

THE LEGAL STATUS
OF
MISSION STATIONS

An Historical Synopsis and Canonical Commentary

by

Rev. John P. Kelly,

Priest of the Scarboro Foreign Mission Society

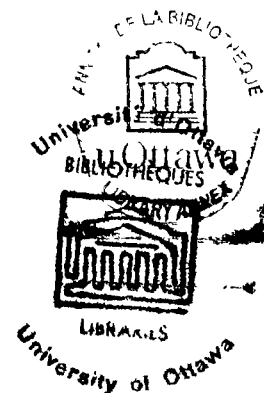
A DISSERTATION

Submitted to the Faculty of the School of Canon Law
of the University of Ottawa in Partial
Fulfilment of the Requirements for
the Degree of Doctor of Canon Law

The University of Ottawa

Ottawa

1953



UMI Number: DC53621

INFORMATION TO USERS

The quality of this reproduction is dependent upon the quality of the copy submitted. Broken or indistinct print, colored or poor quality illustrations and photographs, print bleed-through, substandard margins, and improper alignment can adversely affect reproduction.

In the unlikely event that the author did not send a complete manuscript and there are missing pages, these will be noted. Also, if unauthorized copyright material had to be removed, a note will indicate the deletion.



UMI Microform DC53621
Copyright 2011 by ProQuest LLC
All rights reserved. This microform edition is protected against
unauthorized copying under Title 17, United States Code.

ProQuest LLC
789 East Eisenhower Parkway
P.O. Box 1346
Ann Arbor, MI 48106-1346

To

Rev. Arthur Venedam, Paul Kam and Stephen Mo

who, in prisons and in chain gangs,

manifest their Faith.

FOREWORD

The field of mission law has been comparatively unexplored. A case in point is the law regarding mission stations. These are a purely mission institution and may not be established in diocese under the Consistorial. Thus subsidiary churches in parishes which have sometimes been called missions or parts of these dioceses which de facto have been left without parochial divisions do not enter into the discussion here. Nor is this dissertation concerned directly with christianities or the groups of the faithful that have been established in the missions by the authority of the Ordinary. There are three stages in the organization of a district in a mission diocese or quasi-diocese. The first and fundamental one is the forming of those who have been baptized into groups, known as christianities. The second is the mission station or a division of territory similar to parishes with its own Rector. Lastly is the parish or quasi-parish. It is with this second stage that this dissertation is concerned.

Under different names these or similar institutions have existed from very early times. While much has been written about these in discussing the development of

parishes in Europe, comparatively little has been said of their growth in the missions in modern times. The development in these latter and the state of the law concerning them at the present time is the object of this work.

The greatest development took place during the nineteenth century. Their nature was clearly defined, their purpose and legal status established. Thus, there is a natural division between the earlier beginnings before the nineteenth century and the full organization of the law during this period. In this historical development, the logical order will be followed more than is usual in such a work. This will be done for the sake of clarity since the number of documents regarding different points would make a purely chronological analysis difficult to understand.

Since the Code there has been some doubt regarding the nature of these stations and their legal standing. It is hoped that this work will clarify some of these points and thus be of help to missionaries in the conversion of their people.

The writer wishes to express his gratitude to His Excellency the Most Reverend K. R. Turner, D.D., Bishop of Lishui and the Very Reverend T. McQuaid, Superior General

of the Scarboro Foreign Mission Society for the opportunity to pursue advanced studies. He is also genuinely grateful for the guidance given him by the members of the Faculty of the School of Canon Law at the University of Ottawa and in particular to the Rev. Paul-Henri Lafontaine, O.M.I., A.B., S.T.L., J.C.D., D.U.P., for his invaluable assistance.

TABLE OF CONTENTS

	Page
FOREWORD.....	II
ABBREVIATIONS.....	V
PRELIMINARY NOTIONS.....	1
The Meaning of Mission.....	1
Derivatives.....	4
PART I - HISTORICAL SYNOPSIS	
CHAPTER I. FROM THE FIFTEENTH CENTURY TO THE BEGIN-	
NING OF THE NINETEENTH.....	11
ARTICLE 1: FROM THE FIFTEENTH CENTURY TO 1622.....	11
General Idea of Patronage.....	12
The Development of Mission Stations	
Under Patronage.....	17
Conclusions.....	22
ARTICLE 2: THE FOUNDING OF THE PROPAGANDA (1622) AND	
THE EXTENT OF ITS JURISDICTION.....	24
The Founding of the Propaganda and the	
Extension of its Jurisdiction.....	25
The Relation of Religious Mission	
Stations to the Propaganda and its	
Vicars.....	26
Conclusions.....	33

TABLE OF CONTENTS

VI

	Page
ARTICLE 3: CANONICAL INSTITUTION, 1622 TO THE BEGINNING OF THE NINETEENTH CENTURY.....	34
The Territorial Limits of Mission Stations.....	34
The Appointment, Transfer and Removal of the Rectors of Mission Stations.....	38
The Status and Jurisdiction of Rectors of Mission Stations.....	41
The Obligation of Residence.....	43
The Administration of Mission Stations....	44
Conclusions.....	46
CHAPTER II. FROM THE BEGINNING OF THE NINETEENTH CENTURY TO THE CODE.....	47
ARTICLE 1: THE ELEMENTS OF MISSION STATIONS.....	48
The Purpose of Mission Stations.....	48
Territorial Limits.....	50
The Church or Chapel.....	51
The Rector.....	52
The People.....	60
Moral Personality.....	62
The Lack of Parochial Status.....	63
Conclusions.....	65

TABLE OF CONTENTS

VII

Page

ARTICLE 2: SPECIAL FEATURES OF SOME MISSION STATIONS..	66
The Irremovable Rector.....	66
Quasi-Benefices.....	68
Conclusions.....	70
ARTICLE 3: THE ERECTION, DIVISION AND DISMEMBRATION OF MISSION STATIONS.....	71
CONCLUSIONS.....	74

PART II - CANONICAL COMMENTARY

CHAPTER III. THE ELEMENTS OF MISSION STATIONS.....	79
ARTICLE 1: IN GENERAL.....	79
The Present Law.....	79
Opinions of Authors.....	81
ARTICLE 2: TERRITORIAL DIVISION.....	83
The Necessity of Territorial Division....	84
The Nature of the Territorial Division of Mission Stations.....	90
The Territories Which may be Divided Into Mission Stations.....	95
Mission Stations Established for Diffe- rent Languages and Tribes.....	99

TABLE OF CONTENTS

VIII

	Page
ARTICLE 3: THE CHURCH OR CHAPEL.....	101
The Necessity of a Church or Chapel.....	101
Many Mission Chapels are not Churches or Oratories.....	104
Status of these Chapels.....	106
Subsidiary Churches and Chapels.....	111
ARTICLE 4: THE RECTOR.....	113
The Care of Souls.....	113
The Administration of Temporalities.....	121
Appointment and Removal of the Rector....	124
ARTICLE 5: THE PEOPLE.....	128
The Necessity of Having Faithful in a Mission Station.....	128
The Manner in Which the Faithful are Attached to Mission Stations.....	130
ARTICLE 6: MORAL PERSONALITY.....	133
Moral Persons by Law.....	134
Mission Stations are Moral Persons by Law.....	135
ARTICLE 7: CONCLUSIONS.....	143

TABLE OF CONTENTS

IX

	Page
CHAPTER IV. THE ERECTION OF MISSION STATIONS.....	146
ARTICLE 1: THE OBLIGATION OF ERECTING MISSION STATIONS.....	146
The Obligation of Erecting Parishes and Quasi-Parishes.....	147
Reasons for not Erecting Parishes and Quasi-parishes.....	150
The Obligation of Erecting Mission Stations.....	162
ARTICLE 2: THE COMPETENT AUTHORITY.....	166
The Roman Pontiff.....	166
The Sacred Congregation of the Propaga- tion of the Faith.....	167
The Nuntio or Delegate.....	168
The Bishop, Vicar and Prefect Apostolic, Superior of a Mission <u>Sui Iuris</u>	169
The Vicar General, Vicar and Prefect Delegate, Superior Delegate.....	170
The Vicar Capitular.....	173
The Pro-vicar, Pro-prefect, Pro-superior.	174
Those Whom the Ordinary Should Consult...	175
ARTICLE 3: THE DECREE OF ERECTION.....	180

TABLE OF CONTENTS

X

	Page
ARTICLE 4: CONCLUSIONS.....	187
CHAPTER V. VARIATIONS IN MISSION STATIONS.....	189
ARTICLE 1: MISSION STATIONS COMMITTED TO RELIGIOUS....	189
Status of Mission Stations Committed to Religious.....	189
The Appointment and Transfer of the Rector.....	194
Penalties and Removal.....	197
ARTICLE 2: RELIGIOUS STATIONS UNITED <u>PLENO IURE</u> TO RELIGIOUS.....	200
Nature of the Union.....	202
Temporal Effects of the Union.....	203
Spiritual Effects of the Union.....	204
ARTICLE 3: MISSION STATIONS ERECTED AS BENEFICES.....	206
Mission Stations as Benefices.....	207
ARTICLE 4: UNIONS, TRANSLATIONS, DISMEMBRATIONS, DIVISIONS.....	213
Unions.....	215
Translations.....	217
Dismembrations and Divisions.....	217
Formalities Required.....	219

TABLE OF CONTENTS

XI

	Page
ARTICLE 5: CONCLUSIONS.....	220
CONCLUSIONS.....	223
BIBLIOGRAPHY.....	225

ABBREVIATIONS

AAS	- <u>Acta Apostolicae Sedis.</u>
ASS	- <u>Acta Sanctae Sedis.</u>
<u>B. R.</u>	- <u>Bullarum Diplomatum et Privilegiorum Sanctorum Romanorum Pontificum.</u>
<u>C. l. C.</u>	- <u>Pontificia Commissio ad Codicis Canones Authenticos Interpretandos.</u>
<u>C.J.C.</u>	- <u>Codex Iuris Canonici.</u>
<u>Collectanea</u>	- <u>Collectanea S. Congregationis de Propaganda Fide.</u>
<u>Collectanea Parisiensis-</u>	- <u>Collectanea Constitutionum Decretorum Indultorum ac Instructionum Sanctae Sedis.</u>
<u>Collectio Lacensis</u>	- <u>Acta et Decreta Sacrorum Conciliorum Recentiorum.</u>
DDC	- <u>Dictionnaire de Droit Canonique.</u>
<u>Fontes</u>	- <u>Codicis Iuris Canonici Fontes cura ... Gasparri edita.</u>
<u>Stat. O.M.I.</u>	- <u>Statutum Auctoritate Summi Pontificis A S. Congregatione De Propaganda Fide Definitive Approbatum Pro Missionibus Congregationi Missionariorum Oblatorum B. Mariae Virginis Immaculatae Commissis</u>

Sylloge

- Sylloge Praecipuorum Documentorum
Recentium Summorum Pontificum et
S. Congregationis de Propaganda Fide
necnon aliarum SS. Congregationum
Romanorum ad Usus Missionariorum.

PRELIMINARY NOTIONS

The Meaning of Mission.

The word 'mission' (missio) signifies the 'act of sending' (1) and was used in the roman law in the sense of giving someone possession or transferring something to another (2).

In ecclesiastical law, it is used in several senses. In relation to authority, it signifies that act of legitimate authority, by which one is deputed to exercise jurisdiction (3), and more specifically, the act, by which one is constituted juridically apt to preach (4).

In relation to purpose, it is used in two different ways;

Firstly, internal missions (5), that is, a cycle of sermons,

(1) A. Forcellini, Lexicon Totius Latinitatis (6 vol., Patavii, Typis Seminarii, 1940), v.3, p.260, s.v. missio.

(2) "Si plures sunt, qui postulent ut caveatur, omnes mitti in possessionem solent" (Ulpianus in Digestum Justiniani, 39, 2, 15, 15).

(3) Codex Iuris Canonici Pii X Pontifex Maximi Iussu Digestus Benedicti Papae XV Auctoritate Promulgatus (Romae, 1917), Canon 109. (Hereinafter cited as C.J.C.).

(4) C.J.C., Can 1328.

(5) C.J.C., Can 1349.

joined with spiritual exercises, to foster religious life. Secondly, foreign missions (6) or the preaching of the catholic faith to non-catholics (7). There are some authors (8), who do not wish to include in the foreign missions, the preaching of the faith to the baptized, that is, to heretics and schismatics. However, all the documents of the Holy See and almost all authors (9), include heretics and schismatics as well as the unbaptized in the object of foreign missions. And this rightly so, for the Code (10), when it treats of foreign missions uses the word 'non-catholics' (aetholici), for those to whom these missions are directed.

(6) C.J.C., Can 1350.

(7) T. Grantrup, S.V.D., Ius Missionarium Quod in Formam Compendii Redactum Scripsit, vol.1 (the only volume published, Steyl, Typographia domus Missionis a S. Michaelis Archang., 1925), p.1, n.1,2.

(8) J. Schmidlin, Catholic Mission Theory, Techmy, Mission Press, 1931, p. 36.

(9) Cfr. F. Wernz, S.J., Ius Decretalium ad Usam Praelectionum in Scholis Textus Canonici sive Iuris Decretalium (6 vol., 3rd ed., Prati, Officina Libraria Gracchetti Filii et Soc., 1913-1915), v.3, pars 1, p.44; G. Vromant, Ius Missionarium (6 vol., 2nd ed., Louvain, Editions du Museum Lessianum, 1932-1938), v.1, p.5, n.4; Grantrup, loc. cit., p.4, n.4.

(10) C.J.C., Can 1350.

The principal end of foreign missions is that "by enlarging the kingdom of Christ throughout the world, all men may be made to participate in His salutary redemption" (11). Thus, the purpose of all foreign missions is the increase of the number of the faithful (12). From this, it appears that the essential work of the missions is two-fold. First, the catholic faith must be planted and new faithful added to the fold. The care of catholics, only, living in the midst of non-catholics, is not strictly, a missionary work. Thus, the clergy who accompanied the Crusades and whose work was restricted to the catholics, living in those lands, were not missionaries. Second, the faith having been planted must be consolidated. Aggregation to the faith by baptism does not complete the work of conversion. The newly converted must be imbued with the spirit of Christ and made into living members of the church. Therefore, the work of the foreign missions is not finished at baptism, but these neophytes must be perfected in faith and

(11) Pius XI, Encyclical letter Merum Ecclesiae, Feb. 28, 1926: Acta Apostolicae Sedis (Romae, Typis Polyglottis Vaticanis), v.18 (1926), p.65.

(12) "Quorsum, quoniam, sacrae Missiones pertinent, nisi ut in tanta immensitate locorum Ecclesiae Christi instituantur ac stabiliatur?" (ibidem, p.74).

morals (13). Both of these works must be accomplished before the Church is firmly established (14).

Foreign missions, then may be defined as that part of the ecclesiastical ministry, which concerns itself with the planting and consolidating of the faith among non-catholics (15).

Derivatives.

There have been many derivatives of 'mission'. Here, we are only concerned with those that imply a division of territory, since mission territory and mission stations are the only ones to fall within the scope of this thesis.

1) Mission Territory.

From the founding of the Sacred Congregation of the Propagation of the Faith by Gregory XV (1621-1623) in

(13) Vromant, loc. cit., p.4, n.2.

(14) Cfr. Acta et Decreta Sacrosancti Oecumenici Concilii Vaticani, Appendix 19, Schemata Constitutionis Super Missionibus Apostolicis Patrum Examini Propositum; Acta et Decreta Sacrorum Conciliorum Recentiorum, Collectio Lacensis, auctoribus presbyteris S. J. e Domo S.V.M. Sine Labe Conceptum ad Lacum (7 vol., Friburgi Brigovae, Sumptibus Herder, 1870-1893), v.7, col.683c. (Hereinafter cited as Collectio Lacensis.); I. Ting, De Iure Missionario in Concilio Vaticano, in Commentarium pro Religiosis et Missionariis (Romae), v.25 (1944), p.116.

(15) Grentrup, loc. cit., p.7, n.6.

1622 (16), till its re-organization in 1908 (17), mission territories were those lands whose inhabitants, in great part, were not members of the church (18), that is, those countries whose inhabitants were idolaters, infidels, heretics or schismatics among whom the Sacred Congregation sent its missionaries (19). This was expressed in the Bull.

Inscrutabili, founding the Congregation, and placing under its jurisdiction "each and every matter, pertaining to the propagation of the faith throughout the world" (20). Under the code, mission territory has a more restricted meaning. It is described in Canon 262 §3, as "those regions where the sacred hierarchy has not yet been established and which are still in the state of missions". To these, the canon joins those territories "where though the hierarchy has been

(16) By the Bull Inscrutabili, June 22, 1622: Iuris Pontificii De Propaganda Fide (7 vol., Romae, ex Typographia Polyglotta S. C. de Propaganda Fide, 1888-1897), v.1, p.1.

(17) Pius X, Constitution Sapienti consilio, June 29, 1908, n.2: AAS, v.1 (1909), p.12, §6, n.1.

(18) Grentrup, loc. cit., p.9.

(19) M. André (D'Avalon), Dictionnaire de Droit Canonique ou Le cours de Droit Canon (3 vol, 2nd ed, Paris, Hippolyte Walzer, Librairie-Editeur, 1888-1890), v.2, p.653, n.4, s.v. missions. (Hereinafter cited as DDC).

(20) Loc. cit., p.2, n.2.

established there is still something incomplete" in their state. And this because the propagation of the faith consists not only in planting the faith among a people but also, in consolidating it. In other words, the faith cannot be said to be propagated among a people until the foundation of christianity is secure. This is accomplished when the church in any land is sufficient to itself in its institutions, such as schools, orphanages, hospitals and other works, and in its clergy and religious (21). Thus, the First Plenary Council of China described the church as founded only when it has, of itself, an adequate number of clergy, buildings and works (22). Therefore, mission territory is that territory which lacks a complete ecclesiastical organization. An external criterion, however, is its subjugation to the S.C. of the Propagation of the Faith (23).

2) Mission Station.

The territory of a vicariate or prefecture

(21) S.C. of the Propagation of the Faith, Letter, May 20, 1923, n.2: AAS, v.15 (1923), p.370, n.3.

(22) Primum Concilium Sinense, anno 1924 celebratum, 2nd ed, Zi-Ka-Wei, Typographia Missionis Catholicae (T'ou-se-we), 1932, p.30, n.18.

(23) Vromant, loc. cit., p.11; Grœntrop, loc. cit., p.11.

apostolic should be divided into quasi-parishes if this division can be made with advantage (24). However, this is not to be done prematurely (25), and some or all of the vicariate or prefecture may be left without parochial limits. The canon orders this division to be made only when it can be done satisfactorily. In the same way, dioceses which are subjected to the S. C. of the Propagation of the Faith, since they are still missions, may have all or part of their territory without parochial division (26). This is called undivided territory, that is without designation of parochial limits (27).

In this undivided territory however, there does exist an imperfect division, that is, the territorial limits established by the Ordinary, within which the missionary exercises the care of souls (28). This was the law before the

(24) C.J.C., Can 216 §2.

(25) S. C. of the Propagation of the Faith, Instruction, July 25, 1920, n.1: AAS, v.12 (1920), p.332, n.2.

(26) S. C. of the Propagation of the Faith, Decree, Dec. 9, 1920, n.1: AAS, v.13 (1921), p.18, n.1.

(27) Loc. cit.

(28) "Excelluit inter haec munus curatus animarum, quod saepe ... religiosis viris demandatur intra fines ab Episcopis praestitutos; locus autem is finibus comprehensus missionis nomine designatur" (Leo XIII, Constitution Romanos Pontifices, May 8, 1881: Acta Sanctae Sedis [Romae,

Code and remains so, today. Can. 1182 §2, speaks of the limits of the mission (29). The report, sent every five years, to the Sacred Congregation by the Bishops, Vicars, Prefects and Mission Superiors subject to it, asks that the number of sections or districts or other areas, into which the mission is divided, be given (30). These divisions prepare the way for the ordinary form of ecclesiastical rule through parishes (31). In the meantime they take the place of parishes (32). They are called mission stations.

Ex Typographia Polyglotta S. Cong. de Propaganda Fide, 1865-1908], v.13 (1894), p.488). (Hereinafter cited as AAS); Collectanea S. Congregationis de Propaganda Fide (2 vol., 2nd ed., Romae, ex Typographia Polyglotta S.C. de Propaganda Fide, 1907-1908), v.2, n.1552, §14. (Hereinafter cited as Collectanea).

(29) "...ecclesiae sitae intra parochiae vel missionis fines".

(30) S. C. of the Propagation of the Faith, Letter, April 16, 1922, n.1: AAS, v.14 (1922), p.268, c.2, n.4.

(31) S. C. of the Propagation of the Faith, Instructions, Oct. 18, 1883: Collectanea, v.2, n.1606, §12, p.194.

(32) "...in singulis districtibus, quae parochiarum locum tenent" (S. C. of the Propagation of the Faith, Encyclical letter, June 1, 1877: Collectanea Constitutionem Decretorum Indultorum ac Instructionem Sanctae Sedis ad usum operariorum Apostolicorum Societatis Missionum ad Exteros Selecta et Ordine Digesta cura Moderatorum Seminarii Parisiensis ejusdem Societatis [2nd ed., Hong Kong, Typis Societatis Missionum ad Exteros, 1905], p.85, n.166, §19). (Hereinafter cited as Collectanea Parisiensis).

Each one has its own church or chapel and resident priest (33). These stations are to cover the whole of the undivided territory of the diocese or quasi-diocese and none of it is to be left for future evangelization (34).

A mission station is like a parish in having territorial limits. In a parish, these limits are perfectly defined; in a mission station, only imperfectly. A parish must have its own church or public oratory; a mission station may perhaps have only a chapel. A parish has its own rector as its proper pastor; a mission station has its rector, but, in the care of souls, he acts in the name of the Ordinary (35). The faithful are attached to a parish, by domicile or quasi-domicile (36); in a mission station, the faithful have only diocesan domicile or quasi-domicile, and are joined to a mission station by their assignment to

(33) "Stationes primariae esse sunt, in quibus adest ecclesia vel sacellum cum presbytero residente" (S.C. of the Propagation of the Faith, Instruction, 1886: Analecta Iuris Pontificii [27 vol, Rome, 1855-1888], v.26, col.540).

(34) Pius XI, Encyclical Letter Merum Ecclesiae, Feb. 28, 1926: AAS, v.18 (1926), p.79, 80.

(35) S. C. of the Propagation of the Faith, Instruction, July 25, 1920, n.1: AAS, v.12 (1920), p.332, n.7.

(36) C.J.C., Can 92 §3, 94 §1.

it by the Ordinary or his delegate (37).

Thus, a mission station may be defined as a broadly delimited section or part of the territory of a mission diocese, vicariate or prefecture apostolic, or a mission 'sui iuris', which, with its own church or chapel, its own people and rector, takes the place of a parish (38).

Within the limits of these mission stations, there are subsidiary stations. These are churches, chapels or places suitably furnished for the holding of the sacred functions, which the missionary visits from time to time in the care of souls (39).

(37) "Post baptismum susceptum, neophyti ... adscribuntur ad propinquiorum christianitatem" (Primum Concilium Sinense, n.636, p.259).

(38) For a full discussion of the constitutive elements of mission stations, see Chapter III, *infra*.

(39) Pius XI, Encyclical Letter Rerum Ecclesiae, Feb. 28, 1926: AS, v.18 (1926), p.80.

HISTORICAL SYNOPSIS

CHAPTER I

FROM THE FIFTEENTH CENTURY TO THE BEGINNING OF THE NINETEENTH

ARTICLE I

FROM THE FIFTEENTH CENTURY TO 1622

The concept of missions, as it is understood today, is not found in the *Corpus Iuris Canonici* (1). The law of the Decretals with its insistence on the union of benefices and the care of souls was not applicable to the missions outside Europe without many changes. In the years before 1622, there was no universal mission law. This came later with the founding of the S. C. of the Propagation of the Faith. However this earlier period of missions under patronage was a time of beginnings. Missionaries were granted the widest jurisdiction and many privileges (2).

(1) X, 3, 33, 1-2: *Corpus Iuris Canonici* (2 vol., ed Lipsiensis 2, post Aemilii Richter curas instruxit Aemilius Freidberg, Lipsiae, Tauchnitz, 1879-1881).

(2) e.g. Adrian VI, Brief, Exponi nobis, May 9, 1522: P. Torres, La Bula Canimoda De Adriano VI, Madrid, Consejo Superior de Investigaciones Cientificas, Instituto Santo Toribio de Mogrovejo, 1948, p.98-104.

These were used to establish a new system, much of which was later adopted with modifications by the Sacred Congregation (3). This period is treated in so far as it influenced the development of mission stations.

General Idea of Patronage.

The system under which mission stations were established was known as patronage (4). In return for supplying the needs of the missions and protecting them, the catholic king was granted certain privileges. This method of sending missionaries and supporting them in the field applied in territories under the influence of Portugal or Spain.

In 1454, Nicholas V (1447-1455) granted the right of patronage to the King of Portugal, in the lands which he had conquered in Africa and in those which he or his successors would conquer in the future (5). After the discovery

(3) S. Masarei, De Missionum Institutione ac De Relationibus Inter Superiores Missionum et Superiores Religiosos, Romae, Institutum Graphicum Tiberinum, 1940, p.33.

(4) Under patronage (Patronatus Regius), the privileges and duties of the king were much greater than under ordinary canonical patronage. In the missions, the king directed ecclesiastical affairs and the conversion of the infidels. See F. Montalban, Manuale Historiae Missionum, Shanghai, In Typographia T'ou-se-we, 1935, p.59-60.

(5) Nicholas V, Constitution Romanus Pontifex, Jan. 8, 1454: Bullarum Diplomatum et Privilegiorum Sanctorum Romanorum Pontificum (25 vol, ed Taurinensis, Augustae Taurinorum, 1857-1872), v.5, p.111-115. (Hereinafter cited as B.R.).

of America, the same rights were granted to the King of Spain in the new territories (6). By this grant, the world of the missions was divided by an imaginary line running north and south, one hundred leagues west of the Azores. The realms west of this were granted to the King of Spain; those east of it, to the King of Portugal (7). The missionaries necessary for the conversion of the inhabitants would be sent and provided for by the Kings (8). In return, they were granted exclusive rights to those domains (9). The King would erect the churches, monasteries and pious places (10) and would give the foundation grants (dos) for all benefices (11). He was given the right of presentation to

(6) Alexander VI, Constitution Inter cetera, May 4, 1493: B.R., v.5, p.361-364.

(7) Ibidem, §6: B.R., p.363.

(8) "Et insuper mandamus vobis in virtute sanctae obedientiae ... ad terras firmas et insulas praedictas viros probos et Deum timentes, doctos, peritos et expertos ad instruendum incolas et habitatores praefatos in fide catholica et bonis moribus imbuendos destinare debeatis, omnem debitam diligentiam in praemissis adhibentes." (Ibidem, §7: B.R., p.363).

(9) Ibidem, §8: B.R., p.363; Nicholas V, Constitution Romanus Pontifex, Jan. 8, 1454, §4,7: B.R., v.5, p.112, 114.

(10) Gregory XIII, Bull Super specula, Jan. 23, 1575: L. Magnino, Pontificia Nipponica, Romae, Officium Libri Catholici, 1947, n.7, p.20.

(11) "...neque beneficia erigenda, et per Sebastianum ... dotanda" (loc. cit.).

these (12) and of choosing the clergy for the missions (13). Thus, the King's rights were restricted to the supplying of the clergy and taking care of the temporal needs of the missions (14).

The spiritual government resided in the residential bishops and in the missionaries, under the immediate direction of their superiors and provincials (15). The missionaries were sent by Papal authority. Ultimately, all received their mission from the Pope. But, immediately, some received their faculties from the Holy See, others from their superiors or the Apostolic Delegate (16).

In each territory there were two or more authorities granting jurisdiction. The bishop of the diocese who had

(12) "...idoneas personas similiter per eum ad praesentationem hujusmodi in ipsis dignitatibus, canonicatibus et praebendis ac beneficiis instituendis" (loc. cit.).

(13) "...volumus ut tua sacra magestas aut tuum regale consilium assignet et prefigat numerum fratrum mittendorum" (Adrian VI, Brief Exponi nobis, May 9, 1522: Torres, La Bula Omnimoda De Adriano VI, p.100, 1.48-50).

(14) Montalban, Manuale Historiae Missionum, p.67.

(15) Ibidem, p.185.

(16) Paul III granted special faculties to St. Francis Xavier and Simon Rodriguez as Papal Nuncios. These they could delegate to others. See Paul III, Brief Cum sicut charissimus, July 25, 1540: Magnino, Pontificia Nipponica, p.4-5.

the same rights as other residential bishops granted it on a territorial basis (17). Besides each religious order appointed its own superior or prelate. His prerogatives were not restricted to the religious discipline of his subjects. Many of the special powers granted by the Holy See were delegated to the missionaries through him.

There were many grants of faculties. The best known was that given by Adrian VI (1522-1523) to the mendicant orders (18). The missionaries were nominated by their superiors (19) and deputed to the missions by the king (20). A religious prelate was appointed superior over the other missionaries of his order in each territory (21). All the authority of the minister general was given to him, except that which the former reserved to himself (22). The friars

(17) Mascard, De Missionum Institutione ac De Relationibus Inter Superiores Missionum et Superiores Religiosos, §58, n.3, p.58.

(18) Adrian VI, Brief Exponi nobis, May 9, 1522: Torres, La Bula Omnimoda De Adriano VI, p.98-104.

(19) "...ut omnes fratres ordinum mendicantium, ... a suis prelatibus nominati ... se transferre, licite et libere possint" (ibidem, p.99, l. 28).

(20) Ibidem, p.100, l. 49-50.

(21) Ibidem, p.101, l. 58-65.

(22) "...habeant in utroque foro super fratres sibi commissos omnem auctoritatem et facultatem quam generalis minister habere dignoscitur, ita tamen quod ipse generalis minister ... possit prefatum auctoritatem limitare et arctare prout ei visum fuerit" (ibidem, p.102, l. 79-84).

whom he chose were given special power in places where there was no bishop, or where the bishop or his official could not be reached within two days (23). This consisted in all the jurisdiction in both fori, that the prelate judged expedient for the conversion of the Indians and their obedience to the Holy See (24). It extended to all episcopal acts which did not require the power of orders (25). Thus, the missionary in the territory to which he was sent could preach, prohibit books (26), hear the confessions of all who came to him, absolve from reserved cases (27), admin-

(23) Ibidem, l. 89-95.

(24) "...omnimodam auctoritatem nostram in utroque foro habeant tantum quantum ipsi et per eos deputati de fratribus suis ... iudicaverint opportunam et expedientem pro conversione dictorum indorum et manutentione ac profectu illorum et aliorum prefatorum in fide catholica et obedientia sanctae Romanae ecclesiae" (ibidem, p.103, l. 99-105).

(25) "...extendatur etiam quoad omnes actus episcopales exercendos qui non requirunt ordinem episcopalem" (ibidem, p.103, l. 106-108).

(26) "...per vos vel alios idoneos per vos probandos... evangelium et sacras scripturas praedicandi, ... ac hereticorum et scandalosorum librorum et scripturarum lectiones prohibendi et interdicendi" (Paul III, Brief Cum sicut charissimus, July 27, 1540: Magnino, Pontificia Nipponica, p.4).

(27) "Et ut, cum aliquos ex fratribus ... in Saracenorum et paganorum aliorumque infidelium terras ... miserit, possit eis, auctoritate nostra, facultatem concedere ut christianos ibidem commorantes, confessione peccatorum suorum audita et poenitentia salutaris injuncta, eos et eorum quemlibet ab omnibus peccatis, etiam in bulla Coenae Domini revocatis, et a consequentibus censuris et poenis, absolvere" (Paul III, Constitution Licet debitum, Nov. 15, 1549, §33: B.R., v.6, p.399).

ister the parochial sacraments (28), dispense from impediments, inflict censures and absolve from them, commute vows (29), administer confirmation and minor orders, give the blessings reserved to the bishop, acquire houses, alienate them, build churches, bless and reconcile them and make particular ordinances for divine cult (30).

The Development of Mission Stations Under Patronage.

In territories that were governed by the Spanish or the Portuguese dioceses were established everywhere. In the Far East, however, where the Portuguese established a sphere of influence without conquering the countries, only a few dioceses were erected. These were so vast that, in practice, the bishop was able to rule effectively only a small part of them. The internal organization of these

(28) "... ac incolis et habitatoribus et aliis praedictis eucharistie et alia ecclesiastica sacramenta ministrandi" (Paul III, Brief Cum sicut charissimus, July 27, 1540: Magnino, Pontificia Nipponica, p.5).

(29) "... vota vero quaecumque, per eos pro tempore emissa ... in alia pietatis opera commutandi" (loc. cit.).

(30) "Ac in locis praedictis remotissimis, quaecumque ecclesias, hospitalia et alia pia loca, prout expediens fuerit erigere, ac nunc et pro tempore erecta reformare, ... ac profanatas ecclesias reconciliare possint, et quaecumque statuta et ordinationes desuper necessaria facere." (Paul III, Constitution Licet Debitum, Nov. 15, 1549, §35; B.R., v.6, p.399).

dioceses was not always the same. There was no universal law with regard to this and the particular councils settled the matter in different ways according to local circumstances. In Peru, they were organized on a territorial basis. Each church or monastery was responsible for the evangelization of a particular district. In Mexico and the Far East the new converts were personally subjected to the superior of the monasteries or residences. In some places canonical parishes were erected.

1) The First Council of Lima, Peru, held in 1552, ordered that the country parts of the dioceses be divided among the different religious orders and the clergy who lived in these districts. In each division, the religious order to whom it was committed should have a monastery. From it, the religious went out to preach and baptize in their own territory (31). In all the principal Indian villages a church was built; in the smaller ones a house

(31) "... ordenamos y mandamos que todas las prouincias principales de indios... se repartan entre las ordenes o clergos que hay en ellos, para que cada orden, en la prouincia que le cupiere, pueda hacer monesterio ... donde se recojan los religiosos a tiempos a dar cuenta a sus perlados de lo que han hecho, y de alli se devidan y salgan a dotrinar y baptizar por la dicha prouincia que les estuviere encomendada" (Primer Concilio limense de 1552, Constitution 28: F. Mateos, S.J., Constituciones para indios del primer Concilio limense in *Misionaria Hispanica* (Madrid, El Instituto "Santo Toribio de Mogrovejo", v. 7 1950), p.40).

that could be used as a chapel. All the sacraments were administered in these (32).

The Spanish towns and the Indian settlements were also divided. Because there were no parishes, the Council ordered that these towns and settlements be divided territorially among the churches and monasteries in each place. The streets were used as boundaries. The division was made upon agreement between the Prelates of the monasteries and the civil ruler of the town. Each prelate, in the area pertaining to his monastery, had charge of administering the sacraments, teaching the pagans and the new converts, overseeing their way of life, visiting the Indians in their hamlets, caring for their sick and in general, guarding everything pertaining to the Faith (33). Some of these

(32) "... mandamos, que los sacerdotes ... en el pueblo principal ... se haga una iglesia ... en la cual se administren todos los sacramentos ... Y en los demas pueblos pequenos que no hobiere posibilidad para hacer iglesia, hagan una casa pequena ... donde se les diga la doctrina y platiquen las cosa de la fee" (*ibidem*, Constitution 2: p.18).

(33) "Por quanto ... no haber parroquias en los pueblos de espanoles, ni curas que basten para administrar los sacramentos, ... mandamos y ordenamos que todos los pueblos de espanoles, rancherias y asentos, pueblos de indios que estan en los dichos pueblos, se devidan por calles y asentos entre las iglesias y monesterios que en el tal pueblo hobiere, con parecer del perlado o vicario de cada pueblo, juntamente con los perlados de los monesterios, para que cada uno en su pertenencia tenga cuidado de administrar los santos sacramentos, y de dotrinar a los infieles y nuevamente convertidos en las cosas de nuestra santa fee, y visitar las rancherias y enfermos dellas" (*ibidem*, Constitution 29: p.40-41).

missionaries had benefices, other had not (34).

All priests with the care of souls were bound to residence, under pain of excommunication and a fine of one hundred pesos. To leave their district, they needed special permission in writing from their prelate (35). The residence was established in the principal town. From it the missionary went out to the smaller towns to instruct the Indians and administer the sacraments (36).

Those with the care of souls were subject to the visitation of the Bishop. The latter was bound to make this visitation every year, either by himself or by another (37).

(34) "Por quanto el titulo y principal fin ... es la doctrina e conversion de los naturales ... y los beneficios y salarios se dan por esta razon ... los sacerdotes que en sus iglesias no tuvieren prebendas o beneficios" (ibidem, Constitution 30: p.41).

(35) "... mandamos so pena de excomunion mayor e de cient pesos, a todos los curas e a las demas personas que entendieren en la doctrina de los naturales, ... que no se puedan ir ni vayan de los pueblos que estuvieren a su cargo, sin particular licencia del perlado o de su provisor o vicario in scriptis" (ibidem, Constitution 31: p.42).

(36) "... tendran cuidado los sacerdotes de hacer sus asientos en los pueblo de mas gente, donde, como dicho es, han de estar las iglesias principales ... y tenga asimismo gran cuidado de ir a visitar todos los pueblos de su distrito" (ibidem, Constitution 40: p.51-52).

(37) "Y para que sepan como viven los tales sacerdotes y usan sus officios, a lo menos de dos en dos anos visiten personalmente sus obispados, y cada un ano envien personas tales que los visiten y avisen de lo [que] se debe hacer" (ibidem, Constitution 33: p.45).

2) In Mexico, a different system was followed. In the Indian settlements the new converts were attached to a monastery and were subject to the prior or guardian of the monastery. In the Spanish towns, a religious was appointed to exercise the care of souls among the Indians. Both of these were obliged *ex officio* to care for their subjects (38).

3) A similar system was established in the Far East under the Portuguese. Three years after the founding of the S.C. of the Propagation of the Faith, that is in 1625, this question was asked: "Whether in Japan and the Far East, it was expedient to divide the parishes among the Jesuits and the mendicant orders, so that the religious of each order would preach and administer the sacraments only in those parishes assigned to them?" The Sacred Congregation replied: "With regard to a territorial division, in the negative; with regard to a personal division, in the positive". By

(38) "Nominè curatorum regularium Indorum oppidis comprehendì priorem, guardianum, vicarium, aut praefectum monasteriorum quibus Indi subditi sunt; in civitatibus vero, aut oppidis Hispanorum, religiosam personam, cui a superioribus administrationis Indorum cura demandata est. Itidemque exponit, in omnibus quae praecipuntur curatis, per decreta hujus synodi comprehendì curatos regulares, qui non ex voto caritatis, sed ex officio huc munus exercere debent" (Provinciale Concilium Mexici, Celebratum Anno Domini 1585, §13: J. Harduini, Acta Conciliorum et Epistolae Decretales, ac Constitutiones Summorum Pontificum [11 vol., Parisiis, Ex Typographia Regia, 1715], v.10, col.1604).

mutual consent, each order, even when they were established in the same place, would assume the direction of a certain group, and would not interfere in another's harvest (39).

Finally, parishes canonically erected according to the common law were established in mission territory, during this period. The Second Council of Lima ordered their erection, even among the Indians (40).

Conclusions.

During this period, there were three types of missions; first, parishes canonically erected under the common law, second, monasteries and churches which had their own territory and people, but were not parishes, third, monasteries, churches and residences (41), to which the christians were

(39) "An ... expediat in Japonia et in aliis Orientalium Indiarum locis dividere parochias inter Mendicantes et pp. Soc. Jesu, ita ut singuli Ordines solum in sibi assignatis parochias Sacramenta administrare et concionari debeant, SSmus Dnus N. in negativum partem quoad divisionem localem, quo vero ad personalem in affirmativam inclinabat" (S.C. of the Propagation of the Faith, Decree, June 13, 1625: Magnino, Pontificia Nipponica, n.4, p.121).

(40) "Sancta ergo haec Synodus, tantorum conciliorum et Patrum statuta (Tridentini), reverentia debita venerans, indos qui hactenus per commendas solum divisi erant, per parochias posthac dividendos ordinat, statuit et mandat" (Segundo Concilio Provincial Limense 1567, Constitution 76: Misionalia Hispanica, v.7 [1950], p.575, l. 1487-1492).

(41) The residences established by the Jesuits in China were called missions. P. Mondreganes, O.F.M. Cap., Manual de Misionologia (2nd ed., Madrid, Editorial "Pro Fide", 1947),

subjected personally. In some places the superior of the monastery was the rector of the mission; in others, another was appointed. Both had the care of souls, ex officio.

The rectors of these missions were presented by the King or his representative and instituted by the Bishop. Some had benefices but even those who had none were supported by the King.

Parish priests received their jurisdiction from the common law; other rectors from their religious Prelates and from the Ordinary.

In places where the ordinary ecclesiastical hierarchy was established the system of patronage worked well. At least, when dissensions arose they were easily settled.

p.3. It is interesting to note the different names that have been used for mission stations. The Spaniards called them doctrinas or places to teach catechism. Some of the documents of the Holy See use the term christianitas, cfr. S.C. of the Propagation of the Faith, Instruction to the Vicars Apostolic of China, Oct. 18, 1883: Collectanea, v.2, n.1606, p.194. Others use missio, cfr. Leo XIII, Constitution Romanus Pontifex, May 8, 1881: ASS, v.13, p.488. Still others call them districtus or sectio, cfr. S.C. of the Propagation of the Faith, Letter, April 16, 1922, n.1: AAS, v.14 (1922), p.288, c.2, n.4. The early missionaries in Canada called their stations residences as it appears from a letter of St. John de Brebeuf, "De la Résidence de S. Joseph aux Hurons, au village nommé Ihonaturia, ce 16 Juillet 1636": The Jesuit Relations and Allied Documents. Travels and Explorations of the Jesuit Missionaries in New France, 1610-1791 (ed. Thwaites, 73 vols., Cleveland, The Burrows Brothers Company, 1896-1901), v.10, p.36.

Such was the case in Spanish America. But in the Far East, where for practical purposes there were no bishops (42), the mission stations were independent of all immediate authority except that of their religious prelate. When two or more orders worked in the same territory, each had its own method. When difficulties arose there was no one with authority to settle them.

ARTICLE 2

THE FOUNDED OF THE PROPAGANDA (1622) AND THE EXTENT OF ITS JURISDICTION

With the erection of the Propaganda there appear the first universal laws that treat of mission stations. Many of these were made for one territory and after a period of trial extended to all the missions. Most were applications of the common law to the peculiar circumstances that existed in mission territory.

In the beginning there was an apparent conflict of jurisdiction between that given to the Sacred Congregation

(42) E.g., the diocese of Macau, established in 1575, included China, Japan and the islands adjacent to them. Before 1575, these territories belonged to the Archdiocese of Goa! Gregory XIII, Bull Super specula, Jan. 23, 1575: Magnino, Pontificia Nipponica, p.17, n.1.

and the faculties that had been granted to the religious orders before 1622. Thus, it was necessary to define the extent of the powers of the Propaganda and the relation of religious mission stations to the Congregation and its Vicars Apostolic.

The Founding of the Propaganda and the Extension of its Jurisdiction.

So that the Holy See might have closer vigilance over the missions and might more carefully and ardently promote their work, Gregory XV founded the S. C. of the Propagation of the Faith in 1622 (43). Through the new Congregation the Holy See assumed the immediate and exclusive direction of the missions. Thus, the competence of the Sacred Congregation extended to everything that pertained to the propagation of the faith throughout the whole world (44). It was given jurisdiction to superintend all missions and to appoint and change all missionaries in the field (45). In law, therefore,

(43) By the Bull Inscrutabili, June 22, 1622: Iuris Pontificii De Propaganda Fide, Pars I, v.1, p.1.

(44) "... omnia et singula negotia, ad fidem in universo mundo propagandam pertinentia, cognoscent et tractent" (ibidem, §2: p.2).

(45) "Missionibus omnibus ad praedicandum et docendum evangelium et catholicam doctrinam superintendant, ministros necessarios constituent et autent" (ibidem, §3: p.2).

the Sacred Congregation had exclusive competence in the missions. In fact, however, it was a long time before this exclusive jurisdiction was recognized everywhere. The grants of patronage still remained in force and the governments involved did not wish to surrender their rights. There were residential bishops in mission territory. Under the common law they could select and appoint their own missionaries. Lastly, the privileges and faculties that had been granted to the religious orders were still in use. These orders could establish mission stations, appoint their rectors, grant them jurisdiction, transfer or remove them. That the Sacred Congregation might be an effective instrument of the Holy See, it was necessary that the religious missionaries and their missions be brought under its control.

The Relation of Religious Mission Stations to the Propaganda and its Vicars.

1) To the Propaganda itself.

In 1623, the Sacred Congregation reserved to itself the right to send missionaries to the mission field. Religious nominated their missionaries who were then subject to examination and approval by the Propaganda. Those approved received their mission by letters patent signed by the Cardinal Prefect and the Secretary and under the seal of the Congrega-

tion (46). This was mitigated in 1628. Religious superiors could approve and send their own subjects but could not recall them without permission of the Sacred Congregation (47). Thus two ways of sending missionaries were established. Some were sent directly by the Holy See, others indirectly through their religious superiors.

In 1640, the Propaganda forbade religious to erect monasteries, convents, houses, seminaries, colleges, hospices or oratories under the title of the Propagation of the Faith without its special permission (48).

(46) "Quod Generales et alii Superiores Regularium religiosi sibi subditos quos ad propagandam fidem in quas-cunque mundi partes mittere continget, Sacrae Congregatione prius nominent, ad hoc ut priusquam mittantur ab eadem examinentur et approbentur. Quod pro approbatis Patentes iuxta formulam alias a Congregatione approbatam cum subscriptione Cardinalis Praefecti et Secretarii ac Sigillo Congregationis expediantur" (S.C. of the Propagation of the Faith, General Congregation, June 24, 1623, §1,2: Collectanea, v.1, n.6, p.5).

(47) "S.C. stetit in decretis ut Religiosi non fiant Missionarii sine eorum Superiorum approbatione, illique, postquam fuerint approbati et missi ab eisdem Superioribus sine consensu Congregis a Missionibus nullo modo removeantur" (S.C. of the Propagation of the Faith, response, May 8, 1626: Collectanea, v.1, n.39, p.12).

(48) "S. Congregatio de Propaganda Fide ... censuit praeciendum esse, prout praesente decreto praecipit Superioribus cuiuscunque ordinis ... ne Monasteria, Conventus, Domus, Seminaria, Collegia, Hospitia seu Oratorio sub titulo de Propaganda Fide construant, aut erigant, vel a suis subditis construi ac erigi permittant sine sua speciali licentia" (S.C. of the Propagation of the Faith, Decree, Feb. 3, 1640: Collectanea, v.1, n.99, p.28).

The same year, it declared that all missions erected by religious in the past and those that would be erected in the future were subject to it (49). The Fathers of the Congregation argued that by the Bull Inscrutabili, all missions throughout the world were subjected to the Propaganda, notwithstanding the privileges and jurisdiction that had been granted to the religious orders (50).

Thus, the Sacred Congregation declared that all mission stations throughout the world were subject to it with regard to the stations themselves, the institutions erected in these stations and the missionaries who were sent there.

2) To its Vicars Apostolic.

The relations between the local Ordinary and regulars who exercised the care of souls were defined in a brief of Urban VIII (1623-1644) in 1626. In the care of souls and the administration of the sacraments, regulars were placed under the authority of the Ordinary in the same

(49) "Eminentissimi PP. censuerunt missiones iam factas et in futurum ab iisdem Generalibus faciendas esse S. Congregationi de P. F. subjectas" (S.C. of the Propagation of the Faith, Particular Congregation, Dec. 5, 1640: Collectanea, v.1, n.101, p.28).

(50) "... quia per eam negotium propagationis fidei in universo mundo Cardinalibus illius spiritualiter committitur, et ut superintendant omnibus missionibus ordinatur, non obstantibus privilegiis (concessis) quibuscumque Ordinibus etc." (loc. cit.).

way as seculars (51). In these matters they were subject to his jurisdiction, visitation and correction (52). They were forbidden to hear the confessions of seculars without his approval. If he were unwilling, they were forbidden to preach even in their own churches. In any other church his permission was required (53).

When a religious arrived in a mission, he was obliged to show his letters patent to the Vicar Apostolic. If he refused to do so the latter had the obligation of forbidding him the use of his faculties. Once the letters were presented, however, the Vicar was not to refuse his approval unless for

(51) "In regulares curam animarum personarum saecularium exercentes, in his quae dictam curam et sacramentorum administrationem concernunt, Episcopum eadem auctoritate uti posse, qua in parochos saeculares" (Urban VIII, Brief Exponi nobis, May 9, 1626, § 2: Iuris Pontificii De Propaganda Fide, Pars I, v.1, p.61).

(52) "Censuit regulares exercentes curam animarum subesse iurisdictioni, visitationi et correctioni Archiepiscopi, in his tamen quae ad dictam curam pertinent" (Urban VIII, Brief Exponi nobis, April 7, 1627: Iuris Pontificii De Propaganda Fide, Pars I, v.1, p.72). Although this brief is formally particular law, it is equivalent to a universal interpretation. For it applies equally to all, since the decision is an interpretation of decrees that have universal application. See Werns, Ius Decretalium, v.1, p.175, n.145.

(53) "... censuit praedictos religiosos nequaquam posse ... personarum saecularium confessiones audire sine approbatione episcopi diocesani, nec verbum Dei praedicare in ecclesiis sui Ordinis, non petita ipsius benedictione, nec in aliis ecclesiis sine ejus licentia, necnon in ecclesiis etiam sui Ordinis ipso contradicente et contraveniente" (Innocent X, Decree, May 14, 1648, §3: Iuris Pontificii De Propaganda Fide, Pars I, v.1, p.253).

a grave cause, which had to be explained to the Sacred Congregation (54). In 1702, it was declared that all missionaries, secular or religious, regardless of their privileges, were forbidden to administer the sacraments or do any parochial work without the permission of the local Ordinary (55).

Without the consent of the Vicar Apostolic, religious could not build or open a church in places where they themselves or any other missionary already had one. In places where there was no church, this was not required. This was granted in the form of a privilege. It was not a right (56). Whenever the number of catholics or the size of the

(54) "Statuimus et ordinamus quod praedicti Episcopi Vicarii Apostolici ab omnibus et singulis Religiosi ... exigere possunt et debeant ut suas patentes ... litteras exhibeant; iisque qui illas exhibere recusaverint, tamquam Sedis Apostolicae delegati, prohibere ne facultates sibi per litteras huiusmodi concessas exercent; ipsique Regulares licentiam exercendi suas facultates petere teneantur ab iisdem Episcopis Vicariis Apostolicis, quam ipsi denegare non debeant, nisi in casu gravis causae dictae Congregationi communicandae" (Clement IX, Constitution Speculatores domus Israel, Sept. 13, 1669: Collectanea, v.1, n.186, p.61).

(55) "Missionariis autem sive Saecularibus, sive regularibus ... non liceat, etiam vigore suorum privilegiorum, Sacramenta administrare aut alia munia parochialia obire, nisi de licentia praefatorum Ordinariorum seu Vicariorum Apostolorum" (S.C. of the Propagation of the Faith, Decree, Feb. 14, 1702: Collectanea, v.1, n.253, p.86).

(56) "... nec sine licentia eorundem Vicariorum Apostolicorum ... liceat Regularibus aedificare et aperire ecclesias in locis ubi ipsi, vel alii missionarii ... ecclesias habent;

district justified it, the Vicar Apostolic could divide the parishes and districts and call in other missionaries, seculars or regulars, to staff the new divisions (57).

Regulars were granted faculties in the same way as secular priests. They were not to be dependent on seculars nor were their faculties to be limited to cases of necessity (58). The missions which each order had cared for in the past were to be left under their care. The Ordinary, however, in case of necessity could grant these stations to another order or to seculars (59). The authority for these statements are documents for a particular territory. They gave the mind

ubi vero apertae non sint, possint ad formam privilegiorum et facultatum ipsis concessarum" (Clement IX, Constitution Speculatores domus Israel, Sept. 13, 1669: Collectanea, v.1, n.186, p.61).

(57) "... possint et debeant Vicarii Apostolici praedicti operarios multiplicare, parochias dividere, aliasque eiusmodi facere" (loc. cit.).

(58) "Ita ut simul cum sacerdotibus saecularibus Sacramenta Pastoralia administrare possint (Regulares), sine aliqua restrictione ad casus necessitatis vel dependentia ab illis, sed aequaliter et cum sola facultate ipsius Vicarii" (Urban VIII, Decree for Holland, July 15, 1626, §2: Appendix ad Bullarium S.C. de Propaganda Fide, v.1, p.166).

(59) "...cullibet missionariorum costui illa conservet loca et territoria quae pridem ab ipsis in animarum ministerio excolebantur ... salva semper Episcopi auctoritate aliter decernendi in casu necessitatis" (S.C. of the Propagation of the Faith, Particular Congregation for China, Jan. 21, 1788: Collectanea, v.1, n.592, p.369).

of the Holy See on this matter, although formally, they applied only to the territory for which they were given.

In the early years of the Sacred Congregation, there were territories which had neither a bishop nor a vicar apostolic. In these territories the Holy See granted new faculties through the religious superiors (60) or renewed the old ones (61). When a Vicar Apostolic was appointed, however, these grants of faculties automatically lost their force in so far as they were opposed to the authority of the Vicar. The religious missionary and his mission fell under the common law as outlined above (62).

(60) "... ac superiorum dictorum clericorum in praedicto Sinarum Regno, cum Episcopus a Sede Apostolica constitutus non erit ... facultatem concedimus et impartimur" (Urban VIII, Brief Ut animarum saluti, Oct. 7, 1626, §1: Iuris Pontificii De Propaganda Fide, Pars I, v.1, p.64).

(61) E.g. Urban VIII renewed all the privileges of the Benedictines in England, in 1633. Cfr. Bull Plantata, July 4, 1633: Iuris Pontificii De Propaganda Fide, Pars I, v.1, p.148-154.

(62) "Brevia enim, et huiusmodi documenta emissa fuere, antequam quatuor Vicarii Apostolici in Anglia constituti forent, cum omni auctoritate, quae competit cuilibet Ordinario in sua Civitate et Diocesi. quamobrem sancti libero et tranquille ordinariae Episcoporum auctoritatis exercitio, ex ipso desinit Regularium immunitas pro Sacramentis administrandis" (Benedict XIV, Encyclical Letter Apostolicum ministerium, May 30, 1753, §10: P. Gasparri-J. Seredi, Codicis Iuris Canonici Fontes [9 vols., Romae, Typis Polyglottis Vaticanis, 1926-1939], v.2, p.395). (Hereinafter cited as Fontes).

Conclusions.

The Holy See erected the Propaganda as its own instrument to rule the foreign missions. Everything pertaining to these was placed within its competence. Therefore, the sending of missionaries, their work in the mission field and their recall were regulated by it. All mission stations, colleges, monasteries, houses or other institutions for the propagation of the Faith were under its control.

The immediate ecclesiastical superior in the mission field was the Vicar Apostolic appointed by it as its representative. He received his powers directly from the Congregation. He was responsible to it for the propagation of the Faith and the care of souls in his territory.

All others were subject to his jurisdiction, visitation and correction in these matters. Privileges that exempted religious from this subjection were withdrawn by the very fact that a Vicar was appointed.

Thus, the whole work of the missions was placed under the immediate control of the Holy See and its representatives.

ARTICLE 3

CANONICAL INSTITUTION, 1622 TO THE BEGINNING
OF THE NINETEENTH CENTURY

Besides laws regulating the general relation of mission stations to ecclesiastical authorities, there were those which pertained specifically to the establishment and administration of them. These latter concerned:

first, the nature of the mission station;

second, the rectors of these regarding:

(a) their appointment, transfer and removal,

(b) their status and jurisdiction,

(c) their obligations;

third, the administration of these stations.

The Territorial Limits of Mission Stations.

In 1659, the S.C. of the Propagation of the Faith issued an instruction to the first Vicars Apostolic of the Paris Foreign Mission Society in which they were directed to assign to each missionary his own work in the provinces and to circumscribe this work with distinct territorial limits. If the missionary wished to leave this territory, even for a short time, a substitute was required (63). From this document

(63) "Clerum Missionariosque ... cuique suum munus in

we may conclude that mission stations were territorial divisions with their own Rectors erected by the Ordinary. However, there was a restriction with regard to the places where new missions could be erected. Where there was already a mission of one religious order, a mission of another order could not be erected without the express permission of the Congregation, itself (64).

After this time, there are frequent references to these divisions of territory. In 1703, the Sacred Congregation declared that the Vicar Apostolic could choose his own district, and if there were a missionary there already, he could transfer him to another one (65). This was repeated in a letter to the Vicar Apostolic of Tonching, Indo-china

provincia adsignate, et veniam suis limitibus distinctam in qua laborandum sit. Extra hanc nequaquam licitum sit cuiquam egredi absque vestra in scriptis obtenta facultate ... tunc vero praescripto brevissimo tempore, alteroque subrogato qui absentis defectum suppleat" (S.C. of the Propagation of the Faith, Instruction to the first Vicars Apostolic of the Paris Foreign Mission Society, 1659: Collectanea Parisiensis, n.97, p.38).

(64) "Nullo modo imposterum licere ... in locis in quibus existunt missionarii apostolici unius Ordinis, novam Missionem aliorum religiosorum ... fundare ... absque expressa licentia ejusdem S. Congregationis" (S.C. of the Propagation of the Faith, Decree, Jan. 11, 1656: Collectanea, v.1, n.125, p.36).

(65) S.C. of the Propagation of the Faith, Letter, June 20, 1703: Collectanea Parisiensis, n.25, p.18.

in 1723 (66). Finally, in 1753, Benedict XIV (1740-1758) declared that it was not lawful for missionaries in England to administer the sacraments outside the limits of their mission stations (67).

What was the nature of these stations? In 1660, the first Vicar Apostolic of Quebec, Mons. de Laval, reported that there were three churches in his vicariate which took the place of parishes (68). In 1780, in the diocese of Peking, the Sacred Congregation decreed that mission stations were not parishes. These districts truly and properly speaking were not such because the care of certain souls was not necessarily joined to them (69).

(66) "Licere Vicariis Apostolicis ... degere in suo Vicariatu ubi maluerint ... quod si ibidem alius fuerit Missionarius, Vicarius Apostolicus alium illi districtum assignet" (S.C. of the Propagation of the Faith, Letter to the Vicar Apostolic of Tonching, Oct. 9, 1723: Collectanea Parisiensis, n.27, p.18).

(67) "Verum Missionarius in pagis ... non liceat Sacramenta ... extra praescriptos limites administrare" (Benedict XIV, Encyclical Letter Apostolicum ministerium, May 30, 1753, §22: Fontes, v.2, p.402).

(68) "... Hae tres ultimae (ecclesiae) parochiae locum tenent" (F. de Laval, Relatio Missionis Canadensis 1660 mense Octobri ad Sanctam Sedem Missa: H. Têtu-C. Oagnon, Mandements, Lettres Pastorales et Circulaires des évêques de Québec [6 vols., Québec, Imprimerie Générale, A. Côté et Cie, 1887-1890], v.1, n.30, p.23).

(69) "S.C. ... censuit ac declaravit ecclesias omnes, oratorio, capellas, districtus ... tum in civitate Pekini

Within the limits of these stations, there were subsidiary stations, which according to the Synod of Sutchuen, China (a. 1803), were places suitable to gather the faithful. Attached to each of these, there should be at least twenty persons. To them the missionary came to preach the word of God, to administer the sacraments and to perform his apostolic duties. When these duties were completed he must leave the station (70). The importance of this Synod lies in the fact that in 1832, the Sacred Congregation extended its rulings to the whole of China and all adjacent territories (71).

These are particular laws. As such, they were binding only in the territories for which they were given. However, in the nineteenth century, when mission stations were esta-

quam in ejus diocesi ... nec vere, nec proprie parochias esse cum certarum animarum cura necessario conjunctas" (S.C. of the Propagation of the Faith, Decree, Feb. 17, 1780: Collectanea, v.1, n.543, p.335).

(70) "In quacunque igitur locum ... modo sit aptus ad congregandos fideles ... ibique adsint saltem viginti personae ... missionarius ... ire personaliter non recusat. ... id unum solliciti ... ut predicatione verbi divini, administrationi sacramentorum ... munusque apostolicum rite et digne impleatur. ... Neque enim administratione absoluta unius loci, patiantur se diutius ... ibi detineri" (Synodus Vicefiatus Sutchuensis, a. 1803, n.15: Collectio Lacensis, v.6, Col. 627c).

(71) "Observantia Regularum in Synodo Sutchuensi anni 1803 et ejus appendice praescriptarum, extendatur ad omnes Episcopatus et Vicariatus Apostolicis in Sinis et regnis adjacentibus existentes" (S.C. of the Propagation of the Faith, Decree, Aug. 27, 1832: Collectanea Parisiensis, n.104, p.40).

blished everywhere, most of these particular laws were prescribed universally.

The Appointment, Transfer and Removal of the Rectors of Mission Stations.

1) Missionaries received their mission from the Propaganda either directly, by letters patent or indirectly, through their religious superiors. Regarding the former, some of these letters designated the missionary to serve in a particular vicariate (72). In this case, the Vicar Apostolic assigned him to a station (73).

Others appointed him to a certain station. In such a case, there was some doubt whether the Vicar could change him to another place. In 1776, the Sacred Congregation was asked, "Whether missionaries appointed to one district or territory were to be considered Parish Priests? Could they be transferred to another district for any reason, even the smallest, depending solely on the will of the Vicar Apostolic?"

(72) "Quoniam in litteris patentibus ... unicuique eorum missionariorum specialiter iniunctum est cui ex Vicariis pareant, et quoniam in Vicariatu inservire debeant" (S.C. of the Propagation of the Faith, Response, May 7, 1689: Collectanea, v.1, n.180, p.57).

(73) Benedict XIV, Encyclical Letter Apostolicum ministerium, May 30, 1763, §11: Fontes, v.2, p.397.

The Sacred Congregation replied, "The Vicar Apostolic can change the stations of the missionaries for a just and reasonable cause concerning the good of the mission" (74). Thus the Vicar Apostolic could appoint rectors of mission stations and transfer them to other stations within the vicariate.

2) In 1656, it was decreed that the religious superior could transfer his subjects from one station to another, only with the consent of the Vicar Apostolic (75). There was one exception to this. In case of sickness, the superior, on his own authority, without recourse to the Vicar, could substitute one missionary for another. In such a case, the substitution was temporary, that is until the other missionary could return (76).

(74) "Utrum missionarii destinati ad aliquem districtum seu territorium habentur ut parochi. ... An possit amoveri ad alterum districtum quacumque ex causa, etiam minima, arbitrio Vicarii Apostolici? R. Posse Vicarium ap. mutare stationes Missionariorum ex iusta et rationabili causa concernente bonum missionis" (S.C. of the Propagation of the Faith, Response, Jan. 13, 1776: Collectanea, v.1, n.512, p.315).

(75) "Quandocumque superiores regularium ... voluerint mutare aliquem suorum, tenebantur id indicare vicario" (Alexander VII, Brief Dudum a felicis, Sept. 20, 1656, §1, n.4: B.R., v.16, p.233).

(76) "... licebit superiori missionis Societatis, sine recursu ad vicarium, in locis, ubi unus a Societatis residebit, eo aegrotante ... ex unico loco missionis alium substituere, donec aeger vel absens ad functionem redierit" (ibidem §1: p.236).

3) Neither the Vicar Apostolic nor the religious superior could remove a missionary from his station. In each case, they must consult the Sacred Congregation beforehand and only if they obtained its consent, could they proceed with the removal. With regard to the Vicars, this was declared by the Sacred Congregation in 1668 (77). With regard to the religious superiors, there were two decrees issued, one in 1630 (78) and another the following year (79).

In this case also, there was an exception. For grave reasons or in a case of present or imminent public scandal, either the Vicar Apostolic or the Religious Superior could remove the missionary concerned and substitute another in his place. However they were obliged to inform the Sacred Congregation of the whole matter, forthwith (80).

(77) "S. Congregatio ... districtè præcepit Præfectis Missionum ... ut à Missionibus ipsais assignatis, absque licentia S. Congregationis missionarios ... nulla causa removeant vel dimittant" (S.C. of the Propagation of the Faith, Decree, Mar. 16, 1668: Collectanea, v.1, n.167, p.54).

(78) "... in casu amotionis à missione, quæ ab eisdem superioribus fieri nullo modo potest, nisi prius consulta eadem S. Congregatione" (S.C. of the Propagation of the Faith, Decree, June 15, 1630: Analecta Iuris Pontificii, v.26, col. 540).

(79) S.C. of the Propagation of the Faith, Decree, Nov. 26, 1631: Analecta Iuris Pontificii, v.26, col.540).

(80) "... nisi ob graves causas, vel in casu præsentis, aut imminenti publici scandali de quibus, ac missionariorum remotione, et aliorum in remotorum locorum substitutione, quamprimum per seipsos facienda, eandem S. Congregationem quanto-cius certiores facere teneantur" (loc. cit.).

Nor could the Vicar Apostolic give a missionary permission to withdraw permanently from his mission. This was true even when the time for which he was appointed had elapsed. In each case, he was obliged to obtain permission from the Sacred Congregation (81).

This was changed for England, in 1753. Under this law, a religious could be removed from his mission either by the Ordinary or by the religious Superior. Neither was obliged to give reasons to the other for his action. However, they were exhorted to take this action only by mutual consent. Moreover, they should provide a substitute for the one removed (82).

The Status and Jurisdiction of Rectors of Mission Stations.

1) The status of Rectors.

In 1698, the Sacred Congregation was asked,

(81) "... ipsis vero iniunxit ne a Missione discedant nisi prius a S.C. obtenta licentia redeundi, quamvis tempus residendi in Missione iuxta eorum decreta integre compleverunt" (S.C. of the Propagation of the Faith, Decree, March 16, 1668: Collectanea, v.1, n.167, p.54).

(82) "Etsi Regularis Superior, qui statuit aliquem ex suis Religiosis ... a Missionibus exercendis remove ... non teneatur remotionis causam Vicario Apostolico significare, et eadem ratione liberum sit Vicario Apostolico, ... tamen consentaneum erit, si unanimi voluntate et consensu rem gerant" (Benedict XIV, Encyclical letter, Apostolicum ministerium, May 30, 1753, §21: Fontes, v.2, p.401).

"Whether in very old missions, especially if they have a chapel or church and a cemetery, the missionary is to be considered the Parish Priest of the mission?" The Sacred Congregation replied, "They are not true Parish Priests" (83). In a decree for the diocese of Peking, issued in 1780, this matter was further clarified. The Sacred Congregation declared that the rectors of these stations in the diocese of Peking were in no way Parish Priests but simply preachers of the word of God (84).

2) The jurisdiction of Rectors.

In 1647, the Sacred Congregation declared that the faculties granted to missionaries could not be exercised unless previously, they were shown to the Ordinary of the place. However, once they had been presented, the latter could not hinder him in any way in the administration of the sacraments inside his own mission (85). These faculties were

(83) "An in Missionibus qui sunt magis antiqui missionarii, parochi in tali Missione censeantur, maxime si capellam seu sacellum, aut ecclesiam et sepulturam habent publicam. R. Ad l. Non esse veros parochos" (S.C. of the Propagation of the Faith, Response, April 28, 1698: Collectanea, v.1, n.242, p.84).

(84) "Missionarius vero ... nullo modo Parochos esse, sed simplices verbi Dei praecones" (S.C. of the Propagation of the Faith, Decree, Feb. 17, 1780: Collectanea, v.1, n.543, p.335).

(85) "Missionarios in eorum facultatibus habere clausulam quod sine licentia Episcoporum ... in quorum districtibus

delegated to the missionary either directly by the Sacred Congregation or through the religious superiors.

With the appointment of its Vicars Apostolic, however, the Sacred Congregation began to grant missionaries their faculties through these Vicars. Regarding vicariates in England, Benedict XIV, in 1753, withdrew all privileges and customs concerning this matter and ordered that all priests needed the approbation of the Ordinary of the place, if they wished to hear confessions. The only exceptions were Parish Priests. The Vicar Apostolic could set limits to these faculties, e.g. he could grant them for a certain time or place, and afterwards he could abrogate or renew them (86).

The Obligation of Residence.

Missionaries were bound to reside in their mission stations. In 1628, the Sacred Congregation declared that they were not allowed to leave their station without the express permission of the Prefect of the mission (87).

habent Missiones, parochialia Sacramenta administrare non possunt, cetera vero, post ostensas Praelatis ... suas facultates ... administrare possunt, nec a diotia Praelatis ... impedi debent" (S.C. of the Propagation of the Faith, General Congregation, April 26, 1647: Collectanea, v.1, n.116, p.35).

(86) Benedict XIV, Encyclical letter Apostolicum ministerium, May 30, 1753, §7: Fontes, v.2, p.392.

(87) "S.C. declaravit Missionarios nullo modo debere a Missione discedere sine expressa licentia Praefecti Missionis" (S.C. of the Propagation of the Faith, July 7, 1628: Collectanea, v.1, n.41, p.12).

In 1659, in the Instruction to the First Vicars Apostolic of the Paris Foreign Mission Society, the Sacred Congregation prescribed that this permission be in writing. It could be granted only in a legitimate and very urgent case and for a very short time. In all cases, a substitute must be named (88).

In 1646, the Sacred Congregation was asked, "In time of persecution is the missionary bound to remain in his mission, even endangering his life?" The reply was "In time of persecution the presence of the Pastor is more necessary than ever, lest the faithful be led astray" (89).

The Administration of Mission Stations.

As soon as a Vicariate Apostolic was erected, the spiritual administration of the mission stations within it was completely under the jurisdiction of the Vicar Apostolic.

(88) "Extra hanc nequaquam licitum sit cuiquam egredi absque vestra in scriptis obtenta facultate, quae quidem haud facile concedenda est nisi legitima et urgentissima causa impellat" (S.C. of the Propagation of the Faith, Instruction to the first Vicars Apostolic of the Paris Foreign Mission Society, 1659: Collectanea Parisiensis, n.25, p.18).

(89) "An cum periculo vitae, persequentibus haereticis, missionarii in Missionibus suis permanere debeant? R. Tempore persecutionis esse magis necessariam pastorum praesentiam, ne fideles pervertantur" (S.C. of the Propagation of the Faith, Response, April 16, 1646: Collectanea, v.1, n.115, p.35).

In 1678, it was declared even in the matter of establishing Sodalties and Confraternities of their own order, the religious missionary needed the permission of the Vicar (90). In the same year, the Vicar Apostolic of Tonching asked the Sacred Congregation to declare that the choosing of administrators for all churches, even those that were private, the approval and constituting of teachers and everything else concerning the government of both church and faithful, belonged solely to the Vicar Apostolic. The reply was: "In the affirmative" (91).

With regard to the temporal administration, there is one document issued at the end of this period. In 1794, a declaration was made that the Bishop had the right to determine which pious works would receive the income of a church. Donations that were given for a special purpose

(90) "Non licere religiosis ... sodalitia seu confraternitates sub quovis praetextu erigere absque permissione Vicariorum Apostolicorum" (S.C. of the Propagation of the Faith, Particular Congregation for China, March 21, 1678: Collectanea, v.1, n.214, p.72).

(91) "10. Ut declaratur ad Vicarios Apostolicos dumtaxat spectare eligere administratores etiam laicos pro ecclesiis etiam privatis, ludimagistros constituere atque approbare, aliaque facere gubernium tam ecclesiarum quam christifidelium concernentia. R. Ad 10. Affirmative" (S.C. of the Propagation of the Faith, Response, Aug. 7, 1678: Collectanea, v.1, n.216, p.72).

were to be used for that purpose. The use of whatever was left after this special purpose was fulfilled, however, was determined by the Bishop (92).

Conclusions.

At the end of the eighteenth century, mission stations were already a canonical institution, although not universally established. They were territorial divisions erected by the Ordinary and completely subject to him.

The rectors of these missions could be removed only by the S. C. of the Propagation of the Faith. They could be transferred by the Ordinary. Although they were not Parish Priests they were bound by a strict law of residence. They enjoyed only delegated jurisdiction.

The religious rector was subject to the Ordinary in everything pertaining to the care of souls, but to his own religious superior in his religious life.

(92) "In arbitrio et potestate Episcopi esse erogare in usus pios, redditus bonorum ecclesiae, qui vel ad peculiarem usum non fuerint a benefactoribus destinati, vel, satisfacto onere a testoribus injuncto, aliquid aliud superest de iisdem redditibus in usus pios erogandum" (S.C. of the Propagation of the Faith, Particular Congregation for China, Jan. 13, 1794: Collectanea, v.1, n.617, p.386).

CHAPTER II
FROM THE BEGINNING OF THE NINETEENTH CENTURY
TO THE CODE

The greatest development in the law regarding mission stations took place during the nineteenth century. Most of these new precepts were outgrowths or explanations of the principles that had been established during the preceding period, e.g. those determining the nature of mission stations. Some were made for a particular territory and afterwards extended to the whole mission world, e.g. the Constitution Romanos Pontifices (1) of Leo XIII (1878-1903) was first given for England and later was applied in other mission lands.

This expansion covered several aspects of mission stations, i.e. their elements; the special features that applied to some of them, chiefly those in the United States and England; and their erection, division and dismembration.

(1) ASS, v.13 (1894), p.481-498.

ARTICLE I

THE ELEMENTS OF MISSION STATIONS

Mission stations were established primarily for the conversion of the non-catholics. While this was being accomplished they served as a substitute for parishes. They were territorial divisions, each having its own church or chapel, its rector and people. They were juridical entities but not parishes.

The Purpose of Mission Stations.

1) The conversion of non-catholics.

Mission stations were founded for the conversion of the non-catholics. This conversion did not end at baptism but continued in the training of the neophytes in catholic life after they were baptized. In 1893, the Sacred Congregation ordered the establishment, in the East Indies, of mission stations having as their proper and peculiar purpose the conversion of the infidels. For this reason they were gradually to be extended to cover the whole of the undivided territory of the dioceses or quasi-dioceses (2).

(2) "Ut missiones aliquot statuatur quae infidelium conversionem uti propriam peculiaremque finem sibi praestitutum prosequantur. ... ac sensim ad universum diocesis territorium extendantur" (S.C. of the Propagation of the Faith, Instruction, March 19, 1893, §1: Collectanea, v.2, n.1828, p.287).

2) To take the place of parishes and to prepare for their establishment.

In 1852, in a decree for England, the Propaganda ordered that some churches be erected in the likeness of parishes. These were chosen by the Bishop after he had consulted the Chapter (3). In 1877, an encyclical letter of the Congregation to all Vicars Apostolic and mission Prefects refers to mission stations "which take the place of parishes" and asks whether these are being prepared for erection into parishes in accordance with the canons (4).

Thus, the primary purpose of mission stations was the conversion of the non-catholics. The secondary purpose was to take the place of parishes and to prepare for their establishment.

(3) "In singulis dioecesibus auctoritate Episcopi attamen de consilio capituli, ecclesiae selignantur non-nullae quae magis aptae videntur ut ad instar parochiarum haberi possunt" (S.C. of the Propagation of the Faith, Decree, April 21, 1852: Collectio Lacensis, v.3, vol.959d).

(4) "... in singulis districtibus quae parochiarum locum tenent ... et utrum memorati districtus ad formam parochiae a Canonibus requisitam accedant"? (S.C. of the Propagation of the Faith, Encyclical letter, June 1, 1877, §19: Collectanea, v.2, n.1473, p.110).

Territorial Limits.

In the United States, the First Plenary Council of Baltimore (a. 1852) decreed that missions stations with boundaries ought to be established (5). The Second Council of Baltimore (a. 1866) ordered that they be erected everywhere, in the likeness of parishes, circumscribed by clear limits (6). In Canada they were instituted before 1875, with boundaries delimited by the Bishop. This appears from a decision of the Sacred Congregation, given in 1875, regarding them (7). In 1881, Leo XIII declared that a mission station was a place whose limits were determined by the Bishop and within which the missionary exercised the care of souls (8). In 1883, the Sacred Congregation ordered

(5) "Valde expedit districtus ecclesiasticos inter certos limites designare" (First Plenary Council of Baltimore, a.1852, n.10: Collectio Lacensis, v.3, col.146d).

(6) "Volumus igitur, ut ... districtus quidem, parociae instar, descriptis accurate limitibus, unicuique ecclesiae assignetur" (Concillii Plenarii Baltimorensis II Acta et Decreta, 2nd ed., Baltimore, Joannes Murphy, 1880, p.79, n.124).

(7) "... quaedam territoria valde ampla ... continentia ab Episcopo limitibus circumscribantur ad tempus sub nomine missionis non vero parochiae" (S.C. of the Propagation of the Faith, Response, Feb. 26, 1875, n.3: Analecta Ecclesiastica, v.3, p.490).

(8) Leo XIII, Constitution Romanos Pontifices, May 8, 1881: AS, v.13 (1894), p.488.

that these missions be established in China. Each Vicariate was to be subdivided into districts like rural deaneries. Then, each deanery was to be divided into mission stations (9).

Thus, Taunton, in 1906, defined a mission station as "the smaller district confided by the Vicar Apostolic to a priest" (10).

The Church or Chapel.

In 1883, the Sacred Congregation exhorted the Vicars Apostolic of China to build at least a chapel in their mission stations. Besides, they were to have a residence for the priest (11).

In an Instruction of the Propaganda given in 1886, two kinds of missions are described. Primary stations were those in which there was a church or chapel and a resident

(9) "... ut singuli Vicariatus app. in totidem districtus, singuli vero districtus in christianitates veluti dividerentur" (S.C. of the Propagation of the Faith, Instruction, Oct. 18, 1883, §12: Collectanea, v.2, n.1606, p.194).

(10) E. Taunton, The Law of the Church, London, Kegan Paul, Trench, Trubner & Co., 1906, p.436, s.v. missions.

(11) "... eosque hortari in magnis et principalioribus christianitatibus ... aliquod saltem sacellum aedificari eurent cui domus aliqua adhaeret pro missionarii habitatione" (S.C. of the Propagation of the Faith, Instruction, Oct. 18, 1883, §13: Collectanea, v.2, n.1606, p.194).

priest. Secondary ones were places where there were several catholics and which the priest visited only (12).

From this it appears that a church or public oratory was not necessary for the establishment of a mission station. A simple chapel was sufficient.

The Rector.

Before the Code there were two kinds of mission rectors, irremovable and removable ones. Irremovable rectors were a special feature of some mission stations. There were special decrees regarding their appointment and removal. Otherwise they fell under the general laws, outlined here. These latter applied in their entirety to removable rectors.

1) Their status.

In 1852, in a decree for England, the S.C. of the Propagation of the Faith ruled that mission rectors exercised the care of souls. They were responsible also for their principal church as well as the other churches

(12) "Stationes primariae eae sunt, in quibus adest ecclesia vel sacellum, cum presbytero residente; stationes subsidiariae sunt ea loca, ubi plures catholici consistunt et a missionario tantum visitantur" (S.C. of the Propagation of the Faith, Instruction, 1886: Analecta Iuris Pontificii, v.26, col.540).

of their mission station (13). In 1860, it was stated that, though they exercised the care of souls, they said the missa pro populo not from justice but from charity (14). In 1881, Leo XIII made the rule of the Fourth Council of Westminster his own and ordered that one priest be appointed rector in each mission station. He exercised the care of souls and administered the church. The other missionaries in the station had the care of souls only in dependence on him (15).

(13) "Iis ordinario praeficiatur rector missionarii qui ecclesiae et animarum curam gerat quemadmodum caeteri ecclesiis ibidem praepositi" (S.C. of the Propagation of the Faith, Decree, April 21, 1852: Collectio Lacensis, v.3, col. 959d). These stations in England and the United States were sometimes called quasi-parishes. In the Code, this term is used in a totally different sense from that which the authors had given it. At present, a quasi-parish is a parish in a Vicariate or Prefecture Apostolic (C.I.C., Can 216, §3). Before the Code, it was used by the authors and some of the particular councils to mean a mission station in certain dioceses under the Propaganda.

(14) "... In missionibus locis, ubi neque parochi neque parociae rite adhuc inveniuntur, laudatos Vicarios et operarios apostolicos, licet animarum curam exercentes, tantummodo titulo caritatis non vero ex justitia supradictae obligationi (missa pro populo) implendae" (S.C. of the Propagation of the Faith, Encyclical letter, Aug. 5th, 1860: Collectanea, v.1, n.1199, p.656).

(15) "Si duo vel plures sint sacerdotes in eadem missione unum tantum primum designandum, qui gerat curam animarum et administrationem Ecclesiae ... ceteros omnes curam quam habent animarum cum dependentia a primo exercere" (Leo XIII, Constitution Romanos Pontifices, May 8, 1881: ASS, v.13, (1894), p.485).

In 1883, the Sacred Congregation stated that all missionaries were 'co-operators' of the Ordinary and were therefore altogether under his direction and must observe all the rules which he made for the good of the mission (16).

In 1893, in an instruction to the Vicars Apostolic of the East Indies it was determined that the rectors of mission stations would be relieved of all other work so that their whole labour would be given to the conversion of the non-catholics and their perfection in the christian life (17).

Finally, in 1901, the Sacred Penitentiary declared that in interpreting the faculties granted by it, mission rectors were included under the name of Parish Priests (18).

(16) "... nimirum se in divino ministerio exercendo laborem suum ac operam sub omnimodo directione et administratione Ordinariorum esse impensuros" (S.C. of the Propagation of the Faith, Instruction, Oct. 18, 1883, §5, n.1: Collectanea, v.2, n.1806, p.191).

(17) "Apostolicos viros, qui his missionibus praeficiuntur, ab aliis negotiis curisque expeditos esse oportet ut totos se infidelibus evangelizandis possint impendere" (S.C. of the Propagation of the Faith, Instruction, March 19, 1893, §1: Collectanea, v.2, n.1828, p.287).

(18) "An sub nomine parochorum ... veniant rectores ... qui in districtu aliquo curam animarum exercent quin parochi veri nominis dici possint. R. Affirmative" (S. Penitentiary, Response, July 17, 1901, n.1: Collectanea, v.2, n.2118, p.420).

2) Their Jurisdiction.

Mission rectors had only delegated jurisdiction before the Code. This appears from a study of the nature of ordinary and delegated power at that time. Ordinary jurisdiction, according to Wernz, was that which belongs to someone, by his office from the disposition of the law itself and is exercised by him in his own right. Thus, the distinction between ordinary proper power and ordinary vicarius was not made before the Code. All vicarius jurisdiction was delegated, i.e. it was given by special commission either a iure or ab homine and was exercised in the name of another (19).

For this reason, the powers of the Vicars Apostolic, since they were exercised in the name of the Holy See, were considered to be delegated ones (20). In the same way the missionary, although he received jurisdiction from the law, exercised this not in his own name nor in the name of the Vicar Apostolic but in the name of the Holy See to whom alone the care of the foreign missions was reserved (21).

(19) Wernz, Ius Decretalium, v.2, pars 1, p.15, n.4.

(20) Wernz, Ius Decretalium, v.2, pars 2, p.486, n.699; Taunton, The Law of the Church, p.625, n.3, s.v. Vicar Apostolic; W. Fanning, Vicar Apostolic in The Catholic Encyclopedia, v.15, p.401.

(21) Wernz, loc. cit., n.700.

In 1835, the question was asked whether a simple missionary absent from his own territory could administer the sacraments to his own christians even in territory belonging to another Vicar Apostolic and without any faculty from this Vicar. The Sacred Congregation replied, "It is lawful for a simple missionary to hear the confessions and give Holy Communion to the subjects of his own Vicar Apostolic. Regarding the other sacraments, it is not lawful without the consent of the local Parish Priest (22).

In 1852, the Sacred Congregation was asked, "In territories to which they are assigned by the Vicar Apostolic, do missionaries enjoy ordinary power like parish priests or only delegated?" The response was, "In the negative to the first part, in the affirmative to the second" (23).

(22) "Id licere etiam simplici missionario quoad audiendas confessiones praebendamque sacram Communionem. Cetera sacramenta non licere huic administrare nisi de consensu parochi localis" (S.C. of the Propagation of the Faith, Response, Dec. 3, 1835, n.2: Collectanea, v.1, n.844, p.490).

(23) "Missionarii Apostolici gaudent ne iurisdictione ordinaria tamquam parochi, aut solummodo delegata in Missionibus ad quas missi sunt per Vicarium Apostolicum? R. Negative ad primam partem; Affirmative ad secundam" (S.C. of the Propagation of the Faith, Response, Aug. 23, 1852, n.5: Collectanea, v.1, n.1080, p.580).

Finally the decree Ne temere, Aug. 2, 1907, ruled that with regard to marriage under the name of Parish Priest was to be understood any priest deputed by the superior of the mission to the universal care of souls in any station (24).

Thus, although a mission rector had only delegated power he could exercise it in the matter of confession and communion outside his own Vicariate and in favour, not only of his own subjects but of all those of his Vicar Apostolic.

3) Their administration of the temporalities.

In 1816, the Sacred Congregation was asked three questions with regard to the administration of the temporal goods of mission stations. Firstly, what right had the Bishop in the administration of goods acquired by these missions? The response was that the Bishop had the right to administer these goods according to canon law and the intention of the donor.

Secondly, what right had the Rector of the mission, who had the care of the congregation? The reply was that

(24) "Nominè Parochi ... in missionibus ubi territoria necdum perfecte divisa sunt, omnis sacerdos à missionis Moderatore ad curam animarum in aliqua statione universaliter deputatus" (S.C. of the Council, Decree Ne Temere, Aug. 2, 1907: Sylloge, p.7, n.2).

he had the right to administer these goods in dependence to the Bishop.

Lastly, it was asked whether the Rector acquired any right in these goods given to the Church which he could licitly exercise even if the Bishop were unwilling. The Sacred Congregation replied: in the negative (25).

In 1883, in its Instruction to the Vicars Apostolic of China, it was established that the Bishop together with his Council of Administration had the right to exercise vigilance over the administration of the goods of each mission station (26).

Thus, the Rector was the administrator ex officio of the goods of the mission. His rights, however, were always

(25) "2. Quale ius habet Episcopus in bona et ad bonorum administrationem, quae a novis hisce ecclesiis sunt acquisita?

3. Quale sacerdotibus simplicibus curam Congregationum habentibus competit?

4. An sacerdos simplex acquirat aliquod ius in similia bona quae intuitu Ecclesiae sunt data, illudque exerceat licite, invito Episcopo?

Ad.2. Episcopus habere ius administrandi bona ab Ecclesiis acquisita ad formam Canonum et juxta intentiones fundatorum.

Ad 3. Habere sub dependentia Episcopi.

Ad 4. Negative" (S.C. of the Propagation of the Faith, Response, April 1, 1816: Collectanea, v.1, n.712, p.419).

(26) S.C. of the Propagation of the Faith, Instruction, Oct. 18, 1883, §14: Collectanea, v.2, n.1606, p.195.

subordinate to the authority of the Bishop to whom belonged the "care and superior administration of the goods of the diocese" (27) and whose duty it was to see that in each mission the church property was wisely administered (28).

4) Their removal.

In 1838, the Sacred Congregation was asked, "Does the Ordinary of the diocese overstep his powers if for reasons known to himself he interdicts a religious missionary or restricts his jurisdiction in the administration of the sacraments?" The reply was, "In the negative, when there is a grave and urgent reason and the Sacred Congregation is informed immediately" (29). A similar question was asked and the same answer given in 1840 (30).

(27) Acta et Decreta Concilii Plenarii Baltimorensis III, a.1864, n.272, p.155.

(28) S. Smith, Elements of Ecclesiastical Law (3 vols., 9 ed., New York, Benziger Bros. [1877-1888], v.1, n.668, p.472; Taunton, The Law of the Church, p.13, n.3, s.v. Administration).

(29) "L'Ordinaire du diocèse outrepasserait-il les limites posées, si pour des raisons à lui connues ... il interdisait un religieux missionnaire, ou restreignait ses pouvoirs dans ce qui concerne l'administration des sacrements? R. Negative dummodo gravis, et urgens adsit causa, statim S. Congregationi significanda" (S.C. of the Propagation of the Faith, Response, Dec. 11, 1838, n.5: Collectanea, v.1, n.879, p.500).

(30) S.C. of the Propagation of the Faith, Response, Sept. 21, 1840, n.4: L. Ferraris, Prompta Bibliotheca Canonica Iuridica Moralis Theologica Nee Non Ascetica Polemica Rubricata Historica (9 vol, Romae, Ex Typographia Polyglotta S.C. de Propaganda Fide, 1885-1899), v.9, p.756, s.v. Vicarius Apostolicus.

In 1887, the question was asked, "Is it necessary to institute a canonical process for the validity of the transferring or removal of a mission rector from the office of parish priest to that of curate or an inferior grade?" The Sacred Congregation replied, "In case of removal as a penalty for crime or as a disciplinary measure, in the affirmative; in other cases, in the negative but it must be done for a grave cause" (31).

Thus the rector of a mission station exercised the care of souls in the whole territory of his mission under the direction of the Ordinary to whom he was a curate. He was obliged to this from charity, not from justice. Other missionaries in the station were in dependence on him. He could be removed but only for a grave reason and if the removal was a penalty, then, only by a formal process.

The People.

In the Instruction drawn up by the first Vicars Apostolic

(31) "È necessaria l'istituzione de processo canonico per la validità del'atto con cui il Vescovo trasferisce, rimuove o trasloca un rettore missionario (amovibile) dall'ufficio di parroco a quello di vicario, ausiliare, o ad un ufficio inferiore grado e dignità? R. In casibus remotionis peragendae in poenam criminis vel reatus disciplinaris, affirmative; In reliquis, negative; sed opus est ut fiant graves ob causas" (S.C. of the Propagation of the Faith, Response, March 28, 1887: Collectanea, v.2, n.1669, p.219).

of the Paris Foreign Mission Society and approved by the Sacred Congregation in 1669 the first reference is made to the people committed to the missionary's care (32). This was repeated in many particular synods. The Synod of Sutchuen (a. 1803) which was extended to the whole of China and adjacent lands by the S.C. of the Propagation of the Faith in 1832, instructs the rector to feed and care for the flock "committed to him" (33). The First Synod of Japan and Corea (a. 1890) states that one of the principal offices of the rector is to teach the faithful "committed to his care" (34). Thus, each mission station had a certain number of faithful attached to it by the Ordinary.

How many faithful were required? There was no set number. The Synod of Sutchuen ruled that at least twenty

(32) "Missionarios simul edocebit quomodo ... commissos sibi populos regere ipsi debeant" (Monita ad Missionarios S. Congregationis De Propaganda Fide [12th ed]., Hongkong, Typis Societatis Missionum ad Exteros, 1930, p.107).

(33) "Item oves sibi commissas, cum summa diligentia, vigilantia et charitate pascant atque custodiant" (Synod of Sutchuen a.1803, § 24: Collectanea, v.2, n.2737, p.506).

(34) "Inter Sacerdotis officia unum ex praecipuis est docere fideles sibi commissos" (Acta et Decreta Primae Synodi Regionalis Japoniae et Coreae Nagasaki Habitae a.D. 1890, Hongkong, Typis Societatis Missionum ad Exteros, 1923, t.1, §12, p.38).

persons be attached to a subsidiary station (35). In an Instruction given in 1886, the Sacred Congregation required several catholics for these (36). Now since subsidiary stations were within the territory of the principal mission station, a fortiori several catholics were required for the latter. However, the number was not set but was left to the discretion of the Ordinary.

Moral Personality.

That mission stations were moral persons before the Code appears from two documents. In 1891, Leo XIII made a distinction between those goods donated to a religious order in the missions and those given to the mission station or to a religious for his mission station. With regard to the latter, the religious was bound to render an account to the Bishop (37). The second document is an Instruction to the Vicars Apostolic of China issued by the Sacred Congregation

(35) Synodus Vicariatus Sutchuensis, a.1803, n.15: Collectio Lacensis, v.6, col.627c.

(36) S.C. of the Propagation of the Faith, Instruction, 1886: Analecta Iuris Pontificii, v.26, col.540.

(37) "Eorum tamen bonum quae missioni vel regularibus intuitu missionis tributi fuerunt, Episcopi ius habent ab iisdem missionaribus regularibus, aeque ac a parochis clerici saecularis, rationem exigendi" (Leo XIII, Constitution Romanos Pontifices, May 8, 1881: ASS, v.13, p.495).

in 1883. The Vicar Apostolic would erect a council of administration. One of its duties was to exercise vigilance over the administration of the goods, gifts and collections belonging to each mission station (38).

From both of these documents it appears that the ownership of the goods, gifts and collections was vested not in the diocese or vicariate apostolic, but in the mission station itself. Now, the right of ownership in ecclesiastical goods can only be given to a juridical entity. Thus, these mission stations were moral persons.

The Lack of Parochial Status.

In 1863, the Sacred Congregation was asked, "Whether missionaries who exercise the care of souls in anyway, in a determined place, are bound from justice to offer the missa pro populo on feast days?" The response was, "In the negative as long as the place is not a parish canonically erected and the missionary is sent there to take the place of the legitimate parish priest" (39).

(38) "... sive ad exercendam vigilantiam circa administrationes bonorum uniuscuiusque christianitatis, oblationum et collectarum" (S.C. of the Propagation of the Faith, Instruction, Oct. 18, 1883, §14: Collectanea, v.2, n.1606, p.195).

(39) "An ... missionarii, qui quovis modo suscipiant animarum curam in aliquo determinato loco, teneantur indiscriminatum ex iustitia, applicare missam pro populo, diebus festis? R. Negative, dummodo non agatur de locis in quibus ... parociae,

The Bishop of Quebec, in 1875, asked the following, "In this region there are several very large districts with scattered people, which the Bishop has circumscribed within limits as a mission, not as a parish. The care of souls is committed to a priest who resides there with the title of missionary. He performs all the work of a parish priest and receives the tithes and oblations as a true parish priest. Is this priest bound to celebrate the missa pro populo?" The Sacred Congregation replied, "In the negative" (40).

These two declarations taken together are tantamount to a declaration that mission stations were not parishes. If a well established station such as that described by the Bishop of Quebec was not a parish a fortiori others less well organized were not.

canonice erectae iam sint, atque ad ea ... missionarii missi sunt ut legitimorum Pastorum vices gerunt" (S.C. of the Propagation of the Faith, Decree, Aug. 18, 1866, n.1: Collectanea Parisiensis, n.615, p.256).

(40) "In hac regione saepe contingit ut quaedam territoria valde ampla, sed populum valde dispersum continentia ab Episcopo limitibus circumscribantur ad tempus sub nomine missionis non vero parochiae; eorum cura spiritualis aliquando committitur alicui presbytero, qui ibidem residet cum titulo missionarii et omnia munera perficit quae sunt parochi propria, decimas et oblationes percipit sicut verus parochus; teneturne ille presbyter ad celebrandum pro populo sicut parochus? R. Negative" (S.C. of the Propagation of the Faith, Response, Feb. 26, 1875, n.5: Analecta Ecclesiastica, v.3, p.490).

Finally, in 1881, Leo XIII declared that mission stations in England were not true parishes (41).

Conclusions.

In places where patronage existed, some mission stations had already been erected as territorial divisions. Under the Propaganda, they were always such. However, it was only in the nineteenth century that they were established everywhere.

The mission rector, under patronage, was often semi-independent in his own territory, especially where there were no bishops. Under the Propaganda, he became a delegate of the Ordinary to whom he was completely subject. He fulfilled his spiritual duties not in his own name but in that of the Ordinary. The latter exercised vigilance over the administration of the temporal goods, which the rector took care of, *ex officio*. During the first two centuries under the Sacred Congregation the mission rector was always irremovable. During the nineteenth century removable rectors became the rule.

(41) "At Britannicae missiones generatim in parochias ad iuris tractus erectae non sunt" (Leo XIII, Constitution Romanos Pontifices, May 8, 1881: ASS, v.13, p.487).

A church or chapel was necessary for each mission station. Subsidiary chapels or stations were often established by the Ordinary within their territory.

At least several catholics were necessary to erect a mission station.

They were moral persons owning their own ecclesiastical goods. They were juridical entities having objective perpetuity but were not parishes.

ARTICLE 2

SPECIAL FEATURES OF SOME MISSION STATIONS

The Irremovable Rector.

In 1852, the Sacred Congregation issued a decree for England ordering the institution of some mission stations with irremovable rectors (42). The First Council of Westminster (a.1852) made rules regarding their removal. The Bishop must establish a council of investigation made up of the older and proven priests of the diocese. The irremovable Rector could

(42) "Iis ordinario praeficiatur rector missionarius ... attamen permanenter institutus habeatur" (S.C. of the Propagation of the Faith, Decree, April 21, 1852: Collectio Lacensis, v.3, col 959d).

not be removed unless his case had been examined by three priests of this commission and the Bishop had heard their advice. The Bishop would make regulations as to the mode of procedure in this investigation and submit them to the Sacred Congregation for approval (43).

Irremovable rectors were introduced in the United States by the Third Council of Baltimore (a.1884). A mission station was made irremovable by the Bishop in the same way as it was done in England (44). Once a mission was established as an irremovable one it could not afterwards be made movable (45). A priest to be made rector of an irremovable mission should:

- 1) have worked in the diocese at least ten years;
- 2) have proved himself capable of administering the mission in temporals and spirituals;
- 3) be chosen by the concursus (46).

He was bound to make the Profession of Faith on receiving

(43) Concilium Provinciale Westmonasteriense I, a. 1852, c.13, n.2,3,4: Collectio Lacensis, v.3, col 925d)

(44) Acta et Decreta Concilii Plenarii Baltimorensis III, a.1884, n.33, p.21.

(45) ibidem, n.34, p.22.

(46) ibidem, n.36.

his mission (47). He could be removed only for a canonical cause and with a formal trial (48).

Did these Rectors have an office and therefore ordinary jurisdiction? The common opinion of authors both before and after the code seems to be that they did not. This was the opinion held by Smith in his work, Elements of Ecclesiastical Law. He submitted his work to the Consultors of the Propaganda for revision. In their report, they agreed with him that these rectors were delegates of the Bishop (49).

Quasi-Benefices.

In 1869, the Sacred Congregation ordered the Bishops of India to introduce the custom of stole fees and to make provision for the stable and certain support of the clergy (50). According to the Second Council of Westminster (a.1855)

(47) Smith, Elements of Ecclesiastical Law, v.1, n.664, p.466.

(48) Acta et Decreta Concilii Plenarii Baltimorensis III. a.1884, n.38, p.23.

(49) "Ma i Pastori son delegati e non veramente Parrochi" (Consultors' Report, n.2; Smith, Elements of Ecclesiastical Law, v.1, p.xxvi). For a full discussion of this question see G. Allen, De Beneficiorum Paroecialium Existentia Ante Et Post Codicem In Statibus Foederatis Americae Sept., Romae, Apud Custodiam Librariam Pont. Institutii Utriusque Iuris, 1935, p.64-89.

(50) "... voluit diligentiam episcoporum, ut prudenter provideant induci paulatim consuetudinem atque ... legem

a portion of the revenue of the church belonged to the Rector of the mission for his decent support (51). In Canada, the Rector received the tithes and oblations as true parish priests.

Were these benefices?

Taunton calls them manual benefices (52). However from the nature of these stations before the code, they lacked two essential elements for a true benefice.

1) These rectors lacked a strict ecclesiastical office. An office required ordinary jurisdiction attached to it and exercised by the holder of the office in his own name (53). Rectors of mission stations even when they were irremovable had only delegated jurisdiction which they exercised in the name of the Ordinary.

solvendi memorata iura stolae ... atque ad certa sustentationis ministrorum sacrorum media stabilienda inserviant" (S.C. of the Propagation of the Faith, Instruction, Sept. 8, 1869, n.23: Collectanea, v.2, n.1346, p.23).

(51) "... sive tandem ex ea parte proventum ecclesiae, quae sibi competit pro sua honesta sustentatione" (Decreta Synodi Provincialis Westmonasteriensis, a.1855, c.8, n.12: Collectio Lacensis, v.3, col 982d).

(52) Taunton, The Law of the Church, p.539, n.4, s.v. Rectors.

(53) Werns, Ius Decretalium, v.2, pars 2, n.240, p.6.

2) They lacked subjective perpetuity. Benefices before the Code required both objective and subjective perpetuity (54). Objective perpetuity was that required of any moral person i.e. that it be established in perpetuity. Subjective perpetuity required that the holder of the benefice receive it in perpetuity also, i.e. that he be irremovable (55). Most mission rectors were removable. Those who were not had only delegated power. Therefore, mission stations were not true benefices.

Thus the rectors of these stations did not hold a benefice but received an allowance (praestimonium) or stipend. This allowance, according to Ferraris was " stipend taken from ecclesiastical income and given to a canon or other cleric for his support" (56).

Conclusions.

Some mission stations were made irremovable during this period. Once established as such, they could not be

(54) S. Consistorial, Resolution, March 13, 1868: ASS, v.3, p.508.

(55) Wernz, Ius Decretalium, v.2, para 2, n.5, p.9.

(56) Ferraris, Prompta Bibliotheca, v.1, p.549, n.4, s.v. Beneficium. Regarding these quasi-benefices in the United States cfr. Konings, A., C.S.R., Commentarium In Facultates Apostolicas, 4th ed., New York, Benziger Fratres, 1897, p.172-173.

changed afterwards to movable ones.

There were special rules regarding the appointment and removal of their rectors. These did not hold an office but enjoyed only delegated jurisdiction. Except in the matter of appointment and removal they were subject to the Ordinary in the same way as other rectors of mission stations.

Mission stations were not true benefices but their rectors received an allowance for their support.

ARTICLE 3

THE ERECTION, DIVISION AND DISMEMBRATION OF MISSION STATIONS

Mission stations were erected by the Ordinary or his delegate. In 1852, the S. C. of the Propagation of the Faith in a Decree (57) ordered these stations to be erected "by the authority of the Bishop". In 1881, Leo XIII declared that the limits of the mission were to be defined by the Bishop (58). In the same Constitution Romanos Pontifices

(57) S.C. of the Propagation of the Faith, Decree, April 21, 1852: Collectio Lacensis, v.3, col. 959d.

(58) Leo XIII, Constitution Romanos Pontifices, May 8, 1881: ASS, v.13 (1894), p.488.

he declared that the solemnities necessary when dividing a parish were not to be extended to the division of a mission station. Nor was anyone to urge the similarity between the two divisions. The obligation of observing these solemnities was a restriction of liberty and therefore not to be extended to other cases, however similar. Because in missions there were always peculiar circumstances which did not apply elsewhere there could be many more reasons and lighter ones for dividing mission stations than those established by law for the division of parishes. Therefore the Bishop could divide a mission station having consulted the Chapter or Council and the Rector of the mission. If the mission was administered by religious the Bishop must consult the religious superior. After the division the Rector or the Superior could appeal to the Holy See but only in devolutive (59).

The Pope went on to answer the question: whether the new mission thus established, if it were divided from a mission committed to religious was also to be given to them. In this case the Bishop could appoint a religious rector or a secular one as he saw fit. The law was silent

(59) Ibidem, p.489.

on this point and therefore, the case was placed under the Bishop's authority. For the Bishop has a right founded in law regarding everything that pertains to the administration of his diocese (60).

In an Instruction to the Vicars Apostolic of China in 1883, it was stated that the erection of new churches and chapels, the determining of the place and necessity of these was reserved to the Ordinary. He was to do this by a public document which would declare that the edifice was reserved for divine cult and placed under his jurisdiction. Though the faithful were obliged according to their circumstances to help in defraying the expenses they were not to build a new chapel or make any notable change in an old one unless the Ordinary gave his consent (61). If the new church belonged to religious, however, the express permission of the Holy See and the Ordinary was necessary (62).

(60) Loc. cit.

(61) S.C. of the Propagation of the Faith, Instruction, Oct. 18, 1883, § 13: Collectanea, v.2, n.1606, p.194-195.

(62) "...sodalibus religiosis novas sibi sedes constituere, erigendo novas ecclesias ... nisi obtenta prius expressa licentia Ordinarii loci et Sedis Apostolicae non licere" (Leo XIII, Constitution Romanos Pontifices, May 6, 1881: ASS, v.13, p.493).

Conclusions.

The Ordinary alone was competent in the erection, division and dismemberment of mission stations. If he wished to divide or dismember a station he was obliged to consult the chapter or his mission council, the rector of the station concerned and the religious superior if it were committed to religious. He was free to give the new station thus formed to religious or secular as he saw fit. Appeal could be made to the Holy See against his decree but only in devolutive.

No church or chapel could be erected in a mission station except by his authority.

CONCLUSIONS

Patronage was a system by which the catholic king supplied the men and the means for the missions. In return, he had the right to depute missionaries to the missions and to present them to all offices and benefices. The spiritual rule resided with the residential bishops and the missionaries. They established three types of missions:

- (a) parishes, canonically erected,
- (b) territorial divisions attached to a monastery or residence,

(c) monasteries and residences which had the care of souls on a personal basis i.e. they cared for a certain group of the faithful.

When the S. C. of the Propagation of the Faith was founded all the missions in the whole world were placed under its care. Missionaries were sent by the Holy See or by their religious superiors. They were subject in the care of souls and in everything pertaining to the propagation of the Faith to the Vicar Apostolic, who was the representative of the Holy See in his territory. In their religious life, they were subject to their own superiors.

The Ordinary had charge of the founding of new missions or churches and the governing of them, the administering of the sacraments, the organising and ruling of the faithful.

From 1659, mission stations were always territorial divisions erected by the Ordinary and completely subject to him. Their rectors were appointed and transferred by him. They could be removed only with the permission of the Holy See. They were bound by a strict law of residence. They had only delegated jurisdiction.

In the century before the Code, the greatest development in the law regarding mission stations took place. Their elements were defined. They were territorial divisions, erected by the Ordinary, with their own church or chapel, their own Rector and people. They were juridical entities but not parishes or benefices.

The territory of the diocese or quasi-diocese that was not erected into canonical parishes was gradually to be included within the limits of mission stations.

A principal church or chapel was a necessary element of these. Other stations with chapels were erected by the Ordinary within the territory but they were subsidiary to the principal one.

There were two kinds of rectors; removable and irremovable ones. The former were the more common. Both kinds were 'cooperatores' of the Ordinary in the care of souls and had delegated jurisdiction. However they administered the goods of the mission station, ex officio, under the vigilance of the Bishop.

Some catholics were necessary to erect a mission station but the number was not determined.

Mission stations were moral persons possessing their own ecclesiastical goods.

The erection, division and dismembration of mission stations were reserved to the Ordinary. In this matter, however, he must consult the mission Council, the Rector of the mission and the religious superior if the station were administered by religious. When a new station was erected, it could be given either to seculars or regulars as the Bishop saw fit.

CANONICAL COMMENTARY

CHAPTER III

THE ELEMENTS OF MISSION STATIONS

In dealing with the legal status of mission stations, the first question to determine is the nature of mission stations, themselves. What elements are necessary in the law before a mission station can be erected? The discussion here is concerned with those things that pertain to the essential features that belong to all mission stations. Special features will be reserved for a later inquiry.

First of all, it is necessary to determine in a general way which elements are essential. Afterwards each of these will be discussed in particular.

ARTICLE I

IN GENERAL

The Present Law.

Nowhere in the Code is there a clear enumeration of the elements of mission stations. Can. 740 determines the right of the priest to administer baptism in them. Can. 1182 §2, 3 and Can. 533 §1, n.4 give rules regarding the

administration of goods belonging to them. Can. 1182 §2 determines the administrator of these goods. These are the only direct references to mission stations in the Code.

Before the Code, the Ordinary was bound to establish mission stations in such a way that gradually the whole territory, not divided into parishes, would be included in them. That this still applies appears from the Encyclical letter Rerum Ecclesiae of Pius XI (1922-1939) given Feb. 28, 1926:

"Therefore, make this your aim that the sacred preachers will be so distributed that no part of the territory will remain without the preaching of the Gospel and be reserved for future evangelization. Therefore, spread out by means of residences, constituting missionaries in a certain place as a sort of center, around which are established minor stations, committed to at least one catechist and having a chapel to which the missionaries from the central station must go and which they visit at stated intervals, to exercise their ministry" (1).

(1) "Sacros igitur praecones ita vobis corda sit dispertire, ut nulla territorii pars ab evangelii praedicatione vacet et in aliud tempus excolenda reservetur. Quare longius, per mansiones, procedite, missionibus in aliquo loco, quasi quodam centro, constituendis, quem locum minores undique stationes circumstant uni saltem catechistae commissae et sacra aedicula auctae, quas missionales a sede media identidem stato tempore, ministerii causa, adeant atque invisant" (Pius XI, Encyclical letter Rerum Ecclesiae, Feb. 28, 1926: IAS, v.18 (1926), p.79-80).

Since the Code, the S.C. of the Propagation of the Faith has issued several decrees and instructions on mission matters. Some of them deal with mission stations and their rectors.

Opinions of the Authors.

What is the nature of mission stations?

Beste calls them the territorial parts of a vicariate or prefecture which have not been divided into quasi-parishes (2). Pugliese defines them as districts in which a missionary exercises his functions (3). Vromant says that mission station denotes a section of a vicariate or prefecture apostolic. In this district the missionary propagates the Faith and exercises his ministry in the same way as a parish priest (4). Grentrup would not restrict them to vicariates and prefectures but otherwise would agree with Vromant (5). Payen describes them as districts which contain a principal

(2) U. Beste, Introductio in Codicem, 3rd ed., Collegeville, Minn., St. John's Abbey Press, 1946, p. 533, n.4

(3) A. Pugliese, De Iure Missionario in Commentarium pro Religiosis et Missionariis, v.18 (1937), p.39.

(4) Vromant, Ius Missionariorum, v.1, p.8.

(5) Grentrup, Ius Missionarium, p.2.

station and subsidiary ones (6). According to Paventi, mission stations are like quasi-parishes. Therefore four elements are required in any mission station; some territory, faithful, a priest to whom has been given the care of souls, and a church, oratory or simple chapel decently furnished according to circumstances, in which the sacred functions can be held (7). Eguren would add to these elements that mission stations are moral persons from the law (8).

All of these definitions are partly true. Eguren alone names all the elements of mission stations. That these stations are not confined to vicariates and prefectures appears from the decree issued in 1920. It was declared that part of the territory of mission diocese could be left without parochial limits (9). Thus mission stations may be erected in mission dioceses also. That the Rector exercises

(6) Monita Mankinensia (2 vol., 2nd ed. post codicem, Zi-Ka-Wei, Typis Orphanotrophii P'ou-sè-wè, 1933), v.1, p.88.

(7) X. Paventi, De Statione Missionali et Vicario Cooperatori Missionali in Monitor Ecclesiasticus, v.64 (1952), p.272.

(8) I. Eguren, De Conditione Iuridica Missionarii in Studia Missionalia, Romae, Apud Aedes Pontificiae Universitatis Gregorianae, v.5 (1950), p.148, 183, §10.

(9) S.C. of the Propagation of the Faith, Decree, Dec. 9, 1920, n.1: AAS, v.13 (1921), p.18, n.1.

his ministry in the same way as the Parish Priest can only be accepted as a broad example. In fact, in the spiritual administration he has no exclusive jurisdiction or rights, no ordinary power and where there are two or more priests in the mission, by the common law he is merely the first among equals.

However, these stations are like quasi-parishes. They have their own territory, a church or chapel, a rector, some faithful and are moral persons from the law. Thus there are five distinct elements in mission stations, namely:

- 1) an imperfect territorial division of a mission diocese, vicariate, prefecture or mission sui iuris,
- 2) a church or chapel,
- 3) a rector to whom has been committed the care of souls,
- 4) faithful,
- 5) moral personality from the law.

ARTICLE II

TERRITORIAL DIVISION

There are four questions to be answered with regard to the territory of a mission station. First, does a mission

station require territory? Second, what is the nature of the limits of this territory? Third, where can these boundaries be established? Lastly, may two or more mission stations be erected in the same territory?

Therefore, the following are dealt with: first, the necessity of a territorial division when erecting mission stations; secondly, the nature of this division; thirdly, the territory in which this division can be made and lastly, mission stations established for different languages or tribes.

The Necessity of Territorial Division.

All authors who treat of the subject agree that mission stations are territorial divisions. Some call them districts or parts of a vicariate but all agree that a mission station requires some territory.

From the founding of the S.C. of the Propagation of the Faith, a division of territory was always favoured and during the latter part of the nineteenth century, was always required, in establishing a mission station.

1) The present law is contained in Can. 1182 §2 and in the Encyclical Herum Ecclesiae of Pius XI, which has been noted above. Can. 1182 §2 reads

"Also offerings made for the benefit of a parish or mission, or of a church situated

within the limits of a parish or mission, are administered by the parish priest or the missionary ..."

1) The first question that arises is with regard to the meaning of missio in this Canon. Authors disagree. Vromant thinks that it applies to quasi-parishes (10). Vermeersch-Creusen holds the same opinion but uses, as an example, mission stations in England before the Code (11). Payen (12), Paventi (13), Grentrup (14) and Eguren (15) hold that it means mission stations. This latter seems to be the correct opinion.

a) In this canon the parish and the mission, the parish priest and the missionary are compared and opposed. All authors agree that the meaning of paroecia is a canonically erected parish and parochus means a canonical parish priest. Now, according to Can. 216 §3, a quasi-parish is a

(10) Vromant, loc. cit.

(11) A. Vermeersch-J. Creusen, Epitome Iuris Canonici (3 vol., 6th ed., Mechliniae-Romae, H. Dessain, 1940-1946), v.1, p.472, n.3.

(12) Monita Nankinensia, v.1, p.153, n.2.

(13) Paventi, Breviarium Iuris Missionalis, Romae, Catholic Book Agency, 1952, p.236.

(14) Grentrup, loc. cit.

(15) Eguren, loc. cit.

canonically erected parish. The only difference between a parish in mission territory and a quasi-parish is in the hierarchical unit to which they belong. Thus a quasi-parish automatically becomes a parish when a vicariate apostolic is erected into a diocese (16). In the same way if a diocese were suppressed and returned to the status of a vicariate apostolic the parishes would automatically become quasi-parishes (17). Thus to say that missio in this canon applies to quasi-parishes is to say that both words refer to the same thing. The case is even clearer with regard to parochus and missionarius. Can. 451 §2 n.1 states that quasi-parish priests come under the name of parish priests in the law. Therefore, in this canon missio does not mean a quasi-parish nor does missionarius mean a quasi-parish priest.

b) In doubt about the sense of a law we are to seek out parallel passages to find the meaning. This comparison between parish and mission is made again in §3 of this same canon with regard to the administration and the report to be made to the Ordinary. It is made in Can. 533 §1 n.4, with regard to the investment of funds given to the

(16) C.J.C., Can 216 §3.

(17) S.C. of the Propagation of the Faith, Decree, Dec. 9, 1920, n.1: AAS, v.13 (1921), p.18, n.2.

parish or mission. Both of these laws regarding missions were contained in the Constitution Romanos Pontifices of Leo XIII (18). Leo XIII in the same constitution described what he meant by a mission, i.e. "the limits established by the Ordinary within which a religious exercised the care of souls" (19). These were not parishes or quasi-parishes in the sense in which the Code uses that term. They were mission stations.

Now according to Can. 6 n.3, we must interpret that part of the law which repeats the law before the Code in the meaning of the old law. Therefore Can. 1182 §2 and 3 and Can. 533 §1 n.4 refer to mission stations when they use the word missio.

c) This is confirmed by reference to the Faculties granted by the S.C. of the Propagation of the Faith to Ordinaries under its jurisdiction. In Formula I of the faculties granted before 1941, Faculty 19 uses the words "in actu visitationis parociae quasi-parociae et missionis" (20) and Faculty 25, "Assignandi pensiones quasi-

(18) Leo XIII, Constitution Romanos Pontifices, May 8, 1881: ASS, v.13 (1894), p.494.

(19) Ibidem, p.488.

(20) S.C. of the Propagation of the Faith, Formula Prima (major), n.19: Sylloge Praecipuorum Documentorum Recentium Summorum Pontificum et S. Congregationis de Propaganda Fide necnon aliarum SS. Congregationum Romanarum ad usum Missionariorum, Typis Polyglottis Vaticanis, 1936, p.584. (Hereinafter cited as Sylloge).

parochia vel missionarius ... resignantibus quasi-paroecias vel missiones" (21). Here there is no doubt about the meaning of mission. In each of these faculties it is compared and opposed to parishes and quasi-parishes and therefore can mean only mission stations as such.

Now since the natural meaning in the context, the meaning in parallel places and the law before the Code are in agreement that mission when opposed to parish means a mission station, in our interpretation of the law, this opinion has been followed.

ii) Can. 1182 §2 supposes a territorial division when speaking of mission stations. And this division is like that of parishes. There is no doubt that the phrase 'within the limits of the parish' refers to the territory within the boundaries of the parish. Now the same phrase is used of mission stations and has the same meaning i.e. the territory within the boundaries of the mission station.

Therefore, mission stations are territorial divisions.

2) Pius XI in the encyclical Rerum Ecclesiae ordered the establishment of mission stations. These stations were to have a central residential station and surrounding it, a

(21) Ibidem, n.25, p.585.

group of subsidiary stations, all of them in charge of the missionary. The reason for establishing them was that no part of the territory would lack the preaching of the missionary (22). Now it is evident that the ministrations of the missionary were not to be restricted to the stations themselves but were to cover the whole territory for which the stations were established. Otherwise, it could not be said that no part of the territory lacked the preaching of the missionary.

Therefore, mission stations require some territory attached to them.

3) This interpretation is confirmed in the letter to the Bishops, Vicars and Prefects Apostolic and Superiors of Missions regarding the report to be sent every five years to the S.C. of the Propagation of the Faith. Question 3 asks: whether the parish registers are kept in "each district, parish or quasi-parish" (23). Question 4 asks: "Into what christianities or sections or districts or other boundaries is the mission divided" (24). This does not refer to parishes

(22) Pius XI, Encyclical Letter herum Ecclesiae, Feb. 28, 1926: AAS, v.18 (1926), p.79-80.

(23) S.C. of the Propagation of the Faith, Letter, April 16, 1922, n.1: AAS, v.14 (1922), p.289, n.8.

(24) Ibidem, p.288, n.4.

or quasi-parishes. Question 5 concerns them (25). Nor are they rural deaneries. Question 6 refers to them (26). Thus, in this letter, it is taken for granted that mission stations are territorial divisions.

4) Last of all this is confirmed by the Council of Shanghai (a 1924) which decrees that missionaries are bound to reside in the district or mission which has been committed to them by the Ordinary (27). The Regional Council of Corea (1931) has in its first decree a description of mission stations. They are the territory comprising the central residential station and ordinarily several secondary stations, the care of which has been committed to a missionary rector (28).

Thus, the first element of mission stations is their territoriality.

The Nature of the Territorial Division of Mission Stations.

The special note regarding the boundaries of mission

(25) Ibidem, n.5.

(26) Ibidem, p.289, n.6.

(27) Primum Concilium Sinense anno 1924, n.118, p.59.

(28) Acta et Decreta Primi Concilii Regionalis Coreani, 1931, Hongkong, Typis Nazareth, 1932, n.1.

stations is that they are imperfect divisions of territory. In a decree of the Sacred Congregation, Dec. 9, 1920, undivided territory is described as that territory which has no parochial limits (29). Thus the limits of a parish or quasi-parish are complete divisions separating the ordinary jurisdiction of one Parish Priest from that of another. Since mission stations are not parishes their boundaries are not perfect, i.e. they are not parochial boundaries and therefore may be lacking in one or other of the notes of parochial limits.

Now the boundaries of parishes must be distinct, permanent and circumscribe the territory in which a true parish priest exercises the care of souls. None of these notes apply to the boundaries of mission stations. However, these latter must indicate some territory.

1) The boundaries of mission stations need not be distinct. Pius XI indicates that they must determine which subsidiary stations are attached to each mission station (30). This is a sufficient indication of boundaries. However,

(29) S.C. of the Propagation of the Faith, Decree, Dec. 9, 1920, n.l: AAS, v.13 (1921), p.18, n.l.

(30) Pius XI, Encyclical Letter Rerum Ecclesiae, Feb. 28, 1926: AAS, v.18 (1926), p.79-80.

they may be quite clear. In some of the better developed mission stations, e.g. in many missions in China, the boundaries follow the civil divisions or a street or a river and indicate the territory of the mission station as clearly as parish boundaries indicate the territory of a parish. But this is not necessary.

In other missions the boundaries may be established as the territory in which a certain dialect is spoken or in which a certain nomadic tribe dwells. They may be set as the halfway mark between two mission stations (31). Often only the groups of christian or the christianities attached to the station are named (32). However, what is necessary and sufficient is that the subsidiary stations be indicated.

2) The boundaries of mission stations need not be permanent. They need be set only for a time. This was the law before the Code and has not been changed by it. Thus a subsidiary station may be attached to one mission station for a year and then transferred to another according to the needs of the diocese.

3) The boundaries of mission stations circumscribe

(31) Leo XIII, Constitution Romanos Pontifices, May 8, 1881: ASS, v.13 (1894), p.489.

(32) S.C. of the Propagation of the Faith, Instruction, July 25, 1920, n.1: AAS, v.12 (1920), p.332, n.4.

the territory within which a missionary exercises the care of souls. This was the description given by Leo XIII in his Constitution Romanos Pontifices (33). They divide the jurisdiction of one Rector from that of another. Not that all rectors may not be given jurisdiction for the whole territory of the diocese or quasi-diocese. But that the boundaries of mission stations show where he will ordinarily exercise this jurisdiction. In many mission dioceses all missionaries are granted faculties both in the internal and external forum for the whole of the undivided territory of that diocese, e.g. diocese of Kongmoon, China (34). But the mission station limits circumscribe the territory in which the care of souls has been committed to the missionary and in which he is bound to exercise it.

In many other missions, jurisdiction in the external forum is given to the Rector of the mission only, at least with regard to liceity. Thus in the diocese of Nanching, China, the mission boundaries divide the jurisdiction of the rector not for validity but for liceity (35).

(33) Leo XIII, Constitution Romanos Pontifices, May 8, 1881: ASS, v.13 (1894), p.488.

(34) Mission Manual of the Vicariate of Kongmoon (South China), Hongkong, Nazareth Press, 1937, n.147.

(35) Monita Nankinensia, v.1, n.88, n.4.

On the other hand the boundaries may divide the jurisdiction of the rectors both for liceity and validity. In all these cases the diocesan statutes, the decrees of Regional and Plenary Councils and the particular delegation of the missionary in question will determine what division of jurisdiction has been made in a particular mission station. The Ordinary should grant these faculties without ambiguity, especially with regard to those that concern matrimony (36).

4) Mission station boundaries must be established as such by the competent ecclesiastical superior. This subject will be dealt with more fully, when the erection of mission stations is discussed. It is enough to note here that when there is a doubt as to the status of a territory i.e. whether it is a parish or only a mission station, the determining factor will be what the intention of the ecclesiastical superior was (37). For it is the will of the ecclesiastical superior in erecting these boundaries that determines the nature of them.

(36) "Id quoque ad ordinem servandum, vitandamque confusionem mirifice conducet ut nimirum facultates quae missionariis communicantur, praesertim vero matrimoniales, absque ambagibus iisdem ostendatur" (S.C. of the Propagation of the Faith, Instruction, Sept. 8, 1869: Collectanea, v.2, n.1346, p.22, §10.)

(37) Ferraris, Prompta Bibliotheca, v.6, p.75, n.11, s.v. Parochia.

The Territories Which may be Divided into Mission Stations.

1) The territory of parishes or quasi-parishes may not be divided into mission stations. With the establishment of parishes and quasi-parishes all chapels, churches and oratories become subsidiary ones and remain in dependence to the parish church (38). According to Can. 464 §1, the Parish Priest is bound to exercise the care of souls with regard to all his parishioners. This includes the people of these subsidiary stations. There are certain exemptions which can be granted but mission stations are not among them. To erect a mission station, a Rector must be appointed to whom is committed the care of souls in his territory.

The curate with care of souls in a parish is under the direction of the Parish Priest who directs him in the care of souls (39). The missionary rector is considered a curate of the Ordinary and is dependent on him in the care of souls (40). Therefore, if any division is made of the territory of a parish a new parish or perpetual

(38) S.C. of the Propagation of the Faith, Instruction, July 25, 1920, n.1: AAS, v.12 (1920), p.332, n.8.

(39) C.J.C., Can 476 §7.

(40) S.C. of the Propagation of the Faith, Instruction, July 25, 1920, n.1: AAS, v.12 (1920), p.332, n.7.

vicarage must be established, according to Can. 1427 §1.

Thus a mission station may not be erected within the boundaries of a parish.

2) A mission station may not be erected within a diocese which is not subject to the S.C. of the Propagation of the Faith.

According to Can. 216 §1, the territory of dioceses is to be divided into distinct territorial parts which are parishes. This division must cover the whole territory of the diocese. In 1919, the S.C. Consistorial declared that where churches in dioceses could not be erected into parishes they were to be considered as subsidiary churches or chaplaincies in some parish upon which they were to remain dependent until they could become parishes themselves (41). Thus, in dioceses under the Consistorial, the whole territory of the dioceses must be included within the boundaries of the parishes erected in the diocese. Now, mission stations cannot be erected within the boundaries of a parish. Therefore, none of the territory of a diocese under the Consistorial may be erected into mission stations.

3) Mission stations may be erected in undivided

(41) S.C. Consistorial, Declaration, Aug. 1, 1919, n.l: AnS, v.11 (1919), p.346, n.3.

territories within hierarchical units under the S.C. of the Propagation of the Faith. These are the dioceses, vicariates and prefectures apostolic and missions sui iuris which are subject to the Propaganda.

a) Vicariates and prefectures apostolic.

Vicariates and prefectures apostolic are to be divided into quasi-parishes where this can be done conveniently (42). However, this division is not to be made prematurely but the Vicar or Prefect Apostolic is to consider the good of souls and the increase of the Catholic Faith (43). Nor is it necessary to wait till the whole territory may be divided into quasi-parishes. Each quasi-parish should be erected when it is ready. Thus in a vicariate or prefecture all or part of the territory may be left without quasi-parochial limits (44). This is called undivided territory (45). In this undivided territory the Vicar or Prefect must prepare for the establishment of quasi-parishes (46). He is bound

(42) C.J.C., Can 216 §2.

(43) S.C. of the Propagation of the Faith, Instruction, July 25, 1920, n.1: AAS, v.12 (1920), p.332, n.2.

(44) Ibidem, n.3.

(45) S.C. of the Propagation of the Faith, Decree, Dec. 9, 1920, n.1: AAS, v.13 (1921), p.18, n.1.

(46) S.C. of the Propagation of the Faith, Instruction, July 25, 1920, n.1: AAS, v.12 (1920), p.332, n.1.

to establish mission stations in such a way that no part of the territory will be left without the preaching of the Gospel (47). Therefore mission stations may be erected in the undivided territory of a Vicariate or Prefecture Apostolic.

b) Dioceses subject to the Propaganda.

In dioceses subject to the Sacred Congregation, part of the territory may be left without parochial limits. These dioceses are still in a mission state and are to be considered as missions (48). Thus, unlike dioceses subject to the Consistorial, those subject to the Propaganda may have all or part of their territory, undivided. In these, they fall under the same rule as vicariates and prefectures apostolic.

c) Missions sui iuris.

In an audience with the Holy Father, Pius XI, Nov. 7, 1929, Cardinal Van Rossum requested that the Code of Canon Law be made applicable to missions sui iuris in everything that regarded Prefects Apostolic and prefectures apostolic.

(47) Pius XI, Encyclical Letter Merum Ecclesiae, Feb. 28, 1926: AAS, v.18 (1926), p.79-80.

(48) S.C. of the Propagation of the Faith, Decree, Dec. 9, 1920, n.1: AAS, v.13 (1921), p.18, n.1.

The Holy Father granted this as requested (49). Therefore, mission stations can be erected in the territories of missions sui iuris.

Thus, mission stations may be erected in the undivided territories of mission dioceses, vicariates, prefectures and missions sui iuris but not within the territories of dioceses subject to the S.C. Consistorial nor in any parish or quasi-parish.

Mission Stations Established for Different Languages or Tribes.

May the Ordinary erect two mission stations in the same territory? May he erect different stations for different languages or tribes dwelling in the same territory?

Before the Code these were erected by the Ordinary, de facto, but there does not seem to be any general law with regard to them. In the United States, where a great many of these were established, even the Third Council of Baltimore does not mention them. In Canada, some seem to have been established in this way for the Indians. Faculties were granted to the missionaries within their respective missions and with regard to the Indians only (50).

(49) S.C. of the Propagation of the Faith, Nov. 7, 1929: Sylloge, n.146, p.347.

(50) "Les missionnaires des Sauvages jouiront dans leurs missions respectives, et à l'égard des sauvages

Since the Code, the Ordinary is forbidden to erect language parishes or national parishes in the same territories, without an indult from the Holy See (51). Does this apply to the erection of mission stations?

It seems that it does not. This canon is a restriction of the free exercise of the rights of the Ordinary. For the Ordinary has a right founded in law with regard to everything pertaining to the administration of his territory (52). In this case, the canons of the Code are to be strictly interpreted (53). Now Can. 216 §4 mentions parishes only and therefore, it is not to be extended to another case no matter how similar it may be. Therefore it seems that this canon does not apply to mission stations.

Nor is there any special decree regarding language or national mission stations. In this matter the law is silent. Therefore it is left to the Ordinary or to Provincial

seulement, de tous les pouvoirs dont nous pourrions user nous-mêmes..." (Mandement of Bishop Hubert, Bishop of Quebec, Oct. 28, 1793, Art.17: Têtu-Gagnon, Mandements, Lettres Pastorales et Circulaires des Evêques de Québec, v.2, p.497)

(51) C.J.C., Can 216 §4.

(52) Leo XIII, Constitution Romanus Pontifex, May 8, 1881: AAS, v.13, p.488.

(53) C.J.C., Can 19.

and Plenary Councils to decide this matter. Thus it seems that where no provision has been made in these Councils, the Ordinary is free to erect mission stations for people of different nations or tribes or languages who dwell in the same territory. He is bound only to consider the good of souls and the increase of the Catholic Faith.

ARTICLE III

THE CHURCH OR CHAPEL

The Necessity of a Church or Chapel.

"Those regions with a permanent residence for the missionary and his principal church, are called mission stations" (54). Thus, Vromant in his definition and throughout his work would have the church as a necessary element of mission stations. Paventi however holds that a semi-public oratory or a simple chapel or place suitably furnished in which the sacred functions can be held is sufficient (55). This seems to be the correct opinion.

(54) Vromant, Ius Missionariorum, v.2, p.287, n.266.

(55) Paventi, Breviarium Iuris Missionalis, p.134.

In the law before the Code, a church was not required for a principal station. Nor has this been changed by the Code. Nowhere in the Code or the decrees since the Code have churches or public oratories been required in constituting a mission station. On the other hand, Pius XI in the Encyclical Rerum Ecclesiae seems to imply that churches will be erected only in the more important stations i.e. those with a large number of inhabitants or in the place of residence of the Bishop, Vicar or Prefect Apostolic (56). Even here as will be seen from the text, churches are only conditional. Therefore, churches do not seem to be a necessary element of mission stations.

This conclusion is confirmed in the instruction of the S.C. of the Propagation of the Faith regarding the report to be sent to the Congregation by Bishops, Vicars, Prefects and Mission Superiors subject to the Sacred Congregation. Here the question is asked: whether in the principal churches and chapels the Blessed Sacrament can

(56) "... si iis in locis, ubi sedem domiciliumque ipsorum vestrum, Venerabiles Fratres, Dilecti Filii, constitueritis, itemque in amplioribus ob incolarum numerum stationibus, domum Dei ...patere opus est, vitandum tamen ne sumptuosa ...templa ...exsistantur" (Pius XI, Encyclical letter Rerum Ecclesiae, Feb. 28, 1928: A.S., v.18 (1928), p.80).

be reserved (57). Under the conditions existing in missions these principal chapels where the Blessed Sacrament is reserved, could only exist in the residential station of the missionary.

From all this, it seems that a church or public oratory is not required, to establish a mission station.

From the nature of the case, however, some place suitably furnished in which the sacred functions can be held is necessary. This is a direct conclusion from the purpose of mission stations. Like missions in general their purpose is to increase the number of faithful and to consolidate the faith among the neophytes. To carry out this purpose, there must be some place where the sacred functions can be held. It would be impossible to spread the Faith without the Sacrifice of the Mass and the Sacraments. Therefore at least this is necessary.

These places have been called chapels. The reason is that many of them do not fulfil the requirements necessary for oratories under the Code.

(57) S.C. of the Propagation of the Faith, Instruction, June 11, 1942: AAS, v.34 (1942), p.348.

Many Mission Chapels are not Churches or Oratories.

A church is a sacred edifice dedicated to divine worship, the chief purpose of which is that all the faithful may use it for public worship (58). An oratory is a place destined for divine worship but its chief purpose is not that all the people may use it to perform public acts of religion (59). Thus, the principal difference between a church and oratory is that the first purpose of the oratory is not the accommodation of all the faithful (60).

A public oratory is one whose purpose is indeed the accommodation of some college or even private persons but in such a way that all the faithful have the right, when legitimately established, of attending, at least during divine service (61). A public oratory is ruled by the same law as churches (62).

Before a church or public oratory may be used for

(58) C.J.C., Can 1161.

(59) C.J.C., Can 1188 §1.

(60) F. Capello, Summa Iuris Canonici (3 vol., 5th ed., Romae, Apud Aedes Universitatis Gregorianae, 1940-1945), v.2, p.388, n.424.

(61) C.J.C., Can 1188 §2 n.1.

(62) C.J.C., Can 1191 §1.

the sacred offices it must be solemnly blessed or consecrated (63). Most mission chapels are not solemnly blessed or consecrated. Nor can they be. If the Ordinary prudently foresees that a church or public oratory will, in the future, be converted to profane uses he may not give his consent to the building of the church or public oratory. If it is built already he may not bless or consecrate it (64). The chapels of most mission stations are temporary chapels. If, in the future, there are large numbers of converts the intention is to build a church. In the meantime, a room in the priests' residence or some other suitable building is used for divine worship. The intention from the beginning is that these will be used for other purposes when a church can be built. Under these conditions, the Ordinary is forbidden to erect or bless or consecrate a church or public oratory.

Nor ordinarily, are these chapels semi-public oratories. They are not established for a community or group of the faithful but their chief purpose is that all the faithful may come there for divine worship. Sometimes a

(63) C.J.C., Can 1191 §2, 1165 1.

(64) C.J.C., Can 1165 §2.

semi-public oratory is used as the mission station chapel. But a chapel erected for this purpose alone could not be a semi-public oratory. Therefore most mission station chapels are neither churches nor oratories.

Status of these Chapels.

These chapels are not established under the law of the Code but are the result of several faculties granted by the Holy See to Bishops, Vicars, Prefects and Mission Superiors. They are halls or rooms set aside for divine worship, temporarily, by the authority of the Ordinary. The place itself must be decent and suitably furnished for the holding of the sacred functions.

In these chapels the Sacrifice of the Mass may be celebrated, the Bishop may permit the reservation of the Blessed Sacrament and the parochial sacraments may be administered.

1) Mass may be celebrated.

According to the Code, mass must be celebrated in a church or oratory (65). However, mission Ordinaries are granted the faculty to permit the celebration of mass on a

(65) C.J.C., Can 822.

portable altar in case of necessity (66). Here the portable altar is to be understood as in Can. 622 §3, i.e. to celebrate Mass outside a church or oratory. The condition for the use of this faculty is "in case of necessity" and is certainly fulfilled whenever a priest says mass in a mission station chapel even from his own devotion (67).

2) The Blessed Sacrament may be reserved.

According to the Code, the Blessed Sacrament may be reserved in certain churches and oratories but not outside of them except with an Apostolic indult (68). It must be reserved in an immovable tabernacle in the middle of the altar (69).

The Faculties granted to mission Ordinaries however allow the Ordinary to permit the reservation of the Blessed Sacrament for the sick in a decent place, even outside the tabernacle, if there is danger of sacrilege (70).

(66) Facultates Decennales Sacrae Congregationis De Prop. Fide, Formula Major, Jan. 1, 1951, n.4: Paventi, Breviarium Iuris Missionalis, p.245.

(67) Vromant, Ius Missionariorum, v.5, p.32, § 36, n.3.

(68) C.J.C., Can 1265 §1, 2.

(69) C.J.C., Can 1269.

(70) Facultates Decennales Sacrae Congregationis De Prop. Fide, Formula Major, Jan. 1, 1951, n.15: Paventi, Breviarium Iuris Missionalis, p.247.

Thus, this faculty permits the Bishop to dispense from both the above-mentioned laws of the Code.

Is the danger of sacrilege a necessary condition to the use of this faculty? For instance, where there was no church or oratory could the Bishop permit the priest to reserve the Blessed Sacrament in one of these chapels? And this, even, if there were no sick at the moment? The S.C. of Rites was asked this question in 1871 regarding this faculty. The Sacred Congregation replied: "In the affirmative as is evident from the tenor of the indult" (71). The purpose of the faculty is that the sick may be able to receive Viaticum or even outside the danger of death, Holy Communion. And where this necessity exists the Bishop may permit the reservation outside the church or oratory. However, in this case the law with regard to the tabernacle would bind since there is no necessity to dispense with it.

Therefore in these mission chapels the Bishop can permit the reservation of the Blessed Sacrament in an immovable tabernacle in the middle of the altar.

(71) "Num vi huius facultatis liceat missionario commo-
ranti in locis ab ecclesia vel oratoriis, longe distantibus,
servare aliquas sacras Hostias in loco decenti pro infirmis
forte occurrentibus, quamvis actu nulli ibi infirmi reperian-
tur. R. Affirmative, prout liquet ex ipso indulti tenore"
(S.C. of Rites, Response, Feb. 4, 1871, n.1, §5: Collectanea,
v.2, n.1365, p.45).

3) Solemn Baptism may be administered.

The proper place of solemn baptism is in the baptistry of a church or public oratory (72). Solemn baptism may be administered in private houses in the two cases mentioned in Can. 776 §1.

In the missions however many people live a long distance from a church or public oratory. In most mission stations there are no churches or public oratories. Even where there is a church in the residential station a great many people live a long distance from it and it is morally impossible for them to bring their infants to the church to receive solemn baptism.

On the other hand, solemn baptism is to be administered except in the cases mentioned in Can. 759 (73). Even where the ceremonies have been omitted they are to be supplied forthwith in the church except in the case of Can. 759 §2.

Under the conditions mentioned above it is impossible to carry out both precepts of the law. For in this case, it is impossible ever to administer solemn baptism if the precept with regard to the place has to be fulfilled. Thus there is

(72) C.J.C., Can 773.

(73) C.J.C., Can 755 § 1.

a conflict of laws between the precept to administer solemn baptism and the precept to administer it in a church or public oratory. In this case the decision will be in favour of the one to be baptized. Therefore, solemn baptism may be given outside the church or public oratory and certainly in mission chapels, if possible (74).

4) The confessional may be placed in these chapels.

The confessional for women must always be in a conspicuous place and generally in a church or public oratory or in a semi-public oratory destined for women (75). The proper place for sacramental confession is a church or public oratory or a semi-public oratory (76). Both of these canons are not so strict that, for a just cause, the confessional may not be had in another place (77). This just cause is always present in these mission chapels i.e. that the people may receive the sacraments without grave inconvenience. There-

(74) Paventi, Breviarium Iuris Missionalis, p.198-199; Vromant, Ius Missionariorum, v.1, p.101; cfr also Primum Concilium Sinense, n.267, p.103; S.C. of Rites, Response, Feb. 4, 1871, n.3; Collectanea, v.2, n.1365, p.46.

(75) C.J.C., Can 909.

(76) C.J.C., Can 908.

(77) Capello, De Sacramentis (5 vol., 2nd to 6th ed., Romae, Marietti, 1945-1950), v.2, p.656, n.2.

fore, the confessional may be placed in mission chapels.

5) Certain of the Apostolic Faculties may not be used in these chapels.

Some of the Apostolic Faculties are granted for churches and public oratories, only. These are N. 9, 10, 11, in the Major Formula (78). Since these chapels are neither churches nor oratories, these faculties may not be used in them (79). In a letter to the Superior General of the Scheut Missionaries the Sacred Congregation declared that in these faculties "church" was to be taken in its strict canonical sense (80). While this is only a private reply it declares the evident meaning of the Faculties.

Subsidiary Churches and Chapels.

Within the territory of mission stations, the Ordinary is obliged to establish sufficient subsidiary stations so that no part of the territory may lack the preaching of the

(78) Facultates Decennales Sacrae Congregationis De Prop. Fide, Formula Major, n.9, 10, 11: Paventi, Breviarium Iuris Missionalis, p.246.

(79) Winslow, A Commentary on the Apostolic Faculties, p.49.

(80) Vromant, Ius Missionariorum, v.5, p.41, note 1.

gospel. Each of these must have a church or chapel (81).

Rarely will they have a church, in practice.

In each of these stations, there is at least one catechist (82). A catechist is a layman who with the approval of the Ordinary as such, gives his time, in whole or in part, to the teaching of the Gospel.

From the central station the missionary visits these subsidiary stations at stated intervals to administer to the faithful there, to teach and instruct the catechumens and to preach the Gospel to the non-catholics in these places (83). Thus the spiritual administration is committed to the Rector of the mission station.

Where a church or public oratory has been established in one of these subsidiary stations, the temporal administration belongs to the Rector of the mission station, unless the church or oratory has its own administration separate from that of the mission station or particular law or custom has ruled otherwise (84).

(81) Pius XI, Encyclical letter Rerum Ecclesiae, Feb. 28, 1926: AAS, v.18 (1926), p.79, 80).

(82) Ibidem.

(83) Ibidem, p.80.

(84) C.J.C., Can 1182 §2.

ARTICLE 4

THE RECTOR

The Care of Souls.

All authors agree on the necessity of a rector to whom has been granted the care of souls. Regarding the spiritual jurisdiction of this rector the Code is silent. Therefore the Sacred Congregation gave norms in an Instruction in 1920 for determining the status of the rector of the mission station. This Instruction is silent regarding the approval of the Supreme Pontiff and therefore the norms which it gives are to be followed not by reason of their inherent juridical value but by virtue of the Canons which they interpret. The part of the Instruction regarding mission rectors is drawn from Can. 1096 §1. The Instruction determines from what source the missionary receives jurisdiction to assist at marriages. In the words of the Instruction:

"... In places where these [quasi-parishes] have not been constituted, Missionaries are to be considered curates of the Vicar or Prefect Apostolic, and therefore validly and licitly assist at marriages with a general licence granted by the Ordinary" (85).

(85) "... in locis vero ubi ipsas [quasi-paroeciae] constitutae non sunt, Missionarii censendi sunt cooperatores Vicarii et Praefecti Apostolici, atque proinde cum licentia generali ab Ordinario concessa valide et licite adstant matrimonii" (S.C. of the Propagation of the Faith,

Most authors (86) agree that a norm so general is not to be restricted to the matter of marriages only, but is rather to be extended to the whole work of the missionary. However, Paventi (87) in his application of this, seems to restrict it to the matter of marriages.

Paventi would make a distinction between an ordinary assistant in a parish and a mission assistant who is Rector of a mission station. In the mission station a very large territory is involved. The mission assistant, i.e. the Rector, does not dwell with the parish priest, in this case the Ordinary, nor can he consult him easily. In many missions the Rector can consult the Ordinary rarely and with the greatest difficulties. Many times for long periods of time

Instruction, July 25, 1920, n.1: AAS, v.12 (1920), p.332, n.7).

(86) M. Coronata, O.F.M.Cap., Institutiones Iuris Canonici (5 vol., 3rd ed., Taurini, Marietti (1947)), v.3, p.743, n.534; Payen, De Matrimonio In Missionibus Et Potissimum in Sinis (3 vols., 2nd ed., Zi-Ka-Wei, In Typographia T'ou-se-we, 1935-1936), v.1, p.205, n.266. v.2, p.186, n.1780; Conita Nankinensis, v.1, p.86, n.119; Eguren, De Conditione Iuridica Missionarii in Studia Missionalia, v.5 (1950), p.131-133; Paventi, Breviarium Iuris Missionalis, p.136-138; Vromant, Ius Missionariorum, v.2, p.298, n.280; v.4, p.186, n.197; Masarei, De Missionis Institutione Ac De Relationibus Inter Superiores Missionum Et Superiores Religiosis, p.182, n.205; Primum Concilium Sinense, p.56, n.107.

(87) Paventi, Breviarium Iuris Missionalis, p.136-144.

he cannot consult him at all, not even by letter, e.g. in many missions in China during the last fifteen years and in practically all of them since the Communist invasion of 1949. Generally, the Rector lives in mission stations far from the Ordinary and there exercises his ministry, celebrates the divine offices, administers the sacraments. He must fulfil all the offices of the parish priest with regard to the faithful. Over and above this, he must spend himself for the conversion of the non-catholics. In fact, this latter is his chief burden. All this must be done in a territory where there is rarely any ordination of Catholic life. Rarely are there catholic traditions and customs. Many times he must care for people whose traditions and customs and language are different from those of the rest of the diocese or quasi-diocese.

Therefore, according to Paventi, these Rectors should be considered as Parish Priests exercising the care of souls with more rights and jurisdiction than other parish priests. Thus he would have the Rector of a mission station likened rather to a vicar adjutor of Can. 475 §2 than to the vicar cooperator of Can. 476. This vicar adjutor takes the place of the parish priest in everything and therefore has the same rights and offices as a proper parish priest excepting only, the obligation of the missa pro populo.

In fact, the mission station rector takes the place of the parish priest, i.e. the Ordinary, in everything and this permanently. For the Ordinary by reason of the vastness of the territory is permanently unable to fulfil his obligations (88). Therefore, Paventi would attribute to the Rector of the mission all the powers and obligations of the parish priest except the missa pro populo. The reason is that he is bound by the same offices and duties as the true parish priest. Therefore he would apply to him the prescriptions of Can. 451 §2, n.2, i.e. that the Rector of a mission station is the equivalent of the parish priest and in the law would come under this name.

Curates or assistants in these mission stations he would have as delegated ad universitatem causarum. But the Rector is the equivalent of the Parish Priest and therefore would have ordinary jurisdiction and be bound by the prescriptions applicable to any other vicar adjutor, with full parochial rights.

While all this may be true and it seems very strange that the one pastor of whom is demanded the universal care of souls, who has the heaviest responsibilities and is the

(88) Cfr. C.J.C., Can 475 §1.

most isolated of all should be denied the ordinary jurisdiction to carry out his obligations, still it is not for the interpreter of the law to ~~make~~ the law but rather to interpret it as it is. And in this matter, we have the clear words of the Instruction; in places where these (quasi-parishes) have not been constituted Missionaries are considered cooperatores of the Vicar or Prefect Apostolic. Therefore the rights and obligations of the mission Rector in spiritualibus are to be estimated according to Can. 476 rather than Can. 475.

2) Does a mission Rector exercise the care of souls ex officio with ordinary jurisdiction or only with delegated?

Before the Code, Rectors had delegated jurisdiction only. However, once they had been delegated to the universal care of souls in any mission station, they received by Papal law the same powers as Parish Priests regarding marriage. In the matter of confessions when they received faculties in their own diocese or quasi-diocese, they could hear the confessions of all the subjects of the Vicar or Bishop, anywhere.

Paventi, for the reasons given above, would consider that the mission Rector has a true office and therefore,

ordinary jurisdiction. Eguren (89) arguing that all curates have an office would of course extend this to the Rector of a mission station. Payen (90), Vromant (91), Masarei (92), Koster (93) would have the mission Rector as a curate and therefore without ordinary jurisdiction unless the Ordinary has established an office as such.

It is not the purpose of this dissertation to enter into the controversy regarding the jurisdiction of curates. This seems to have been settled by the Response of the Commission for the Interpretation of the Code given in 1942. The Commission was asked: Whether a vicar cooperator, ratione officii, mentioned in Can 476 §6, can validly assist at marriages. The Commission replied: in the negative (94). It would seem therefore that the other opinion now lacks true probability (95). Paventi's argument seems to prove,

(89) Eguren, De Conditione Iuridica Missionarii in Studia Missionalia, v.5 (1950), p.148.

(90) Payen, Monita Nankinensia, v.1, p.87, n.119.

(91) Vromant, Ius Missionariorum, v.2, p.298, n.280.

(92) Masarei, loc. cit.

(93) L. Koster, De Administratione Sacramentorum Ex Obligatione Iustitiae in Apostolicum, v.14 (1943), p.50.

(94) Pontifical Commission for the Authentic Interpretation of the Canons of the Code, Response, Jan. 31, 1942, n.1: AAS, v.34 (1942), p.50. (Hereinafter cited as C.I.C.)

(95) Cappello, Summa Iuris Canonici, v.1, p.519, n.559.

rather what the law should be than what it really is. It would hardly be considered probable against the clear words of the Instruction.

According to the Instruction missionaries in undivided territories are curates of the Vicar or Prefect Apostolic. Therefore with regard to spirituals they have only delegated jurisdiction. The rights and obligations of the mission Rector are to be estimated from the diocesan statutes and the letters of the Ordinary (96). They are to be judged also from the Plenary and Provincial Councils held in the territory. Thus the Council of Shanghai decreed that all priests approved by their own Ordinary could hear another priest's confession anywhere in the country. Also that any priest called for the sick into a bordering Vicariate could on this occasion hear all confessions, distribute communion and say Mass, baptize, preach. However, they could not assist at matrimony (97).

In practice, the Ordinary must grant universal jurisdiction for all cases to all his missionaries occupied in the care of souls. This, at least for validity. This comes

(96) C.J.C., Can 476 §6.

(97) Primum Concilium Sinense, p.128, n.326.

from the lack of communication which usually obtains in mission territory. Regarding liceity, some rather complicated systems of rules as to when this delegation can be used have been developed (98). This is a result of the fact that the mission Rector cannot give universal delegation.

Universal delegation by one with ordinary power who is inferior to the Roman Pontiff does not carry with it the power to subdelegate except in single cases (99). Thus Rectors in neighbouring mission stations but in different Vicariates are unable to assist one another except in single cases or in sick calls in danger of death.

Thus under the present law, the mission Rector is in a worse condition, juridically, than under the law before the Code. Under the old law he had power delegated a iure from the Holy See regarding marriages; today, from the Bishop. He could hear the confessions of all the subjects of the Vicar Apostolic anywhere; to-day, only in the territory of the diocese or quasi-diocese. He had the care of souls in his mission and all others exercised this care in dependence on him (100); to-day by the common law, he is merely

(98) Cfr. Monita Nankinensia, v.1, p.88-94.

(99) C.J.C., Can 199 §3.

(100) Leo XIII, Constitution Romanos Pontifices, May 8, 1881: ASS, v.13 (1894), p.485.

the first among equals.

If the principle stated by the First Council of Baltimore be true: "since it is repugnant to the laws and custom of the Church and the beneficial rule of souls to concede to several priests, at the same time and equally, the pastoral authority to rule the same church or district" (101), then, it would be hoped that this condition be changed. In such a case, it would seem that the office of Rector of the mission could be a kind of quasi-vicar adjutor, as in Can. 475. The other missionaries in the station would remain vicars cooperatores.

The Administration of Temporalities.

Later it will be shown that mission stations are moral persons by law. Under the law before the Code the Rector was the administrator of the goods of the mission station. Over this administration the Ordinary exercised vigilance through his Council of Administration.

Since the Code many authors do not admit that mission stations are moral persons by law. However all admit that

(101) "Cum repugnet legibus et consuetudini Ecclesiae, bonoque animarum regimini, pluribus Sacerdotibus simul ex aequo concedere auctoritatem pastorem regendi eandem Ecclesiam, aut Districtum" (First Plenary Council of Baltimore, a.1852, n.4: Collectio Lacensis, v.3, col. 26c).

where mission stations have been erected into moral persons the administration is in the hands of the Rector of the mission (102).

1) That the Rector is still the administrator under the Code appears from Can. 1162 §2, 3. This reads:

"2. Also offerings made for the benefit of a parish or mission, or of a church situated within the limits of a parish or mission, are administered by the parish priest or missionary, unless the church is one which has its own administration distinct from that of the parish or mission, or unless there is a special law or legitimate custom to the contrary.

3. The parish priest and the missionary ... must administer these offerings according to the sacred canons ..."

The word missio in this canon applies to mission stations. The canon states that oblations made to the mission station or to a church established inside the territory of a mission station are to be administered by the missionary, i.e. the Rector of the station. This is evident from the fact that the word missionarius regarding the administration of the mission station corresponds to the word parochus in regard to the administration of the parish. The Rector of the mission is the administrator unless they are given to

(102) Paventi, Breviarium Iuris Missionalis, p.147.

a church with an administration separate from that of the mission. Clearly the law takes for granted that the administrator of these oblations and the administrator of the mission station is one and the same person, in the same way as the administrator of the parish and the administrator of these oblations is one and the same person. Thus it is clear from this canon that the administrator by law of the mission station is the Rector of the mission.

2) The second argument is taken from the Apostolic Faculties. The following faculty was granted under the present law until 1941, to Ordinaries subjected to the S.C. of the Propagation of the Faith. "To assign pensions to quasi-parish priests or missionaries when they resign from a quasi-parish or mission by reason of infirmity ... to be paid each year by their successor. These are not to exceed one-third of the fruits of the quasi-parishes or missions (no matter what manner they are received), after expenses have been deducted" (103).

(103) "Assignandi pensiones quasi-parochis vel missionariis ex infinitate resignantibus quasi-paroecias vel missiones ... solvendam annuatim a successore, non excedentem tertiam partem fructuum quomodolibet provenientium ex quasi-paroeciis vel missionibus, deductis expensis" (S.C. of the Propagation of the Faith, Formula prima (major), Jan. 1, 1931: Sylloge, p.585, n.25).

In this faculty, the Ordinary was given the power to grant a pension to the Rector of the mission station to be paid annually by his successor, from the fruits of the mission station. Clearly it is impossible for the succeeding Rector to pay a pension from the fruits of the mission station, the sum not to exceed a third part of these fruits and after he had deducted expenses, unless he were the administrator of the mission station.

Thus it is apparent that the law before the Code which made the Rector of the mission station the ordinary administrator of the goods of the mission station has remained the same under the Code.

The Rector is obliged to follow the prescriptions of the Code in the carrying out of this administration. It is not within the scope of this dissertation to explain the laws on the administration of goods. It is sufficient to state with Can. 1182 §3, that the administration must be carried out in accordance with the sacred canons and that he must give a financial report to the Ordinary.

The Appointment and Removal of the Rector.

1) The appointment of the Rector is reserved to the Ordinary. Here we deal only with the appointment of Rectors from the secular clergy. Regarding religious, there are

special laws which will be explained when mission stations committed to religious are dealt with. That the Ordinary has the right to appoint these Rectors is clear from Can. 476 §3. Since these Rectors are to be considered as cooperatores of the Ordinary it is his right to nominate them, transfer them, change their duties or to use them in different offices. Thus the Instruction of the S.C. of the Propagation of the Faith, given Dec. 8, 1929, stated that:

"It is the part of the mission Superior to appoint Superiors of mission stations, to change these stations and the missionaries themselves, to transfer them from one place to another, to employ them in various offices and tasks according to the need and advantage of the mission" (104).

Therefore, the appointment and transfer of the mission Rector belongs to the Ordinary ad nutum. The only reason he needs is the present necessity and utility of the mission (105).

2) Regarding the removal of a Rector the law in the missions is much stricter than under the Consistorial. While in theory the Rector of the mission station is removable ad nutum

(104) "Superioris missionis est stationum missionarium Superiores nominare, eas sicut etiam missionarios mutare, de uno in alium locum transferre, eis uti pro occurrente missionis necessitate vel utilitate in diversis officiis vel muneribus" (S.C. of the Propagation of the Faith, Instruction, Dec. 8, 1929: AAS, v.22 (1930), p.114). Translations of this Instruction are from Bouscaren, Canon Law Digest, v.1, p.637.

(105) Paventi, Breviarium Iuris Missionalis, p.101.

like any other curate (106), yet he can be removed only for the very gravest causes. Thus the above-mentioned Instruction decrees:

"For very grave reasons ... the ecclesiastical Superior... may remove someone from his post or office ... without prejudice, however, to the right of recourse in devolutivo to the Holy See" (107).

The reason for this law is apparent. The great scarcity of missionaries, the difficulty of finding replacements and because of these, the fact that removal of a missionary generally means the abandonment of some mission work has led the Sacred Congregation to allow removal only for the very gravest reasons. For here it is not only the case of safe-guarding the rights of the individual missionary but of the souls also who may be left without a pastor.

Therefore to avoid the necessity of removal the Instruction decrees:

"If the Superior of the mission learns that one of the missionaries subject to him has been gravely wanting in his duty, he can take proper

(106) C.J.C., Can 477 §1.

(107) "Ob gravissimas porro rationes ... Superior ecclesiasticus... aliquem a proprio loco vel munere removere potest; ...salvo tamen recursum in devolutivo ad Apostolicam Sedem" (S.C. of the Propagation of the Faith, Instruction, Dec. 8, 1929: AAS, v.22 (1930), p.115).

measures and apply merited penalties"
(108).

Comparing these two parts of the Instruction we see the method of the Sacred Congregation. Where there is grave cause the Ordinary can transfer a missionary or change his duties or apply penalties but only for the very gravest causes can he remove him (109).

In this matter of removal when the Ordinary is referred to, Vicars General or Delegate, Prefects or Superiors Delegate are not included unless they have a special mandate. This comes both from Can. 477 §1 which requires the Vicar General to have a special mandate to remove a curate and from the Instruction which reserves this to the Superior

(108) "Superior missionis, ubi subditum sibi missionarium muneri suo graviter defecisse comperuit opportunas dispositiones atque meritas poenas statuere potest" (ibidem).

(109) Masarei, De Missionum Institutione Ac De Relationibus Inter Superiores Missionum Et Superiores Religiosos, p.250, n.258; Vromant, Ius Missionariorum, v.2, p.289, n.270. Vromant would restrict this to vicariates and prefectures apostolic. This seems to come from a misunderstanding of the nature of dioceses subject to the Propaganda. These dioceses remain in a mission state according to the Decree of the Propagation of the Faith, Dec. 9, 1920, n.1: AAS, v.13 (1921), p.18, "Cum dioceses huic Sacro Consilio subjectae tamquam missiones haberi debeant". It seems clear therefore that when the present Instruction speaks of the Superior of the mission, these dioceses are also included.

of the mission. The Instruction also defines what is meant by the Superior of the mission i.e. the one appointed by the Holy See (110).

ARTICLE 5

THE PEOPLE

The Necessity of Having Faithful in a Mission Station.

May a mission station be erected where there are no faithful? Paventi (111) seems to think that the faithful are not necessary for he says that stations may be established where there are no christians, not even one.

In the law before the Code several faithful were required. Under the present law, there is no direct mention of the number of the faithful or the necessity of having faithful. However that a group of faithful are necessary for the establishment of a mission station can be inferred from other laws.

There are three stages in the development of a parish in mission lands (112). In the beginning the Faith must be

(110) S.C. of the Propagation of the Faith, Instruction, Dec. 8, 1929: AAS, v.22 (1930), p.112.

(111) Paventi, Breviarium Iuris Missionalis, p.134.

(112) Allen, De Beneficiorum Paroecialium Existentia

preached to a purely pagan or non-catholic people. When some converts have been made they are grouped together to form a christianity. As more christians are added to the flock the second stage is reached i.e. the establishment of the mission station. Lastly, the parish itself is erected.

A christianity has been defined in a letter of the S.C. of the Propagation of the Faith to the Bishops, Vicars and Prefects Apostolic and the Mission Superiors subject to it, as "a group of christian families" (113).

Thus it is evident that a group of christians are necessary also to the second stage or the mission station.

On the other hand could the Ordinary erect a mission station for a group of catechumens? The case is practical e.g. where a large group, a long distance from any established station ask that a priest be sent to them to teach them the Faith and receive them into the church. Catechumens are not persons in the church. One becomes a person in the church by baptism (114). Therefore catechumens as such

Ante Et Post Codicem In statibus Foederatis Americae Sept., p.16, n.17.

(113) "... christianitates ... (idest cumulationes familiarum christianarum)" (S.C. of the Propagation of the Faith, Letter, April 16, 1922, n.1: AAS, v.14 (1922), p.302, n.2).

(114) C.J.C., Can 87.

are not subject to the laws of the church nor are they counted among the faithful.

Now the purpose of a mission station is the conversion of the non-catholics. In this case the conversion has already begun. The Ordinary is morally certain that the necessary faithful will not be lacking. Hence the Ordinary may judge that the conversion of the people may be accomplished more easily by establishing the mission station before the christianity. Therefore, the Ordinary may erect a mission station for a group of catechumens.

The Manner in Which the Faithful are Attached to Mission Stations.

Can. 92 distinguishes diocesan and parochial domicile, only. The faithful living in a mission station have only diocesan domicile since there are no parishes (115). Therefore by domicile the people can find only their proper Ordinary, not their proper Rector. Rectors of mission stations, being curates have no subjects, per se (116). How then are the people of the mission station to determine their

(115) Faventi, Breviarium Iuris Missionalis, p.144.

(116) Eguren, De Conditione Iuridica Missionarii in Studia Missionalia, v.5 (1950), p.161.

proper immediate Pastor and their proper mission station?

Jarré (117), Paventi (118), Eguren (119), Payen (120) would extend the rules of Can. 740 to the whole exercise of the sacred ministry in a mission station. With regard to this exercise there is no express precept and therefore according to Can. 20 we are to take our rules from laws made in similar cases. Therefore the extension seems to be justified. Can. 740 legislates:

"Where parishes or quasi-parishes are not yet established, the particular statutes and accepted customs must be consulted in order to determine what priest, besides the Ordinary, has the right to baptize, either in the entire territory or in some particular district".

If we substitute for baptizandi the words ministerium sacrum exercendi we have a norm which supplies the silence of the Code in regard to the relation of the people of the mission station to their rector. Hence, parochial rights and the administration of the sacraments will depend entirely on the statutes of the Ordinary and the accepted customs of the

(117) C. Jarré, Quomodo Christiani Fiunt Subditi Missionariorum in Apostolicum, v.2 (1931), p.71.

(118) Paventi, loc. cit., p.145.

(119) Eguren, loc. cit., p.162.

(120) Payen, Monita Nankinensia, v.1, p.88, 1011-1014.

diocese or quasi-diocese. These are generally only for liceity. The accepted custom of this canon does not mean the strict custom of Book I, Title 2 but rather the accepted manner of acting in the diocese or quasi-diocese. Otherwise the word receptarum would be superfluous.

To be noted also is the fact that the canon postulates this division of right being made on a territorial basis - not a personal one. Thus the right of exercising the ministry according to the statutes and customs of the diocese may be delegated to the Rector of the mission station for the territory of that station.

In this way the people will be able to distinguish their proper mission station and their proper immediate Pastor through the territory in which they dwell (121). This seems to be in conformity with the purpose of the mission station also. For the secondary purpose of mission stations is to prepare the way for the establishment of parishes. This manner of distinguishing the proper station and Rector by the territory seems the most suitable one to prepare for the strict application of the laws of domicile and quasi-domicile which will apply when the mission station is erected into a quasi-parish or parish.

(121) Vromant, Ius Missionariorum, v.2, p.299.

ARTICLE 6

MORAL PERSONALITY

Payen (122), Vromant (123), Geispolsheim (124) think that mission stations cannot be moral persons since per se, the Vicariate is the only moral person in the missions.

Paventi (125), Masarei (126) hold that while mission stations may be erected into moral persons by the Ordinary, they are not so by the law.

Eguren (127) and Gillet (128) hold that mission stations are moral persons by law and therefore do not need a special

(122) Payen, Monita Nankinensia, v.1, p.104, n.132.

(123) Vromant, Ius Missionariorum, v.4, p.68, n.50; v.5 (1926 ed.), p.124.

(124) C. Geispolsheim, O.F.M.Cap., Dilucidationes in Statutum pro Missionibus Ordinis FF. Minorum Capuccinorum Anno 1938 Approbatum, Romae, Apud Curiam Generalem FF. Min. Capuccinorum, 1949, p.150, n.116.

(125) Paventi, Breviarium Iuris Missionalis, p.147.

(126) Masarei, De Missionum Institutione Ac De Relationibus Inter Superiores Missionum Et Superiores Religiosos, p.183, n.205.

(127) Eguren, De Conditione Iuridica Missionarii in Studia Missionalia, v.3 (1950), p.148; 183 §10.

(128) P. Gillet, La Personnalité Juridique en Droit Ecclesiastique, Malines, W. Godenne, 1927, p.242.

decree of erection as such. It is enough that the mission station itself is erected. The moral personality is then given it by the law. This latter opinion seems to be the correct one.

In discussing this question it is necessary to consider: first, how moral persons are established by law; secondly, how this law applies to mission stations.

Moral Persons by Law.

Moral persons which are not of divine law are established either by the law itself or by the decree of the competent superior (129). When the moral personality comes from the law itself, this fact may be expressly mentioned in the law, e.g. churches, seminaries and benefices (130), or it may be only implicitly contained in the law. In this latter case, the proof of the moral personality will be arrived at only indirectly i.e. the moral personality arises from the fact that some institution or group of persons is made capable of rights and obligations (131), e.g. the mensa episcopalis (132)

(129) C.J.C., Can 100 §1.

(130) C.J.C., Can 99.

(131) Cappello, Summa Iuris Publici Ecclesiastici, 5th ed., Romae, Apud Aedes Universitatis Gregoriana, 1943, p.42, n.40.

(132) C.J.C., Can 1653 §1.

Thus if the law regards some institution as capable of rights and obligations that institution is a moral person by the law itself.

Mission Stations are Moral Persons by Law.

Mission stations are granted the right by the law to own their own goods. Therefore they are moral persons by law.

Ecclesiastical goods are temporal goods, whether corporal or incorporeal, whether movable or immovable which belong to the universal church and to the Holy See or to any moral person in the church. (133). The dominion over these goods belongs to the moral person which has legitimately acquired these goods (134). Thus when there are rules in the law with regard to the administration of the goods of some institution these goods are considered as ecclesiastical goods and therefore the institution is considered as a moral person.

The present law regulates the administration of goods pertaining to mission stations and considers the mission station as the owner of these goods.

(133) C.J.C., Can 1497 §1.

(134) C.J.C., Can 1499 §2.

1) Can. 533 §1 n.4. requires the permission of the Ordinary before money given to a parish or a mission station or to a religious for the parish or the mission station may be invested. The same basis is established in the mission station as in the parish for this law i.e. the ownership of the goods. For there is no doubt that these gifts given to the parish become the property of the parish. In the same way the mission station has proprietorship of the goods given to it. From this the Ordinary of the mission station or the parish obtains the right to grant permission for their investment.

2) Can. 1182 §2 legislates that gifts given for the good of a parish or mission station will be administered by the parish priest or the missionary, unless in the case of a church within the boundaries of the parish or mission station which has its own administration, separate from the administration of the parish or mission station. Clearly this canon places the temporal administration of the parish and the mission station on the same basis. The parish is administered by the parish priest; the mission station, by the missionary. Both temporal administrations cover all the churches in the territory unless one of them has been exempted. Therefore just as the parish owns the goods thus

administered (135), so also the mission station. This is confirmed from §3 of the same canon which rules that these goods are to be administered by the parish priest or the missionary according to the norms of canon law and that an accounting of their administration will be given to the Ordinary.

3) This prescription and that of Can. 533 §1 n.4 came from the law before the Code. But before the Code each mission station had the ownership of its own goods. One of the duties of the Council of Administration, according to the Instruction of the Sacred Congregation, Oct. 18, 1883, was to assist the Bishop in the vigilance which he exercised over the "administration of the goods oblations and collections belonging to each mission station" (136). It is clear from

(135) Vromant, Ius Missionariorum, v.4, p.84, n.63.

(136) S.C. of the Propagation of the Faith, Instruction, Oct. 8, 1883 §14: Collectanea, v.2, n.1606, p.195; See also the regulations regarding the administration of the temporal goods given by the Second Council of Westminster, a.1855, in Collectio Lacensis, v.3, col. 980-984. The missionary received an inventory of all that belonged to the mission; ibidem, n.12: col. 982d. Those things given to the missionary for ecclesiastical purposes were considered as donated to the mission; ibidem, n.13: col. 983a. The one who had charge of the mission must keep an account of all the income and the expenses of it; ibidem, n.17. These were approved by Leo XIII in the Constitution Romanos Pontifices, May 8, 1881: ASS, v.13 (1894), p.496.

this that each mission station owned its own goods, oblations and collections.

Now according to Can. 6, n.2, 3 where the law after the Code repeats the law before the Code in whole or in part it is to be interpreted in that part under the authority of the old law. Therefore these canons grant the right of ownership to each mission station.

4) In the Faculties granted by the Sacred Congregation to mission Ordinaries, there was one which gave the Ordinary power to grant a pension to a missionary resigning from a mission station. This pension was to be paid from the fruits of the mission station (137). This faculty was granted Jan. 1, 1920, and renewed in 1931, under the Code.

If mission stations were not moral persons there would be no need for this faculty. In that case all the goods of the mission station would belong to the diocese or quasi-diocese, as the authors holding this opinion admit. Now the Ordinary is the administrator of the goods of the diocese or quasi-diocese. Furthermore one of the obligations of the diocese or quasi-diocese is to support its missionaries in sickness or in health (138). Therefore

(137) S.C. of the Propagation of the Faith, Formula prima (major), Jan. 1, 1931: Sylloge, p.585, n.25.

(138) "Bona quae a fidelibus in ... cleri sustentationem ... erogantur, Missione donata censetur" (Statutum

if mission stations were not moral persons the Ordinary would need no faculty to grant a pension from the income of the mission station. This would be the income of the diocese which was already obligated to support the missionary. In this case, the Sacred Congregation would be granting a faculty which meant nothing.

On the other hand, if mission stations are moral persons then this faculty was needed. In this case the administrator is the Rector of the mission station (139) and the support of missionaries not labouring in that mission station is not an obligation of the mission station. Thence the necessity of the faculty.

Thus the present law grants the right of ownership to all mission stations. Therefore they are moral persons by law. They do not need a separate decree of erection

Auctoritate Summi Pontificis a S. Congregatione De Propaganda Fide Definitive Approbatum Pro Missionibus Congregationi Missionariorum Oblatorum B. Mariae Virginis Immaculatae Commissis, Roma, Tip. Pol. "Cuore di Maria", 1934, p.15, n.34). "Bis saltem in anno, Superior ecclesiasticus Superiori religioso solvat summam pecuniae ... pro Missionariorum sustentatione" (ibidem, p.15, n.34). (Hereinafter cited as Stat. O.M.I.); Paventi, Breviarium Iuris Missionalis, p.238.

(139) C.J.C., Can 1162 §2.

to make them such. They receive their juridical entity by the very fact that the Ordinary erects a certain territory into a mission station.

Are these stations collegiate or non-collegiate moral persons? To answer this question, the basis underlying their juridical personality must be considered. If this basis is a group of persons then they will be collegiate; if it is a material basis, they will be non-collegiate.

While authors do not discuss this point regarding mission stations, they disagree when they speak of it regarding parishes. Some would have the group of the faithful form this constitutive substratum of the moral personality of parishes (140); others, the parochial church (141) or the fabrique of the church (142). Finally, some would place it in the territory of the parish itself (143).

(140) L. Fanfani, C.P., De Iure Parochorum Ad Normam Codicis Iuris Canonici, 2nd ed., Rome, Marietti, 1936, p.2, n.1.

(141) P. Bernier, De Patrimonio Paroeciali, Quebeci, Apud Auctorem, 1938, p.53; Michiels, Principia Generalia De Personis in Ecclesia, Lublin, Universitas Catholica, 1932, p.358.

(142) Oesterlé in a review of the book by Hagen, Pfarrei und Pfarrer in Jus Pontificium, v.13 (1933), p.308.

(143) Gillet, La Personnalité Juridique en Droit Ecclésiastique, Malines, Godenne, 1927, p.242, note 6.

When mission stations are discussed, some of these opinions may be applied to them; others, may not. Could this basis be a group of faithful? It seems that it could. The primary purpose of mission stations, i.e. the conversion of the non-catholics, does not militate against this opinion since this purpose includes the training and the stabilizing of the new converts in the Faith. If this opinion were followed, mission stations would be collegiate moral persons made up of a group of physical persons.

However, nowhere in the Code or the decrees since the Code is the term mission station used to describe a group of christians. It has always been used to indicate the territory itself or the place where the chapel was erected. In the same way, in a comparison with seminaries which are non-collegiate moral persons (144), it would seem that mission stations are also, non-collegiate.

The opinion that regards the church itself as the seat of the moral personality does not seem to apply in missions. Michiels lists parishes and missions as non-collegiate moral persons but adds that these territorial moral persons are rather mixed i.e. they have the proper-

(144) C.J.C., can 99.

ties of both collegiate and non-collegiate moral persons but "from their nature, they are to be called collegiate" (145). He would have the constitutive substratum of these persons seated in the church, itself (146). When applying this to mission stations however it would seem that this basis is not the church itself, since this is not a necessary element of mission stations. Mission stations like quasi-dioceses do not have their seat and juridical title founded in a church but rather in the territory for which they are established. Thus the quasi-diocese does not have a cathedral church or a See, as such, but takes its name from the territory itself or from the principal city (147) or the place where the Ordinary resides (148). The mission station is erected in a similar way. Therefore, in missions it does not seem that the church itself could be the seat of the moral personality.

(145) Michiels, Principia Generalia De Personis in Ecclesiae, p.359.

(146) Ibidem, p.358.

(147) "Vicariatum Apostolicum Bengasium ab urbis in ea regione principis nomine, nuncupandum esse censuerunt" (S.C. of the Propagation of the Faith, Decree, June 22, 1939, n.2: AAS, v.31 (1939), p.400.

(148) S.C. of the Propagation of the Faith, Decree, July 9, 1940, n.1: AAS, v.32 (1940), p.555.

It seems that mission stations have their personality founded in the territory itself and are non-collegiate moral persons. This seems to be more in conformity with the purpose of the stations themselves, i.e. the conversion of the non-catholics living in the territory. Also, according to Gillet, the rights of the missionary to administer the goods are placed on a territorial basis by Can. 1182 §2, i.e. intra ... missionis fines.

However, no completely satisfactory settlement can be made of the difficulties attached to any of these opinions. The opinion that mission stations are non-collegiate moral persons and have their basis in the territory of the station itself cannot be completely proven from our present law.

ARTICLE 7

CONCLUSIONS

There are five necessary elements of mission stations;

- 1) an imperfect territorial division of a mission diocese, vicariate, prefecture or mission sui iuris,
- 2) a church or chapel,

- 3) a rector to whom the care of souls has been committed,
- 4) faithful,
- 5) moral personality from the law.

A mission station must have boundaries. However, these are not the same as parochial ones. They need not be distinct i.e. they may be determined in a general way. They need not be permanent i.e. a certain part of their territory may be attached to them for a limited number of years and afterwards revert to some other station. Within this territory, the care of souls is committed to a missionary. These divisions may not be made in a parish or in a diocese subject to the S.C. of the Consistorial, but only, in the undivided territory of a mission diocese or quasi-diocese. Stations for different languages or tribes may be established in the same territory by the local Ordinary without special permission from the Holy See.

A mission station must have a church or chapel. It is not necessary to have a church or public oratory. A semi-public oratory or a simple chapel which is not an oratory is sufficient. In the territory of the station there are generally other churches or chapels which are subsidiary to the principal one.

The care of souls in this territory is committed to a Rector who exercises this care not ex officio, but as a delegate of the Ordinary. He is the administrator, ex iure, of the temporalities of the mission station. He is appointed and transferred by the Ordinary ad nutum. He can be removed, however, only for the very gravest causes.

A group of christians or at least catechumens are necessary. The christians are attached to the mission station, not by domicile or quasi-domicile, but according to the particular ordinances of the Ordinary or the accepted customs of the place.

Mission stations are moral persons from the law itself and receive their juridical entity by the very fact that they have been erected by the competent ecclesiastical authority.

CHAPTER IV

THE ERECTION OF MISSION STATIONS

In considering the constituting of mission stations, the first matter to be determined is whether the Ordinary has an obligation of erecting these institutions. Since they are erected only where there are no parishes or quasi-parishes, it is necessary to deal with the Ordinary's obligation of erecting the latter, at the same time. From this, the determining of which institution should be erected in any given case follows naturally. Moral persons must be erected by the competent authority. Therefore an investigation will be made into the questions: who are competent and what procedure must be followed in erecting mission stations.

ARTICLE 1

THE OBLIGATION OF ERECTING MISSION STATIONS

Mission dioceses and quasi-dioceses are divided territorially into parishes or quasi-parishes and mission stations. The Ordinary has an obligation of erecting these institutions in certain circumstances. To understand

this obligation regarding mission stations, it is necessary to consider it also with regard to parishes and quasi-parishes. Therefore the discussion will concern the obligation of erecting parishes and quasi-parishes; the reasons for not erecting them and finally, the obligation of erecting mission stations.

The Obligation of Erecting Parishes and quasi-parishes.

According to Can. 216 §1, the territory of every diocese must be divided into parishes. All authors admit that this canon places an obligation on Bishops to divide their dioceses into parishes. Regarding quasi-dioceses, i.e. vicariates, prefectures and missions sui iuris, the canon orders that they be divided in the same way as dioceses. However in this case there is a qualifying phrase i.e. this division is to be made when it can be done conveniently (1). Thus, the law takes into consideration in the second case the local circumstances and the inconveniences that such a division might cause. Thus, "it is the mind of the sacred canons that the territory of every Vicariate Apostolic and Prefecture be divided into distinct parts, each of which has its determined people,

(1) C.J.C., Can 216 §2.

its proper church and its own Rector" (2). Hence, there is a true obligation incumbent on the Vicar or Prefect Apostolic to make this division. He must prepare for this and when he judges that the circumstances are favourable, he must proceed with the erection of these quasi-parishes (3).

Nor is it necessary to wait till the whole territory may be so divided. Each quasi-parish must be erected as it is ready, the remaining territory to be left till a later time (4). In this way some of the territory will be erected as quasi-parishes and the rest will have no parochial limits. This latter is called undivided territory (5).

(2) "Ha est sacrorum Canonum mens ut cuiusvis seu Vicariatus Apostolici seu Praefecturae territorium in distinctas partes dividatur, quarum singulae determinatum populum, cum propria ecclesia et peculiari pastore, habeant" (S.C. of the Propagation of the Faith, Instruction, July 25, 1920, n.1: AAS, v.12 (1920), p.331, n.1).

(3) Heou Tze-Cheng, De Quasi-Paroeciae Erectione, Romae, Editiones Comm. A. Arnoldo, 1944, p.21, n.6.

(4) S.C. of the Propagation of the Faith, Instruction, July 25, 1920, n.1: AAS, v.12 (1920), p.332, n.3.

(5) S.C. of the Propagation of the Faith, Decree, Dec. 9, 1920, n.1: AAS, v.13 (1921), p.16, n.1.

Hence, an Ordinary who would not erect these quasi-parishes when all the circumstances were favourable would be acting against the mind of the canons. Therefore, the law determining the division to be made in quasi-dioceses is not a counsel but creates a true obligation when it can be done conveniently.

This division is not to be made inconsiderately, however. If those things which are necessary materially will be lacking or if there are other reasons which militate against the division, the Ordinary is to leave it till another time. In this matter he should consider especially whether it will help in the care of souls and increase of things Catholic in the district (6). Thus, in the final analysis it will depend on the Ordinary's judgment whether the parish or quasi-parish will be erected immediately or left till a later time.

Dioceses in mission territory fall under the same law as quasi-diocese in this matter. Thus the decree of 1920:

"Since dioceses subject to this Sacred Council must be had as missions, it can be permitted that in them some part of the territory will

(6) S.C. of the Propagation of the Faith, Instruction, July 23, 1920, n.1: AAS, v.12 (1920), p.332, n.2.

remain undivided, i.e. without parochial limits (7).

Thus in all dioceses and quasi-dioceses in mission territory, the Ordinary is bound to erect parishes and quasi-parishes when this can be done suitably, i.e. when it will help in the care of souls and the increase of things Catholic in the district.

Reasons for Not Erecting Parishes and quasi-parishes.

What conditions would make the constituting of parishes or quasi-parishes unsuitable? The S.C. of the Propagation of the Faith in its Instruction of 1920 gave the principle by which the Ordinary is to judge this matter:

"Vicars and Prefects Apostolic will consider in the first place, the efficacy for souls and the increase in things catholic in their regions" (8).

(7) "Cum dioceses huic Sacro Consilio subjectae tanquam missiones haberi debeant, permitti potest ut in eisdem aliqua pars territorii indivisa maneat, idest sine designatione limitum paroeccialium" (S.C. of the Propagation of the Faith, Decree, Dec. 9, 1920, n.l: AAS, v.13 (1921), p.18, n.1).

(8) "... Prae oculis in primis habeant Vicarii et Praefecti apostolici, in erigendis quasi paroecciis, utilitatem animarum et quibus incrementis res catholica in suis regionibus adoleverit" (S.C. of the Propagation of the Faith, Instruction, July 25, 1920, n.l: AAS, v.12 (1920), p.332, n.2).

Most authors, while agreeing on this principle, do not give any concrete cases or conditions which would make this division unsuitable. Heou Tze-Cheng proposes "a few circumstances of place and person" which would militate against the constituting of parishes and quasi-parishes (9). However, none has given a complete summary of these conditions.

The Vicar or Prefect must consider the efficacy for souls and the increase of things catholic. Thus, he must judge whether it will help in the care of souls. Four factors will enter into this judgment:

1. the progress of the church in the area;
2. the stability of the population;
3. the number of priests available for the care of souls;
4. the state of the church temporalities.

1) The Progress of the Church in the Area.

The first purpose of the parish is the care of souls who are already Catholics; that of the mission station the propagation of the Faith. Therefore the state of the church in a certain area, whether it is mainly con-

(9) Heou Tze-Cheng, De quasi-paroeciarum Erectione, p.22, n.8.

cerned with the care of Catholics or with the conversion of the non-catholics, will be a major consideration with the Ordinary, when deciding to erect a parish or quasi-parish or to leave the region as a mission station.

The parish and quasi-parish is the stable institution for the care of souls of those who are already converted. This is seen from the whole law regarding parishes. The Parish priest is bound, from his office, to exercise the care of souls regarding all his parishioners (10). But a person becomes a parishioner by domicile or quasi-domicile (11). None, however, can acquire domicile or quasi-domicile unless he is a person in the church and thus becomes subject to ecclesiastical laws (12). He becomes a person in the church by baptism (13). Hence, the parish priest is bound by his office to exercise the care of souls chiefly, in those who are already baptized. Thus the parish is an institution existing mainly for those who have already accepted the Faith.

(10) C.J.C., Can 464 §1.

(11) C.J.C., Can 94 §1.

(12) C.J.C., Can 12

(13) C.J.C., Can 87.

This is seen also from the functions and duties of the parish priest. Those reserved to him by Can. 462 are directly concerned with the care of the Catholics in his parish. To him is reserved the solemn baptism of his parishioners' children, the bringing of the Blessed Eucharist to the sick, publicly, the administration of Extreme Unction and Viaticum even privately, the assistance at marriage and the publication of the banns, the announcement of ordinations, the liturgical blessing of houses, the blessing of the Font, public processions. All of these are concerned primarily with the care of Catholics, not with the conversion of non-catholics. He must celebrate the missa pro populo for his subjects (14). For them he must celebrate the divine offices. He must give them the sacraments, know them, instruct their children (15). These and the other functions of the parish priest are for the care of the faithful i.e. for those who are already converted. Thus the parish is instituted chiefly for Catholics. Regarding non-catholics living in his parish, Can. 1350 §1 says, "... Parish priests must look upon the non-catholics living

(14) C.J.C., Can 466.

(15) C.J.C., Can 467.

in their ... parishes as commended to them in the Lord".

Thus, the institution of the parish is such that its first and chief purpose is the care of souls that are already Catholics and only secondarily, even in the missions, is its purpose the conversion of the non-catholics living in the territory.

Mission stations, on the other hand are instituted primarily, for the conversion of the non-catholics and for their training and stabilization in the Faith. This appears from the documents both before and after the Code and from the whole history and experience of mission stations, themselves.

In the Instruction of the S.C. of the Propagation of the Faith issued in 1893, it was stated that the peculiar and proper purpose of mission stations was the conversion of the infidels and that the missionaries employed in these stations were to give their whole labour to the work of conversion (16).

Since the Code, Pius XI in his encyclical letter Herum Ecclesiae wrote,

"We desire of you a better organization
which from now on may render more easy

(16) S.C. of the Propagation of the Faith, Instruction, March 19, 1893, §1: Collectanea, v.2, n.1828, p.287.

the way of the propagation of the Faith and the increase of converts" (17).

The organization that he prescribes is the establishment of mission stations in such a way that no part of the territory will be left without the preaching of the Gospel. Here again the same declaration is made regarding the purpose of mission stations i.e. the propagation of the Faith and the increase of converts.

In the same encyclical, the Pope declared that secondary stations were to be left in charge of at least a catechist whose chief purpose is "to assist the missionary particularly by instructing catechumens and preparing them for baptism" (18). Thus the chief purpose of mission stations is seen to be the preaching of the Gospel to those who are still outside the church and the preparing of them for their baptism, and after baptism, their training in catholic life.

(17) "... res aptius volumus a vobis ordinari, ut facillior posthac ad christianae sapientiae propagationem pateat aditus et numerus eorum augeatur quibus ea facilliter collucet" (Pius XI, Encyclical letter Rerum Ecclesiae, Feb. 28, 1926: AS, v.18 (1926), p.79).

(18) "... qui missionalibus operam navent suam, catechumenos potissimum erudiendo et ad baptismum comparando" (ibidem, p.78).

Now, it will hardly be better for the care of souls if the Ordinary establishes an institution for the care of Catholics in a district where the chief purpose of the church is the conversion of non-catholics, and vice versa.

Therefore, the Ordinary should consider first the state of the church in the district. If the principal work of the church in a certain place is the care of those already catholic, then, the institution called for is the parish. If the first consideration must be given to the conversion of the non-catholics, then, he should leave the district as a mission station.

This is confirmed by the whole history of the missions since the founding of the Propaganda. Parishes have always been the exception save in those places where the people were already catholic or where these parishes were established for Catholics immigrating to a new land where the population was non-catholic.

Thus where a people are largely catholic or where the priests charged with the care of souls are occupied chiefly with the care of those who have already accepted the Faith, the time has come for the Ordinary to consider the establishment of parishes or quasi-parishes.

2) The Stability of the Population.

For a parish there are required Catholics with domicile or quasi-domicile in the district (19). In some missions, the population migrates periodically. One part of the year will be spent in one place and the rest some place far distant e.g. the nomadic tribes of Mongolia or the Eskimos and some of the Indian tribes in the Canadian Northland. In other places, the population is ever on the move e.g. the catholic boat-people on the Ming river in China. These spend their whole lives on the boats, moving up and down the Ming, a distance of some three hundred miles. Other places have a large Catholic population for only a few months of the year. They come for recreation or commerce and after a few months, the mission is deserted till the following year, e.g. the summer places, like Mo-Kan-San where many Catholics from Shanghai made their summer homes. Now a parish requires a stable population. Authors say that at least ten persons are required to establish a parish (20). But in the missions a parish will rarely, if ever, be erected where there are so few

(19) C.J.C., Can 94 §1.

(20) Cfr. Cappello, Summa Iuris Canonici, p.447, n.488.

that have domicile or quasi-domicile in it.

Therefore the law regarding the establishment of parishes and quasi-parishes will not bind where there are very few Catholics who have domicile or quasi-domicile in the place. In places where this population is not stable, it is better not to erect a parish.

3) The Number of Priests Available for the Care of Souls.

Regularly, the Ordinary must name the quasi-parish priest from among the secular clergy who belong to the quasi-diocese (21). In practice, this usually means the native secular clergy. Even a removable parish priest must be permanent (22). The foreign missionary is rarely permanent in this sense. That with recurring wars and the internment and expulsion of all foreigners of a certain nation (23) and the extreme nationalism and

(21) C.J.C., Can 457.

(22) C.J.C., Can 454 §1.

(23) Cfr. S.C. of the Propagation of the Faith, Decree, May 20, 1923, n.2: AAS, v.15 (1923), p.370-371. In many places, missionaries are granted permits to remain in the country only for a year at a time. After each year these must be renewed by the Government.

suspicion of the pagans among whom they live it is generally more prudent when naming parish priests to choose only natives of the place. Even in the best of times, these latter are generally less hampered in their activities. For these reasons, the Council of Shanghai ruled that "the erection of quasi-parishes was to be urged rarely and with the greatest caution, wherever the native secular priests to whom the office of quasi-parish priest might be committed were lacking (24).

If there are not sufficient secular priests the Ordinary may appoint religious, even exempt ones, to the care of souls (25). "The Bishops of missions have the special faculty of naming regulars to parishes when suitable priests for such benefices are altogether lacking among the secular clergy" (26). In this case also, it

(24) "... censet ibi maxime caute et parce urgendam esse erectionem quasi-paroeciarum, ubi non adest sacerdotum saecularium indigenarum copia, quibus committi potest officium quasi-parochi" (Primum Concilium Sinense, n.103, p.56).

(25) C.J.C., Can 297.

(26) "Facultas specialis autem Episcopis missionum fit nominandi regulares ad paroecias cum idonei ad talia beneficia sacerdotes e clero saeculari omnino deficient" (S.C. of the Propagation of the Faith, Decree, Dec. 9, 1920, n.1: AAS, v.13 (1921), p.18, n.3).

will generally be the native member of the religious that the Ordinary will choose.

Therefore where the Ordinary lacks suitable priests for the office or where he cannot spare a priest for this territory only, the law regarding the erection of quasi-parishes will not be urged.

4) The State of the Church Temporalities in the Territory.

There are certain temporal things and temporals adnexed to spirituals which are required before a parish can be erected. Where these are lacking and there is no hope of providing them immediately, then, it is better that the Ordinary leave the district as a mission station.

(a) the parish church.

A parish must have a parish church (27). This church must be solemnly blessed or consecrated (28). Where this church does not exist and there is no immediate hope of building it then the territory must be left as a mission station. Thus, where the sacred functions must be held in a mission chapel or in a hall and it is prudently foreseen

(27) C.J.C., Can 216 §1.

(28) C.J.C., Can 1165 §3,4.

that this condition will not be remedied in the near future the erection of the parish is not to be urged. However, it is not necessary that a sumptuous or costly church be provided as though they were to be cathedrals of future dioceses (29). All that is necessary is a church large enough to accommodate the faithful of the parish.

(b) the parish house.

The quasi-parish priest is appointed for the good of the souls committed to him. Therefore the church orders that he shall live in the parish house close to the parish church. The Ordinary may permit him to dwell elsewhere if the house is not so far distant that it will cause harm to the parish functions (30). Where this cannot be arranged then it is better to wait till a parish house can be constructed (31).

(c) the benefice.

If the endowment for the benefice cannot be provided and it is prudently foreseen that what is necessary will

(29) Pius XI, Encyclical letter Rerum Ecclesiae, Feb. 28, 1926: AAS, v.18 (1926), p.60-81.

(30) C.J.C., Can 465 §1.

(31) Heou Tze-Cheng, De Quasi-Parochiae Erectione, p.23, n.10.

probably be lacking, the Ordinary is not to erect a quasi-parish (32). Where provision cannot be made for the support of the parish priest and for the sacred functions in the parish the Ordinary may not erect a parish or quasi-parish.

The Obligation of Erecting Mission Stations.

In the undivided parts of these dioceses and quasi-dioceses, is the Ordinary bound to erect mission stations?

Masarei alone, to our knowledge, considers the question and he thinks that there is no obligation but merely a counsel (33). However, if we consider both the old law and the new it seems that there is a real obligation of erecting mission stations, where there are no parishes or quasi-parishes.

Under the law before the Code, there was an obligation of erecting mission stations in these undivided territories. Thus the Instruction of the Propaganda in 1893 orders that mission stations be established and then continues:

(32) S.C. of the Propagation of the Faith, Instruction, July 25, 1920, n.1: AAS, v.12 (1920), p.332, n.2.

(33) Masarei, De Missionum Institutione Ac De Relationibus Inter Superiores Missionum Et Superiores Religiosos, p.190, n.211.

"In whatever dioceses these (mission stations) already exist let care be taken that at the first opportunity they be multiplied and gradually be extended to the whole territory of the diocese" (34).

Since the Code, Benedict XV in his encyclical letter Maximum Illud counsels that mission stations be so erected.

"In order, then, that the preaching of the Gospel should come within everyone's hearing more successfully and quickly, he will find it useful to found other mission stations" (35).

It was Pius XI in his encyclical letter Rerum Ecclesiae who ordered these missions established throughout the undivided territory of the diocese or quasi-diocese. He prescribes:

"Therefore, make this your aim that the sacred preachers will be so distributed that no part of the territory will remain without the preaching of the Gospel and be reserved for future evangelization. Wherefore spread

(34) "... quibus vero in diocesis eadem iam extant, curandum est ut primo quoque tempore multiplicentur, ac sensim ad universum diocesis territorium extendantur" (S.C. of the Propagation of the Faith, Instruction, March 19, 1893, n.1: Collectanea, v.2, n.1828, p.287).

(35) "Itaque ut ad aures singulorum eo celerius meliusque Evangelii praedicatio perveniat, multum proderit alias subinde missionalium stationes ...constituere" (Benedict XV, Encyclical letter Maximum Illud, Nov. 30, 1919: AAS, v.11 (1919), p.443).

out by residences constituting missionaries in a certain place as a sort of centre around which are established minor stations..." (36).

Every part of the diocese or quasi-diocese is to have its preacher of the Gospel. No part of it is to be reserved for future evangelization. This is to be done by establishing mission stations throughout the territory. Thus the Ordinary is obliged to erect these mission stations throughout the whole territory that is not divided into parishes. This is to be his aim i.e. he must tend towards this organization and make it as soon as circumstances permit.

It is clear that this is the very same law as that of the Instruction of the Propaganda of 1893. The Ordinary is bound to take care to multiply these stations and extend them to the whole territory of the diocese or quasi-diocese. This is to be done gradually as circumstances permit.

That a part of the territory be left outside the boundaries of mission stations, a sufficient reason is required. Any reason that would make the evangelization of a certain part of the territory impossible for the

(36) Pius XI, Encyclical letter Rerum Ecclesiae, Feb. 28, 1926: AAS, v.18 (1926), p.79-80.

time being would be enough. Thus, for example, the following would be considered sufficient:

a) the lack of personnel, i.e. where there are not sufficient priests and catechists to staff these missions. If there are not enough priests for the central stations that would be necessary or catechists for the minor or secondary ones, it would not help the evangelization of the territory to include it in a mission station which could not care for it. If there is an immediate remedy to this situation, e.g. by training more catechists, then, it must be taken.

b) the lack of sufficient funds to support these stations and their personnel when they have been established. The reason for erecting them is that no part of the territory will lack a preacher of the Gospel. Where the preacher cannot be supported the station would lose its reason for existence.

c) a more or less permanent condition of unrest in some part of the territory i.e. a condition so grave and permanent that it makes the carrying on of the work of conversion, morally impossible. Thus in many missions no mission work can be carried on in that part

of the territory where bandits or pirates have established their headquarters.

d) a population that is scarce and dispersed, i.e. a people who are so few and so widely scattered that the missionary could rarely come in contact with them or would not have sufficient work among them.

These and other similar reasons which in fact render the work of conversion extremely difficult or impossible would be sufficient for the Ordinary to leave part of the undivided territory of his diocese or quasi-diocese outside the limits of the mission stations.

ARTICLE 2

THE COMPETENT AUTHORITY

What authority is competent to erect mission stations?

The Roman Pontiff.

The Roman Pontiff has the supreme and full power of jurisdiction not only regarding faith and morals but also those things that pertain to the rule and discipline of the church throughout the world (37). In mission territories,

(37) C.J.C., Can 218 §1.

the care of the non-catholics is reserved to the Holy See (38). Therefore the Roman Pontiff has the power to erect mission stations anywhere in the missions, without any formalities. However, the Roman Pontiff, in the normal rule of the church does not direct immediately by himself the internal rule of the mission. His care of the non-catholics is exercised through vicars (39).

The Sacred Congregation of the Propagation of the Faith.

For the ruling of the missions, the Roman Pontiff has constituted the S.C. of the Propagation of the Faith and committed to it the care of all those regions where the hierarchy has not yet been constituted and even where it has been constituted, if there still remains something incomplete in their state (40). It has the faculty of doing all those things necessary and opportune for the propagation of the Faith, and the constitution and change

(38) C.J.C., Can 1350 §2.

(39) "Iussui divino, [ecclesiae] partem principalem, totum scilicet regimen missionis sibi retinet" (S.C. of the Propagation of the Faith, Instruction, Dec. 8, 1929: AAS, v.22 (1930), p.112.

(40) C.J.C., Can 252 §2.

of the necessary ministers (41). Therefore, since the mission station is the institution whose chief purpose is the teaching of the Gospel to those outside the Faith, the Sacred Congregation has full power to erect mission stations anywhere in mission territory.

However, while it has this power, the Propaganda generally restricts itself to making the major divisions i.e. dioceses, vicariates and prefectures apostolic and missions sui iuris. The internal divisions in these missions are left to the local ecclesiastical Superior.

Nuntio or Delegate.

These have the right of vigilance over the state of the church in the territory to which they are sent. They are to make their reports to the Holy See (42), but the rule of the diocese or quasi-diocese is left to the local Ordinary (43). Therefore, the Nuntio or Delegate has not the power to erect mission stations.

(41) C.J.C., Can 252 §1.

(42) C.J.C., Can 267 §1, n.2.

(43) C.J.C., Can 269 §1.

The Bishop, Vicar and Prefect Apostolic, Superior of a
Mission Sui Iuris.

"Therefore the one and only true Superior of a mission is he who is named by the Holy See, to whom as Can. 1350 declares the entire care of the missions ... is reserved solely. It is his business to establish mission stations ... to build chapels and churches" (44). In these words the Sacred Congregation declared who has the ordinary power to erect mission stations.

The Superior of the mission is the one appointed by the Holy See. Since dioceses subject to the Propaganda must be had as missions (45) the Superiors of missions are; the Bishop in the mission diocese, the Vicar Apostolic in the vicariate, the Prefect Apostolic in the prefecture, the Superior in the mission sui iuris and the Administrator appointed by the Holy See, according to Can. 312.

In mission dioceses and quasi-dioceses, in the care of non-catholics, the Ordinary acts as the Vicar of the

(44) "Itaque unus ac verus missionis Superior is est qui nominatur a Sancta Sede, cui, uti praecipit canon 1350 'universa missionum cura ... unice reservatur'" Ad ipsum spectat missionales stationes constituere, ... sacella et ecclesias erigere" (S.C. of the Propagation of the Faith, Instruction, Dec. 8, 1929: AAS, v.22 (1930), p.112).

(45) S.C. of the Propagation of the Faith, Decree, Dec. 9, 1920, n.1: AAS, v.12 (1921), p.18, n.1.

Holy See to whom is reserved the whole care of the mission to non-catholics (46). Although they exercise this care as vicars of the Holy See, they do it ex officio and with ordinary power (47).

Before he can validly exercise his jurisdiction, he must have taken possession of his See, according to Can. 334 §3 regarding Bishops, and Can. 293 §2 concerning Vicars and Prefects Apostolic and Superiors of missions sui iuris. Before he has taken canonical possession he may in no way intrude himself into the rule of the diocese or quasi-diocese (48).

Therefore the Bishop, Vicar and Prefect Apostolic, Superior of a mission sui iuris and the Administrator may erect mission stations within their territory after they have taken possession of it.

The Vicar General, Vicar and Prefect Delegate, Superior Delegate.

As often as it is necessary to the right rule of the diocese a Vicar General is to be constituted by the

(46) C.J.C., Can 1350 §2.

(47) C.J.C., Can 294.

(48) C.J.C., Can 334 §2.

Bishop. This official helps the Bishop in the whole territory with ordinary power (49). His Holiness, Benedict XV, in 1919, "granted to Mission Ordinaries the power of nominating a Vicar Delegate if they need one, who shall have in practice all the jurisdiction in spiritual and temporal matters, which the Code gives to Vicars General in dioceses" (50). "Since the aforesaid faculty was explicitly granted to only Vicars and Prefects Apostolic" His Holiness was petitioned in 1929 "to extend it graciously also to the Ecclesiastical Superiors of independent Missions, that is, those missions which are directly dependent on this Sacred Congregation ... In the audience ... His Holiness deigned to grant both requests" (51).

(49) C.J.C., Can 366 §1.

(50) "Elargitus est Ordinarius Missionum potestatem nominandi Vicarium Delegatum, si eo indigeant, cui practice concessa sit omnis iurisdictio in spiritualibus et temporalibus, qua ex Codice I. C. uti potest Vicarius Generalis in diocesi" (S.C. of the Propagation of the Faith, Letter, Dec. 8, 1919, n.1: AAS, v.12 (1920), p.120).

(51) "Siccome la facoltà sopradetta fu esplicitamente concessa solo ai Vicari e Prefetti Apostolici ... estendere anche ai Superiori Ecclesiastici delle Missioni autonome, vale a dire direttamente dipendenti da questa Sacra Congregazione ... Nell'Udienza ... il S. Padre si degnò di accogliere tanto l'una come l'altra domanda" (S.C. of the Propagation of the Faith, Nov. 7, 1929: Sylloge, n.146, p.349). The translation is taken from T. Bouscaren, S.J., The Canon Law Digest (3 vols., Milwaukee, The Bruce Publishing Company [1934-1949]), v.3, p.42, s. Canon 198.

Without a special mandate, the Vicar General may not erect a mission Station that is a benefice (52). Nor does it seem likely that he may erect mission stations even when they are not benefices, without a special mandate. It is the business of the Superior appointed by the Holy See to erect mission stations. This is the same as the law before the Code. Leo XIII declared that the limits of mission stations were to be defined by the Bishop (53). It seems therefore that with a special mandate, the Vicar General, Vicar and Prefect Delegate and Superior Delegate could erect a mission station in the territories where they have ordinary power (54).

(52) C.J.C., Can 1414 §3.

(53) Leo XIII, Constitution Romanos Pontifices, May 8, 1881: AAS, v.13 (1894), p.488.

(54) The controversy regarding the powers of these Vicars whether they were ordinary or delegated, seems to have been settled by a reply to the Vicar Apostolic of New Guinea; "An iurisdictio in spiritualibus et temporalibus quam Epistola S.C. de Propaganda Fide dicit praestitae concessam esse Vicario Delegato, sit natura suo iurisdictio ordinaria vel delegata; ... R. Iurisdictio Vicarii Delegati est ordinaria" (S.C. of the Propagation of the Faith, Letter, Nov. 16, 1937: Paventi, Breviarium Iuris Missionalis, p.90). Paventi gives the Propaganda Prot. n.4226-37. See also Bouscaren, The Canon Law Digest, v.3, p.44, s. Canon 198. This document is not published in the AAS.

The Vicar Capitular.

The Vicar Capitular has the same jurisdiction as the Bishop in spiritual and temporal matters except in those things that have expressly been prohibited by the law (55). However, while the See is vacant no innovation is to be made (56). Since mission stations are moral persons and therefore perpetual it seems that the erection of such would be binding on the new Ordinary and that therefore the Vicar Capitular would be bound by this restriction (57).

The usual interpretation of this Canon is that the Vicar Capitular may not undertake anything that will substantially harm the diocese or the rights of the next Bishop (58). Thus, if he foresees that the proposed erection of the mission station will not be harmful but rather will be beneficial to the diocese, Can. 436 will not of itself prevent the making of the division. Thus in mission dioceses it may easily happen that such an

(55) C.J.C., Can 435 §1.

(56) C.J.C., Can 436.

(57) Regarding parishes, cfr. Paventi, Breviarium Iuris Missionalis, p.127.

(58) Cfr. Regatillo, Institutiones Iuris Canonici, v.1, p.316, n.581; Coronata, Institutiones Iuris Canonici, v.1, p.544, n.461; Cappello, Summa Iuris Canonici, p.386, n.400.

erection will need to be made and cannot be postponed till the Bishop has been appointed, e.g. the request of a large number of people to enter the church in a certain district where no mission station already exists.

Therefore, it seems that the Vicar Capitular could erect a mission station where this will not be harmful to the diocese or to the rights of the new Bishop.

The Pro-vicar, Pro-prefect, Pro-superior.

Vicars and Prefects Apostolic are obliged to appoint a suitable Pro-vicar or Pro-prefect when they take possession of their territory, unless the Holy See has appointed a Co-adjutor with the right of succession (59). These have no power during the life of the Vicar or Prefect, unless it has been delegated to them, but on the latter's demise or incapacitation, they assume the whole rule of the quasi-diocese and retain this rule until the Holy See has provided otherwise (60).

The Canons of the Code of Canon Law which refer to Prefectures and Prefects Apostolic may be applied, servatis

(59) C.J.C., Can 309 §1.

(60) C.J.C., Can 309 §2.

servandis, in general also to independent missions and their Superiors (61). Therefore Superiors of missions sui iuris may also name a Pro-superior, who will fall under the same law as the Pro-prefect.

These officials when they have legitimately assumed the rule of the quasi-diocese can use all the faculties, ordinary, according to Can. 294, or delegated, which the Vicar or Prefect enjoyed unless they were committed to him industriæ personæ (62). Therefore, while they hold office they have the same powers as the Vicar, Prefect or Superior as the case may be.

Therefore, the Pro-vicar, Pro-prefect and Pro-superior, during their office may erect mission stations in the same way as the Vicars, Prefects or Superiors.

Those Whom the Ordinary Should Consult.

- 1) The diocesan consultors and the mission council.

The Vicar or Prefect Apostolic must constitute a Council of the older and more prudent missionaries. He must hear their opinion, at least by letter, in the more

(61) S.C. of the Propagation of the Faith, Nov. 7, 1929: Sylloge, n.146, p.349.

(62) C.J.C., Can 310 §2.

grave and difficult business of the quasi-diocese (63). Bishops of dioceses, on the other hand, are to institute diocesan Consultors (64). In the words of the Instruction of 1929, the Superior of the mission "should make much of the mission Council which ... he is bound to establish and consult" (65).

Before constituting mission stations, since they are a permanent institution for the care of souls and their erection directly and gravely affects the preaching of the Gospel and the increase of things Catholic in the district, the Ordinary of a quasi-diocese would be bound to consult his Council (66).

Regarding dioceses, there is no prescription of the Code which obliges the Bishop to consult the diocesan Consultors in this matter. Paventi says that it follows from Can. 1532 §3 (67). This Canon regards alienation

(63) C.J.C., Can 302.

(64) C.J.C., Can 423.

(65) "... magni faciat Consilium missionis, quod ... constituere et consulere tenetur" (S.C. of the Propagation of the Faith, Instruction, Dec. 8, 1929: AAS, v.22 (1930), p.113).

(66) Paventi, Breviarium Iuris Missionalis, p.132.

(67) Loc. cit.

of church property and alienation does not enter into the erecting of a new moral person. Regarding the division of ecclesiastical goods in dividing mission stations, the pertinent law is Can. 1500, not Can. 1532 §3. In this matter there is no prescription of the Code.

The Bishop is obliged to consult the Chapter or the diocesan Consultors, where there is no Chapter (68), only when this is prescribed by law (69). Here there is no prescription. Therefore, in the diocese, the Bishop is not obliged to consult the Chapter or the diocesan Consultors.

2) The religious Superior.

"... If the mission Superior should plan to undertake some work for whose execution the necessary funds were not at hand or for which suitable evangelical workers were needed, he should take the matter up with the Superiors of his institute..." (70). In these words, the Instruction

(68) C.J.C., Can 427.

(69) C.J.C., Can 391 §1.

(70) "... Si missionis Superior opus aliquod aggredi intenderet ad quod exsequendum necessaria pecuniae vis desisset vel apti evangelici operarii desiderarentur, cum Instituti sui Superioribus rem agat oportet" (S.C. of the Propagation of the Faith, Instruction, Dec. 8, 1929: AAS, v.22 (1930), p.113).

of 1929 defines when it is necessary for the Ordinary to consult the religious Superior. It goes on to say that the Ordinary "should make great account of the judgment and advice of his religious Superior" (71).

Thus, in erecting mission stations the Ordinary is bound to consult the religious Superior in two cases:

i) where the necessary funds are not at hand, i.e. where the Ordinary would need an extra subsidy from his religious Institute, either to erect the station or to support and develop it, later on.

ii) where he would need priests from the Institute to staff the station. In both these cases an extra burden would be placed on the Institute, which the Ordinary, of himself, cannot do. "It does not, however, follow that the Superior of the mission can undertake and pursue in his mission whatever works he chooses according to his own will and choice, and that the institute is then bound to provide the expenses and shoulder the debts" (72).

(71) "... in magno pretio habeat Superioris religiosi iudicia et consilia" (S.C. of the Propagation of the Faith, Instruction, Dec. 8, 1929: AAS, v.22 (1930), p.113).

(72) "Neque tamen inde sequitur Superiorem missionis pro libitu atque arbitrato suo opera quaecumque in sua missione moliri atque exsequi posse, Institutumque deinde teneri expensis providere ac debita portare" (loc. cit.).

Thus, where there is a new burden placed on the Institute by the erection of the new mission station the Ordinary must consult the religious Superior. In cases where the Institute will not assume this new burden the Ordinary will "according to circumstances, have recourse to the S.C. of the Propagation of the Faith" (73).

Regarding the manner in which the Ordinary is to consult his mission Council, the Code prescribes that it be done "at least by letter" (74). It would seem that this would be sufficient also as far as the religious Superior is concerned. Under the conditions existing in many missions, it would cause grave difficulties to require more. Generally, mission Ordinaries and society Superiors do not live in the same mission or the same town. Travel in many missions, both from the point of time consumed and the difficulties encountered, is not to be undertaken without a serious reason, to say the least. It is with reason that the canon allowed this consultation to be had by

(73) "... cum Instituti sui Superioribus rem agat oportet, vel etiam pro rerum adjunctis ad Sacram Congregationem de Propaganda Fide recurrat" (loc. cit.).

(74) C.J.C., Can 302.

letter. Therefore, it is sufficient for the Ordinary to consult the religious Superior and the Mission Council by letter. It would seem that the Ordinary would be obliged to wait till the answer could be received according to ordinary circumstances or that he set a period of time in which to reply. If this time has elapsed without a reply, it seems that the Ordinary could proceed safely, according to his own judgment (75).

ARTICLE 3

THE DECREE OF ERECTION

The necessity of the intervention of the ecclesiastical authority in the erection of mission stations, before the Code, has been established. Likewise, there can be no doubt of its necessity under the present law. No moral person can obtain existence except through competent authority (76). A mission station is a moral person. Therefore, the intervention of the ecclesiastical authority is absolutely

(75) Heou Tze-Cheng, De quasi-Paroeciae Erectione, p.39, n.30.

(76) C.J.C., Can 100 §1.

necessary in the erection of mission stations.

Must this erection be made by formal decree? Can. 100 §1 declares that moral persons receive their personality in two ways, either from the law itself or from a formal decree of erection by the competent authority. In a Decree issued in 1922, the S.C. of Religious declared that this formal decree is required in the erection of all moral persons (77). Thus, mission stations since they are moral persons must be erected by formal decree. From the nature of the case, this decree should determine the territory of the mission station i.e. at least which subsidiary stations belong to it (78), the place of residence of the missionary and the principal church or chapel. If the station is also a benefice, it should state the endowment of the benefice and the rights and obligations of the beneficiary (79).

Is this formal decree necessary to validity?

(77) "... sapienter per can. 100 §1 praescribitur ut personae morales ... nonnisi per formale decretum a competente ecclesiastico Superiore erigi valeant" (S.C. of Religious, Decree, Nov. 30, 1922: AAS, v.14 (1922), p.644).

(78) Pius XI, Encyclical letter Reverentissimus, Feb. 28, 1926: AAS, v.18 (1926), p.80.

(79) C.J.C., Can 1418.

Paventi (80) and Masarei (81), since they do not admit that mission stations receive their personality from the law, think it is required for validity. Eguren (82) holds that, once they have been established by the competent ecclesiastical superior, mission stations are moral persons whether this erection has been had by formal decree or not.

Neither the law before the Code nor the present law require a formal decree for the validity of the erection. Before the Code, mission stations were erected "by the authority of the Bishop" (83). The formalities required for the erection and division of parishes were not to be extended to the erection and division of mission stations (84). Even in the erection of parishes a formal decree

(80) Paventi, Breviarium Iuris Missionalis, p.147.

(81) Masarei, De Missionum Institutione Ac De Relationibus Inter Superiores Missionum Et Superiores Religiosos, p.183, n.205.

(82) Eguren, De Conditione Iuridica Missionarii in Studia Missionalia, v.5 (1950), p.148.

(83) S.C. of the Propagation of the Faith, Decree, April 21, 1852: Collectio Lacensis, v.3, col. 959d.

(84) Leo XIII, Constitution Romanos Pontifices, May 8, 1881: ASS; v.13 (1894), p.488.

was not required for validity (85). Therefore before the Code, missions stations could be validly erected without a formal decree.

Under the Code, moral persons receive their personality in two ways, either by law or by formal decree. While this decree is prescribed, it is not for validity in the case of moral persons erected by law. It is evident that the nullity of acts is not to be presumed since it is something odious but that this nullity must be clearly proven (86).

Now, in the case regarding the diocese of Prince Albert and Saskatoon, the S.C. of the Council declared that the parishes in that diocese were validly erected even though there had been no formal decree of erection. The principle of law which determined the case was that a formal decree, while prescribed, is not necessary for validity in the case of moral persons which receive their moral personality from the law itself (87).

(85) S.C. of the Council, Letter, Mar. 18, 1881: Collectanea, v.2, n.1548, p.145.

(86) C.J.C., Can 11, 1680 §1.

(87) S.C. of the Council, March 5, 1932: AAS, v.25 (1933), p.437.

Therefore with regard to mission stations while they are to be erected by a formal decree, this prescription of the law is for the liceity of the act, not for the validity.

Thus, where the Ordinary has defined a territory, determined the principal chapel or church and appointed a Rector who has not the exclusive care of the souls in the territory and is not bound by the obligation of the missa pro populo or where the Ordinary has approved such a situation by accepting it over the years, we have a mission station, validly erected, which enjoys moral personality in the law.

In erecting mission stations the following suggested form could be used:

N..... N.....

Miseratione divina et Sanctae Sedis Apostolicae gratia

Episcopus N.....

(Episcopus..... Vicarius Apostolicus de.....

Praefectus Apostolicus de..... aut

Superior Missionis de.....)

omnibus praesentes litteras inspecturis salutem et in Domino benedictionem.

Inter praecipua Nostri pastoralis officii munera sane habetur propagationem Fidei inter omnes gentes in Nostris regionibus degentes ita disponi ut unusquisque missionarius cunctis officii per Nos ei attributi muneribus facilius satisfacere possit et valeat.

Idcirco (prius audito [Consilio missionis et] Superiore religioso), novam stationem missionalem ad propagationis fidei necessitatibus et religionis incremento providendum canonice erigi decrevimus.

Quae quidem statio missionalis consistat intra limites infra dictas, scilicet: (88) cum statio principalis in loco N..... existente.

Divisio bonorum, iuxta Can. 1500, habeatur ut infra, scilicet:.....

Quapropter, omnibus iuxta canones attente consideratis et mature perpensis, hanc dictam stationem missionalem N....., ut supra descriptam, cum praefata statione principali in loco....., sub

(88) Here the limits of the new mission station or at least, the names of the christianities or subsidiary stations that belong to it should be given.

titulo S....., virtute praesentium
 canonice erigimus erectaque declaramus; cum omnibus
 iuribus, gratiis et facultatibus, quibus ceterae Nostrae
 diocesis (vicariatus, praefecturae aut missionis) stationes
 missionales, iuxta canones et statuta diocesana frui et
 gaudere solent.

Datum N....., sub signo sigilloque Nostris,
 ac cancellarii Nostri subscriptione, anno Domini millesimo
 nongentesimo..... die..... mensis.....

NN..... Episcopus.....

(NN..... Episcopus..... Vicarius

Apostolicus de.....,

Loc. sigil.

NN..... Praefectus Apostolicus de.....,

aut NN..... Superior Missionis de.....).

NN.....Cancellarius.

ARTICLE 4

CONCLUSIONS

The Ordinary has a true obligation of erecting parishes and quasi-parishes when such a division will be of benefit to the care of souls and the increase of things catholic in any part of his territory. In the meantime, he must seek to have all the territory, not so divided, included within the boundaries of mission stations.

The principal standard by which he is to judge the readiness of any territory to be erected as a parish or quasi-parish is the state of the church in that territory, i.e. whether the church is chiefly concerned with the care of those already Catholics or with the conversion of the non-catholics. If the former, the parish or quasi-parish is the institution called for; if the latter, the mission station. However, even when a major part of a district has been converted to the Faith there may be other reasons why the Ordinary would find it inconvenient to erect parishes and quasi-parishes. These might be the instability of the population, the scarcity of suitable priests to act as parish priests, the lack of a parish church or a becoming dwelling for the parish priest, or finally, the inability to supply the means for the establishment of the benefice or

for the upkeep of the parish and its pastor. In all these cases, the Ordinary should postpone the erection until the necessities can be provided.

Mission stations must be erected by the competent ecclesiastical authority. These are, during their office and under the conditions of the law, the Roman Pontiff, the S.C. of the Propagation of the Faith, the Bishop, Vicar or Prefect Apostolic and the Superior of a mission sui iuris, the Vicar Capitular, Pro-vicar, Pro-prefect and Pro-superior. With a special mandate, the Vicar General, Vicar or Prefect Delegate and the Superior Delegate may also erect mission stations. In quasi-dioceses, the Ordinary must consult his mission Council; in dioceses, he is not obliged to hear his Consultors. In both, he is obliged to consult the religious Superior whenever he needs the priests or the funds from the religious Institute to supply the new station.

Since mission stations are moral persons they must be erected by formal decree. This decree, however, is not for validity. All that is necessary for validity is the intervention of the competent ecclesiastical authority.

CHAPTER V

VARIATIONS IN MISSION STATIONS

Like parishes, mission stations may be committed to religious or united, pleno iure, to a religious house. They may be established as benefices. They may be united, translated, dismembered or divided. All these variations affect the legal status of these stations either changing the juridical entity already established or subjecting it to laws which do not apply to other stations.

ARTICLE 1

MISSION STATIONS COMMITTED TO RELIGIOUS

Status of Mission Stations Committed to Religious.

1) Mission stations are committed to religious (1) generally as part of a larger territory. This is done in two ways:

a) Directly, by the Holy See. A diocese or quasi-diocese is committed to a religious Institute by the

(1) When religious are mentioned in this matter, it is intended to include members of societies and institutes who live a community life but without the religious vows.

S.C. of the Propagation of the Faith. Pius XI in the encyclical Rerum Ecclesiae stated, "We ... shall divide and subdivide a territory and shall confide to the native clergy or other congregations new vicariates and apostolic prefectures" (2).

b) By contract with the Ordinary of the diocese or quasi-diocese. By these contracts, the religious Institute accepts a large district in a diocese "to be cared for and governed in all matters, spiritual and temporal, subject to the jurisdiction of the Local Ordinary, the prescriptions of Canon Law and of the contract" (3). When these agreements have been reached between the Ordinary and the Superior General of the religious they are submitted to the Sacred Congregation for approval. Once the Apostolic Beneplacitum has been obtained the contract becomes effective from the moment it was signed by both parties.

(2) "... iterum iterumque partiri, et clero indigenae aliisque Sodalitatibus novos vicariatus ac praefecturas committere nequitiam cunctabimur" (Pius XI, Encyclical letter Rerum Ecclesiae, Feb. 28, 1926: AAS, v.18 (1926), p.82).

(3) Contract between the Ordinary of the Diocese of N... and the Superior General of the Scarborough Foreign Mission Society, Feb. 24, 1950: Archives of the Scarborough Foreign Mission Society, A/1001/50, Propaganda Protocol n.2122/50.

Thus, mission stations committed to religious are those which are administered by religious missionaries (4) as part of a larger territory which has been confided to their Institute.

2) When a religious Institute accepts a mission, it makes the end of the Church's mission its very own. In the new mission it will seek nothing else but the preaching of Jesus Christ and the announcing of the kingdom of God (5). The Holy See on the other hand does not intend to withdraw from the evangelization of the territory given to the religious. It retains the whole rule of the mission expecting from the religious Institute the men and the means to carry out the work of evangelization (6). Thus the Holy See reserves to itself the governing of the mission and the preaching of the Gospel to the non-catholics (7). The mission is not united to the religious Institute nor does it become the property of the latter (8) but it remains

(4) "... Porro stationes omnes quae a nostris Missionariis administrantur, uti ipsi Instituto concreditae habentur" (Stat. O.M.I., p.8, n.6.)

(5) S.C. of the Propagation of the Faith, Instruction, Dec. 8, 1929: AAS, v.22 (1930), p.111.

(6) Ibidem, p.112; A. Larraona, Annotationes in Commentarium pro Religiosis et Missionariis, v.11 (1930), p.148.

(7) C.J.C., Can 1350 §2.

(8) "La missione non va considerata come una proprietà

secular. The religious supply the clergy for the mission until there are sufficient native secular clergy to take care of its needs.

3) Therefore, regarding the status of mission stations committed to religious the following conclusions may be drawn:

a) They are committed to religious on a temporary basis either by the Holy See, ad nutum or by the Ordinary. In this latter case they are given generally for a determined number of years (9).

b) They remain secular mission stations but are administered by religious until there are sufficient secular clergy to care for them (10).

c) The whole care of souls is governed by the local Ordinary who has been appointed by the Holy See (11)

dell'Istituto; essa è un territorio affidato dalla Chiesa di Gesù Cristo a zelanti apostoli" (S.C. of the Propagation of the Faith, Decree, May 20, 1923, n.1: AAS, v.15 (1923), p.270, n.3).

(9) V. Bartocetti, Ius Constitutionale Missionum, Torino, R. Berruti, [1947], p.158, n.357.

(10) Ibidem, p.159, n.358.

(11) S.C. of the Propagation of the Faith, Instruction, Dec. 8, 1929: AAS, v.22 (1930), p.112.

The religious Institute does not have the habitual care of souls in these missions. Therefore the religious Rector is not the actual vicar of Can. 471 but is to be considered a curate of the Ordinary (12). In the care of souls and the propagation of the Faith, he is subject to the Bishop and acts as his delegate.

d) The Ordinary may appoint secular priests to be Rectors of these stations when he sees fit. However he may not call in members of another Institute habitually without the consent of the Propaganda (13).

e) Since the mission stations are not the property of the religious Institute, expenses made or debts contracted by the religious in their administration are by no means the obligation of the Congregation to which they

(12) S.C. of the Propagation of the Faith, Instruction, July 25, 1920, n.1: AAS, v.12 (1920), p.332, n.7.

(13) "Si missionis Superior... apti evangelici operarii desiderarentur, cum Instituti sui Superioribus rem agat oportet, vel etiam pro rerum adjunctis ad Sacram Congregationem de Propaganda Fide recurrat" (S.C. of the Propagation of the Faith, Instruction, Dec. 8, 1929: AAS, v.22 (1930), p.113); "... quod si Ordinarius graves rationes habeat ad alios Missionarios nostris subrogandos, rem Sacrae Congregationi subiaciat" (Stat. O.M.I., p.8, n.6); Vromant, De Auctoritate Qua Missiones Reguntur in Jus Pontificium, v.11 (1931), p.64; Grentrup, Ius Missionarium, p.90; Masaref, De Missionum Institutione Ac De Relationibus Inter Superiores Missionum Et Superiores Religiosas, p.142, n.161.

have been confided but are chargeable to the juridical entity of the mission stations themselves.

f) The religious who is Rector of one of these remains subject to his own religious Superior regarding his own religious life and the observance of the constitutions and rules of his Institute (14).

The Appointment and Transfer of the Rector.

The appointment and transfer of the religious Rector of a mission station is reserved to the Ordinary (15). But in both these matters he is bound to use the offices of the religious Superior. "The latter is usually in a position to know his subjects more thoroughly and to be better acquainted with their characters, talents, and qualifications for various duties. Hence, the religious Superior is to propose Superiors for the various mission stations... and the Superior of the mission is to make the appointments as he judges best in the Lord" (16).

(14) S.C. of the Propagation of the Faith, Instruction, Dec. 8, 1929: AAS, v.22 (1930), p.114.

(15) S.C. of the Propagation of the Faith, Instruction, Dec. 8, 1929: AAS, v.22 (1930), p.114.

(16) "... Hic enim pro officio suo subditos plenius cognoscere atque eorum ingenia, facultates, animi virtutem, aptitudines quoque pro variis officiis melius perspecta

This proposal of the Rector by the religious Superior is different from the canonical presentation of Can. 476 §4. This is something new introduced by the Instruction (17). The Ordinary in the missions has much wider faculties in this matter than the Ordinary under the S.C. of the Consistorial. For the latter nominates the one who is presented, but the former the one "he judges best in the Lord". The latter may refuse one presented and request that another be presented in his place. The former, however, may appoint one who has not been proposed (18).

Therefore, the religious Superior does not destine a religious to a certain station nor does he present the Rectors of these as he did before the Instruction of 1929. He proposes these Rectors only and the Ordinary appoints whom he sees fit.

Is this a derogation of Can. 476 §4? This canon

habere solet. Unde Superior religiosus diversarum stationum superiores... aptos viros proponat; Superior missionis vero eos nominet prout in Domino iudicaverit" (*ibidem*, p.114-115).

(17) Paventi, Breviarium Iuris Missionalis, p.102.

(18) Geispolsheim, Dilucidationes in Statutum pro Missionibus Ordinis FF. Minorum Capuccinorum Anno 1938 Approbatum, p.64.

states that curates are to be presented by the religious Superior and approved by the Ordinary. According to the Instruction of 1920 missionaries and mission Rectors are to be estimated as curates of the Ordinary (19).

It seems, rather, that the Instruction of 1929 is a clearer explanation of that of 1920. In this matter of appointment and transfer the religious missionary and mission rector do not fall absolutely under the law regarding the appointment and transfer of curates, but the Sacred Congregation has applied these rules, taking into consideration the circumstances in missions.

In transferring a religious Rector from one station to another, again the religious Superior is to propose the transfer but the decision is left to the Ordinary. "If the religious Superior believes that the spiritual or temporal welfare of one of his subjects requires his transfer from one place to another or that he should be relieved of any office or duty, he should respectfully and confidently make the matter known to the Superior of the mission. But in case of disagreement, the decision of the Superior of

(19) S.C. of the Propagation of the Faith, Instruction, July 25, 1920, n.1: AAS, v.12 (1920), p.332, n.7.

the mission must prevail" (20).

Penalties and Removal.

"If the Superior of the mission learns that any missionary has been gravely wanting in his duty, he can take proper measures and apply merited penalties. But the religious Superior has a cumulative right with the Superior of the mission in the same case. If, however, it happens that different decisions are reached by each of them, the decree of the Ordinary must prevail" (21).

This applies to the missionary as regards his duty in the care of souls. In his religious life he is subject to his religious Superior only. Therefore, regarding punishments, the religious Rector is subject to his religious

(20) "Superior religiosus, si quandoque persuasum sibi haberet, alicuius subditi spirituale vel temporale bonum postulare ut ab uno in alium locum transferatur, vel officio aliquo aut munere levetur, reverenter et fiducialiter rem Superiori missionis exponat. In casu tamen dissensus, Superioris missionis sententia praevalere debet" (S.C. of the Propagation of the Faith, Instruction, Dec. 8, 1929: AAS, v. 22 (1930), p.115).

(21) "Superior missionis, ubi subditum sibi missionarium muneri suo graviter defecisse comperuerit opportunas dispositiones atque meritas poenas statuere potest. Superior vero religiosus in eodem casu cumulativum cum Superiore missionis ius habet. Attamen si aliter ab uno et ab altero decerni contingat, ea quae ab Ordinario decreta fuerunt, praevalere debet" (loc. cit.).

Superior exclusively, in those things pertaining to his duties as a member of the religious Institute but to both Superiors in the care of souls. Thus, both the Ordinary and the religious Superior can proceed against him for grave neglect of his duties as Rector of the mission.

This cumulative right is to be understood in such a way that both Superiors have the right to proceed against the missionary, either together by mutual consent or separately. If they reach different decisions, the decree of the Ordinary prevails.

From this, it follows that both Superiors have the right of vigilance over the mission Rector in the care of souls and the preaching of the Gospel, although the Ordinary alone prescribes the methods and rules to be followed. If the religious Superior has the power to make decrees and inflict penalties regarding the care of souls, then he has the right of visitation and inspection regarding the same matters. Otherwise he cannot give a decree about something he doesn't know. And how can he know, if the Rector is withdrawn from his jurisdiction in this matter? (22).

(22) C. Delgado, De Relationibus Inter Parochum Religiosum Et Ejus Superiores Regulares, Rio de Janeiro, Editora Vozes Limitada, 1943, p.76.

"Finally, for very grave reasons, either the ecclesiastical Superior or the religious Superior has an equal right, without obtaining the consent of the other, to remove someone from his post or office; nor is either bound to disclose to the other the reasons for such action, and much less to justify it, without prejudice to the right of recourse in devolutive to the Holy See" (23).

Before the Code, the very grave reason for removing a rector was "the present or imminent danger of public scandal" (24). While the present law does not mention this it remains as an indication of the gravity of the cause before a missionary may be removed.

The Rector may be removed by either Superior. All that is necessary is an administrative decree. Afterwards the Superior who removed him must inform the other Superior that the removal has taken place without having to justify

(23) "Ob gravissimas porro rationes tam Superior ecclesiasticus quam Superior religiosus aequo iure, non requisito alterius consensu aliquem a proprio loco vel munere remove potest; nec alter alteri causam iudicii sui aperire, multoque minus probare tenetur, salvo tamen recursu in devolutive ad Apostolicam Sedem" (S.C. of the Propagation of the Faith, Instruction, Dec. 8, 1929: AAS, v.22 (1930), p.115).

(24) S.C. of the Propagation of the Faith, Decree, Nov. 26, 1631: Analecta Iuris Pontificii, v.26, col.54C.

it in any way (25). Recourse against the decree is to be had to the Propaganda (26). This recourse does not suspend the execution of the decree (27). Therefore, the rector must obey immediately the ruling of either Superior even though recourse has been taken.

ARTICLE 2

MISSION STATIONS UNITED PLENO IURE TO RELIGIOUS

That mission stations are sometimes united pleno iure to a religious house appears from a decree of the S.C. of the Propagation of the Faith, uniting the mission Station of St. Gabriel, Stanleyville, to the house of the Priests of the Sacred Heart of Jesus, and which reads:

"1) The mission Station of St. Gabriel is regarded ad instar quasi-paroeciae, and, as such is united pleno iure and at the pleasure of the Holy See, to the House of the Congregation of the Priests of the Sacred Heart of Jesus...

2) The goods of the Station, henceforward, belong to the aforesaid Congregation of the Priests

(25) C.J.C., Can 454 §5.

(26) C.J.C., Can 1601, Pius X, Constitution Sapienti Consilio, July 3, 1908: Ans, v.1 (1909), p.12 §6, n.5.

(27) C.J.C., Can 1699 §1.

of the Sacred Heart of Jesus; under this condition, however, that the goods of the station church, taken ad instar quasi-paroeciae will remain distinct from the other goods which belong to the religious house. In this matter, an inventory shall be made immediately, and signed by both the Vicar Apostolic and the religious Superior.

- 3) Regarding the cure of souls, the aforementioned Station shall be ruled and administered in the same way as other quasi-parishes in Vicariates Apostolic are ruled and administered.
- 4) A suitable number of religious shall be appointed to the care of souls in the same Station.
- 5) The goods of the Station which are ceded to the aforementioned Congregation of the Priests of the Sacred Heart of Jesus, shall always be used in works which correspond to the purpose of the mission" (28).

(28) "1) Statio missionalis S. Gabrielis intelligenda est ad instar quasi-paroeciae, et, qua talis, unitur pleno iure et ad nutum S. Sedis domui religiosae Congregationis Sacerdotum a Sacro Corde Jesu

2) Stationis bona ad praelaudatam Congregationem Sacerdotum a Sacro Corde Jesu deinceps pertinebunt, ea tamen conditione, ut bona ecclesiae Stationis, ad instar quasi-paroeciae sumptae, distincta maneant a ceteris bonis, quae domui religiosae pertinent, iuxta inventarium, quam citius redigendum et tum a Vicario Apostolico tum a Superiore religioso subsignandum;

3) Statio, de qua sermo fit, regatur et administretur, quoad curam animarum, sicuti caeterae quasi-paroeciae in Vicariatibus Apostolicis passim reguntur et administrantur;

4) Congruus religiosorum numerus curae animarum in eadem Statione addicatur;

5) Bona Stationis, quae memoratae Congregationi Sacerdotum a Sacro Corde Jesu cedent, semper adhibeantur in

This is a particular document and therefore formally binds only in the Station for which it was made. However, it shows the manner in which the Sacred Congregation has acted in this matter and as such demonstrates how these unions may be made.

Nature of the Union.

Gonzalez defines a union pleno iure of a parish to a religious house as "the conjunction of a parochial benefice with some religious house in both spirituals and temporalis, in such a way the parish becomes religious" (29). All authors agree when parishes are thus united, that the sacred office and at least, the fruits of the benefice are united to the religious house. There is a discussion regarding the dominion of the benefice but this is not of interest here. The parish also becomes religious (30).

operibus, quae missionum fini respondeant" (S.C. of the Propagation of the Faith, Decree, June 8, 1951: Paventi, Breviarium Iuris Missionalis, p.135; De Statione Missionali Et Vicario Cooperatori Missionali in Monitor Ecclesiasticus, v.64 (1952), p.263). This decree is not found in any of the primary sources. The reference in Paventi is Propaganda Prot. n.2133/51.

(29) F. Gonzalez, O.S.A., De Parocho Religioso Eiusque Superiore Locali, Canon Law Studies, n.313, Washington, The Catholic University of America Press, 1950, p.41.

(30) C.J.C., Can 1425 §2.

In the mission Station however, there is no benefice as such but the union takes place between the moral personalities of the Station and of the religious house. This is not to say that the mission Station loses its nature but that it is made the property of the religious house (31). Therefore, as a mission station it remains subject to the Ordinary.

Temporal Effects of the Union.

1) The true and proper dominion of the temporal goods of the mission Station is translated to the religious house to which it is incorporated. "The goods of the Station, henceforward, belong to the aforesaid Congregation ..." (32)

2) The goods of the mission Station are to be kept distinct and administered separately from the other goods of the religious house. To do this an inventory of the goods is drawn up signed by both the Ordinary and the religious Superior (33).

(31) S.C. of the Propagation of the Faith, Decree, June 8, 1951, n.2: Paventi, loc. cit.

(32) Loc. cit.

(33) Loc. cit.

The reason for this provision is two-fold:

a) According to the decree, all the goods are to be used only for works that correspond to the purpose of the mission (34). Thus they may be used exclusively in works which are established to aid in the care of souls and the conversion of non-catholics. Therefore they must be administered separately.

b) The union is granted at the pleasure of the Holy See (35). While this is a permanent union, it may be dissolved by the Holy See. Thus to avoid uncertainty and confusion in case of dissolution, the goods of the Station are to be kept and administered separately from the other goods of the religious house (36).

Spiritual Effects of the Union.

An office in the strict sense is established ad instar quasi-paroeciae. This office is united to the religious house. Thus the moral person of the religious house has the office in titulum and it becomes a religious

(34) Ibidem, n.5.

(35) Ibidem, n.1.

(36) Wernz, Ius Decretalium, v.2, pars 2, n.274, p.240.

office. It never becomes vacant for the moral person does not die. The substance of this office will be explained later.

In this case, a Vicar who has the actual care of souls must be appointed (37). He, exclusively, has all the rights and obligations of the office (38). The care of souls in the mission Station falls under the same rules and regulations as in quasi-parishes (39). The Vicar fulfills the obligations of the office with ordinary jurisdiction. In matters outside the substance of the office, he remains a delegate of the Ordinary.

A suitable number of assistants must be supplied by the religious for the care of souls in the mission Station. They are to be members of the Congregation. It is not enough that they be appointed to the religious house but they must be appointed to the care of souls in the Station (40).

(37) C.J.C., Can 471 §1.

(38) C.J.C., Can 471 §4.

(39) S.C. of the Propagation of the Faith, Decree, June 8, 1951, n.3: Paventi, loc. cit.

(40) Ibidem, n.4.

ARTICLE 3

MISSION STATIONS ERECTED AS BENEFICES

Under the law before the Code, mission stations were not erected as benefices although the Holy See (41) and particular Councils (42) made provision for the certain and stable support of the ministers of the Gospel. This certain and stable support of the missionaries has always been favoured by the Holy See. This flows from the very purpose of the mission itself. The mission exists for the conversion of the non-catholics and the establishment and stabilization of the church. But the church is not stabilized in any land until there is established a permanent method of supporting those who preach the Gospel (43)

In the universal church, the traditional method of sustaining those who have the care of souls has been by benefices. It is not necessary that mission stations be made benefices. Most of them are not because they lack the necessary endowment. However, where it is possible

(41) S.C. of the Propagation of the Faith, Instruction, Sept. 8, 1869, n.23: Collectanea, v.2, n.1346, p.23.

(42) Decreta Synodi Provincialis Westmonasteriensis, a. 1855, c.8, n.12: Collectio Lacensis, v.3, col. 982d.

(43) S.C. of the Propagation of the Faith, Decree, May 20, 1923, n.2: Ans, v.15 (1923), p.370, n.3.

they may be so erected. This is the opinion of Masarei (44). The other authors do not consider the question.

Mission Stations as Benefices.

1. A benefice is a "juridical entity constituted or erected in perpetuity by the competent ecclesiastical authority, consisting of a sacred office and the right to receive the revenues attached to the office by endowment" (45). Thus, to constitute a benefice, four elements are necessary:

a) A juridical entity erected in perpetuity.

This is a non-collegiate moral person and the subject of rights (46). Perpetuity is two-fold: objective, i.e. the benefice itself is erected in perpetuity, and subjective, i.e. the beneficiary holds the benefice in perpetuity. Under the present law, the first of these is all that is necessary in constituting a benefice. Those holding manual benefices are always movable (47).

(44) Masarei, De Missionum Institutione ac De Relationibus Inter Superiores Missionum Et Superiores Religiosos, p.183, n.205.

(45) C.J.C., Can 1409.

(46) Cappello, Summa Iuris Canonici, v.2, p.513, n.541.

(47) C.J.C., Can 1411, n.4.

Is the precariousness of mission stations an objection to their being erected as benefices? Can. 216 § 2 orders that the territories in which mission stations are erected be established as quasi-parishes when it can be conveniently done. The Instruction of 1920 declares that the Ordinary is bound to tend towards the establishment of these quasi-parishes (48). In the meantime, they are left as mission stations. Is this compatible with the objective perpetuity required when erecting benefices?

A moral person, by its nature is perpetual (49). This perpetuity is given to it by the law. Thus, a moral person erected by competent authority has objective perpetuity i.e. it continues in its legal existence unless it is extinguished according to the norms of law (50). This stability granted by the law itself is sufficient for benefices.

(48) S.C. of the Propagation of the Faith, Instruction, July 25, 1920, n.l: AAS, v.12 (1920), p.331, n.l.

(49) C.J.C., Can 102 §1.

(50) Allen, De Beneficiorum Paroecialium Existentia Ante Et Post Codicem In Statibus Foederatis Americae Sept., p.103.

Mission stations, being moral persons, have, therefore, this objective perpetuity which is required for benefices. Thus, the precariousness of mission stations is not an objection to their being erected as benefices.

b) It must be erected by competent ecclesiastical authority. The superior capable of constituting a benefice is one who holds public authority in the church. In this case, this is the Holy See or the local Ordinary (51). It is established by a formal decree of erection in which the place where the benefice is erected, its endowment and the rights and duties of the office are determined (52).

c) The benefice must contain a sacred office. This is the spiritual element. It is the foundation of the right to receive the income of the benefice. This is an office in the strict sense i.e. "a charge or duty, permanently established by divine or ecclesiastical law and conferred according to law and which carries with it some participation in ecclesiastical power whether of orders

(51) C.J.C., Can 1414 §2.

(52) C.J.C., Can 1418.

or jurisdiction" (53). The one obtaining the office fulfills his obligations by ordinary power. This benefice will be considered as simple or non-residential since it is not mentioned as residential in the Code.

The Rectorship of a mission station may be erected into a true ecclesiastical office. The Rector will fulfill the duties of this office with ordinary power.

The object of this power will depend on the law of the Ordinary. Gasparri (54), Coronata (55) and Regatillo (56) seem to say that the curate may have the ordinary faculty i.e. from an office, even, of assisting at marriages, from particular law. However, most authors (57) hold

(53) C.J.C., Can 145.

(54) P. Card. Gasparri, Tractatus Canonici De Matrimonio (2 vol., ed. ad mentem Codicis I.C., Romae, Typis Polyglottis Vaticanis, 1932), v.2, p.106, n.935.

(55) Coronata, De Sacramentis, v.3, p.756, n.540.

(56) Regatillo, Interpretatio Et Iurisprudentia Codicis Iuris Canonici, Santander, Sal Terrae, 1949, p.142, n.206.

(57) F. Wernz-P. Vidal, Ius Canonicum (7 vol., 3rd ed., Romae, Apud Aedes Universitatis Gregorianae, 1938-1943), v.5, p.675, n.533; J. Chelodi, Ius Canonicum De Matrimonio, 5th ed., Vicenza, Societa Anonima Tipografica, 1947, p.164, n.133; Cappello, De Sacramentis, v.5, p.633, n.651; Vromant, Ius Missionariorum, v.4, p.187, n.198; Payen, De Matrimonio In Missionibus Ac Potissimum In Sinis, v.2, p.187, n.1780.

correctly that a curate may be granted only delegated jurisdiction in this matter. Those things determined by the Holy See are beyond the power of the Ordinary to change by a particular law. An inferior cannot change the law of his superior (58). In this matter, the Ordinary is not competent. Therefore, the right to assist at marriage (59), ordinary jurisdiction for confessions (60), or the right to preach (61) could not be attached to this office. However, the right to baptize, according to Can. 740, and the powers of a chaplain may be annexed to it. In those duties attached to the office, the Rector will enjoy ordinary power, in others, only delegated.

d) The holder of the office has the right to receive the fruits of the benefice. A benefice may not be established without a stable and congruous endowment (62). Reiffenstuel says that a congruous endowment is

(58) C.J.C., Can 22.

(59) C.J.C., Can 1094.

(60) C.J.C., Can 873.

(61) C.J.C., Can 1328.

(62) C.J.C., Can 1415 §1.

one which is sufficient for the decent sustenance of the clerics assigned to the benefice (63). However, the more common opinion is that revenue must be sufficient also to care for the requirements of divine cult (64).

2. This would be a movable benefice. Quasi-parishes are movable, by law (65). Parishes in mission territories fall under the same laws as quasi-parishes (66). Therefore, all parishes and quasi-parishes in mission territory are movable. From analogy of law (67), it would seem that mission stations when they are erected into benefices are also movable. Therefore, the rector of a beneficial mission station could be removed either by a formal process or by

(63) A. Reiffenstuel, Ius Canonicum Universum Complectens Tractatum De Regulis Iuris (7 vol., ed. Pelletier, Parisiis, Apud Ladovicum Vivis, 1864-1870), v.3, p.482, n.100.

(64) Cappello, Summa Iuris Canonici, v.2, p.517, n.546; Coronata, Institutiones Iuris Canonici, v.2, p.369, n.978; Panfani, De Iure Parochorum ad Normam Codicis Iuris Canonici, p.16, n.10.

(65) C.J.C., Can 454 §4.

(66) S.C. of the Propagation of the Faith, Decree, Dec. 9, 1920, n.1: AAS, v.13 (1921), p.18, n.2.

(67) C.J.C., Can 20.

an informal one according to Canons 2157-2161 (68).

ARTICLE 4

UNIONS, TRANSLATIONS, DISMEMBRATIONS, DIVISIONS

There is no special law in the Code determining the union, translation, dismembration or division of mission stations, saving only Can. 1500 which defines the division of goods to be made when the territory of an ecclesiastical moral person is divided. In the present matter, this canon applies whenever a new parish or mission station is erected from the territory of a station already established or when part of the territory of one station is added to another one or to a parish. There are no other laws given in similar matters that may be applied to mission stations. The interpretation given must be based on the general principles of the law.

1. The first of these principles is that the Ordinary has a right founded in the law in all matters that pertain to the administration of his diocese or quasi-diocese (69).

(68) Cfr. Cappello, Summa Iuris Canonici, v.1, p.521, n.561.

(69) Leo XIII, Constitution Romanos Pontifices, May 8, 1881: ASS, v.13 (1894), p.488.

Any law therefore that restricts the free exercise of this right must be interpreted strictly (70). Hence the laws in the Code which determine the division of parishes and benefices (Can. 1419-1430) may be applied to mission stations only in so far as they are favourable to the Ordinary's rights. Where they restrict these rights regarding parishes, the restriction is not to be extended to any other matter however similar. Thus the formalities of law regarding changes in parishes or the canonical causes for making these have no application in the matter of mission stations. In this way, the Ordinary may have many more and lesser reasons for making these changes in mission stations than the canonical ones regarding parishes.

However, in favourable things, the prescriptions of the law regarding parishes may act as a guide in this matter. Whenever the Ordinary can unite, translate, divide or dismember parishes, a fortiori he can do the same in mission stations. Those things that restrict the Ordinary's rights regarding parishes have no application in mission stations.

2. In making these changes, the Ordinary alone is competent. According to the Instruction of 1929, "without

(70) C.J.C., Can 19.

him no one whatever be his authority, can establish, change or discontinue any work in the mission" (71). Hence, he alone has the power to divide, translate, dismember or unite mission stations within his territory.

Unions.

According to Can. 1423 §1, the Ordinary of the place can unite parish churches, between themselves, on equal or unequal terms (*aeque principalis* or *minus principalis*) or with a benefice to which the care of souls is not attached. In the same way, the Ordinary can unite mission stations. Both mission stations retain their moral personality. Where they are united on equal terms, one is not subjected to the other. In this case, the two missions remain independent one of the other, each conserves its own rights and privileges but one Rector is equally in charge of both stations (72). When united on unequal terms, the stations retain their personality but the lesser of the two follows the

(71) "Sine ipso nero, cuiuscumque sit auctoritas, opus aliquod in missione sive inchoare, sive immutare, sive supprimere potest" (S.C. of the Propagation of the Faith, Instruction, Dec. 8, 1929: AAS, v.22 (1930), p.12).

(72) Cfr. Cappello, Summa Iuris Canonici, p.520, n.540.

principal so that the Rector of the principal station by that very fact has charge of the lesser. Likewise, the Ordinary may unite two mission stations in an extinctive union i.e. in such a way that both lose their juridical entity and a new station comprising both is erected, or one is united to the other in such a way that it ceases to exist. In this case all the rights and obligations of the old stations are united in the new one which emerges or the one which remains.

Nor is the Ordinary restricted by Can. 1422 and 1423 §2, except in one case. He may not unite a mission station and a parish since it is forbidden to unite a parish and any moral person (73). However, he may unite a mission station to a religious house. The fact that the S.C. of the Propagation of the Faith has made this union itself in a particular case, in no way affects the Ordinary's rights regarding this type of union.

The Ordinary is not bound by the causes which are enumerated in the fore-mentioned canons. The only reasons that are applicable are those that come from the purpose

(73) C.J.C., Can 1423 §2.

of the whole mission i.e. that it will help in the propagation of the Faith and the increase of things Catholic in the district.

Translations.

In the same way, since there is no law governing translations of mission stations, the Ordinary may transfer the principal station from one place to another as he sees fit.

Dismembrations and Divisions.

Nor is the Ordinary bound by the formalities regarding parishes when he divides or dismembers a mission station. On account of the circumstances in the missions he can have more and lighter causes for making the division (74). When a new station is erected, it is a secular one, even though the mission from which the division was made was religious.

Since either the division or dismemberment of a mission station will involve the division of the territory of an ecclesiastical moral person, in such a way that a

(74) Leo XIII, Constitution Romanos Pontifices, May 8, 1881: ASS, v.13 (1894), p.488.

part of it will be added to another moral person or a new person will be erected for this territory, the Ordinary is bound by Can. 1500. He must divide the common property i.e. that which was destined for the benefit of the whole territory, as equity demands. This property would include that given for all the schools of the territory, for the support of all the mission works, in general, the oblations given, according to Can. 1182 §2, for the benefit of the whole mission. This does not include property given for a specific purpose (75) e.g. for the poor of a particular district or gifts to a specific church or altar.

In the same way, the Ordinary should divide the debts of the mission station i.e. those contracted for the whole territory, not particular ones (76).

The Superior who divides the territory has the authority to divide the debts and the common property. The division depends on him. It does not take place automatically (77).

(75) S.C. of the Council, Resolution, Jan. 14, 1922: AAS, v.14 (1922), p.233.

(76) M. Pistocchi, De Re Beneficiali Iuxta Canones, Taurini, Marietti, 1928, p.120.

(77) S.C. of the Council, Resolution, July 16, 1932: AAS, v.25 (1933), p.472.

He is to do this according to the principles of equity, ex bono et aequo. This is an administrative act and will depend on the Ordinary's judgment of the circumstances that surround the division of the station. In all this, care must be taken not to do anything that would directly go against the will of founders or benefactors or deprive any person of acquired rights e.g. the use or usufruct of some property (78). If the moral person of the station is governed by special laws, they must be observed.

Formalities Required.

Since these changes in mission stations would be among the graver and more difficult affairs in the administration of the quasi-diocese, the Vicar or Prefect Apostolic, the Superior of a mission sui iuris would be obliged to seek the advice of the mission Council, at least by letter (79). The Bishop of a mission diocese is not obliged to consult his consultors. If a new burden for the religious Institute would arise the Ordinary must consult the religious Superior also.

(78) H. Ayrinhac, Administrative Legislation In The New Code of Canon Law, New York, Longmans, Green and Co., 1930, p.388, n.3.

(79) C.J.C., Can 302.

The Ordinary is not obliged by the prescriptions of Can. 1428 §1, since we are not dealing with benefices. However, since these changes are made in moral persons, they should be made by authentic document.

ARTICLE 5

CONCLUSIONS

Mission stations are committed to religious as part of a larger territory, either directly by the Holy See or by contract with the Ordinary of the diocese or quasi-diocese. In these stations the whole rule belongs to the Holy See and to the one appointed by the Holy See to rule the territory. The religious Institute supplies the men and the means for the work of evangelization. The mission station committed to religious does not become the property of the Institute but remains secular. The administration, however, is carried on by religious until there are enough secular clergy to supply the needs of the station.

In appointing the rectors of these, the proposal is made by the religious Superior but the Ordinary appoints whom he sees fit. Transfers are to be made in the same

way. Both Superiors have the right of vigilance over the religious missionary in the care of souls and the propagation of the Faith. Both may punish him if he is delinquent in these. In case of disagreement, however, the Ordinary's decision prevails. Both Superiors independently one of the other may remove him but only for the very gravest causes. They are not bound to give reasons to one another for this. There is left however, the right of appeal to the Holy See, but only in devolutive.

There is no general law regarding mission stations united pleno iure to religious. There is a decree of the S. C. of the Propagation of the Faith uniting a certain mission station to a certain Institute. The moral person of the mission station was united to the religious house. The temporal effects were, first, the ownership of the goods of the mission station passed to the religious house, and secondly, the religious house was obliged to administer these goods separately and use them only, for the works of the mission. An office ad instar quasi-paroeciae was established and granted to the religious house in titulum. The mission station became a religious one.

Mission stations may be erected as benefices by the competent ecclesiastical authority. In this case,

they would be considered as non-residential and movable benefices.

In uniting, translating, dismembering and dividing mission stations the Ordinary is not bound by the restrictions of the law applicable to parishes, except in two cases. First, he may not unite a mission station and a parish. Secondly, in dividing and dismembering mission stations the common property should be divided according to Can. 1500. Otherwise, the Ordinary is competent in everything regarding the union, translation, dismembration and division of mission stations. He may make any of these changes whenever the good of souls and the increase of the Faith makes it advisable. In these matters the Vicar, Prefect or Superior of a mission sui iuris should consult their mission Council; the Bishop of the mission diocese is not obliged to consult his Consultors. If a new obligation would arise for the religious Institute, the Ordinary must consult the religious Superior.

CONCLUSIONS

Mission stations in their present form arose in the missions outside Europe and fulfilled a need there which still exists. The strict organization of parishes is unsuitable for the conversion of a non-catholic population. The permanency of parish boundaries, the difficulties of supplying benefices, churches and other necessities for parishes and above all the exclusive jurisdiction of Parish Priests renders this institution incompatible with the needs of these missions. Therefore a looser and less permanent organization was necessary. Thus, in missions in modern times, mission stations were first established by the local Bishops and Vicars and the first laws governing them were made by local Councils. These latter were adopted and developed by the S.C. of the Propagation of the Faith, in such a way that before the Code an adequate body of laws was established concerning this institution.

The codification of these laws in the Code of Canon Law was incomplete, leaving many lacunae legis. Some of these were filled in documents since the Code but the present law must be sought out in different documents of unequal juridical value and there are still lacunae legis which must be supplied according to Can. 20. It would be

helpful to the good order which ought to be established in dioceses and quasi-dioceses in the missions if these laws could be gathered together in one place - possibly, in a directory of mission law.

At the present time, many missions follow the law before the Code in practice. Especially, is this true regarding the status of the mission Rector which was much clearer under the old law. The laws regarding the Rector could be improved either by a return to the law before the Code which placed one priest in charge of the spiritual administration of the station and all other missionaries in dependence on him or by applying the law regarding vicars adjutor to the peculiar needs of the mission Rector. This would remove many doubts regarding their jurisdiction and would make their labour for the conversion of the people easier and more effective.

It seems that the law regarding the union of mission stations to other moral persons could be clarified and possibly some rules made regarding this matter. The same might be said regarding the times when the Bishop of the mission diocese should hear his Consultors.

In spite of these imperfections, however, at the present time, a clear picture can be had of the nature of mission stations, their purpose and the laws which govern their status.

BIBLIOGRAPHY

SOURCES

Acta Apostolicae Sedis, Commentarium Officiale, Romae, Typis Polyglottis Vaticanis, ab anno 1908.

Acta et Decreta Concilii Plenarii Baltimorensis Tertii, A.D. 1884, Baltimorae, Typis Joannis Murphy Et Sociorum, 1886.

Acta et Decreta Irimae Synodi Regionalis Japoniae et Coreae Nagasaki habitae A.D. 1890 Cum Mutationibus a S. Cong. de Propaganda Fide Inductis, Hongkong, Typis Societatis Missionum ad Exteros, 1923.

Acta et Decreta Primi Concilii Plenarii Indiae Anno 1950 in Bangalorensi Civitate Habiti, Ranchi, Catholic Press, 1951.

Acta et Decreta Primi Concilii Regionalis Coreani, 1931, Hongkong, Typis Nazareth, 1932.

Acta et Decreta Quinti Concilii Provinciae Quebecensis in Quebecensi Civitate, A.D. 1873 Celebrati a Sancta Sede Revisa et Recognita, Quebeci, P. G. Delisle, 1875.

Acta et Decreta Sacrorum Conciliorum Recentiorum, Collectio Lacensis, auctoribus presbyteris S.J. e Domo B.V.M. Sine Labe Conceptum ad Lacum, 7 vol., Friburgi Brisgoviae, Sumptibus Herder, 1870-1892.

Acta et Decreta Tertiae Synodi quintae Regionis Sinensis,
Habitaee in Civitate Hong-Kong anno 1909, Hongkong,
Typis Societatis Missionum ad Exteros, 1910.

Acta Sanctae Sedis, 41 vol., Romae, Ex Typographia Polyglotta
S. Congr. de Propaganda Fide, 1865-1908.

Actes de S.S. Pie XI, 18 vol., Paris, Maison de la Bonne
Presse, 1922-1939.

Apostolicae Facultates Missionariis Vicariatus de Ningpo
Communicatae, Ningpo [1930].

Appendix ad Concilium Plenarium Americae Latinae Romae Cele-
bratum A.D. 1899, Romae, Typis Vaticanis, 1901.

BOUSCAREN, T. Lincoln, S.J., The Canon Law Digest, 3 vol.,
Milwaukee, The Bruce Publishing Company [1934-1949].

BRUNO, Joseph, Codicis Iuris Canonici Interpretationes Authen-
ticae seu Responsa A Pontificia Commissione Ad Codicis
Canones Authentice Interpretandos Annis 1917-1935 Data
et in Unum Collecta Atque Romanorum Pontificum Actis et
R. Curiae Decisionibus Aucta [Romae], Typis Polyglottis
Vaticanis, 1935.

Bullarum Diplomatum et Privilegiorum Sanctorum Romanorum
Pontificum, 25 vol., Taurinensis ed., Augustae Taurinorum,
1857-1872.

Bullarium Pontificium Sacrae Congregationis de Propaganda

Fide, 6 vol., Romae, Typis Collegii Urbani, 1858-1859.

Canones et Decreta Sacrosancti Oecumenici Concilii Tridentini,

Romae, Ex Typographia Polyglotta S.C. de Propaganda

Fide, 1904.

CAUBRIERE, J.M., Synthesis Decretalium Sinarum e Decretis

Regionalium Synodorum ab anno 1803 ad annum 1910 Habita-

rum in Sinis Necnon Aliquibus Documentis ab anno 1784

ad annum 1884 a S.C. de P. Fide Editis seu Approbatis,

2nd ed., Hongkong, Typis Nazareth, 1928.

CAZZANELLI, Raphael, O.F.M., Liber Missionalis Vicariatus

Apostolici de Kichow, Wuchang, Franciscan Press, 1941.

Codex Iuris Canonici PII X Pontificis Maximi Iussu Digestus

Benedicti Papae XV Auctoritate Promulgatus, Romae, 1917.

Codicis Iuris Canonici Fontes, cura Emi. Card. Casparri editi,

9 vol., Romae, Typis Polyglottis Vaticanis, 1926-1939.

Collectanea Constitutionum Decretorum Indulorum ac Instruc-

tionum Sanctae Sedis ad usum operariorum Apostolicorum

Societatis Missionum ad Exteros Selecta et Ordine

Digesta cura Moderatorum Seminarii Parisiensis ejusdem

Societatis, 2nd ed., Hong Kong, Typis Societatis Missionum

ad Exteros, 1905.

Collectanea S. Congregationis de Propaganda Fide seu Decreta

- Instructiones Rescripta pro Apostolicis Missionibus,
2 vol., Romae, ex Typographia Polyglotta S.C. de Propa-
ganda Fide, 1907-1908.
- Concilia Provinciae Quebecensis I, II, III, IV in Quebecensi
Civitate Celebrata et a Sancta Sede Revisa et Recognita,
Quebec, P. G. Delisle, 1870.
- Concilii Plenarii Baltimorensis II, Acta et Decreta, 2nd ed.,
Baltimore, Joannis Murphy, 1880.
- Corpus Iuris Canonici, ed. Lipsiensis 2, post Aemilii L.
Richter curas ... instruxit Aemilius Friedberg, 2 vol.,
Lipsiae, Ex Officina Bernhardi Tauchnitz, 1879-1881.
- Corpus Iuris Civilis, Vol. I, Institutiones and Digesta,
15 ed., Berolini, Apud Weidmannos, 1928.
- Directorium Commune Ad Usus Totius Cleri in Japonia Jussu
et Auctoritate Rit. Ordinariorum Denuo Editum, 2nd ed.,
Tokyo, [1952].
- GUBBELS, Natalis, O.F.M., Praxis Missionalis in Vicariatu
Apostolico de Icnang, 3rd ed., Wuchang, The Franciscan
Press, 1942.
- HARDUINI, Joannis, Acta Conciliorum et Epistolae Decretales
ac Constitutiones Summorum Pontificum, 11 vol., Parisiis,
Ex Typographia Regia, 1715.

HERGENROETHER, Joseph, Leonis X. Pontificis Maximi Regesta
Gloriosis Auspiciis Leonis D. F. PP. XIII Feliciter
Regnantis E Tabularii Vaticani Manuscriptis Voluminibus
Aliisque Monumentis, Friburgi Brisgoviae, Sumptibus
Herder, 1884.

Iuris Pontificii de Propaganda Fide, 7 vol., Romae, Ex Typo-
graphia Polyglotta S.C. de Propaganda Fide, 1888-1897.

MAGNINO, Leo, Pontificia Nipponica, Le relazioni tra la
Santa Sede e il Giappone attraverso i documenti pontifici,
Bibliotheca Missionalis n.5, Romae, Officium Libri Catho-
lici, 1947.

Magnum Bullarum Romanum a B. Leone Magno usq. ad S.D.N.
Innocentium X, 4 vol., Lugduni, Sumpt. Borde, Arnaud
et Rigaud, 1654-1655.

MANSI, Joannes D., Sacrorum Conciliorum Nova et Amplissima
Collectio, 41 vol., Parisiis, Huberti Welter, 1901-1909.

MATEOS, Franciscus, S.J., Constituciones para indios del
primer Concilio limense (1552) in Missionalia Hispanica,
v.7 (1950), p.5-54.

——— Segundo Consilio Provincial Limense 1567 in ibidem,
p.209-296, 525-617.

Mission Manual of the Vicariate of Kongmoon (South China),
Hongkong, Nazareth Press, 1937.

Monita ad Missionarios S. Congregationis de Propaganda Fide,
12th ed., Hongkong, Typis Societatis Missionum ad
Exteros, 1930.

Primum Concilium Sinense, anno 1924 celebratum, 2nd ed.,
Zi-Ka-Wei, Typographia Missionis Catholicae (T'ou-sè-wè),
1932.

Recueil d'Ordonnances Synodales et Episcopales du Diocèse de
Québec, Québec, De l'Atelier Typographique de J.T. Brous-
seau, 1859.

Report of the Meetings of the Working and Standing Committees
of the Catholic Bishops' Conference of India, 6 vol.,
Bangalore, Good Shepherd Convent Press, 1945-1951.

Sanctissimi Domini Nostri Benedicti Papae XIV Bullarium,
4 vol., 4th ed., Venetiis, Ex Typographia Joannis Gatti,
1778.

SARTORI, Cosmas, Enchiridion Canonicum seu Sanctae Sedis
Responsiones Post Editum Codicem I.C. Datae Iuxta Canonum
Codicis Ordinem Digesta Notulisque Ordinatae, 8th ed.,
Romae, Pontificium Athenaeum Antonianum, 1947.

SCHROEDER, H., Canons and Decrees of the Council of Trent.
Original Text with English Translation, St.Louis-London,
B. Herder Book Co., 1941.

Statuts pour les Missions de l'Ordre des Frères Mineurs,
Montréal, Imprimerie des Franciscains, 1936.

Statutum Auctoritate Summi Pontificis a S. Congregatione de Propaganda Fide Definitive Approbatum Pro Missionibus Congregationi Missionariorum Oblatorum B. Mariae Virginis Immaculatae Commissis, Roma, Tip. Pol. "Cuore di Maria", 1934.

Statutum pro Missionibus FF. Praedicatorum in Analeeta Sacri Ordinis Praedicatorum seu Vetera Ordinis Monumenta Recentioraque Acta, Romae, Typis Vaticanis, v.17 (1933-1934), p.[193]-212.

Statutum pro Missionibus Ordini FF. Minorum Capuccinorum conceditis a S. Congr. de Propaganda Fide approbatum et ad Normam Recentiorum Instructionem ejusdem S. Congr. Nunc Emendatum, Roma, Scuola tip. Pio X, 1938.

Summa Decretorum Synodaliu Su-Tchuen et Hongkong, Hongkong, Typis Societatis Missionum ad Exteros, 1910.

Sylloge Praecipuorum Documentorum Recentium Summorum Pontificium et S. Congregationis de Propaganda Fide necnon aliarum SS. Congregationum Romanarum ad Usus Missionariorum, Typis Polyglottis Vaticanis, 1939.

Synodus Vicariatus Cochinchinensis Cambodiensis et Ciampoensis Habita in Provincia Binh Dinh Anno 1841, Hongkong, Typis Societatis Missionum ad Exteros, 1893.

Synodus Vicariatus Sutchuensis in Districtu Civitatis Tchong-

Kin Tcheou Anno 1803 Diebus Secunda, Quinta et Nona
Septembris, Hongkong, Typis Societatis Missionum ad
Exteros, 1918.

TETU, H. - GAGNON, C., Mandementa, Lettres Pastorales et
Circulaires des Evêques de Québec, 6 vol., Québec, Imprim-
merie Générale A. Côté et Cie, 1887-1890.

TORRES, Pedro, La Bula Omnimoda de Adriano VI, Madrid, Consejo
Superior de Investigaciones Cientificas, Instituto Santo
Toribio de Mogrovejo, 1948.

Vicariatus Apostolici de Hangchow Prima Synodus, anno 1936,
Hangchow, 1936.

YBANEZ, Coelestinus, O.F.M., Directorium Missionariorum, 3rd
ed., Romae, Typ. Pol. "Cuore di Maria", 1931.

REFERENCE WORKS

ALLEN, Guillelmus, De Beneficiorum Paroecialium Existentia
Ante et Post Codicem in Statibus Foederatis Americae
Sept., Pontificium Institutum Utriusque Iuris, n.18,
Romae, Apud Custodiam Librariam Pont. Instituti Utrius-
que Iuris, 1935.

Analecta Ecclesiastica, 17 vol., Rome, 1893-1909.

Analecta Iuris Pontificii, 27 vol., Rome, 1855-1888.

ANDRE, Mgr., Dictionnaire de Droit Canonique ou Le Cours de Droit Canon, 3 vol., 2nd ed., Paris, Hippolyte Walzer, Librairie-Editeur, 1888-1890.

APFLETERN, Victorius ab, Manuale Missionariorum pro Solvendis Casibus Moralibus in Regionibus Infidelibus Frequenter Occurrentibus Maxime Opportunum, 2nd ed., Brugis, Apud Car. Beyaert, 1911.

AUGUSTINE, Charles, O.S.B., The Canonical and Civil Status of Catholic Parishes in the United States, St. Louis-London, B. Herder Book Co., 1926.

— A Commentary on the New Code of Canon Law, 8 vol., 6th ed., St. Louis-London, B. Herder Book Co., 1931.

AYRINHAC, H.A., Administrative Legislation in the New Code of Canon Law, New York, Longmans, Green and Co., 1930.

BARBOSA, Augustinus, Collectanea Doctorum in Ius Universum, 9 vol., Lugduni, Sumpt. Petri Borde, Joan et Petri Arnaud, 1688-1699.

BARTOCETTI, Victorius, Jus Constitutionale Missionum, Torino, R. Berruti, [1947].

BERNIER, Paulus, De Patrimonio Paroeciali, Quebeci, Apud Auctorem, 1938.

BESTE, Udalricus, O.S.B., Introductio in Codicem, 3rd ed., Collegeville, Minn., St. John's Abbey Press, 1946.

- BLAT, Albertus, O.P., Commentarium Textus Codicis Iuris Canonici, 6 vol., Romae, Ex Typographia Pontificia in Instituto Pii IX, 1921-1924.
- BOUIX, D., Tractatus de Jure Regularium, 2 vol., 2nd ed., Paris, Regis Ruffet et Sociis, 1867.
- Tractatus de Parocho, 2nd ed., Paris, Regis Ruffet et Sociis, 1867.
- BOUVAERT, F. - SIMENON, G., Manuale Iuris Canonici ad Usum Seminariorum, 3 vol., 5th ed., Gandae et Leodii, apud auctores in Seminariis Gandavensi et Leodiensi, 1939-1945.
- CAPPELLO, Felix, S.J., De Sacramentis, 5 vol., 2nd to 6th ed., Romae, Marietti, 1945-1950.
- Summa Iuris Canonici in Usum Scholarum Concinnata, 3 vol., 5th ed., Romae, Apud Aedes Universitatis Gregorianaes, 1940-1945.
- Summa Iuris Publici Ecclesiastici, 5th ed., Romae, Apud Aedes Universitatis Gregorianaes, 1943.
- Catholic Encyclopedia. The, 15 vol., and 2 supplements, New York Catholic Encyclopedia Press, [1907-1922].
- CHAPUT, Raymond, O.M.I., Le Vicaire Coopérateur, ses Pouvoirs dans le Droit Commun et le Droit Particulier Canadien, University of Ottawa, 1949 (typed copy, not yet published)
- CHELODI, Joannes, Ius Canonicum de Matrimonio, 5th ed., Vicenza, Societa Anonima Tipographica, 1947.

- CHICOINE, Fidelis, O.F.M., A Missionary Compendium, Montreal, St. Francis' Library, 1939.
- CONNOLLY, Nicholas, The Canonical Erection of Parishes, Canon Law Studies, n.114, Washington, The Catholic University of America, 1938.
- CORONATA, Matthaeus, O.F.M.Cap., Institutiones Iuris Canonici, 5 vol., 3rd ed., Taurini, Marietti, [1947].
- Institutiones Iuris Canonici De Sacramentis, 3 vol., 2nd ed., Taurini, Marietti, 1943-1947.
- DANIEL, Charles, Manuel des Sciences Sacrées, Paris, Librairie Delhomme et Briguet, 1903.
- DELGADO, Conrado, O.F.M., De Relationibus Inter Parochum Religiosum et Eius Superiores Regulares, Rio de Janeiro, Editora Vozes Limitada, 1943.
- D'ELIA, Pasquale, Storia Dell' Introduzione Del Cristianesimo in Cina Scritta da Matteo Ricci S.J., Roma, La Libreria Dello Stato, 1942.
- PANFANI, Ludovicus, De Iure Parochorum Ad Normam Codicis Iuris Canonici, 2nd ed., Romae, Marietti, 1936.
- FELGARIS, Lucius, Prompta Bibliotheca Canonica Iuridica Moralis Theologica Nec Non Ascetica Polemica Rubristica Historica, 9 vol., ed. novissima, Romae, Ex Typographia Polyglotta S.C. de Propaganda Fide, 1885-1899.

- FORCELLINI, Aegidius, Lexicon Totius Latinitatis, ...a Josepho Furlamenti emendatum et auctum, nunc vero curantibus Francisco Corradini et Josepho Perin emendatus et auctus melioremque in Formam Redactum, 6 vol., Patavii, Typis Seminarii, 1940.
- GASPARRI, Petrus, Card., Tractatus Canonicus De Matrimonio, 2 vol., ed. ad mentem Codicis I.C., [Romae], Typis Polyglottis Vaticanis, 1932.
- GEISPOLSHEIM, Callistus, O.F.M.Cap., Dilucidationes in Statutum pro Missionibus Ordinis FF. Minorum Capuccinorum Anno 1938 Approbatum, Romae, Apud Curiam Generalem FF. Min. Capuccinorum, 1949.
- GILLET, Pierre, La Personnalité Juridique en Droit Ecclésiastique, Malines, W. Codenne, 1927.
- GIRALDUS a Sancto Cajetano, Ubalduus, Expositio Iuris Pontificii Iuxta Recentiore Ecclesiae Disciplinam, 3 vol., Romae, Ex Typographia Caroli Bardiellini, 1769.
- GONZALEZ, Francisco, O.S.A., De Parocho Religioso Eiusque Superiore Locali, Canon Law Studies, n.313, Washington, The Catholic University of America Press, 1950.
- GOYAU, Georges, Missions et Missionnaires, Bibliothèque Catholique des Sciences Religieuses, Paris, Librairie Bloud et Gay, 1931.

- GRENTRUP, Theodorus, S.V.D., Ius Missionarium quod in Formam Compendii Redactum Scripsit, Vol.I (the only vol. published), Steyl Hollandiae, Typographia domus Missionum a S. Michaelis Archang. nuncupatae, 1925.
- HEOU, Tse-Cheng, Antonius, De Quasi-Paroeciae Erectione, Editiones Comm. A. Arnodo, 1944.
- HOSTIENSIS, Henrici Cardinalis, Summa Aurea Ad Vetustissimos Codices Summa Fide Diligentiaque nunc primum Collata, ed. Venetii, 1574.
- IGLESIAS, Antonius, O.F.M., Brevis Commentarius in Facultates quas Sacra Congregatio De Propaganda Fide Dare Solet Missionariis, Taurini-Romae, Ex Officina Petri Marietti, 1924.
- The Jesuit Relations and Allied Documents Travels and Explorations of the Jesuit Missionaries in New France, 1610-1791, 73 vol., ed. Thwaites, Cleveland, The Burrows Brothers Company, Publishers, 1896-1901.
- KONINGS, Antonio, Commentarium in Facultates Apostolicas, 4th ed., Neo-Eboraci, Benziger Fratres, 1897.
- LAFONTAINE, Germain, Relations Canoniques entre le Missionnaire et ses Supérieurs, Catholic University of America Canon Law Studies, n.252, Sherbrooke, Le Messager Saint-Michel, 1947.

- LAVER, Arcturus, Index Verborum Codicis Iuris Canonici,
[Romae], Typis Polyglottis Vaticanis, 1941.
- Lettres Edifiantes et Curieuses Ecrites des Missions Etran-
gères, 15 vol., Lyon, Vernalet Libraire, 1819.
- LUCIDI, Angelum, De Visitatione Sacrorum Liminum Instructio
S.C. Concilii Edita Iussu S.M. Benedicti XIII Exposita
et Illustrata, 3 vol., 3rd ed., Romae, Ex Typographia
Polyglotta S.C. de Prop. Fide, 1883.
- MAROTO, Philippus, Institutiones Iuris Canonici ad Normam
Novi Codicis, 2 vol., 3rd ed., Romae, Apud Commentarium
pro Religiosis, 1921.
- MASAREI, Seraphino, De Missionum Institutione ac De Relaticni-
bus Inter Superiores Missionum et Superiores Religiosos,
Romae, Institutum Graphicum Tiberinum, 1940.
- MICHELIS, Gommarus, O.F.M.Cap., Normae Generales Iuris Cano-
nici, 2 vol., 2nd ed., Tornaci, Desclée et Socii, 1949.
- Principia Generalia De Personis in Ecclesiae, Lublin,
Universitas Catholica, 1932.
- MICKELLS, Anthony, The Constitutive Elements of Parishes,
Canon Law Studies, n.296, Washington, Catholic University
of America Press, 1950.
- MONDREGANES, Pio Maria de, O.F.M.Cap., Manual de Misionologia,
2nd ed., Madrid, Editorial "Pro Fide", 1947.

Monita Nankinensia, 2 vol., Zi-Ka-Wei, Typis Orphanotrophii
T'ou-sè-wè, 1933.

MONNET, J., O.M.I., Administration des Biens en Pays de
Missions, Ottawa University, 1948 (typed copy, not yet
published).

MONTALBAN, Franciscus, S.J., Manuale Historiae Missionum,
Shanghai, In Typographia T'ou-sè-wè, 1935.

MONTESSI, Plato, Praelectiones Iuris Regularis, 2 vol., 2nd ed.,
Tornaci, H.L. Casterman, [1896-1898].

MOSCHETTI, Guiscardo, Bibliographia Iuris Canonici, Romae,
Casa del Libro Italiano, [1942].

MUNDY, Thomas, The Union of Parishes, Canon Law Studies,
n.204, Washington, The Catholic University of America
Press, 1945.

Notes à l'Usage de NN. SS. les Evêques de la Société et des
Autres Supérieurs des Missions, Société des Missions-
Etrangères de Paris, [1923].

Notice sur les Missions du Diocèse de Québec qui Sont Secou-
rues par l'Association de la Propagation de la Foi, 21
vol., Québec, De l'Imprimerie de Fréchette et Cie, 1839-
1874.

PAVENTI, Xaverius, Breviarium Iuris Missionalis, Bibliotheca
Missionalis n.4, Romae, Catholic Book Agency, 1952.

- Brevis Commentarius in Facultates S. Congregationis de Propaganda Fide, Bibliotheca Missionalis, n.2, Romae, Officium Libri Catholici, 1944.
- La Chiesa Missionaria, 2 vol., Roma, Unione Missionaria del Clero in Italia [1949].
- PAYEN, Georges, S.J., De Matrimonio in Missionibus ac Potissimum in Sinis, 3 vol., 2nd ed., Zi-Ka-Wei, In Typographia T'ou-sè-wè, 1935-1936.
- PELOW, Rogers, S.F.M., The Vicar Delegate of Mission Ordinaries, Ottawa University, 1942 (Typed copy, not yet published).
- PIRHING, Enricus, S.J., Ius Canonicum in V. Libros Decretalium Distributum nova Methodo explicatum, 5 vol., 2nd ed., Venetiis, Ex Typographia Renondiniana, 1759.
- PISTOCCHI, Marius, De Re Beneficiali Iuxta Canones, Taurini, Marietti, 1928.
- PRUMMER, Dominicus, O.P., Manuale Iuris Canonici, 5th ed., Friburgi Brisgoviae, Herder and Co., 1927.
- QUINN, John, The Extraordinary Minister of Confirmation According to the Most Recent Decrees of the Sacred Congregations, Rome, Catholic Book Agency, 1951.
- REGATILLO, Eduardus, S.J., Institutiones Iuris Canonici, 2 vol., 3rd ed., Santander, Sal Terrae, 1948-1949.
- Interpretatio et Iurisprudentia Codicis Iuris Canonici, Santander, Sal Terrae, 1949.

- Ius Sacramentarium, 2nd ed., Santander, Sal Terrae, 1949.
- REIFFENSTUEL, Analectus, Ius Canonicum Universum Complectens Tractatum De regulis Iuris, 7 vol., Parisiis, Apud Ladvicum Vivis, 1864-1870.
- ROCHEMONTEIX, Camille de, S.J., Les Jésuites et la Nouvelle France au XVII Siècle d'après Beaucoup de Documents Inédits, 3 vol., Paris, Letouzey et Ané, Editeurs, 1895-1896.
- ROMANI, Silvius, Institutiones Iuris Canonici, Vol.I, Romae, Apud Auctorem, 1941.
- ROMERSKIRCHEN, Giovanni, O.M.I.- DINDINGER, Giovanni, O.M.I., Bibliografia Missionaria, Roma, Unione Missionaria del Clero in Italia, ab anno 1933.
- SARTORI, Cosmas, O.F.M., Iuris Missionarii Elementa Adjecto Commentaria Facultatum Quas S. Congregatio de Propaganda Fide Pro Locis Missionum Concedit, Romae, Secretaria Missionum Ord. Fr. Minorum, 1947.
- SCHAEFER, Timotheus, O.F.M., De religiosis ad Normam Codicis Iuris Canonici, 4th ed., Typis Polyglottis Vaticanis, 1947.
- SCHMALZGRUBER, Franciscus, S.J., Ius Ecclesiasticum Universum Breve Methodo Ad Discentium Utilitatem Explicatum, 12 vol., Romae, Ex Typographia Rev. Cam. Apostolicae, 1843-1845.

- SCHMIDLIN, Joseph, Catholic Mission History, a translation edited by Mathias Braun, S.V.D., Techny, Mission Press, 1933.
- Catholic Mission Theory, Translation from Katholische Missionslehre im Grundriss, Techny, Mission Press, 1933.
- SHEA, John Gilmary, History of the Catholic Missions Among the Indian Tribes of the United States, 1529-1854, New York, P. J. Kennedy and Sons [s.d.].
- SMITH, Sebastian, Elements of Ecclesiastical Law Compiled by Reference to the Syllabus, the Const. Apostolicae Sedis of Pius IX, the Council of the Vatican and the Latest Decisions of the Roman Congregations, 3 vol., 9th ed., New York, Benziger Bros. [1877-1888].
- STICKLER, Alphonsus, Historia Iuris Canonici Latini, Torino, Augustae Taurinorum, 1930.
- STRIET, Robertus, O.A.I., Bibliotheca Missionum, 11 vol., Munster, Verlag Der Aschendorffschen Buchhandlung, 1916-1932.
- TAUNTON, Ethelred, The Law of the Church, a Cyclopaedia of Canon Law for English-speaking Countries, London, Kegan Paul, Trench Trubner and Co. Ltd., 1906.
- THOMASSIN, Louis-André M., Ancienne et Nouvelle Discipline de l'Eglise, 7 vol., Nouvelle édition, Bar-Le-Duc, L. Guérin, éditeur, 1894-1897.

- TOSO, Albertus, Commentaria Minora, 5 vol., Romae, Ephemeridis
- Ius Pontificium, 1922-1927.
- VAN NOVE, De Rescriptis, Mechliniae-Romae, Dessain, 1936.
- VERMEERSCH, Arthurus, S.J., Praelectiones Canonicae De Religiosis Institutis et Personis Tractatus Canonico-Moralis Ad Recentissimas Leges Exactus, 2 vol., 4th ed., Brugis, Sumptibus Beyaert, 1909.
- VERMEERSCH, Arthurus, S.J.-CREUSEN, Josephus, S.J., Epitome Iuris Canonici cum Commentariis ad Scholas et ad Usus Privatum, 3 vol., 6th ed., Mechliniae-Romae, H. Dessain, 1940-1946.
- VROMANT, Georges, C.I.C.M., Ius Missionariorum, 6 vol., 2nd ed., Louvain, Editions du Museum Lessianum, 1932-1938.
- WERNZ, Franciscus, S.J., Ius Decretalium ad Usus Praelectionum in Scholis Textus Canonici sive Iuris Decretalium, 6 vol., 3rd ed., Prati, Officina Libraria Gracchettii, Filii et Soc., 1913-1915.
- WERNZ, Franciscus, S.J.-VIDAL, Petrus, S.J., Ius Canonicum auctore P. Francisco Xav. Wernz, S.J. ad Codicis Normam Exactum, 7 vol., 3rd ed., Romae, Apud Aedes Universitatis Gregorianae, 1930-1943.
- WINSLOW, Francis, M.M., A Commentary on the Apostolic Faculties, New York, Field Arar Press, [1946].

WOYWOD, Stanislaus, O.F.M.-SMITH, Callistus, O.F.M., A Practical Commentary on the Code of Canon Law, 2 vol., 2nd ed., New York, Joseph Wagner Inc., 1948.

ZITELLI, Zephyrinus, Apparatus Iuris Ecclesiastici Juxta Recentissima SS. Urbis Congregationum Resolutiones in Usum Episcoporum et Sacerdotum Praesertim Apostolico Munere Fulgentium, 3rd ed., Romae, Fredericus Pustet, 1903.

PERIODICALS

Analecta Gregoriana, Romae, In Pontificia Universitate Gregoriana, 1930-.

Apollinaris Commentarium Iuridico-Canonicum, Romae, Apud Custodiam Librariam Pont. Instituti Utriusque Iuris, 1928-.

Apostolicum, Tsinanfu, 1930-.

Commentarium pro Religiosis et Missionariis, Rome, 1920-.

Ephemerides Iuris Canonici, Roma, Catholic Book Agency, 1945-.

Jus Pontificium seu Ephemerides Romanae ad Canonicas Disciplinas Spectantes, Romae, 1921-.

Missionalia Hispanica, Madrid, El Instituto "Santo Toribio de Mogrovejo", 1944-.

Monitor Ecclesiasticus, Roma, Desclée et C. Editore Pontifici, 1876-.

Periodica de re Morali Canonica Liturgica, Romae, Universita Gregoriana, 1911-.

Revue de l'Université d'Ottawa, L'Université d'Ottawa, Canada, 1931-.

Studia Missionalia, Romae, Apud Aedes Pontificiae Universitatis Gregoriana, 1946-.

PRINCIPAL ARTICLES

EARTOCETTI, Victorius, Animadversiones Circa Evolutionem Juris Missionum in Jus Pontificium, v.14 (1934), p.[263]-265.

— De Fontibus Iuris Missionalis Exceptionalis in Jus Pontificium, v.15 (1935), p.[280]-286.

De Catechistis et de Scholis Catechistarum in Apostolicum, v.5 (1934), p.[162]-166.

De Consilio Missionis in Sinis in Apostolicum, v.4 (1933), p.417-420; v.5 (1934), p.11-14; 49-55.

De Manarigua Andrés E., El Estado Misional y el Derecho Misional en Francisco de Vitoria in Missionalia Hispanica, v.6 (1949), p.417-454.

DEVLOO, C.I.C.M., De Scholis Catechistarum in Apostolicum, v.11 (1940), p.11-115.

- EGUREN, I.A., S.J., De Conditione Iuridica Missionarii in
Studia Missionalia, v.5 (1950), p. [115]-184.
- GUTIERREZ, Anastasius, C.M.F., De Confirmatione Administando
in Missionibus Iis Qui ex Gravi Morbo in Periculo Mortis
Sunt Constituti in Commentarium pro Religiosis et Missio-
nariis, v.27 (1948), p.237-251.
- HEINRICHS, Maurus, O.F.M., De Administratione Baptismi in
Apostolicum, v.11 (1940), p.4-10.
- HUGELIER, G., De Missionibus et de Exercitiis Spiritualibus
pro Laicis in Apostolicum, v.11 (1940), p.170-176.
- IARRE, C.R., Quomodo Christiani Fiunt Subditi Missionariorum
in Apostolicum, v.2 (1931), p.70-72.
- KOSTER, Laurentius, O.F.M., De Administratione Sacramentorum
ex Obligatione Iustitiae in Apostolicum, v.14 (1943),
p.49-50.
- LARRAONA, Arcadius, C.M.F., De Iure Missionario, Introductio
Generalis in Commentarium pro Religiosis et Missionariis,
v.16 (1935), p.103-116, 228-332; v.17 (1936), p.83-90,
362-367.
- MATEOS, Francisco, S.J., Los dos Concilios Limenses de Jero-
nimo de Loaysa in Missionalia Hispanica, v.4 (1947),
p.479-524.
- Primeros Pasos En La Evangelizacion de Los Indios (1568-
1576) in Missionalia Hispanica, v.4 (1947), p.5-64.

- NEBRADA, Eulogio, C.M.F., Quaestiones Selectae De Iure Administrativo Ecclesiastico, in Commentarium pro Religiosis et Missionariis, v.7 (1926), p.261-271.
- PAVENTI, Xaverius, De Notione ac De Fine Missionis in Ephemerides Iuris Canonici, v.2 (1946), p.[72]-83.
- Questiones de Iure Missionali in Ephemerides Iuris Canonici, v.3 (1947), p.[243-254].
- De Statione Missionali et Vicario Cooperatori Missionali in Monitor Ecclesiasticus, v.62 (1952), p.260-272.
- De Statutis pro Missionibus in Commentarium pro Religiosis et Missionariis, v.26 (1947), p.289-297.
- PERBAL, Albert, O.M.I., Le Concept des Missions in Revue de l'Université d'Ottawa, v.5 (1935), p.[83]-100.
- PUGLIESE, Augustinus, De Vicario Delegato in Territoriis Missionum in Apollinaris, v.6 (1933), p.[196]-217.
- De Litteris Patentibus in Jure Sacrae Congregationis de Propaganda Fide et in Jure Codicis in Commentarium pro Religiosis et Missionariis, v.19 (1938), p.193-206.
- SALVADOR Y CONDE, J., O.P., El Padre Domingo de la Anunciacion y su personalidad misionera in Misionalia Hispanica, v.7 (1950), p.81-162.
- SCHILLING, Dorotheus, O.F.M., De Catechistis in Missionis Terris in Apostolicum, v.7 (1936), p.2-6.

- De Catechumenis in Apostolicum, v.7 (1936), p.[132]-135.
- De Exercitationibus cum Catechumenis Instituendis in Apostolicum, v.7 (1936), p.268-270.
- De Examine Catechumenorum in Apostolicum, v.10 (1939), p.272-274.
- TING, Pong Lee, Ignatius, De Iure Missionario in Concilio Vaticano in Commentarium pro Religiosis et Missionariis, v.25 (1946), p.105-137.
- VERHEERSCH, Arthurus, S.J., De Divisione Vicariatus vel Prefecturae in Quasi-paroecias in Periodica de re Morali, Canonica, Liturgica, v.14 (1925), p.[66]-88.
- VROMANT, Georges, C.I.C.M., De Auctoritate qua Missiones Gubernantur in Jus Pontificium, v.11 (1931), p.[62]-74.
- De Iure Missionum Scripto Codici I. C. Anteriore in Analecta Gregoriana, v.9, p.[303]-319.
- WELSH, A., De Catechistis in Apostolicum, v.12 (1941), p.171-176.
- WERQUIN, J., C.I.C.M., De Iure Missionarii Universali Ejusque Fontibus Cognoscendi Post Codicem Iuris Canonici in Commentarium pro Religiosis et Missionariis, v.26 (1947), p.120-157.