated its concern that the decree of establishment truly reflect the new reality by sending its draft to the Committee of Assistants who in turn conferred with the Transition Administrative Group prior to its promulgation.

The post Second Vatican Council generation of American Sisters of Mercy have maintained a remarkable fidelity to their institute's original heritage. They received the call to return to the spirit of their founder with enthusiasm. Their enthusiasm in re-discovering Catherine McAuley set them on the course of restructuring their seventeen autonomous congregations into a single institute. In so doing, they not only observed and preserved the indispensable elements of their original Mercy heritage, but they deepened their understanding and appreciation of these elements, as well.

⁵ Through additional dialogue among the American sisters and between them and the Holy See and with some allowance for variation in language, most (but not all) of the suggested changes were incorporated into the proposed *Institute Constitutions*.

GENERAL CONCLUSIONS

This dissertation has explored the relationship between the original heritage of the Sisters of Mercy as established by Catherine McAuley and the canonical development of the *proposed governance model* for the Institute of the Sisters of Mercy of the Americas. Some ten conclusions come to light. These show how, over the course of its nearly one-hundred and fifty year United States history, a number of points that constitute the heritage of an institute (see canon 578) have been respected and integrated into the development of the structures governing the Sisters of Mercy of the Americas. In addition, these conclusions point to several of the many challenges which confront Institute leadership and membership as they begin to live their new reality.

Firstly, by its establishment as an institute of pontifical right, the nature of the Institute clearly continues in the life of the institute's heritage. In the course of its evolution in the United States, at times, the Mercy institutes' juridical relationships lacked clarity. An examination of the various movements toward union reveals that bishops often involved themselves in the internal affairs of the Mercy institutes. During the Mercy Futures restructuring process, while the Holy See consulted them, the bishops did not exert the same degree of influence which they had exerted

during the 1929 restructuring process. Clearly, the Sisters of Mercy of the Americas have come of age as an institute of pontifical right. Nevertheless, the establishment of the Portland sisters who did not accept membership in the Institute as an institute of diocesan right, seems to represent an anomaly regarding this aspect of the institute's nature.

Secondly, the autonomy of houses has undergone drastic revision. While Catherine McAuley established her foundations as autonomous institutes, the 1991 restructuring combined seventeen autonomous congregations into a single institute in which each one relinquished its autonomy. The dissertation has established that this change came gradually but consistently in the decades following the initial expansion in the United States. The Union's expression of centralized government does not appear to have impeded the fidelity to the heritage of the institute. While previous to the formation of the new Institute, nine of the regional communities experienced being part of a larger juridical entity, sixteen did not experience that reality. Both the "nine" and the "sixteen" will need to respect each other's past and not cling to their own experience if they are to shape a new and vital reality.

Thirdly, the purpose of the Sisters of Mercy as established by Catherine McAuley, that of service to the poor (especially women), sick and ignorant, provided a motivating factor in the development of the various governance

structures throughout the decades. In fact, the pursuit of this common mission pushed the Federation structure to its limits, thus necessitating a change in structure. In addition, throughout the Mercy Futures process, the task force, the governing board, and the membership clearly and consistently articulated the goal of pursuing a common mission. The proposed *Institute Constitutions* identifies the Institute's purpose with the intention of Catherine McAuley by explicitly referring to her "preferential love for the poor, and her special concern for women..."¹

Fourthly, the character of the Sisters of Mercy, dedication to the works of the apostolate, also finds explicit expression in the development of the governance model. Throughout the development of the American governance structures, these Sisters of Mercy have preserved their traditional fourth vow. Indeed, the profession formula for the Institute contains the traditional fourth vow of service to the poor, sick and ignorant.² Since the fulfillment of the fourth vow provided one of the most overwhelming motivating reasons for the Institute's formation, surely we can expect that Institute leadership and membership will focus their attention on increasing the effectiveness of the service that is rendered in the name of Mercy.

¹ Proposed *Institute Constitutions*, no. 7.

² Proposed *Institute Constitutions*, no. 40.

Fifthly, Catherine McAuley's legacy of "union and charity" provided the single most compelling force to unite the Sisters of Mercy of the Americas into a single institute. In the 1920s as well as in the 1980s, the movements toward union were tied to a concern regarding the expression of the institute's heritage in revised constitutions. Eventually, the desire to preserve spiritual unity led the sisters to seek a comprehensive juridic unity. In addition, the results of membership consultations indicate that many of the regional communities would have been ready for such a move several years before some of the others. The governing board, however, directed that extra time, effort and resources be allotted in the hope that all might make a free and informed decision to unite. The *proposed governance model* envisions that in addition to the Institute chapter and president, the Institute leadership conference will foster unity and collaboration within the Institute.³ Indeed, through nearly one-hundred fifty years, the United States Mercy experience has reflected the institute's hallmark: the preservation of union and charity.

This feature of the Sisters of Mercy heritage, however, may also provide this developing institute with one of its greatest challenges. The fact that the regional communities have maintained the juridic personality which they possessed

³ *Proposed Institute Constitutions*, no. 68.

previously as well as many of their ways of doing things, may inhibit some of the desired unity. Furthermore, in several instances a review of the results of the membership consultations as well of those of the various phases of the formal decision-making process indicates that in some regional communities unanimity was seriously lacking. On the one hand, where hurt and division continue to exist, no decree of establishment issued by the Holy See will bring about the needed healing. On the other hand, in several situations the disparity between a low affirmative response rate in the pre-chapter written consultation and a high affirmative response rate in the post-chapter referendum indicates, perhaps, that unity exists at a deeper level. Indeed, the pursuit of union and charity will provide a challenge for regional communities and for the Institute membership as they begin to live their new reality.

Sixthly, the "flexibility and adaptability" feature of the institute's spirit has experienced varied acceptance among United States Mercies. While the Mercy Futures process and the *proposed governance model* attempted to provide for this feature, perhaps two distinct challenges in this regard loom on the horizon. First, as the Institute puts its governance structures into place, it needs to broaden them "toward mutuality and inclusivity" of the Institute's members in

countries other than the United States.⁴ In addition, Institute as well as regional community leadership will need to maintain the proper balance between an appreciation of the Institute's "flexibility and adaptability" and the need, at times, for unified expression.

Seventhly, the manifestation of the institute's spirituality with its rhythmic flow between the works of mercy and contemplation has experienced some difficulties in the institute's evolution in the Americas. By maintaining a distinction between Mercy Futures, which emphasized governance, and the *Core Constitutions*, which articulated the institute's heritage, the Holy See and the governing board sought to protect each congregation's autonomy. This approach may have had an unfortunate side effect. It seems to have created a distinction between governance and the foundation which sustains it, the institute's spirituality. A task for the newly formed Institute may consist in integrating all its purposes and functions into the rhythm of contemplation and action which is "at the heart of our vocation to Mercy."⁵

Eighthly, the wholesome tradition of consultation also seems to have experienced some difficulty during the institute's one hundred and fifty years in the United States.

⁴ H. AMOS and H. BURNS, *Restructuring the Sisters of Mercy in the United States*, in *Human Development*, 12(1991), p. 20.

⁵ *Proposed Institute Constitutions*, no. 15.

Examination of the Mercy Futures membership consultation processes reveals that the process did more than merely produce a structure of governance acceptable to membership. Rather, through trial and error, the Sisters of Mercy of the Americas learned how to become a single institute which would place a strong value on membership consultation.⁶ In reflecting on the Mercy Futures process, D. Gottemoeller, who served as chair of the Mercy Futures Task Force during its seven year existence, reflects: "And there was error -- we assumed too much and got too far ahead of membership with the first model... but the mistake taught a good lesson about building consensus across the Federation on difficult issues."⁷ Thus the Mercy Futures membership consultation processes equipped the Sisters of Mercy of the Americas to conduct large scale consultation programs effectively. Undoubtedly they will continue to benefit from this experience in the years ahead.

Ninthly, the wholesome tradition of leadership development which Catherine McAuley established has taken a predominant place in the development of the governance structures of the Sisters of Mercy in the United States. During the Mercy Futures process, membership consistently

⁶ For an expression of this, see proposed *Institute Constitutions*, nos. 76-78.

⁷ A. SYNNOTT, "June Governing Board Meeting: Completion of Task in Sight for Futures Force", in *Mercy Life Newsletter*, 14(1988), no. 1, p. 2.

affirmed this wholesome tradition which took on the Second Vatican Council's designation of "subsidiarity". The governance model as incorporated into the proposed *Institute Constitutions* provided that the regional presidents assume substantial governance functions, such as the missioning of sisters, the appointment of the novice director, the admission to first profession and renewal of commitment, and the approval and administration of the regional communities' budgets and assets.⁸ While the governance model as incorporated into the proposed *Institute Constitutions* provides for the president to exercise personal authority, it also seeks to maximize the contribution of her council and the Institute leadership conference.⁹ Another challenge for the Institute may reside in its ability to develop governance structures which adequately provide for both the personal authority of its leaders as well as the effective collaborative functioning of its advisory bodies.

Finally, Catherine McAuley's wholesome tradition of

⁸ Proposed *Institute Constitutions*, nos. 31, 37, 39, 43, 75.

⁹ "The Institute president, assisted by and in collaboration with four councilors, leads and governs the Institute..." proposed *Institute Constitutions*, no. 62. In addition, there appears to be a strong reliance by the Institute president on the regional presidents for advice as well as assistance in the carrying out of the Institute's governance function. This takes place through the Institute Leadership Conference as well as through a system of seeking the regional presidents' recommendation in a variety of matters. See proposed *Institute Constitutions*, nos. 25, 38, 43, 47.

assertive respect for ecclesiastical authorities experienced an unevenness during the United States Mercy experience. During the Mercy Futures process, however, Federation leadership and representatives of the Holy See participated in a dialogical process. Together they brought a new religious institute into existence in a manner which respected the founding congregations' heritage. It seems that this tradition of assertive respect for ecclesiastical authority has begun to evolve. Perhaps, a new wholesome tradition, that of a mutual respect between the Sisters of Mercy of the Americas and their primary ecclesiastical authority, the Holy See, has begun to take root.

As already mentioned within the dissertation, material abounds for several additional studies. First and foremost, the development of the *Constitutions of the Institute of the Sisters of Mercy of the Americas* and the analysis of the heritage of the Institute as contained in those constitutions would provide a most valuable study. Secondly, the history of the preservation of the fourth vow within the various American as well as other world Mercy institutes would provide a necessary link in the evolution of the Mercy heritage. In addition, the questions and the dynamics surrounding the provisions to be made for sisters not accepting membership in the Institute could be studied from the perspectives of the social sciences. Finally, an indepth and interdisciplinary examination of the activities of the transition period

(September, 1988 through July, 1991) during which seventeen autonomous institutes made immediate preparations to become a single institute would benefit the church greatly.

RESCRIPT OF INDULGENCES FOR CATHERINE McAULEY
AND HER ASSOCIATES¹

Our Most Holy Father, Pius VIII by Divine Providence, having referred to me, the under-signed, Secretary to the Sacred Congregation for the Propagation of the Faith, and having well and truly considered the contents of the annexed documents, graciously grants and mercifully imparts in the Lord to all the Ladies in the above mentioned house - mindful of the good works (pius operibus) in which they are engaged; who being truly repentant, having confessed and been refreshed with Holy Communion, shall twice monthly, on days arranged by themselves, devoutly visit a Church, Oratory or Chapel, and there pray for a short time for the propagation of the Holy Faith - a Plenary Indulgence, applicable by way of suffrage to the souls in Purgatory (dependent however on the consent of the Ordinary). Moreover, to the same Ladies he also graciously and mercifully in the Lord imparts a Partial Indulgence, and also application to the souls in Purgatory (again dependent on the consent of the Ordinary), upon daily recitation of the Litany of the Blessed Virgin Mary.

¹ C. CASTRACANE, Rescript to Archbishop Murray, May 23, 1830 in AAD. Translation from A. BOLSTER, Positio, p. 90.

LETTER OF PRAISE FOR CATHERINE McAULEY AND HER ASSOCIATES¹

Your Grace will of yourself understand, without my having to express it in words, how highly the Sacred Congregation and our Most Holy Lord approve the resolution taken by the very pious lady, Catherine McAuley, of establishing a society of ladies, called of Mercy, from the works on which it is to be dedicated. For I need not tell you how deserving of praise that society must be which directs all its efforts and aims to the special end of helping the poor and relieving the sick in every way, and safeguarding, by the exercise of charity, women who find themselves in circumstances dangerous to virtue. I shall merely say that from an Institute of this kind the greatest benefit will result both to civil society and to religion.

The Sacred Congregation has, therefore, praised in the very highest terms the above-mentioned resolution of that very pious lady, and His Holiness on his part has not only approved the establishment of that society, but has declared that it is truly worthy of his paternal benevolence and Apostolic Benediction.

His Holiness, however, has decided that in the present state of affairs it would not be opportune to agree to the proposal that the ladies who are admitted into that Society make solemn vows. But seeing that [the] Society has proposed to follow the Rules and Constitutions of the Order of the Presentation of the Blessed Virgin Mary, has left it to the judgement of Your Grace to prescribe for the Society of Mercy, over and above those Rules and Constitutions such observances as Your Grace will think ought to be decreed, considering the object of the Society and the pious works in which it is to be employed.

¹ C. PEDICINI, Letter to D. Murray (Archbishop of Dublin), May 6, 1834, in APF, vol. 950, f. 187. Translation from A. BOLSTER, *Positio*, pp. 205-206.

PAPAL CONFIRMATION OF RULE AND CONSTITUTIONS
OF THE SISTERS OF MERCY¹

Whereas a Society of very pious Ladies, called Sisters of Mercy, erected with approbation of the Most Reverend Daniel Murray, Archbishop, and founded especially by the zeal of the religious lady, CATHERINE McAULEY, has been erected in Dublin; and whereas very many bishops have begged the Apostolic See to confirm this Society, the Sacred Congregation [of the Propagation of the Faith], at a General Meeting held on the 20th day of July in the year 1840, having before it the *relatio* of the Most Eminent and Most Reverend Lord, Paul Polidori, Cardinal of the Holy Roman Church; and having pondered attentively the great benefits that have already accrued and those that may justly be expected in the future from the establishment of this Society which devotes itself sedulously to the special end of helping the poor and relieving the sick in every way, and safeguarding by the exercise of charity and religious women who find themselves in circumstances dangerous to virtue, decided and decreed to supplicate our Most Holy Lord that he might deign to confirm the Rules and Constitutions of this Society in the form in which they have described above, prescribing at the same time that the Vows taken by the Sisters admitted to this Society should be simple, until such time as the Holy See may judge otherwise.

When this sentence of the Sacred Congregation had been related to our Most Holy Lord, Pope Gregory XVI, by the Reverend Father Ignatius Cadolini, Archbishop of Edessa, Secretary of the Sacred Congregation, His Holiness, in an audience on the 6th day of June in the year 1841, kindly confirmed it, as also the Rules and Constitutions in question, according to the form recited above.

Given in Rome in the Palace of the Sacred Congregation [of the Propagation of the Faith], on this 5th day of July, in the year 1841.

¹ CPF, Decree, *Cum pientissimarum*, July 5, 1841, in ASMU. This translation is from A. BOLSTER, *Correspondence*, p. 236.

**FOUNDATIONS OF THE SISTERS OF MERCY IN THE UNITED STATES:
1843-1929¹**

(Indentation denotes foundation. For example, Pittsburgh founded Chicago. Chicago, in turn, founded Ottawa, Ill.)

FOUNDATIONS WHICH HAVE CARLOW AS THEIR SOURCE

I. PITTSBURGH founded from Carlow (1843)

- Chicago (1846)
 - Ottawa, Ill. (1859)
 - De Witt, Ia. (1867)
 - Independence, Ia. (1869)
 - Davenport, Ia. (1868)
 - Sterling, Ill. (1869)
 - Janesville, Wi. (1870)
 - Fond du Lac, Wi. (1885)
 - Milwaukee (1885)
 - Cedar Rapids, Ia. (1875)
 - Dubuque, Ia. (1879)
 - Des Moines, Ia. (1893)
 - Loretto, Pa. (1848)
 - Cresson, Pa. (1897)
 - Providence, R.I. (1851), see below.
 - Baltimore, Md. (1855)
 - Vicksburg, Ms. (1860)
 - Titusville, Pa. (1870)
 - Erie, Pa. (1926)
 - Wilkes-Barre, Pa. (1875)
 - Dallas, Pa. (1924)

¹ Based on chart originally published in I. NEUMANN, *Letters of Catherine McAuley: 1827-1841*, Baltimore, Helicon, 1969, 416-411 and subsequently revised for accuracy by F. Powers (chairperson), C. Barry, H. Muldrey, B. Bauman, G. Pierce, S. Shields, Sisters of Mercy Generalate, Bethesda, Maryland, August 25, 1975, in AISMA.

II. PROVIDENCE, R.I. founded from Pittsburgh (1851)

Hartford, Conn., (1852)

Rochester, N.Y. (1857)

Buffalo, N.Y. (1858)

Hazelton, Pa. (1874)

Batavia, N.Y. (1862)

Malone, N.Y. (1872)

Hogansburg, N.Y. (1878)

Gabriels, N. Y. (1895)

Manchester, N.H. (1858) see below.

St. Augustine, Fla. (1859)

moved foundation to Columbus, Ga. (1862)

Springfield, Mo. (1870)

Cynthiana, Ky. (1876)

Lacon, Ill. (1878)

Sacred Heart Indian Territory

(1884)

Oklahoma City, Okla. (1891)

Nashville, Tenn. (1866)

Chicago, Ill. (1883)

Fall River, Mass. (1874)

III. MANCHESTER, N.H. founded from PROVIDENCE, R.I. (1858)

Philadelphia, Pa. (1861)

moved motherhouse to Merion (1884)

Omaha, Neb. (1864)

Yankton, S.D. (1878)

Belcourt, N.D. (1884)

Devil's Lake, N.D. (1895)

Portland, Me. (1873)

Deering, Me. (1881)

Yreka, Ca. (1871)

Rio Vista, Ca. (1876)

Red Bluff, Ca. (1881)

Bordentown, N. J. (1873)

moved motherhouse to N. Plainfield (1908)

Burlington, Vt. (1874)

*FOUNDATIONS WHICH HAVE DUBLIN AS THEIR SOURCE***IV. NEW YORK CITY** founded from **DUBLIN (1846)**

Brooklyn, N.Y. (1855)
 Grand Rapids, Mi. (1875) see below.
 St. Louis, Mo. (1856) see below.
 Renselaer, N.Y. (1863)
 Albany (1928)
 Worchester, Ma. (1864)
 Carrollton, Mo. (1881)
 Independence, Mo. (1884)
 Eureka, Ca. (1871)
 Ferndale, Ca. (1894)
 Ukiah, Ca. (1883)
 Fort Dodge, Ia. (1875)

V. ST. LOUIS founded from **NEW YORK CITY (1856)**

New Orleans, La. (1869)
 Natchitoches, La. (1871)
 East St. Louis (1875)
 Shawneetown, Ill. (1878)
 Umatilla Reservation (1882)
 Cynthia, Ky. (1878)
 Mesilla, N.M. (1880)
 Silver City, N.M. (1883)
 Phoenix, Az. (1892)
 Alexandria, La (1872)
 Pineville, La. (1879)
 Indianola, Tx. (1875)
 Refugio, Tx. (1876)
 San Patricio, Tx. (1876)
 Cuero, Tx. (1884)
 Smithville, Tx. (1897)
 Lockhart, Tx. (1910)
 Laredo, Tx. (1910)
 Mobile, Ala. (1884)
 Selma, Ala. (1891)
 Durango, Co. (1882)
 San Diego (1890)
 Denver, Co. (1899)
 Louisville, Ky. (1869)
 Joplin, Mo. (1885)
 Kansas City, Mo. (1887)

FOUNDATIONS WHICH HAVE NAAS, KINSALE OR ENNIS AS THEIR SOURCE

- VI. **LITTLE ROCK, Ak.** founded from **NAAS (1851)**
Fort Smith, Ak.(1853)
- VII. **SAN FRANCISCO, CA.** founded from **KINSALE (1884)**
Sacramento, Ca. (1857)
Grass Valley, Ca. (1863)
Stanton, Tx. (1894) [indirect foundation]
Raton, N.M. (1922)
- VIII. **CINCINNATI, OH.** founded from **KINSALE (1858)**
- IX. **MIDDLETOWN, CONN.** founded from **ENNIS (1872)**
Meriden (1872)

Washington, D.C.
August 29, 1911

To our beloved Sisters of Mercy of Hartford, Meriden, and Middletown of the Diocese of Hartford, Connecticut, greetings in the Lord.

On the 25th of April of the present year 1911, His Lordship, Rt. Rev. John J. Nilan, Bishop of Hartford, expressed to us his desire of uniting into one family the three communities mentioned above, to the end that the interests of religious discipline might better safeguarded, especially in the training of novices, that a stronger community spirit might be developed, that a greater uniformity might be secured, that better results in the practical work of the communities might be obtained.

In a letter of April the 28th replying to the Bishop's request, we did not hesitate to express our pleasure at the prospect of such a union; but at the same time we reminded Bishop Nilan that before the issuing of a decree, the mind of the Sisters on so important a matter should be known. On July 24th, His Lordship assured us that he had submitted the projected union to the consideration of the Sisters, and obtained the almost unanimous consent of all who were entitled to vote in the various chapters of the communities involved, as also of those in the novitiate; and on the 21st instant he sent to this Apostolic Delegation the original documents containing the signatures of all those who are favorable to the union, who seem to form the great majority of those in interest.

Having, therefore, taken into serious consideration all the documents thus sent to this Apostolic Delegation, and trusting that this union of the sisters who profess the same rule will infuse a new spirit into the Institute, will give it greater strength and courage for the attainment of the sublime and holy end for which the Sisters of Mercy were instituted, and relying on the assistance of God, We

Decree

that the three communities of the Sisters of Mercy of Hartford, of Meriden, and of Middletown, Connecticut, are hereby united, and that henceforth they shall form only one religious family.

We further order that Mount Saint Joseph Convent of Mercy at Hartford, Connecticut, shall be the Mother-House, where the Superior shall reside; and that there shall be only one novitiate and that this shall be at the Mother-House. We likewise order that for the first term of three years, Sister Mary Fabian Kane of the Hartford Community shall be Mother Superior. The Assistant Superior, the Bursar, the Mistress of Novices, as well as the other the other officers and the Superiors of the various houses shall be elected according to the Rules of the Sisters of Mercy approved by the S.C. of the Propaganda for the Diocese of Dublin, Ireland, July 5, 1841, and in conformity with the "Guide" for the same approved by the Ordinary of the Diocese. We also enjoin that the aforesaid Rules and Constitutions shall be the only Rules and Constitutions of the institute.

This Decree is to be put into execution during the coming month of September.

+DIOMEDES FALCONIO,
APOSTOLIC DELEGATE

LEO

By the Grace of God and the Favor of the
Apostolic See
Bishop of Messene, Abbot-Ordinary of Belmont
and
Vicar-Apostolic of North Carolina

Very frequently during the 25 years of our Administration of the Vicariate Apostolic, petitions have been presented to us by the Sisterhood of Our Lady of Mercy, founded by Bishop England and approved by him for his extensive diocese, that some step be taken either to obtain Apostolic Confirmation for its Institute, or to unite it to the Order of Mercy, canonically approved by Pope Gregory XVI on July 5th 1841. Having at diverse times consulted Most Eminent Cardinals in the Curia, and well known Canonists, it became apparent that a papal confirmation could never be obtained for a religious institute, differing neither in name, nor in its object, not even in the monastic dress, from an order already existing in the Church and firmly established in all English speaking lands. Thereupon we beseeched the Holy See to graciously grant a union with the praise-worthy Order of Mercy, which petition was granted in a Session of the Congregation of Regulars on Dec. 5, 1912, and approved on the same day by Pope Pius X.

By virtue of this Apostolic Indult, we solemnly declare on this day, the Feast of Sts. Peter and Paul, in the year 1913 that the above mentioned Sisterhood, as existing in the State of North Carolina, and hitherto subject solely to us, is to be united to, and incorporated with the Religious Order of Our Lady of Mercy, and is to enjoy all rights and privileges pertaining to this Order. We further declare that the Holy Vows, whether triennial or perpetual, made to this date, by any of the Sisters of the aforesaid Community, are to have, actively and passively, the same force and effect, as though they had been made in the Order Our Lady of Mercy. Moreover, we designate the Convent of the Sacred Heart at Belmont, to be the Mother-House in the State of North Carolina, which is to enjoy the privilege of its own Canonical Novitiate. The Novices, already invested, are empowered in due time to make their own vows according to the Rules and Constitutions of the Sisters of Mercy, all other points of law having been observed. And finally we command that this decree shall have its full force juridical, from this day on, and that the Order of Our lady of Mercy is hereby canonically established within the territory ecclesiastically subject to us.

Leo Haid, O.S.B.,
+ Vic. Apos. Carol. Sept.
Abbas Ordinarius Belmont

Done at Belmont Abbey
on June 29, 1913

TRANSLATION OF THE DECREE CONFIRMING THE UNION OF
THE SISTERS OF MERCY OF LOS ANGELES-SAN DIEGO AND TUCSON¹

MOST HOLY FATHER,

The Sisters of Mercy living in the dioceses of San Francisco and Tucson in the United States of North America, humbly ask the faculty whereby they may be able to unite themselves with the Sisters of Mercy in the diocese of Monterey-Los Angeles. The Religious of both sides have already manifested almost unanimous agreement, nor is there lacking the permission of the respective Ordinaries.

And God...

By right of the faculties given by His Holiness, this Sacred Congregation for the Affairs of Religious Institutes, after consultation about the proposed matter with the most Reverend Ordinary of San Francisco, Tucson, Monterey-Los Angeles, has entrusted to the Most Reverend Ordinary of San Francisco the task of granting, in accordance with his judgment and conscience, the favor of this union as regards both persons and goods, observing, however, the prescriptions of law.

In good time the Constitutions (of this new union) are to be sent to the Sacred Congregation for revision.

Anything to the contrary notwithstanding.

Rome, 16 day of February 1922.

Prot. no. 8304/21

Valfré di Bonzo Teodoro
Prefect

Serafini D. Mauro
Secretary

¹ CONGREGATION FOR RELIGIOUS, Decree, prot. no. 8304/21, February 16, 1922, in ASMB. This translation by A. Sheridan is also contained in ASMB.



SEGRETARIA

1871

SACRA CONGREGAZIONE

DEI RELIGIOSI

N. 584/29

(Da ripetere nella risposta)

DECRETUM

Per plures Communitates Sororum a Misericordia ab invicem independentes in Statibus Foederatis Americae Septentrionalis degentes, sibi perspectum habent ut si inter se ita unirentur ut unum religiosum institutum efformaretur, facilius finem sibi proprium assequerentur, regularis disciplinae robur auferetur, atque uberiores fructus in christifideles profluerentur.

Quapropter, auditis prius prudentissimis viris, collatisque inter se consiliis, sequentes Communitates: Council Bluffs, in dioecesi Desmoinesensi; Cresson in dioecesi Altonensi; Dallas in dioecesi Scrantoniensi; Davenport in dioecesi eiusdem nominis; Denver in dioecesi Denverensi; Devil's Lake, in dioecesi Fargoensi; Fort Scott, in dioecesi Wichitensi; Gabriola, in dioecesi Ogdensburgensi; Grand Rapids, in dioecesi Grandormensi; Harrisburg, in dioecesi Harrisburgensi; Iowa City, in dioecesi eiusdem nominis; Jackson, in dioecesi Detroitensi; Janesville, in archidioecesi Milwaukiensi; Kansas City in dioecesi Kansanopolitana; Laredo, in dioecesi Corporis Christi; Macon, in dioecesi Savannahensi; Milwaukee, in archidioecesi Milwaukiensi; Mobile, in dioecesi Mobiliensi; Mt. Washington, in archidioecesi Baltimorensi; New Orleans in eadem dioecesi; Oklahoma in dioecesi Oklahomaensi; Omaha in eadem dioecesi Omahaensi; Otawa, in dioecesi Peoriensi; Pocatello in dioecesi Xylopolitana; Portland, in dioecesi Oregonensi; Savannah, in dioecesi

eiusdem nominis; Stanton in diocesi de Amarillo; Vicksburg in diocesi Natchetensi et Webster Groves in archidiocesi S. Ludovici, supplices S. Sedi porrexerunt preces, ex postulantes unionem personarum et bonorum.

Sacra haec Congregatio, mature re considerata, attentisque commendationis officiis tum Revmi Delegati Apostolici in Statibus Foederatis, tum locorum Antistitis, quibus interest, decrevit, prout praesentis Decreti tenore decernit, ut supra recensitas Communitates ita inter se unirentur ut unum efformaretur Religiosum Institutum, iuris quidem Pontificii, sub refimine unius Moderatricis Generalis.

Facultatem proinde tribuit Revmo Delegato Apostolico deveniendi ad praefatam unionem personarum et bonorum, salva natura, privilegiis, iuribus ac favoribus spiritualibus, quibus memoratae Communitates in praesentiarum gaudent.

Capitulum vero Generale convocetur, loco ac tempore ab ipso Delegato Apostolico determinatis, ad quod accedant Antistita unuscuiusque Communitatis cum duabus delegatis, electis ab omnibus sororibus degentibus in ipsa Communitate et in domibus filialibus, ad eligendam, per distincta scrutinia ac per absolute maiorem suffragiorum partem, Antistitam Generalem et Officiales Maiores. In ipso insuper Capitulo Generali discutatur ac statuatur quidquid regimen novi Instituti respiciat.

Contrariis quibuscumque non obstantibus.

Datum Roma- ex Secretaria S. Congregationis de Religiosis
die 1 martii 1929.

Alexius Henricus de Paul Leprieux
Praefectus

Vinc. La. Verna S. S.

EX SECRETARIA
SACRAE CONGREGATIONIS
DE RELIGIOSIS

EN

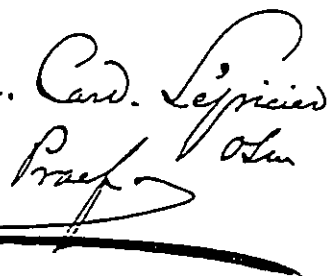
DECRETUM

Cum Communitas Sororum a Misericordia loci Red Bluff, California in dioecesi SSmi Sacramenti supplices S.Sedi porrexerit preces exostulans unionem personarum et bonorum cum Instituto v. "Sisters of Mercy of the Union", haec Sacra Congregatio, nature re considerata, attentisque considerationis officiis tum Excmi Delegati Apostolici in Statibus Foederatis, tum Excmi Ordinarii SSmi Sacramenti, decrevit, prout praesentis Decreti tenore decernit, ut supra recensita Communitas ita praefato Instituto uniretur ut unum efformaretur religiosum Institutum, iuris pontificii sub regimine unius Moderatricis Generalis.

Facultatem proinde tribuit Excmo Delegato Apostolico deveniendi ad praefatam unionem personarum et bonorum, salvis natura, privilegiis, iuribus ac favoribus spiritualibus, quibus memorata Communitas in praesentiarum gaudet.

Contrariis quibuscumque non obstantibus.

Datum Romae die 7 Februarii 1931.

Alexius H. M. Card. Lejrius
Praef. 

Prot. n. V. 131-1/85

The Superior General of the Congregation of the Sisters of Mercy of Worcester, Massachusetts, U.S.A., of Pontifical Right, with its Motherhouse in the diocese of Worcester, having received a majority of affirmative votes from the members of the Congregation, has petitioned the Holy See that her religious family be permitted to merge with the Union of the Sisters of Mercy in the United States of America.

This Congregation for Religious and for Secular Institutes, having carefully examined the matter and taking into consideration the favorable vote of the Congress, by this Decree grants permission for the fusion of the Congregation of the Sisters of Mercy of Worcester with the Union of the Sisters of Mercy in the United States of America.

Furthermore, all goods, both movable and immovable, as well as the rights and obligations of the Sisters of Mercy of Worcester, shall be duly ascribed to the Union.

All things to the contrary notwithstanding.

Given at Rome on April 24, 1936.

V. Fagolo
Recet.

J. Zeiner Carl. Kuerst
Ocul.

GOVERNANCE STRUCTURE: 1982 MODEL

PREAMBLE

The Sisters of Mercy, a religious community of women publically dedicated to the service of the poor, sick and ignorant, share the conviction that our bonds are rooted in God and that we strengthen and enable one another for mission. Because we also share a common heritage and a common vision as well as a common experience of contemporary realities, a new relationship has emerged among us, a relationship supported by the creation of the Institute of the Sisters of Mercy of the Americas. We believe that the Institute will promote and strengthen our charism and enable us to live out and share more effectively the Gospel message.

A. NAME: This organization, enjoys pontifical status, shall be known as the Institute of Sisters of Mercy of the Americas.

B. MEMBERSHIP

1. The Institute shall be comprised of the units formerly known as the provinces of the Sisters of Mercy of the Union and the other member congregations of the Federation of the Sisters of Mercy of the Americas.

2. Admission of new units which might be formed subsequently shall be the prerogative of the Institute Chapter.

3. Each unit shall be called a congregation.

C. CONGREGATIONAL LEVEL

1. Each congregation is a congregation of pontifical right. Within each congregation, authority is vested in its chapter and its major superior and council, governing in accordance with the *Core Constitution* and the particular law of the congregation.

2. Each congregational chapter has policy-making and executive authority subject to the *Core Constitution*, the acts of the Institute Chapter, policies of the Institute and the particular law of the congregation.

3. The major superior and council administer the policies and implement decision of the congregational chapter, thus continuing the tradition of the Sisters of Mercy which emphasizes the exercise of appropriate authority at the congregational level.

4. Any congregation may request the Executive Council to exercise authority proper to the congregation either in a particular situation or for a determined period of time.

D. INSTITUTE LEVEL

1. INSTITUTE CHAPTER

a. Definition: The Institute Chapter when in session, is the highest and most authoritative organ of governance in the Institute and the chief means whereby the Mercy charism may be fostered.

b. Purpose

1. The Chapter shall discern significant issues affecting the Sisters of Mercy and shall decide on the Institute directions in the light of the Mercy charism and its expression in contemporary society.

2. The Chapter shall call each congregation and every Sisters to a constantly renewed dedication to Gospel values.

c. Membership: The membership of the Institute Chapter is comprised of:

1) ex-officio members: The President, Executive Council and immediate past president of the Institute, and the major superior of each congregation;

2) three elected delegates from each congregation;

3) president-elect and councilors-elect of the Institute if they are not delegates

d. Meetings: The Institute Chapter shall be convoked

1) every five years at a time and place determined by the President and with the consent of the Executive Council;

2) within six months should the office of President become vacant;

3) as a special session when a majority of the members of the Institute Council judge it to be opportune.

e. Functions: The Institute Chapter shall

1) challenge the members to fidelity to our charism and mission, particularly as it is expressed in the *Core Constitution*;

2) promote on-going adaptation and renewal;

3) amend the *Core Constitution*;

4. develop goals and policies and enact legislation for matters of Institute-wide concern;

5 elect the President and Executive Council.

2. INSTITUTE COUNCIL

a. Definition: The President and Executive Council, together with the congregational major superiors, constitute the Institute Council.

b. Purpose:

1) The Institute Council promotes the unity of the Institute by involving the President and Executive Council and the major superiors of the congregations in a process of mutual consultation, discernment and decision making.

2) The Institute Council provides for the collaboration interpretation, development and implementation of the goals and policies of the Institute Chapter.

c. Meetings: The Institute Council shall meet

1) quarterly

2) at such other times as the President and Executive Council or a majority of the major superiors judge to be useful.

d. Functions: The Institute Council shall

1) insure implementation of Institute Chapter goals, statutes and policies;

2) conduct long-range planning of the Institute;

3) establish and review annual action and program priorities and set periodic programmatic goals;

4) determine congregational assessments and approve Institute budget;

5) when appropriate, reserve the right to authorize programs prior to their implementation;

6) respond to new needs and challenges in the interim between Institute Chapters;

7) fill vacancies on the Executive Council.

3. EXECUTIVE COUNCIL

a. Definition: The Executive Council is the primary focus of unity and source of leadership for the Institute between sessions of the Institute Chapter.

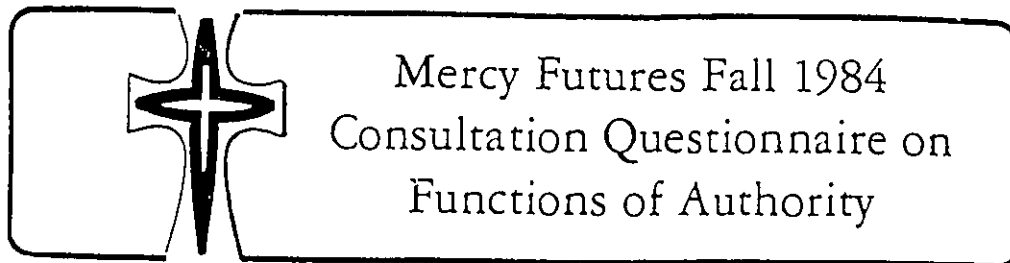
b. Purpose:

1) The Executive Council carries out policies formulated by the Institute Chapter and the Institute Council.

2) The Executive Council performs tasks delegated to it by the Institute Chapter or arising out of the consultation, discernment and decision-making of the Institute Council.

3) The Executive Council makes decisions according to the *Core Constitution* and norms laid down by the Institute Chapter.

- c. Membership: The Executive Council shall consist of
- 1) the President who is canonical head of the Institute;
 - 2) four councilors, the first of whom takes the place of the President when she is absent or unable to exercise her office.
- d. Functions:
- 1) President: The President shall, as major superior of the Institute,
 - (a) serve as its spiritual leader and promoter of unity;
 - (b) carry out appropriate administrative duties at the Institute level;
 - (c) with the deliberative vote of the Executive Council, respond to requests from legitimate authority within a congregation to exercise internal authority in a particular situation or for a determined period of time;
 - (d) convoke and preside at the Institute Chapter and at meetings of the Institute Council;
 - (e) report on the state of the Institute.
 - 2) Executive Council: The Executive Council shall:
 - (a) implement programs in accordance with Institute goals and established priorities;
 - (b) call all congregations to accountability for statutes, policies and procedures established by the Institute Chapter and Institute Council;
 - (c) implement decisions of the Institute Chapter and Institute Council
 - (d) conduct research and develop programs for proposal to the Institute Council;
 - (e) set administrative policy
 - (f) initiate special projects on behalf of the Institute;
 - (g) facilitate the sharing of material and human resources among the congregations;
 - (h) provide appropriate central services such as research, social issues development, communication, financial management and secretarial services;
 - (i) provide for consistent and effective representation of the Institute to various publics;
 - (j) participate in ecclesial and civic groups and organizations;
 - (k) prepare, implement and monitor the annual budget.



Mercy Futures Fall 1984 Consultation Questionnaire on Functions of Authority

FEDERATION OF THE SISTERS OF MERCY OF THE AMERICAS
EXECUTIVE OFFICE: 1437 BLOSSOM ROAD, ROCHESTER, NY 14610

INTRODUCTION

At the June 1984 Federation meeting, the Governing Board concentrated on the delineation of authority and the differentiation of roles within a new governance structure the shape of which is still evolving. This activity was in response to the Spring '84 consultation, including the telephone poll in which 64% of the Sisters responding asked that the clarification of authority be one of the "next steps" in the Mercy Futures Project.

You will recall Father Morrissey's comment that there is some latitude about the placement of government functions. This is the Governing Board's attempt to express their best judgment. The term central is used to identify the new Institute structure, the term unit to identify the congregations and provinces within the new structure.

The purpose of this questionnaire is to share the response of the Governing Board to some selected functions of governance and to elicit your opinions about those same functions. If possible, please view this videotape before completing this questionnaire. Place a ✓ in the column which most closely corresponds to your opinion. If you feel you do not have enough background to make an informed choice, please use the column uncertain.

1) The Governing Board unanimously agreed that responsibility for the following functions should be placed at the central locus of authority.

	agree strongly	agree	uncertain	disagree strongly	disagree
a. To determine the broad mission and works proper to the institute.					
b. To control and administer institute assets and finances.					
c. To approve institute budgets.					
d. To determine institute assessments and fees.					
e. To amend and interpret the constitutions.					

2) The Governing Board unanimously agreed that responsibility for the following functions should be placed at the unit locus of authority.

(Place a ✓ in the column which most closely corresponds to your opinion. If you feel you do not have enough background to make an informed choice, please use the column uncertain.)

	agree strongly	agree	uncertain	disagree strongly	disagree
a. To mission Sisters to specific ministries.					
b. To control and administer unit assets and finances.					
c. To approve unit budgets.					
d. To determine unit assets and finances.					
e. To determine which ministries are to be undertaken or relinquished.					
f. To represent the community to the dioceses served.					
g. To give individuals permission to administer or renounce temporal goods.					

3) The Governing Board unanimously agreed that responsibility for the following functions should be placed at both the central and the unit locus of authority.

(Place a ✓ in the column which most closely corresponds to your opinion. If you feel you do not have enough background to make an informed choice, please use the column uncertain.)

	agree strongly	agree	uncertain	disagree strongly	disagree
a. To promote unity and charity					
b. To give spiritual leadership					
c. To do long-range and strategic planning.					
d. To develop and implement policies.					
e. To implement Chapter decisions.					
f. To serve as an instance of appeal.					
g. To elect leaders.					
h. To convene and preside at Chapters.					

4) The following is a list of functions for which there was no unanimous agreement by the Governing Board about the placement of authority. Please indicate your preference by placing a ✓ in the appropriate column. If you do not feel you have enough background to make an informed choice, please use the column uncertain.

	Central	Unit	Both	Uncertain
a. To interpret the charism.				
b. To promote on-going adaptation and renewal.				
c. To make decisions at each step of the formation/ incorporation process.				
d. To dispense from perpetual vows.				
e. To provide for continuing formation of members.				
f. To promote the spiritual, psychological and physical well- being of the members.				
g. To permit a member to transfer to another institute or to admit a transfer.				
h. To grant excommunication.				
i. To readmit former members.				
j. To communicate with Rome on canonically required matters.				
k. To dismiss a perpetually professed member.				
l. To facilitate inter-unit sharing of resources.				

Please check the appropriate box

☐ I saw the videotape

☐ I did not see the videotape

Optional signature _____

Please return this questionnaire to your Mercy Futures Facilitator by November 20. The results will be compiled for each unit and then for the Federation.

Please use this space and/or a separate sheet of paper to write any comments you may wish to make.

MERCY FUTURES FALL 1984 CONSULTATION QUESTIONNAIRE
ON FUNCTIONS OF AUTHORITY

PROVINCES & CONGREGATIONS TOGETHER

QUESTION #1	agree strongly	agree	uncertain	disagree strongly	disagree
a. To determine the broad mission and works proper to the institute.	1616	1726	280	236	173
b. To control and administer institute assets and finances.	1334	1534	560	347	276
c. To approve institute budgets.	1289	1667	520	313	250
d. To determine institute assessments and fees.	1208	1655	590	319	249
e. To amend and interpret the constitutions.	1294	1496	605	330	302

QUESTION #2	agree strongly	agree	uncertain	disagree strongly	disagree
a. To mission Sisters to specific ministries.	2212	1382	230	100	133
b. To control and administer unit assets and finances.	2183	1474	240	66	72
c. To approve unit budgets.	2151	1583	227	54	48
d. To determine unit assets and finances.	2074	1499	309	64	64
e. To determine which ministries are to be undertaken or relinquished.	1906	1520	416	90	103
f. To represent the community to the dioceses served.	2006	1599	212	50	46
g. To give individuals permission to administer or renounce temporal goods.	1891	1521	432	83	88

QUESTION #3	agree strongly	agree	uncertain	disagree strongly	disagree
a. To promote unity and charity.	2806	1014	64	97	37
b. To give spiritual leadership.	2734	1035	95	98	51
c. To do long-range and strategic planning.	2331	1207	268	138	77
d. To develop and implement policies.	2119	1272	375	159	101
e. To implement Chapter decisions.	2114	1278	346	168	122
f. To serve as an instance of appeal.	1970	1235	548	152	104
g. To elect leaders.	2096	1296	301	177	146
h. To convoke and preside at Chapters.	2081	1298	401	160	121

QUESTION #4	Central	Unit	Both	Uncertain
a. To interpret the charism.	461	487	2883	219
b. To promote on-going adaptation and renewal.	307	619	2791	348
c. To make decisions at each step of the formation/ incorporation process.	291	1807	1399	487
d. To dispense from perpetual vows.	1043	1681	787	532
e. To provide for continuing formation of members.	299	1373	2171	146
f. To promote the spiritual, psychological and physical well-being of the members.	176	1486	2219	121
g. To permit a member to transfer to another institute or to admit a transfer.	829	1496	1360	345
h. To grant excommunication.	782	2183	683	382
i. To readmit former members.	623	2085	879	373
j. To communicate with Rome on canonically required matters.	1748	621	1388	266
k. To dismiss a perpetually professed member.	1028	1501	994	477
l. To facilitate inter-unit sharing of resources.	850	625	2095	403

RESULTS OF THE STRAW VOTE ON THE MERCY FUTURES PROJECT

On or near December 12, 1985 (Foundation Day of the Sisters of Mercy) each member congregation in the Federation conducted a straw vote of its membership to ascertain the degree of support for the proposed new institute.

Each sister was given a ballot on which appeared the following question:

"Do you wish your congregation to be part of the proposed new institute?"

Yes _____ No _____

She was also asked to indicate her profession category (i.e., years of profession).

The percent of affirmative votes in each congregation varied from a high of 97% to a low of 42%, with an overall average of 77%. More than 86% of the sisters professed 30 years or less responded in the affirmative, with percentages declining among older members.

Tabulations by congregation and by profession category appear below.

Table 1

	Total Sisters in Unit	Total Valid Ballots Cast	Response of Yes	Response of No	Percent of Yes Ballots Cast
Albany	232	218	187	31	86
Auburn	118	110	101	9	92
Baltimore	338	283	240	43	85
Belmont	155	146	98	48	67
Brooklyn	322	299	210	89	70
Buffalo	231	258	218	50	81
Burlingame	259	259	217	42	84
Burlington	118	105	44	61	42
Cedar Rapids	152	145	69	76	48
Chicago	529	311	302	9	97
Cincinnati	555	527	478	49	91
Detroit	411	314	278	36	89
Erie	129	111	59	52	53
New York	220	203	178	25	88
Omaha	399	371	318	53	86
Philadelphia	542	520	278	242	53
Pittsburgh	311	289	218	71	75
Plainfield	416	397	204	193	51
Portland	221	201	107	94	53
Providence	561	486	407	79	84
Rochester	258	253	159	94	63
St. Louis	517	459	403	56	88
Scranton	532	487	382	105	78
W. Hartford	379	328	279	49	85
Windham	271	229	194	35	85
Worcester	83	78	65	13	83
TOTALS	8,359	7,397	5,693	1,704	77

Note 1: Total number of valid ballots was determined by the number of Yes and No ballots. Abstentions were not included in this tally.

Note 2: Percentages were based on the number of valid ballots cast.

Table 2

Profession Category	Sisters in Federation	Valid Ballots Cast	Response of Yes	Response of No	Percent of Yes Ballots Cast
In. Form.	95	90	86	4	96
Temp. Com.	106	100	94	6	94
5 Years	159	141	128	13	91
6-15 Years	648	502	450	52	90
16-30 Years	2,225	1,837	1,616	271	86
31-45 Years	2,450	2,170	1,638	532	75
46+ Years	2,639	2,265	1,564	701	69
No Category	—	159	73	111	41
Totals	8,332	7,344	5,654	1,690	77

Note: There was some ambiguity in the use of profession categories. This resulted in a discrepancy between the total number of ballots cast when broken down by profession category and when broken down by total membership in the unit.

Table 3
Projected Timeline 86-87

January - June:

- Design the formats for the referendum and Chapter consideration.
- Edit the proposed model into constitutional format.
- Obtain canonical advice as needed for these designs.
- Continue congregational activity to clarify concerns related to the project.

June:

- Governing Board approves/disapproves formats for referendum, Chapter considerations and proposed model.
- Adjustments made in timeline, if necessary.

Fall/Winter:

- Consult CRIS on proposed formats and related questions.
- Governing Board schedules referenda and Chapter consideration on proposed model depending on response from CRIS.

PROPOSED GOVERNANCE STRUCTURE FOR
THE INSTITUTE OF THE SISTERS OF MERCY OF THE AMERICAS

PREAMBLE

The Sisters of Mercy, a religious community of women publically dedicated to the service of the poor, sick and ignorant, share the conviction that our bonds are rooted in God and that we strengthen and enable one another for mission. Because we also share a common heritage and a common vision, as well as a common experience of contemporary realities, a new relationship has emerged among us. We believe that this relationship is strengthened by adding to it a dimension of authority which will operate with shared responsibility. We believe that the Institute of the Sisters of Mercy of the Americas will promote and strengthen our charism and enable us to live out and share more effectively the Gospel message.

A. NAME: This religious institute of pontifical right, devoted to the works of the apostolate, shall be known as the Institute of the Sisters of Mercy of the Americas.

B. DIVISIONS: The Institute shall be comprised of the former provinces of the Sisters of Mercy of the Union and the other member congregations of the Federation of the Sisters of Mercy of the Americas.¹

C. INSTITUTE STRUCTURES

1. INSTITUTE CHAPTER

a. Definition: The Institute Chapter, comprised of ex-officio members and elected delegates is, while in session, the highest authority in the Institute and the principal means whereby the Mercy charism is fostered and evaluated. The Chapter clarifies and renews the vision of the Institute, determines priorities, and provides for appropriate adaptation, always in fidelity to the Mercy heritage.

b. Membership: The Institute Chapter is comprised of:

1) ex-officio members: the General Superior, hereafter called the President, the Institute Councilors and the immediate past President of the Institute, and the Major Superiors of each unit.

2) four delegates elected from each unit.

¹ Each of these units is canonically equivalent to a province.

c. Meetings:

1. The Institute Chapter shall be convoked every four years.
2. The time and place of the chapter shall be determined by the President with consent of her Council.
3. Should the office of President become vacant, the chapter shall be convoked immediately and held within six months.

d. Functions: The Institute Chapter shall:

- 1) articulate, evaluate, safeguard and promote the vision of the Institute, and give direction to the mission and the works proper to the Institute;
- 2) challenge the members to fidelity to the charism and mission of the Institute;
- 3) amend the Constitutions by a 2/3 majority vote, with the subsequent approval of the Holy See;
- 4) amend the Institute Directory;
- 5) foster appropriate renewal within the Institute;
- 6) develop goals and policies and enact legislation for the Institute;
- 7) elect the President and Council.

2. INSTITUTE LEADERSHIP CONFERENCE

a. Definition: the President and Council together with the Major Superiors of the units constitute the Institute Leadership Conference. The Conference provides for the collaborative development and implementation of the goals and policies of the Institute Chapters, in order to foster the unity and life of the Institute. To accomplish its functions, the members engaged in consultation, discernment and decision-making.

b. Meetings: The Institute Leadership Conference shall meet:

- 1) at least twice a year;
- 2) at such other times as the President and Council or a majority of the unit Major Superiors judge to be useful.

c. Functions: The Institute Leadership Conferences shall:

- 1) promote appropriate adaptation and renewal in collaboration with the President and Council;
- 2) do long range and strategic planning;
- 3) give consultation to the President and Council in determining formulas for assessments and fees;
- 4) facilitate unit cooperation, collaboration, and sharing of resources;
- 5) review and make recommendations concerning the Institute budget;
6. respond to new needs and challenges in the interim between Institute Chapters.

3. PRESIDENT AND COUNCIL

a. DEFINITION: The President and four Councilors provide the primary focus of unity and the focus of leadership for the Institute.

b. Membership:

- 1) the President who is canonical head of the Institute;
- 2) four Councilors, the first of whom takes the place of the President when she is absent or unable to exercise her office.

c. Term: four years renewable once.

d. Vacancies:

1) President: the First Councilor assumes responsibility and must convoke a Chapter immediately, to be held within six months.

2) Councilors: The President must appoint a replacement with the consent of the Council and in consultation with the Institute Leadership Conference.

e. Functions:

- 1) The President shall:
 - a. serve as the spiritual head of the Institute and the chief promoter of union and charity;
 - b. act in behalf of the Institute in those matters specified by the law of the Church and that of the Institute;
 - c. represent the Institute to the Apostolic See and to ecclesial and civic publics;
 - d. convoke and preside at Institute Chapters.

2) The President and Council shall:²

- a. give practical interpretation of the Constitutions;
- b. give practical interpretation of the charism of the Institute and promote appropriate adaptation and renewal;
- c. administer Institute assets and approve Institute budgets;
- d. develop Institute policies and implement decisions of the Institute Chapter;
- e. appoint the Institute Secretary and Treasurer;
- f. provide appropriate central services such as record keeping, communications, financial management and secretarial services.

D. UNIT STRUCTURES

² In the Institute Constitutions, there will need to be a list of matters in which the President needs consent of her Council for validity of action.

1. Within each unit, authority is vested in its Chapter and its Major Superior, governing with her Council in accordance with Church law, the Institute Constitutions, and the unit's government plan.

2. Each unit chapter has policy-making authority subject to Church law, the Institute Constitutions, the acts of the Institute Chapter, appropriate policies of the Institute and the unit's government plan. The unit chapter shall determine the specifics of the unit government structure, incorporating the principal common elements contained in the Institute Constitutions. Furthermore the chapter shall:

- a. Challenge the unit to fidelity to charism and mission;
- b. Foster appropriate renewal within the unit, in accord with the spiritual heritage of the Institute;
- c. Amend the particular law of the unit;
- d. Plan, set goals, and determine policies for the unit;
- e. Determine the process by which the unit elects its leadership;
- f. Determine the process for election of delegates to the Institute Chapter; and
- g. Make recommendations to the Institute Chapter on behalf of the unit.

3. The Major Superior exercises personal authority according to Church law, the Institute Constitutions and the unit government plan; her responsibilities include:

- a. Serving as spiritual leader and promoter of unity;
- b. Representing the unit to ecclesial and civic publics;
- c. Participating in the Institute Leadership Conference; and
- d. Convoking and presiding at the unit's chapter.

4. The Major Superior and her Council administers the policies and implements the decisions of the unit Chapter. Maintaining accountability as called for by the Constitutions and in accord with the unit's government plan, they shall be responsible within the unit for:

- a. Promotion of appropriate adaptation and renewal according to the charism of the Institute;
 - b. Formation, community life, and ongoing development of membership within the unit;
 - c. Administration of the unit's assets and approval of the unit's budget;
 - d. Ministries and the missioning of sisters within the unit;
 - e. All appropriate legal and corporate functions of the unit;
- and
- f. Long-range and strategic planning.

MEMBERSHIP IN THE CONGREGATIONS OF THE FEDERATION
 AS OF JANUARY, 1987

Albany, NY	224	St. Johns, Newfoundland	215
Auburn, CA	115	West Hartford, CT	363
Belmont, NC	154	Windham, NH	261
Brooklyn, NY	311	Worcester, MA	79
Buffalo, NY	274	<u>Provinces of the Union:</u>	
Burlingame, CA	284	Baltimore, MD,	330
Burlington, VT	114	Chicago, IL	515
Cedar Rapids, IA	150	Cincinnati, OH	545
Erie, PA	123	Detroit, MI	400
North Plainfield, NJ	416	Dobbs Ferry, NY	224
Philadelphia, PA	520	Omaha, NE	394
Pittsburgh, PA	298	Providence, RI	536
Portland, ME	216	Scranton, PA	492
Rochester, NY	260	St. Louis, MO	522

TOTAL NUMBER OF SISTERS: 8,335



CONGREGATIO
PRO RELIGIOSIS
ET INSTITUTIS SAECULARIBUS

Rome, March 1, 1988.

Prot. n. B 220-1/86

Dear Sister Rita,

This Congregation for Religious and for Secular Institutes has completed its third congresso on the request presented by the Federation of the Sisters of Mercy of the Americas on February 2, 1987, 'to take steps leading to possible unification into a single institute'. We have noted that this is not the actual petition for the recognition of a new institute but rather a putting before this Congregation of the process proposed in order to arrive at a petition. Your own letter of February 2, 1987, the visits of representatives of the Mercy Futures Project and of the Federation to this office, the consultation of many Bishops in the United States, and our own long discussions in the three congressi on your request have clarified both the advantages and the inherent difficulties of your proposal and of the process which you suggest.

After weighing carefully the information available at this point, this Congregation for Religious and for Secular Institutes at its congresso on February 26, 1988, agreed that the Federation is free to move ahead according to the process which has been suggested: that is

1. a written consultation of all the Sisters in each autonomous institute to serve as information and to give a feel to subsequent general chapters;
2. the celebration of a general chapter in each autonomous institute for the purpose of a corporate expression with regard to the project; these chapters may be the ordinary general chapter of the institute if one is due, or an extraordinary chapter convoked for the occasion; in either case the ex officio members will be according to the presently approved constitutions of each institute, and new delegates will be elected;
3. in institutes where the general chapter has voted by not less than a two-thirds majority in favour of the project, a referendum will be held involving all the Sisters individually; the results of this referendum must account for all the Sisters in the institute and there must be a majority of more than 80% in favour for the institute to request participation in the forming of the new entity;
4. presently autonomous institutes which have a majority of at least two-thirds of the general chapter and over 80% of the referendum in favour, will present their formal petition to the Holy See.

(Enclosure)

Sister Rita Powell, S.M.
President
Federation of the Sisters of Mercy
of the Americas

- 2 -

In connection with the process, we would note that for the consultation of the Sisters and for the referendum, where this is held, the form-sheet worked out at the meetings on January 18-19, 1988, will be used. A copy of this form-sheet is enclosed. In the referendum, all the Sisters of each institute should express themselves, an abstention being virtually the equivalent of a negative response. The total results should equal the number of Sisters in the institute.

Each general chapter which votes by a two-thirds majority in favour of the project should also make its own concrete study of the provisions to be made for the Sisters of its own institute who, at the referendum, do not vote in favour. This is a most important question, and the proposals made by each general chapter in its regard should be concrete and well documented. They should be sent with the referendum results and the petition to the Holy See.

In connection with the communication of results to the Holy See, we ask that all results be sent, even of those institutes which do not vote to be part of the new entity. This is so as to have a better picture of the over-all scene and to be able to help more effectively in questions which might arise later. The actual petitions for the formation of a new institute will be made on an individual basis by the presently autonomous institutes who may vote for it with the required majorities.

Only when we have received the formal and documented requests for the setting up of the new institute will the petition become concrete for this Congregation for Religious and for Secular Institutes. At that point we will need to have from each petitioning institute certain required documentation. This includes: the statistics of the institute by numbers and by age; the analysis of the chapter and referendum voting; the proposals made for Sisters who do not accept the project; the financial state of the institute including all assets and debts; the list of houses composing the institute and their ministry; a letter from the Superior General making the petition with the consent of her council; the nihil obstat of the Bishop concerned if the institute, though of pontifical right, is spread in only one or few dioceses.

This Congregation will receive the petitions on an institute by institute basis and will, of course, remain free in its decisions.

Underlying the immediate question of juridical and structural unity is the much deeper one of moral and spiritual union which the juridical structure only reflects. The goal of the proposed institute is a deeper and fuller religious life for the Sisters and a more effective service of the Church in mission. It is important, therefore, to proceed peacefully under the light of the Holy Spirit. Sisters should reflect without pressure. Chapters and referenda should be celebrated without haste and in prayerful search for God's will. This Congregation would like it to be clear that, while accepting responsibility for decisions once documented

- 3 -

requests come in, it respects the freedom of individual institutes either to meet now the requirements to form a new institute, or to need more time to arrive at a decision, or to choose to retain their present autonomous status. In similar situations we have precedents for all three alternatives.

Because of the importance of moral and spiritual unity which grows slowly but is essential for the Sisters' happiness in a change such as this, we strongly recommend a quietly - paced approach with ample time to internalise values and to reflect on the significance of each step. For example, there should be adequate time to prepare for the general chapters and again adequate time between the chapters and the referendum. While understanding the natural desire of the Sisters to bring a long process to closure, we cannot insist too strongly on the continuing need for individual and corporate reflection.

We ask you to communicate this letter to all the communities of the Federation, Sister, as its contents affect all the Sisters. We pray that the Holy Spirit will accompany each one as the process moves forward, and we are willing to help in any way that may prove necessary.

With every good wish and the prayer that the Lord will bless you and all the Sisters with his unity and peace, I remain,

Yours sincerely in Christ,

+ *V. J. J. J. J.*
mc.

REFERENDUM/WRITTEN CONSULTATION RESULTS
April 9-17, 1988

UNIT	Profesd Sisters	Sisters Eligible	# Yes	% Yes	# No	% No	# Abs	% Abs	# Inv	% Inv
Albany	223	215	208	97	5	2	2	1	-	-
Auburn	111	107	102	95	2	2	3	3	-	-
Belmont	150	145	106	73	38	26	1	1	-	-
Brooklyn	308	304	232	76.3	70	23	2	0.7	-	-
Buffalo	259	242	222	92	18	7	2	1	-	-
Burgame	270	260	247	95	12	4.6	1	0.4	-	-
Burgton	113	110	80	73	29	26	1	1	-	-
CedRaps	147	147	113	77	32	22	2	1	-	-
Erie	119	105	85	81	19	18	1	1	-	-
Merion	526	507	241	47.5	263	51.7	2	0.4	1	0.2
Pittsgh	286	273	249	91.2	23	8.4	1	0.4	-	-
Planfld	399	378	207	54.8	165	43.6	4	1	2	0.5
Portlnd	207	191	105	55	86	45	-	-	-	-
Rochstr	254	247	165	67	82	33	-	-	-	-
Union	3859	3701	3460	93.5	198	5.3	41	1.1	2	0.1
Baltmre	316	299	273	91	17	6	9	3	-	-
Chicago	499	479	463	96.6	14	3	2	0.4	-	-
Cincatl	527	507	495	97.6	10	2	1	0.2	1	0.2
Detroit	377	359	339	95	14	4	6	1	-	-
N.York	288	277	254	91.7	19	6.9	4	1.4	-	-
Omaha	375	359	327	91.6	29	8.1	-	-	1	0.3
Provdnc	511	489	429	87.7	50	10.2	10	2	-	-
S.Louis	472	456	438	96	16	3.5	2	0.4	-	-
Scrantn	494	476	440	92.4	29	6.1	7	1.5	-	-
WHartfd	352	334	307	92	24	7	3	1	-	-
Windham	251	242	198	81.8	39	16.1	4	1.7	1	0.4
TOTAL	7834	7508	6327	84.27%	1105	14.71%	70	.93%	6	.07%

PERCENTAGES OF AFFIRMATIVE VOTES IN GENERAL CHAPTERS

Albany 99.3%
Auburn 100%
Belmont 100%
Brooklyn 100%
Buffalo 100%
Burlingame 100%
Burlington 78.3%
Cedar Rapids 85%
Erie 86%
Merion 69.7%
Pittsburgh 100%
Plainfield 70%
Portland 69%
Rochester 67.7%
Union 100%
West Hartford 97.8%
Windham 92%

RESULTS OF "REFERENDUM AFTER CHAPTER"
September 1-15, 1988

UNIT	Professed Sisters	Sisters Eligible	# Yes	% Yes
Albany	219	212	212	100
Auburn	111	106	105	99
Belmont	150	145	145	100
Brooklyn	304	301	301	100
Buffalo	260	246	246	100
Burlingame	269	256	255	99.6
Burlington	110	106	104	96.2
Cedar Rapids	145	145	140	97
Erie	118	106	104	98
Merion	523	498	497	99.8
Pittsburgh	284	272	271	99.6
Plainfield	397	376	366	97.3
Portland	200	187	142	76
Rochester	252	245	234	94.7
Union	3782	3634	3610	98.6
Baltimore	313	296	291	98.3
Chicago	488	467	462	98.9
Cincinnati	517	497	495	99.6
Detroit	371	357	352	98.6
New York	282	271	270	99.6
Omaha	366	351	331	94.3
Providence	497	479	474	99
St. Louis	464	445	442	99.3
Scranton	484	471	469	99.6
West Hartford	348	327	323	98.8
Windham	248	240	222	92.5



CONGREGAZIONE
PER GLI ISTITUTI DI VITA CONSACRATA
E LE SOCIETÀ DI VITA APOSTOLICA

Rome, 18 January, 1990

Prot. n. B 220-1/86

Dear Sister Helen,

Since receiving the formal petitions for the formation of a new Mercy Institute, presented through the Federation of the Sisters of Mercy of the Americas, October 7, 1988, this Congregation for Institutes of Consecrated Life and Societies of Apostolic Life has been involved in a two-fold study in preparation of a response. The first aspect of this study was of the documentation presented by each of the seventeen member institutes to determine which qualified to become founding members of the proposed new institute. The second aspect of the study was regarding a process and assisting personnel for the implementation of the new institute.

With regard to the first area, an affirmative decision has been made for the establishment of a new Institute, with fourteen founding congregations. These Congregations are: Albany, Auburn, Belmont, Brooklyn, Buffalo, Burlington, Burlington, Cedar Rapids, Erie, Hartford, Pittsburgh, Rochester, Windham and the Union. The other three Superiors General have been sent letters explaining their particular situations.

Because experience has shown the value of objective, outside assistance in implementing so complex a process as this, this Congregation has named three Assistants who will serve as Delegates of the Holy See during the transition process. These persons, and the particular areas of expertise for which they were selected, are the following:

Sr. Elizabeth McDonough, OP - Chairperson, canonist
Br. Peter Campbell, CFX - financial, civil law expertise
Sr. Bette Moslander, CSJ - general chapter experience

This team of Assistants has been given the following mandate:

1. acting as the interim authority for the fourteen founding congregations from the promulgation of the decree of erection of the new institute until

Sister Helen Amos, RSM
President
Mercy Center Washington
Silver Spring, Maryland 20910

U.S.A.

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- 2 -

the election of a superior general and council at its first general chapter;

2. presenting to this Congregation for Institutes of Consecrated Life and Societies of Apostolic Life for the decree of approval the presently approved Core Constitutions completed by the constitutional appendices already indicated and by any other amendments required by the new situation;

3. convoking and preparing the first general chapter with the assistance of a committee composed of the superiors general of each of the fourteen founding congregations;

4. presiding the general chapter until the election of a superior general;

5. overseeing the financial arrangements involved in the fusion;

6. ensuring that the individual congregations make proper provision for the Sisters who may finally refuse to join the new institute;

7. accompanying the new institute as consultants for some time after the first general chapter, as experience in similar cases of fusion shows that tensions regarding mobility, missioning, finance and operation of structures do not always show up at once.

Letters are being sent to all concerned simultaneously. When all have been notified, it will be the primary responsibility of Sr. Elizabeth McDonough to convene the Assistants and to be in contact with the fourteen founding congregations.

While the formal approval for the erection of the new institute is given with these letters, the actual Decree of Erection will be issued later, but prior to the General Chapter. Since the erection of the new institute simultaneously effects the suppression of the founding congregations as autonomous units, we wish to minimize the interval and probable cases in which the "interim acting authority" would have to act in place of the previous major superiors.

Since it is customary to include the approval of a new institute's constitutions with the same Decree of Erection, priority should be given to work toward the completion of that text, already approved in substance as the "Core Constitutions". Since this text is no longer intended as a common core document for several autonomous congregations, the previous references to the elaboration of constitutional appendices are no longer applicable. Rather the single

- 3 -

constitutional text for the new institute should be completed according to the congress observations previously sent, and with any adaptations the new situation may require. The Assistants will be working with you toward this end. Since we have been informed that the previously used title: "The Sisters of Mercy of the Americas" is not entirely appropriate, we hope that with the presentation of the completed constitutional text, the desired title for the new institute can be made clear.

We are aware that you and the sisters of your Congregation have waited long and patiently for some word of response regarding the new institute. It is our hope and prayer now that both the decision and the process of implementation may be received in a spirit of peace and collaboration. In this way the transition to the new institute can be effected as smoothly as possible, and for the spiritual benefit of the sisters and the many people served by the Sisters of Mercy.

While there is, understandably, an urgent desire to move forward, we encourage both you and the Assistants, to take the amount of time necessary to move the process forward harmoniously and in a way which is clearly understood by all concerned. We stand ready to be of assistance as needed, and will expect to be kept apprised of the plans and progress by the Assistants.

May we ask also, Sister, that you communicate to the Bishop who wrote on your behalf during the consultation process, the decision which has been made regarding the new institute and your participation in it.

With the assurance of prayer for you and each member of your congregation during this time of transition, I remain

Devotedly in Christ,

J. Thomas Cms. Harman
Sup.

+ *R. P. Jago*
Sec.



CONGREGATIO
PRO INSTITUTIS VITAE CONSECRATAE
ET SOCIETATIBUS VITAE APOSTOLICAE

Rome, May 31, 1991.

Prot. n. DD 2251-1/91

Your Excellency,

This Congregation for Institutes of Consecrated Life and Societies of Apostolic Life has carefully studied your petition to erect a new religious institute of diocesan right, in accordance with canon 579. Likewise, we have studied the petition of the Sisters, the financial agreement and all of the documentation provided.

Taking into consideration the particular situation described, and the motives which have been set forth, with this letter, we grant the requested nihil obstat to erect the group of twelve Sisters named, as a religious institute to be known as the Diocesan Sisters of Mercy of Portland. These Sisters remain in the same condition of religious profession in which they are now. As noted, they will observe the Constitutions previously approved by this Congregation, but now approved by Your Excellency for these Sisters with the revisions required for their status as a Diocesan Institute.

We have no objections to the financial arrangements which have been set forth as an agreement between the Sisters of Mercy of Portland and the Diocesan Group, and to which you have given your concurrence. These matters will, of course, be carried out in accordance with civil and canon law.

We understand the motives which have been set forth in favor of this Institute being approved prior to the formal establishment of the Sisters of Mercy of the Americas. We have no objection to immediate implementation of the financial arrangements, or to the Sister's move to a house of their own as soon as reasonably possible. However, we would like to suggest

His Excellency
Most Reverend Joseph J. Gerry, O.S.B.
Bishop of Portland
P.O. Box 6750
Portland, Maine 04101

U.S.A.

./.



DIOCESE OF PORTLAND
THE BISHOP'S OFFICE
510 OCEAN AVENUE
PO BOX 6740
PORTLAND, MAINE 04111

DECREE

TO: Sister Eunice J. Boyd, R.S.M.
Sister Elizabeth Ann Cobb, R.S.M.
Sister Mary Carmelita Coyne, R.S.M.
Sister Elizabeth Ann Dorsey, R.S.M.
Sister Mary Bernadette Hayden, R.S.M.
Sister Karen Sue Hopkins, R.S.M.
Sister Mary Leone Kelley, R.S.M.
Sister Carol A. Le Tourneau, R.S.M.
Sister Mary De La Salle O'Donnell, R.S.M.
Sister Mary B. O'Donnell, R.S.M.
Sister Maria Cabrini Pulsoni, R.S.M.
Sister Mary James Shaw, R.S.M.

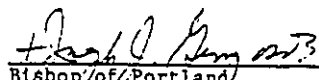
I have carefully considered your petition of March 5, 1991. In view of the reasons you have set forth in your petition, for the good of your living of the religious life, for the good of religious life in this Diocese, and having received the nihil obstat of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, dated May 31, 1991, I grant your petition and decree that you are hereby erected as a religious institute of diocesan right, in accord with canon 579, to be known as the Diocesan Sisters of Mercy of Portland.

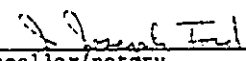
You will note in the letter from the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life that they acknowledge your intent to observe the constitutions, as the proper law of this institute, which I now approve with the revisions we previously made so that they coincide with your status as an institute of diocesan right.

I direct you to carry out the various prescriptions of the letter of the congregation. I will set the date for the convocation of a chapter to elect your general government and make other necessary decisions after consultation with you.

This decree is effective on July 20, 1991.

Given at Portland, Maine on the eighteenth day of June, in the year of our Lord nineteen-hundred and ninety-one.


Bishop of Portland


Chancellor/Notary



CONGREGATIO
PRO INSTITUTIS VITAE CONSECRATAE
ET SOCIETATIBUS VITAE APOSTOLICAE

Prot. n. B 220-1/86

D E C R E E

Having consulted all the members of their respective Congregations and having received a majority of affirmative votes, the Superiors of the seventeen autonomous Congregations of Pontifical Right of Sisters of Mercy of Albany, New York; Auburn, California; Belmont, North Carolina; Brooklyn, New York; Buffalo, New York; Burlingame, California; Burlington, Vermont; Cedar Rapids, Iowa; Erie, Pennsylvania; West Hartford, Connecticut; Merion Station, Pennsylvania; Pittsburgh, Pennsylvania; Plainfield-Watchung, New Jersey; Portland, Maine; Rochester, New York; Windham, New Hampshire, and of the Union with its nine provinces: Baltimore, Chicago, Cincinnati, Detroit, New York, Omaha, Providence, Saint Louis and Scranton, have petitioned the Holy See to form a single Institute, the Sisters of Mercy of the Americas.

This Congregation for Institutes of Consecrated Life and Societies of Apostolic Life has carefully considered these requests to form a single Institute and, having heard the respective Diocesan Bishops, by this Decree grants the permission for the above-mentioned Institute, effective upon the formal convening of the First General Chapter, July 20, 1991.

All of the Sisters who form part of the Sisters of Mercy of the Americas remain in the same condition of religious profession in which they are now. Similarly the Major Superiors of the sixteen autonomous Congregations and of the nine provinces of the Union remain the legal representatives of their respective units in accordance with applicable canon and civil law.

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