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**FUSION AND UNION OF INSTITUTES OF CONSECRATED LIFE
IN LIGHT OF THE CODE OF CANON LAW**

by
Melanie Jeanene BAIR, O.S.F.

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

Ottawa, Canada
Saint Paul University
1993



Melanie Jeanene Bair, Ottawa, Canada, 1993



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ABBREVIATIONS

AAS	Acta Apostolicae Sedis
Acta et documenta, 1950	Acta et documenta Congressus generalis de statibus perfectionis
Acta et documenta, Series I	Acta et documenta Concilio Oecumenico Vaticano II apparando, Series I, Antepreparatoria
Acta et documenta, Series II	Acta et documenta Concilio Oecumenico Vaticano II apparando, Series II, Praeparatoria
ASS	Acta Sanctae Sedis
Acta synodalia Concilii	Acta synodalia Sacrosancti Oecumenici Vaticani II
CLD	Canon Law Digest
CLSA	Canon Law Society of America
CIC, 1917	Codex iuris canonici, 1917
CIC, 1983	Codex iuris canonici, 1983
CICL	Congregation for Institutes of Consecrated Life and Societies of Apostolic Life
CMSM	Conference of Major Superiors of Men
CVR	Conferences of Vicars for Religious
CpR	Commentarium pro Religiosis et Missionariis
CRIS	Congregation for Religious and Secular Institutes
ConLif	Consecrated Life

<i>DIP</i>	<i>Dizionario degli istituti di perfezione</i>
<i>ES</i>	<i>Ecclesiae sanctae</i>
<i>LCWR</i>	<i>Leadership Conference of Women Religious</i>
<i>MBR</i>	<i>Magnum Bullarium Romanum</i>
<i>MBR, Continuatio</i>	<i>Magnum Bullarium Romanum, Continuatio</i>
<i>MR</i>	<i>Mutuae relationes</i>
<i>PC</i>	<i>Perfectae caritatis</i>
<i>Periodica</i>	<i>Periodica de re morali canonica liturgica</i>
<i>RD</i>	<i>Redemptionis donum</i>
<i>RHP</i>	<i>Religious and Human Promotion</i>
<i>RfR</i>	<i>Review for Religious</i>
<i>RLR</i>	<i>Religious Life Review</i>
<i>Schema canonum</i>	<i>Schema canonum de institutis vitae consecratae per professionem consiliorum evangelicorum</i>
<i>Schema 1977</i>	<i>Schema of Canons on Institutes of Life Consecrated by Profession of the Evangelical Counsels</i>
<i>Schema 1980</i>	<i>Codex iuris canonici: Schema Patribus Commissionis reservatum</i>
<i>Schema constitutionis de statibus</i>	<i>Schema constitutionis de statibus perfectionis acquirendae</i>
<i>Schemata constitutionum et decretorum</i>	<i>Schemata constitutionum et decretorum ex quibus argumenta in Concilio disceptanda seliguntur Series III</i>
<i>UISG</i>	<i>Union internationale des Supérieures générales</i>

INTRODUCTION

An institute of consecrated life is described as a public juridic person (see canon 634, §1) with all the rights and obligations pertaining to such persons. Although it is perpetual by nature (canon 120, §1), its actual condition may change through a process of unification with another institute, through division or even through suppression by the competent ecclesiastical authority. The status may also change by extinction, due to the cessation of activity for a period of one hundred years (canon 120, §1) although this is rather rare in practice.

Some institutes have gone out of existence because the purpose for which they were founded no longer is a need of the Church or of society. Others ceased because of political and social factors, such as governmental intervention, dispersal, and expulsion of religious. Others probably became extinct because of a failure to adapt to changing needs and circumstances. Whatever the reason for the changes, the fact remains that many institutes have undergone processes of unification and re-division during the course of their existence. Given present-day circumstances affecting consecrated life, it seems reasonable to conclude that this process will continue in various forms in the years ahead.

Generally speaking, and in the particular context of this dissertation, the unification of institutes of consecrated life can be described as a joining of two or more institutes by the Holy See, with due observance of the formalities prescribed by ecclesiastical laws.

History lists countless instances of unification, as can be seen from the indices of the *Magnum Bullarium Romanum*, from similar publications, and the historical accounts of religious institutes. During the last one hundred years, unification has occurred particularly in institutes of religious women. However, in spite of the frequency of the action, surprisingly there was no explicit universal legislation governing the unification of religious institutes until the promulgation of canon 582 of the 1983 Code of Canon Law. Rather, the evolving practice of the Roman Curia served as a guide to those contemplating such action and, indeed, still does, even after the promulgation of the Code which restricts itself to general principles, without entering into the administrative details of the process.

Canon 582 speaks of four specific types of unification: fusion, union, federation, and confederation. What is involved in each of these? This is the fundamental question we intend to address in the present study. It has not always been easy, however, to determine precisely which

term should have been applied in a given situation because some of the expressions ("merger", "fusion", "union", etc.) were used interchangeably in the course of time. It would, thus, be important to clarify the terminology.

We also wish to examine the juridical effects of unification, the decision-making process itself, the involvement of outside persons (diocesan bishops, experts, etc.) and the available options for those members who do not wish to join the "new" institute.

It must be recognized that, given its importance, several studies have been dedicated to the process of unification. One of these, *Une union de congrégations au XIX^e siècle: Le Saint-Esprit et le Saint-Coeur de Marie*,¹ is an account of the reasons and process of the union of these two institutes. Another study is the *Canonical and Pastoral Aspects of Suppression and Unification of Communities of Women Religious in the United States*.² Two others reviewed the historical and canonical data relative

¹ M. LEGRAIN, *Une union de congrégations au XIX^e siècle: Le Saint-Esprit et le Saint-Coeur de Marie*, Thèse pour le doctorat en Droit canonique, Paris, Institut catholique de Paris, 1965, 241p.

² M. MODDE, *Canonical and Pastoral Aspects of Suppression and Unification of Communities of Women Religious in the United States of America*, Washington, D.C., Catholic University of American, iii-72p. (Canon Law Studies, no. 493).

to the process of a particular institute.³ However, to date, no study seems to have examined the juridical institution of unification of religious institutes in itself and the current application of the legislation to institutes of women in general.

For this reason, after having considered the vocabulary to be used and the processes followed, the present dissertation intends to identify the applicable laws of the Latin Church relative to the unification of institutes. To place this current legislation in its proper historical and legal context, however, we intend to recall the norms of the pre-code era, those applied under the 1917 legislation (although the matter was not explicitly addressed by this Code), as well as those put forward by the Second Vatican Council and post-related conciliar documents.

In addition, in order to place the legislation in a given social and cultural context, we will examine certain factors and movements which have contributed to the present norms. For this reason, particular attention will be given to the underlying reasons for the recommendation for

³ C. DARCY, *The Institute of the Sisters of Mercy of the Americas: the Canonical Development of the Proposed Governance Model*, Ottawa, St. Paul University, 1992, xix-351p. (Ms.); H. DELANEY, *The Evolution of Governance Structures of the Sisters of Mercy of Australia*, Ottawa, Saint Paul University, 1991, xix-246p. (Ms).

unification found in the conciliar decree *Perfectae Caritatis* and the accompanying *motu proprio Ecclesiae Sanctae II*. Likewise, some trends of the past thirty years (since Vatican II) will be explored, particularly the factors of ageing institutes, significant departures from consecrated life, and fewer vocations (at least in certain parts of the world), so as to give the reader deeper insights into the current situation.

It is obvious to anyone following the situation of consecrated life that many, if not most, religious institutes will have to make difficult decisions in the years ahead relating to their future. Some will choose to reorganize by means of unification with another institute; some will take the risk of remaining in their present condition, and some will most likely die out. No one knows the future. This dissertation will also have to address these possibilities. This, too, will be the object of some of our considerations.

In order to prepare this study, a number of preliminary steps had to be taken.

The first consisted in gathering empirical data; this was considered to be essential in order for us to grasp the extent of the process of unification and its applicability today. For this reason, questionnaires (in

English, French, German, Italian, and Spanish) were sent out and responses received from institutes in Australia, Belgium, Canada, England, France, Austria, Ireland, Italy, Japan, Colombia, and the United States that had been involved in the process of unification. The data received provided invaluable insights into the motives for fusion or union and showed how the members were involved in the actual preparations for the unification. It also informed us as to the concrete steps taken to bring about the unification, and of issues that surfaced during the transition period.

Then, in a second step, and to complete this background, numerous personal interviews were held in Rome, Italy and in France, and Belgium. They were also of great assistance in addressing issues to be considered.

Of particular help were the personnel of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life who graciously granted me access to data and to procedures followed by the Congregation.

I wish to express my gratitude to all those who, in any way, assisted me in gathering and interpreting these facts.

The amount of information received from the survey greatly exceeded expectations. However, the questionnaire which elicited so much of it had been constructed informally, so that this abundant data did not arrive already efficiently organized for scientific analysis. These two factors combined have precluded a more thorough discussion of the empirical material at this time. Such an undertaking would have brought us far beyond the scope of a dissertation in canon law. Hopefully, though, such an analysis will be carried out in subsequent publications. In the meantime, I have presented a copy of the questionnaire and a list of the names of the institutes that participated in the survey in Appendix B and C. This list also identifies the congregations and the dates of the fusions or unions.

While consecrated life does not pertain to the hierarchical nature of the Church, nevertheless it belongs to the life and holiness of the Church (see canon 574, §1). For this reason, it is to be fostered and promoted by everyone in the Church. One of the means of fostering this form of life is to make certain that it is lived in viable conditions, that the members are able to live out their vocation in peace and harmony, and that the institute is able to supply them with everything that, in accordance with the constitutions, is necessary to fulfil the purpose

of their vocation (see canon 670). In order to attain these important goals, at times it may be necessary for Church authorities to intervene in order to bring about structural changes in an institute that might no longer be viable or able to provide what is necessary for its members. Usually, though, the members of the institute themselves become aware of the fact that changes have to be made, and they take initiative to bring about needed structural modifications. It is hoped that the present work will assist those who, in any way, are called upon to embark upon such a delicate yet important task.

CHAPTER ONE

THE PRE-CODE PERSPECTIVE ON UNIONS

Generally speaking, the unification of religious institutes is a joining of two or more such institutes by the Holy See, with due observance of the formalities prescribed by ecclesiastical laws. Union and fusion (merger) are two types of unification. The general principles and notions relating to such actions are not new to the Church. Indeed, their origins are found in two important canonical structures: firstly, the juridic person and, secondly, the pre-code principles and norms used for the union of ecclesiastical benefices. Canonists are generally of the opinion that the norms relating to the union of parishes and to the union of ecclesiastical benefices were applied by analogy to other juridic persons, such as the diocese or the religious institute.

Most probably, though, the practice of union of religious institutes has in one way or another been in effect from the beginning of religious life in the fourth century. Certainly St. Pachomius, founder of the cenobitic life, organized a centralized government with all monasteries subject to a superior general. In subsequent centuries, countless instances of unions of religious institutes were noted in the annals of the ancient

monastic, military, and mendicant orders, as well as in those of many congregations founded in the nineteenth century. The motives for union have varied: at times the action was taken to preserve the spirit and scope of the founder or to unite autonomous monasteries into a congregation, and, at other times, the intention was to unite small and isolated congregations into a stronger body, supported by one government. Sometimes unions with another institute were initiated by the congregation; often, however, it was the Holy See which encouraged or requested orders or congregations to unite their monasteries or congregations, especially if they followed the same rule, shared a similar spirit or had comparable goals. Examples revealed that, by and large, the motives were similar to those for uniting parishes, benefices, or dioceses: reasons of necessity or of usefulness, as well as for providing for the greater good of the Church itself.

This chapter will present, then, a brief overview of the historical and canonical development of the concept of juridic person and of the norms applied in uniting ecclesiastical benefices. This will be followed by an overview of the different types of union of institutes, their juridical effects, and the formalities prior to the 1917 Code of Canon Law. Finally, the practice of

regrouping religious orders from the classical period (1140-1545) up to and including the pre-code era of church law will be examined.

I. THE EVOLUTION OF THE JURIDIC PERSON

In an effort to protect the life expressed in its various institutes, the Church has adopted the Roman law notion of "juridic person" as a part of its laws. The legal theory relating to juridic persons appeared in Roman law before Christianity; it continued throughout its classical period, and was appropriated by pre-code church law.

A. Roman law and the juridic person

The Roman law of the classical era provided for the recognition of numerous private organizations (*collegia*) or collectives (*universitates*), groups of individuals united by a common political, economical, religious, or social interest. The "*universitas*" was instituted to protect the common good of such a group, as well as its property or treasury.¹ The collective, its rights, debts, and common

¹ T. MOMMSEN and P. KRUEGER, (eds.), *Corpus iuris civilis: The Digest of Justinian*, English translation by A. Watson, Philadelphia, University of Pennsylvania, 1985, 3, 4, 1, 1. The volume and page number of the English translation will be given at the end as follows: (v. 1, p. 96). See also P.W. DUFF, *Personality in Roman Private Law*, Cambridge, England, University Press, 1938, xiii-241p;

goods were distinct from the individuals and from their patrimony.² Besides conforming to existing laws, the collective was also governed by its own laws and statutes³ with duly appointed representatives who were charged with carrying out the intentions of the corporate body or entity.⁴

Two requisites existed for a "*universitas personarum*" or a "collective" to be legally constituted: first, there had to be a plurality of members -- in the beginning at least three were required for a "*collegium*";⁵ the basis of the "*universitas personarum*" was the aggregation of members. Secondly, there had to be a licit scope.⁶ Only competent authority was legally able to constitute a *collegium*.⁷ The fundamental characteristics of the collective or corporate entity were perpetuity of

see J.A. THOMAS, *Textbook of Roman Law*, Amsterdam, North-Holland Pub. Co., 1976, Chapter XLV, pp. 469-475.

² D. 1, 8, 6, 1, (v. 1, p. 25); D. 3, 4, 7, 1 (v. 1, p. 97).

³ D. 3, 4, 1, pre., (v. 1, p. 96); D. 47, 22, 4, (v. 4, p. 793).

⁴ D. 3, 4, 1, 1, (v. 1, p. 96); D. 3, 4, 2, (v. 1, pp. 97-98); D. 50, 1, 14, (v. 4, p. 903).

⁵ D. 50, 16, 85, (v. 4, p. 940).

⁶ D. 47, 22, 1, (v. 4, p. 792).

⁷ D. 3, 4, 1, (v. 1, pp. 96-97); D. 47, 22, 3, 1, (v. 4, p. 793).

existence⁸ and of status which enabled the entity to be capable of rights and obligations.⁹ As a corporate entity, a "*universitas*" enjoyed the right to acquire goods,¹⁰ to enjoy *dominium* over them,¹¹ to possess, and to usucapt,¹² to receive usufruct,¹³ and to alienate property.¹⁴ It could also assume contracts,¹⁵ inherit goods,¹⁶ and sue in tribunals of justice.¹⁷ Duly appointed representatives carried out the intentions of the juridic person.¹⁸ This juridic person could be extinguished if the state found its scope to be unlawful¹⁹ or if it declared that a certain corporate entity was henceforth to be extinct on grounds of

⁸ D. 3, 4, 7, 2, (v. 1, pp. 97-98); D. 5, 1, 76, (v. 1, pp. 173-174).

⁹ See P. GIRARD, *Manuel élémentaire de Droit romain*, Paris, Librairie Arthur Rousseau, 1929, p. 250.

¹⁰ D. 3, 4, 1, 1, (v. 1, p. 96); D. 41, 1, 10, (v. 4, p. 491).

¹¹ D. 3, 4, 1, 1, (v. 1, p. 96).

¹² D. 41, 2, (v. 4, p. 504).

¹³ D. 7, 1, 56, (v. 1, p. 228).

¹⁴ D. 3, 4, 1, 1, (v. 1, p. 96).

¹⁵ D. 3, 4, 7, 1, (v. 1, p. 97).

¹⁶ D. 34, 5, 20 (21), (v. 3, p. 175); D. 40, 3, 1-2, (v. 3, p. 428).

¹⁷ D. 3, 4, 7, pre, (v. 1, p. 97).

¹⁸ D. 3, 4, 1, 1, (v. 1, p. 96); D. 50, 1, 14, (v. 4, p. 903).

¹⁹ D. 47, 22, 3, (v. 4, p. 793).

public policy.²⁰ Roman law also provided direction if the *collegium* were to be reduced to one member only.²¹ In essence, the law addressed three principal questions in regard to the "*universitas personarum*": its birth, its functioning, and its death.²²

A second type of corporate existence in Roman Law was the "*universitas bonorum*" or the "institution". Like the "*universitas personarum*", the institution could also inherit property and other goods. Two elements were necessary for its erection: a religious or charitable purpose and the dedication of property or money (*fundus*) to that purpose.²³ Both the "*fundus*" and the scope were essential for erection. The extinction of the institution, according to the theory of the Romanists, could come about either by lack of "*fundus*"²⁴ or by the termination of the scope for which the "*universitas bonorum*" was founded.

²⁰ A. DUMAS, "Personnes morales. Droit Romain Classique", in R. NAZ, [et al.], *Dictionnaire de Droit canonique*, Paris, Letouzey et Ané, 1935, T. 6, cols. 1359-1363.

²¹ D. 3, 4, 2, (v. 1, pp. 97-98).

²² P. GIRARD, especially Chapitre VI, "Personnes juridiques", pp. 255-259.

²³ See *Codex Iustinianus*, 1, 3, 45.

²⁴ See *ibid.*, 1, 3, 45.

B. Early church law and the juridic person

By the fourth century, Roman law and ecclesiastical law had significantly influenced each other and benefited from each other's presence. The Codes of Theodosian and Justinian as well as Justinian's Constitutions (=Novels) contained many ecclesiastical laws. During the eleventh and twelfth centuries, ecclesiastical tribunals relied heavily on Roman law to settle many disputes or conflicts. The close parallel between Roman law and ecclesiastical law is evident in the work of Gratian and in the *Corpus iuris canonici*. The *Corpus iuris canonici*, together with the disciplinary measures enacted by the Council of Trent and subsequent church legislation, comprised the principal collections of church law until the promulgation of the Code of Canon Law in 1917.

The theory and general principles governing the foundation, the life, and death of the juridic person were incorporated into canon law from Roman law and applied to the ecclesiastical juridic person during the pre-code epoch of the Church. The Decretists, the Decretalists, and the Glossators clarified and expounded on the different canons. Pertinent to the topic of this research is the elaboration of a theory relative to organized groups, the concept of "*universitas*".

Joannes Andreae of Bologna, a lay professor at the University of Bologna, noted that the words "collegium", "universitas" or "corpus" signified almost the same thing.²⁵ Church law defined "universitas" as an aggregate or group of individuals with a specific name and particular purpose either of a religious or a charitable nature.²⁶ To be legally constituted, the ecclesiastical juridic person needed to have a religious or charitable purpose,²⁷ funds to support its goals²⁸ and at least three members.²⁹ The group could be constituted only by a formal act issued by a

²⁵ JOANNES ANDREA BONONIENSIS, in *Sextum Decretalium librum novella commentaria*, Torino, Bottega d'Erasmus, 1963, [Venetiis, Apud F. Franciscum, Senensem, 1581], 5, 11, 5, 9, in VI, p. 162A, "Ista vero nomina universitas, coitas, collegium, corpus, societas sunt quasi idem significantia [...]."

²⁶ AZOLINUS, of Bologna, in *Summa aurea recens pristinae suae fidei*, Frankfurt/Main, Minerva GmbH, 1968, 11, 17, 1, p. 251; JOANNES ANDREA BONONIENSIS, 5, 11, 5, 8, in VI, p. 162A; INNOCENT IV, *Commentaria apparatus in V Libros Decretalium*, Frankfurt/Main, Minerva GmbH, 1968, II, tit. 12, c.4, no. 3, p. 222, stated: "[Ecclesia], id est aggregatio fidelium, quae est corpus Christi capitis"; BALDUS DE UBALDIS, *Ad tres priores libros Decretalium commentaria*, Lugduni, 1585, Aalen, Scientia Verlag, 1970, I, 13, c. 3, nos. 7-8, p. 114 (a).

²⁷ GREGORY IX, *Decretalium D. Gregorii Papae IX compilatio*, in *Corpus iuris canonici*, Vol. 2, A. FRIEDBERG and A. RICHTER, (eds.), 2nd ed., Lipsiae, ex Officina B. Tauchnitz, 1928, c. 4, 3, 36; F 603.

²⁸ c. 1-7, X, 3, 7; F 483-487.

²⁹ c. 1, X, 1, 6; F 488; see also F. SCHMALZGRUEBER (d.1735), *Jus ecclesiasticum universum*, Romae, ex Tipographia Rev. Cam. Apostolicae, 1843-45, Book I, Part 2, title 6, number 8, paragraph 2, p. 310.

competent authority of the Church.³⁰ The legal entity was governed both by civil law and by its own statutes, likewise approved by a competent authority.³¹ Deliberations of an ecclesiastical corporate entity were similar to those of the juridic person of Roman law.³² A representative played a vital role in the administration of the "universitas bonorum".³³ As a legal entity, the ecclesiastical juridic person had the capacity to acquire,

³⁰ GRATIANUS, in *Decretum Magistri Gratiani*, A. RICHTER and E. FRIEDBERG, (eds.), 2nd ed., Lipsiae, ex Officina B. Tauchnitz, 1928, *Decreti Secunda*, c. 10, 18, q. 2; F 832, "[...] Placuit igitur neminem [...]"; see also c. 4, X, 3, 36; F 603; INNOCENT IV, I, tit. 31, 3, 1, p. 148.

See Pius IV, *Concilium Tridentinum*, in J. ALBERIGO, [et al.], *Concilium oecumenicorum decreta*, ed., 3a, Bologna, Istituto per le scienze religiose, 1973, sessio XXV, "Decretum de regularibus et monialibus", c. III, p. 777. English translation by H. SCHROEDER, *The Canons and Decrees of the Council of Trent*, Rockford, Illinois, Tan Books and Publishers, Inc., 1978, p. 219.

³¹ GRATIANUS, c. 8, D. 1; F 2. Any modification of approved statutes must also be authorized by competent authority; see also INNOCENT III, in Decree, I, tit. 4, c. 8, n. 1-2, p. 34.

³² c. 22, X, 1, 6; F 64-66; c. 42, X, 1, 6; F 88-89; c. 48, X, 1, 6, F 91; c. 50, X, 1, 6; F 91-92; c. 55, X, 1, 6; F 94-95; c. 57, X, 1, 6; F 95-96.

³³ GRATIANUS, c. 58, C. 12, q. 2; F 705-706; JOANNES ANDREA BONONIENSIS, I, 6, 22, 1-2, in VI, p. 13; HOSTIENSIS, in *Lectura in quinque libros Decretalium librum commentaria*, Venetiis, apud Iuntas, 1581, [Torino, Bottega D'Erasmus, 1965], Book I, Decree 1, Chapter 1, n. 4, p. 190A; BALDUS DE UBALDIS, I 18, De Syndico, nos. 1-2, pp. 128-129.

possess and alienate property,³⁴ and could also assume obligations.

Early canon law made a distinction between collegial and non-collegial persons.³⁵ Although the juridic person was recognized as perpetual by nature, the pre-code jurisprudence followed the Roman practice in those cases where the juridic person became extinct or was reduced to one member only. Thus a legal entity could be dissolved by the same competent authority who constituted it or by the absence of some intrinsic essential element, such as failing to adhere to the purpose of the juridic person or the lack of members.³⁶

II. ORIGIN AND DEVELOPMENT OF UNIONS

In spite of the numerous examples of union of religious institutes cited in the *Magnum Bullarium Romanum*,³⁷ there was no explicit mention of such in pre-code

³⁴ GRATIANUS, c. 2, C. 10, q. 2; F 618; c. 1-12, X, 3, 13; F 512-516; BONIFACE VIII, In VI^o c. 1-2, 3, 9; F 1042-1043; CLEMENT V, *Constitutiones*, c. 1, 3, 4, F 1160; *Extravangantes communes*, c. 1, 3, 4; F 1269.

³⁵ INNOCENT IV, 3, 38, 30, p. 445.

³⁶ c. 1, X, 5, 41; F 927.

³⁷ For example, see BENEDICT XII, *Summi magistri*, 29 June 1336, in *Magnum Bullarium Romanum* (=MBR, followed by tome, part, number of decree and page), Graz, Akademische Druck-u Verlagsanstalt, 1964-1966, T. 3, pars 2, VI, pp. 214-240; EUGENIUS IV, *Regularum vitam agentibus Apostolicam*, 30 June 1436, MBR, T. 3, pars 3, XIII, p. 17;

Church law. Ecclesiastical law did provide, however, for the union, division, dismemberment, and extinction of ecclesiastical benefices where there was an urgent need, or if it was useful, or if the greater good of the Church required it.

Many canonists were of the opinion that the norms used for the union of religious institutes in the pre-code period followed the laws which governed the union of benefices. Thus, according to H. Pihring, "union is the joining of two or more benefices or churches by a bishop or another legitimate superior."³⁸ A. Reiffenstuel said that the "Union of benefices is a kind of special suppression: generally it is defined as a joining of benefices made by the bishop or another competent superior."³⁹ J. Ferrante

INNOCENTIUS VIII, *Alto divinae providentiae consilio*, 31 January, 1484, T. 3, pars 3, III, pp. 195-200; CLEMENT XIV, *Sacram minorum familiam*, 9 August, 1771, in *Magnum Bullarium Romanum, Continuatio* (=MBR, *Continuatio*), Graz, Adademische Druck-u Verlagsanstalt, 1963-1966, T. 4, CXXXVI, pp. 357-359.

³⁸ H. PIRHING, *Synopsis Pirhingiana seu SS. Canonum doctrina*, ed. novissima, Romae, Typis S. Congr. de Propaganda Fide, 1869, p. 408, "Unio est duorum vel plurium beneficiorum, aut ecclesiarum ab episcopo, vel alio legitimo superiore facta annexio."

³⁹ A. REIFFENSTUEL, *Jus canonicum universum complectens Tractatum de regulis juris*, Parisiis, Apud L. Vivès, 1864-1870, Vol. 4, p. 87, no. 36, "Unio beneficiorum est quaedam suppressionis species: atque communiter definiri solet, quod sit beneficiorum ab episcopo, vel alio legitimo superiore facta annexio."

adds, "A union occurs when two benefices unite perpetually for the good of the Church."⁴⁰

A. The classical period of church law

The Council of Trent (1545-1563), in its decree on reform, addressed the union of benefices. In the seventh session, it mentioned that there must be just cause for the validity of the union of benefices and that the interested parties must be summoned:

[...] unless it has been established that they [unions] have been made for lawful or for some other reasonable causes, which must be verified before the local Ordinary, those persons being summoned whose interests are concerned, they are to be presumed to have been effected through subreption, and hence, unless the Apostolic See has declared otherwise, they shall be absolutely devoid of force.⁴¹

As in other areas of reform, the Council was unflinching in its clarification and presentation of succinct rules to govern union of benefices. The Council also addressed the

⁴⁰ J. FERRANTE, *Elementa iuris canonici*, Romae, ex Typographia Ven. Hospitii Apostolici, 1854, p. 124: "Illa est quando duo beneficia uniuntur in perpetuum ob Ecclesiae bonum."

⁴¹ J. ALBERIGO [et al.], *Conciliorum oecumenicorum decreta*, ed. 3a, Bologna, Istituto per le scienze religiose, 1973, Concilium Tridentinum, Sessio VII, de ref., c. VI, p. 688: "[...] nisi eas ex legitimis aut aliis rationabilibus causis, coram loci ordinario, vocatis quorum interest, verificandis, factas fuisse constiterit, per subreptionem obtentae praesumantur ac propterea (nisi aliter a sede apostolica declaratum fuerit) viribus omnino careant." English translation adapted from H. SCHROEDER, *Canons and Decrees of the Council of Trent*, c. VI, pp. 57-58.

issue of competence in regard to the union of benefices; it stated: "The bishops may, also as delegates of the Apostolic See, according to the prescription of the law, form perpetual unions."⁴² The Council explicitly provided that it was unjust to violate the acquired rights of the patrons⁴³ and that in any union their consent was to be obtained.⁴⁴ Without this consent, the union would be null and void.⁴⁵

Prior to the Council of Trent, several examples of union are noted in the *Decretum Gratiani*. Although there is no explicit mention of the different kinds of union, the texts, however, do provide examples to show that even in the early years of the Church they took place and that unions could be created by competent authority if there was a necessity.⁴⁶ The decretist, Bartholomaeus of Brescia,

⁴² Ibid., Sessio XXI, de ref., c. V, p. 730: "[...] possint episcopi, etiam tamquam apostolicae sedis delegati, iuxta formam iuris, sine tamen praeiudicio obtinentium, facere uniones perpetuas [...]." English translation in H. SCHROEDER, *Canons and Decrees of the Council of Trent*, p. 139.

⁴³ Ibid., Sessio XXV, de ref., c. 9, p. 765.

⁴⁴ Ibid., Sessio XXIV, de ref., p. 745, c. 15.

⁴⁵ Ibid., Sessio VII, de ref., p. 664, c. 6.

⁴⁶ GRATIANUS, c. 48, Causa XVI, q. 1, F : 776; this text explains that the Pope can divide and unite episcopates and exempt some of them without consulting their archbishops; *ibid.*, c. 49, Causa XVI, q. 1, F : 776, the bishop of Velletri was ordered by Gregory I (582) to assume the government of Tre Taverne; *ibid.*, c. 6, Causa

presented a classification of "unions" in his Gloss on c. 48, Causa XVI, 1, "*Duo episcopatus in unum redigi possunt apostolica auctoritate.*" The part of the gloss pertinent to this study begins by saying that as the Pope can unite several episcopates, so too can the bishops unite several churches.⁴⁷ He then proceeds to describe the different ways in which a union can occur. First of all, one church is made subject to the other one; thus the rights and claims of dignity of that church will be attached to another church.⁴⁸ The second type of union is that of two dignities which unite to become one; accordingly, there will not be two churches but only one.⁴⁹ Bartholomaeus distinguishes both types of union in this way: one entity surrenders its juridical identity, thus assuming the nature, customs and privileges of the surviving church; or,

XXI, q. 1, F : 853-854, is another example: a cardinal is appointed to assume the care and governance of Fondi and Terracina.

⁴⁷ BARTHOLOMAEUS BRIXIENSIS, *Decretum Gratiani emendatum et notationibus illustratum una cum glossis*, Venetiis, Apud Magnam Societatem, una cum G. Ferrario & H. Franzino, 1584, Gloss on c. 48, Causa XVI, 1, column 1482: "h, [Unire]: Sicut Papa potest unire plures episcopatus, sic episcopus plures ecclesias [...]."

⁴⁸ *Ibid.*, col. 1482: "Dico quod variis a modis possunt uniri ecclesiae, vel hoc modo ut una subijciatur alteri, et secundum hoc dignitas episcopalis erit in una tantum."

⁴⁹ *Ibid.*, col. 1482: "Vel hoc modo possunt uniri, ut ex duabus dignitatibus una fiat dignitas: et secundum hoc non dicentur esse duae ecclesiae, sed una tantum [...]."

both dignities cease to exist as distinct and become one new juridical entity.⁵⁰ If two unite on the same level, then the customs or privileges which are better and more human are to be retained.⁵¹ The third type of union occurs when two episcopal churches unite but remain distinct episcopates even though the same bishop presides over both. As a consequence, neither of the episcopates suffers any loss in its rights.⁵² Bartholomaeus concludes this specific gloss with a citation from Justinian's *Corpus iuris civilis*: "the Emperor unites two dignities into one",⁵³ which indicates that there was also provision for union in the laws of Justinian.

One of the few references to the union of benefices in the *Decretals* is to one effected by Innocent III in

⁵⁰ *Ibid.*, col. 1482, "In tali unione distinguendum credo, quod aut ecclesiae simul uniuntur, aut una earum unitur reliquae; quae duo sunt penitus diversa."

⁵¹ *Ibid.*, col. 1482: "Si autem neutra alteri unitur, sed illae simul uniuntur, tunc dico quod consuetudines vel privilegia quae meliora sunt & humaniora, retinent illud unitum [...]."

⁵² *Ibid.*, col. 1482: "Tertio modo possunt uniri ecclesiae, puta quod utraque remaneat episcopalis. Et secundum hoc remanent duo episcopatus, licet idem sit episcopus utriusque ecclesiae: secundum hoc si primo suberant istae ecclesiae diversis metropolitanis, propter illam unionem, neuter metropolitanus perdit ius suum."

⁵³ *Ibid.*, col. 1482, from Justinian, Nov. VIII, 2, "[...] unit duas dignitates in unam."

1206.⁵⁴ Decretalists such as Sinibald De Fieschi, later Innocent IV, Hostiensis, and Joannes Andreae commented on this decretal of Innocent III. It is important to note that the classifications of union proposed by the Decretalists are consistent with those proposed by Bartholomaeus. A text of Innocent IV also presents three ways for a union to take place and these are essentially the same as those listed by Bartholomaeus, although the text is more abbreviated.⁵⁵ Hostiensis presents five ways in which a union can take place.⁵⁶ Joannes Andreae,⁵⁷ based

⁵⁴ X, III, 9, *Ne sede vacante*, 1, col. 500.

⁵⁵ INNOCENT IV, *Commentaria apparatus in V libros Decretalium*, III, 9, c. 1, p. 382, *Ne sede vacante*.

⁵⁶ HOSTIENSIS, *Summa aurea*, Lugduni, 1588, III, 16, c. 1, p. 173, "Quot modis fiat unio ecclesiarum? Et quidem quinque [...] Primo, sic sit unio, ut spiritualia tantum communicentur [...], Secundo unitur sic una ecclesia alteri, ut ei subiiciatur in spiritualibus et temporalibus ita quod una sit mater, altera filia [...], Tertio modo sic sit unio, ut neutra subiiciatur alteri, sed quaelibet in suo statu, et suo honore remaneat [...], Quarto modo sic potest fieri: ut unum sit collegium utriusque ecclesiae quoad spiritualia et temporalia ita quod qui est canonicus in una est canonicus, et in altera, et quaelibet retinet suum nonorem, et si diversis suberant metropolitanis [...] Quinto modo sic sit unio ut altera cathedralis erigatur, et unus sit duarum Episcopus [...]." See also HOSTIENSIS, *In Lectura in quinque libros Decretalium librum commentaria*, III, 9, c. 1, p. 42A.

⁵⁷ JOANNES ANDREAE BONONIENSIS, *In quinque Decretalium libros novella commentaria*, Torino, Bottega D'Erasmus, 1963, [Venetiis, Apud F. Franciscum, Senensem, 1581], III, p. 60A, the commentary on union begins, "Hostiensis dicebat, quod 5 modis [...]." The remainder of the text follows closely the classification given by Hostiensis.

on Hostiensis, also explained five ways, although in a different order. These five ways are lengthier but do not differ in essence from the three types of union described by Bartholomaeus. Hostiensis also mentions that there can be one college of two churches concerning spiritual and temporal matters. The important consideration is the fact that reference to the basic principles of union, the understanding of the different types of union with distinct juridic effects, and the mention of competent authority, are all found in the early canonical literature.

B. Pre-Code canonists

The understanding of the classification of union remains fairly consistent in the commentaries of the more celebrated canonists of the "second golden age" of canon law. This section will present, as an example of such commentaries, the understanding and classifications of union of benefices proposed by H. Pirhing⁵⁸ and A. Reiffenstuel.⁵⁹ As other pre-code canonists, these authors derive their understanding of the types of union from the

⁵⁸ H. PIRHING, p. 409: "Primo ut sit unio perpetua, si in perpetuum scilicet, sive ut perpetuo duret, auctoritate legitimi praelati haec connexio fiat, in bonum potissimum ecclesiarum. Secundo ut sit temporalis, si fiat scilicet at certum tantum tempus in gratiam potissimum beneficiati, ad cuius fortassis vitae tempus durabit."

⁵⁹ A. REIFFENSTUEL, p. 87, nos. 37-38: "Unio beneficiorum est duplex, alia perpetua, alia temporalis."

fundamental distinctions between the real or personal and the temporary or perpetual union. In a "real" union the benefices themselves change; thus the union affects the very essence of the benefices. On the other hand, in the "strictly personal" union, the essence of the benefices remains intact. Furthermore, the "temporary" union is made for the life of the beneficiaries while the "perpetual" one prescind from their life. These classifications, however, are not mutually exclusive and are used interdependently.⁶⁰

1. Types and effects of union

H. Pirhing says that there are three ways of bringing about a union: the first does not have a name but is described as having two or more benefices unite to form a quasi-distinct body, e.g., if from two parish churches, because of diminished revenue, a third parish is created which retains the benefits or at least the most favorable of the rights and privileges of the former.⁶¹ The second way could be called "accessoria". According to Pirhing, this occurs when an inferior benefice or church unites to a

⁶⁰ *Ibid.*, pp. 87-88, nos. 37 & 38.

⁶¹ H. PIRHING, p. 409, explains, "Primo, ut duo beneficia, vel plura, in unum quasi corpus distinctum coalescant, ut si ex duabus ecclesiis parochialibus, quarum tenues valde sunt redditus, una fit ecclesia parochialis tertia, ab utraque priore distincta, quae tamen utriusque ecclesiae iura et privilegia, vel saltem favorabiliora, si sint contraria, retinet."

superior one, "*accessorium principali annectatur*"; in such instances, the inferior benefice assumes all the qualities, and privileges of the superior one; as a consequence the inferior is, as it were, quasi-extinguished.⁶² The third way occurs when two benefices, such as two cathedral churches or parish churches, unite "*aeque principaliter*". In this case, the proper nature, qualities, and privileges of each one are retained, neither is subject to the other, but the benefits, however, are under one rector.⁶³

A. Reiffenstuel treats this topic with clarity and thoroughness. His presentation is similar to Pirhing's threefold classification; yet there are differences in the understanding of the types of union. Reiffenstuel explained that union of benefices can be made in several ways; "the first way is that two benefices are made one, so that neither is united to the other but both are united at the

⁶² *Ibid.*, p. 409: "*Secundo fieri potest unio, si una ecclesia, aut beneficium, alteri tanquam superiori, et velut accessorium principali annectatur, ita ut beneficium inferius, et accessorie unitum, quasi extinguatur, et omnes qualitates, ac privilegia principalis assumat [...].*"

⁶³ *Ibid.*, p. 409: "*Tertio [...] si duo beneficia, vel duae ecclesiae cathedrales, duae ecclesiae parochiales etc., aequae principaliter uniantur, ita ut ambae propriam naturam, qualitates, et privilegia retineant, et neutra alteri subiiciatur, sed utraque suum titulum, suos redditus etc., retineat, sub eodem tamen rectore, prout habetur.*"

For a treatment of the early church on union of parishes, see T. MUNDY, *The Union of Parishes*, Washington, D.C., Catholic University of America, Canon Law Studies, No. 204, 1945, pp. 43-51.

same time."⁶⁴ At this point and in agreement with Bartholmaeus, a distinction is made between the union of two benefices into one and the extinctive union whereby "the two churches are made one church, one of them is extinguished and the rights of the other one remain or, in the case of 'unio extinctiva', the rights of one of the churches are transferred to the other."⁶⁵ Again, "The united entity retains the most human, the most favorable and the best of the customs and privileges of each benefice."⁶⁶ J. Laurentius calls this type of union, "unio per confusionem et extinctionem facta."⁶⁷ The "extinctive union" is considered to be the most odious in law since the original conditions which the law guards are now changed.

The second type, according to Reiffenstuel, occurs "when two churches are united in such a way that one becomes the superior 'et principalis', the other inferior

⁶⁴ A. REIFFENSTUEL, p. 88, no. 40: "Primus modus est, cum mediante unione ex duobus beneficiis fit unum: ita videlicet, ut neutrum eorum uniatur alteri, sed ambo simul uniantur."

⁶⁵ *Ibid.*, p. 88, 41: "Et talis unio dicitur extinctiva, seu translativa; eo quod ex duabus Ecclesiis fiat una Ecclesia, sicque altera earum extinguatur, et jura alterius perimantur, seu transferantur in aliam."

⁶⁶ *Ibid.*, p. 88, no. 41: "unitum illud retinet consuetudines, et privilegia, quae sunt meliora, et humaniora, seu favorabilia utriusque beneficii."

⁶⁷ J. LAURENTIUS, *Institutiones iuris ecclesiastici*, Friburgi Brisgoviae, Herder, 1903, p. 195, no. 236.

or accessory. This is also called 'unio accessoria, seu subjectiva'."⁶⁸ In this type of union the principal church becomes like a mother and the accessory church as the daughter. The daughter/accessory church assumes the nature, customs, and privileges of the mother/principal church or, in other words, the accessory becomes part and parcel of the principal church. It enters into and enhances the nature of the principal one. The inferior one becomes suppressed, and the title is extinguished.⁶⁹ The third way to unite a benefice is for neither church to be subject to the other, but for both to retain the same honor; both remain a principal benefice, "aeque principaliter". For example, there is only one rector for both of the benefices, but each benefice enjoys its own privileges and honors.⁷⁰

⁶⁸ A. REIFFENSTUEL, p. 88, no. 42: "Quando duae Ecclesiae ita uniuntur, ut una sit superior, et principalis: alia inferior, et alteri accessoria. Et haec dicitur Unio accessoria; seu subjectiva."

⁶⁹ *Ibid.*, p. 88, no. 43: "Porro in tali casu Ecclesia principalis, seu illa, cui accessorie altera unitur, censetur tanquam mater: et Ecclesia ei unita, tanquam filia"; *ibid.*, p. 88, no. 44: "Deinde Ecclesia accessorie alteri unita, assumit naturam, consuetudines, et privilegia principalis, cui est annexa"; *ibid.*, p. 89, no. 45: "Et hac ratione beneficium unitum, mediante unione desinit esse beneficium, atque amittit nomen beneficii; et induit naturam alterius, cui unitur, et accrescit."

⁷⁰ *Ibid.*, p. 90, no. 51: "Tertius modus uniendi beneficia, est quando neutra Ecclesia alteri subijcitur, nec ipsae simul coguntur in unum corpus, sed ambae Ecclesiae suum titulum, atque honoris gradum retinent: ac

While similar to Pirhing in his definition of union and the threefold classification thereof, Reiffenstuel has named each kind of union and clearly defined in detail the different types and the various aspects related to the topic. Other pre-code canonists such as J. Ferrante,⁷¹ F. Santi,⁷² J. Sägmüller,⁷³ and C. Ferrari⁷⁴ agree in the broad

proinde uniuntur aequae principaliter, ita videlicet, ut rector unius sit etiam rector alterius."

⁷¹ J. FERRANTE, pp. 124-125, says there are four ways to unite benefices, three are similar to those mentioned by Pirhing and Reiffenstuel: "Aequae principalis" or "unio socialis"; "subjectiva" or "accessoria", and "unio suppressiva". The fourth way, according to Ferrante, unites a title of benefices or colleges, but the rights and privileges remain separate and distinct.

⁷² F. SANTI (d.1885), *Praelectiones juris canonici* [...] *juxta ordinem Decretalium Gregorii IX*, Ratisbonae, F. Pustet, 1904, Vol. III, pp. 103-108, nos. 89-99, names "unio tituli extinctiva", "unio minus principalis" or "accessoria" and "unio aequae principalis" or "unio subjectiva." Santi introduces some confusion in the terminology by substituting "minus principalis" for "subjectiva", and by using "subjectiva" as a synonym for "aequae principalis." He says that in the "unio minus principalis", the title of the inferior church or benefice ceases when the union takes place. Santi's commentary on "unio minus principalis" is in agreement with Reiffenstuel's in regard to the effects of the "unio accessoria."

⁷³ J. SÄGMÜLLER (d.1942), *Lehrbuch des katholischen Kirchenrechts*, Freiburg im Breisgau, Herder, 1914, Band I, pp. 308-309, identifies two types, "unio per aequalitatem", and "unio per inaequalitatem" which is two-fold, either "per subjectionem sive accessionem" or "per confusionem (extinctionem)."

⁷⁴ G. FERRARI (d.1874), *Summa institutionum canonicarum*, Parisiis, V. Palmé, 1869, Vol. 2, pp. 213-221, notes three types of union: "unio extinctiva", "unio subjectiva" or "accessoria" and "unio aequae principalis."

understanding of union of benefices, although with some slight variation of interpretation.

2. Competent authority for union

Both commentaries by Pirhing and Rieffenstuel explain who is competent to unite benefices or churches. Only the Pope can unite dioceses. He can also unite major or minor benefices anywhere in the church because he has "plenaria potestas". The bishop can also unite benefices in his diocese according to the universal law if the other conditions are fulfilled. He cannot, though, unite exempt benefices, unless permission is granted by the Pope. Rieffenstuel, citing the Council of Trent, notes that a bishop cannot unite the benefices of a diocese with those of a monastery or of a university of another diocese.⁷⁵ A cathedral chapter of a vacant see can unite benefices if this action does not detract from the rights of the bishop. The legate can unite benefices of his province if there is a juridic motive and if the other conditions are fulfilled. A vicar general can do so if he has a special mandate from the bishop. Other prelates such as abbots or priors can unite benefices, but only with the consent of the bishop.⁷⁶

⁷⁵ A. REIFFENSTUEL, p. 91, no. 60.

⁷⁶ *Ibid.*, pp. 90-92, nos. 52-66; H. PIHRING, Book III, Title 5, Section VI, Part II, pp. 409-410. In general the following canonists agree with Pihring and Rieffenstuel: J. Ferrante, p. 125; C. Ferrari, pp. 214-217,

3. Formalities of union

According to Reiffenstuel, "the formalities or conditions required for a union are, first of all, a just cause and one that is known as being true."⁷⁷ The Pope must also inquire about the truth of the just cause; otherwise the union may not be valid.⁷⁸ Reiffenstuel adds that the just cause for a union can often have multiple parts but generally there are two. The first is evident necessity of the Church or usefulness. He states that if a union is due to evident necessity or usefulness, "it is not completely voluntary but almost necessary."⁷⁹ The second condition is the consent of the interested parties;

nos. 519-520; F. Santi, pp. 105-107, nos. 94-96; P. HINSCHIUS, *Das Kirchenrecht der Katholiken und Protestanten in Deutschland*, Graz, Akademische Druck-u, Verlagsanstalt, 1959, Vol. 2, pp. 432-433.

⁷⁷ A. REIFFENSTUEL, p. 92, no. 67: "[...] prima conditio, seu solemnitas requisita ad faciendam rite unionem beneficiorum, est causa justa et praevia cognitio de veritate ejus"; see also X, III, 5, 33, column 479: "[...] si evidens necessitas vel utilitas exigit [...]"; Clement V, *Constitutiones*, III, 4, 1, column 1160, "[...] nisi necessitas aut utilitas monasterii, prioratus, ecclesiae aut administrationis huiusmodi hoc exposcat"; *Extravagantes communes*, III, 4, 1, column 1269: "[...] et tunc ecclesiarum evidenti utilitate [...]."

⁷⁸ A. REIFFENSTUEL, p. 92, no. 68, "Et hoc adeo verum est, ut si etiam Papa unionem beneficiorum fecit, requiratur, quod de causa inquiretur in partibus: alias unio non valebit."

⁷⁹ *Ibid.*, pp. 92-93, no. 70: "[...] "quod unio beneficiorum, utpote facienda ex evidenti Ecclesiarum necessitate, vel utilitate, non sit actus omnino voluntarius, sed quasi necessarius [...]."

otherwise the union would damage the rights of one or both of the parties.⁸⁰

The pre-code laws affecting the types, effects, formalities, and competence of union of ecclesiastical benefices also served, by analogy, the union of religious institutes.

III. THE PRE-CODE PRACTICE OF UNION OF RELIGIOUS INSTITUTES

In pursuing the topic of regrouping religious institutes, it was noted in the decrees of union that different words were often used for uniting or regrouping religious institutes: aggregation, affiliation, fusion, amalgamation, or adhesion. In the general sense, each of these words referred to bringing together independently governed institutes under one superior general and a common government structure.

According to R. Hostie, the histories of religious congregations reveal a similarity in their evolution: initially a group was formed and bonded by a common purpose, usually followed by a period of stability and expansion; with time, however, the institute often entered into a period of relaxation or stagnation which forced some or all of the group to work together towards reform or

⁸⁰ *Ibid.*, pp. 90-94, no. 52-79; see also H. PIRHING, pp. 410.

revitalization.⁸¹ If such attempts were thwarted, a few or more persons would separate to begin "a reformed" or an autonomous branch of the congregation. At other times, though, due to few vocations or internal problems, or even as a means for revitalization, history reveals that congregations or monasteries would seek or would be required to unite or regroup with other congregations that shared the same spirit or purpose.

Due to the abundant examples of regrouping religious institutes, we have limited our choice to a number of samples taken from different epochs of the history of religious life to illustrate the motives for union, the various types and effects of union as well as the competent authority for doing so, and the canonical formalities to be observed.

A. Union within the Benedictine Order

As the Benedictine Order spread and monasteries flourished, there was a definite effort to preserve the original spirit and Rule of Benedict in a more organized

⁸¹ See R. HOSTIE, *Vie et mort des ordres religieux*, Paris, Desclée de Brouwer, 1972, pp. 289-319; see also L. CADA [et al.], *Shaping the Coming Age of Religious Life*, New York, The Seabury Press, 1979, 197p.

and unified manner.⁸² Affiliation or union with other monasteries often became a means of preserving both the spirit and the Rule of Benedict as well as the autonomy of the monasteries. Some monasteries like Cluny and Citeaux provided for this in their structural organization; for others, union became a vehicle to promote a unified reformation movement.

Church laws, motivated by the need to restore the religious spirit and discipline of monasticism, also promoted a closer affiliation among monasteries. In *singulis*,⁸³ one of the seventy decrees of the Fourth Lateran Council (1215), intent on the restoration of the rules of religious houses, mandated that the abbots or priors of monasteries within a region or nation convene in chapter every three years. The purpose of this plan, often referred to as the "Lateran scheme" was to promote regular observance through a spirit of cooperation and mutual support among the monasteries. A loose federation was organized as a congregation of autonomous houses, the head of the congregation presided at chapters and visited the

⁸² See C. BUTLER, *Benedictine Monachism*, London, Longmans, Green Co., 1919, pp. 236-237.

⁸³ J. ALBERIGO [et al.], Innocent XII, Concilium Lateranense IV (1215), Constitutiones 12, *In singulis regnis sive provinciis*, pp. 240-241. English translation in H. SCHROEDER, *Disciplinary Decrees of the General Councils*, St. Louis, B. Herder Book Co., 1937, Fourth Lateran Council, pp. 253-254.

monasteries, but the abbot of the monastery held the position of authority, as a father, within his monastery.

In 1336, Benedict XII, in the bull, *Summi magistri*, or the *Benedictina*, presented thirty-nine articles of reform and regrouped all the monasteries into thirty-six provinces.⁸⁴ Although the basic principles of government and organization of the monasteries decreed by the Lateran Council remained intact, the "*Benedictina*" promoted an even closer relationship among the monasteries through the amalgamation of contiguous provinces.⁸⁵

At the beginning of the fifteenth century several renewal movements began to emerge in Italy. It was the abbey of St. Justina of Padua, under the influence of Luigi Barbo, which became the best known of the monastic centers as a model of reform and organization. In 1419, Martin V, through the bull *Ineffabilis summi providentia Patris* decreed that the authority of the Abbot of St. Justina would be passed to the general chapter,⁸⁶ and in 1421 he

⁸⁴ BENEDICT XII, *Summi magistri*, 29 June 1336, MBR, T. 3, pars 2, VI, pp. 214-240.

⁸⁵ C. BUTLER, pp. 247-248, states "The system thus set up by the Lateran decree, as supplemented by the '*Benedictina*', is still to this day the only one that can claim to be the common law for Benedictines in the matter of federation, all later Constitutions being by their very nature particular legislation."

⁸⁶ Several additional decrees related to the initial organization of St. Justina: EUGENIUS IV,

created a new congregation of St. Justina. Four other monasteries united with it at that time.⁸⁷ By 1439, sixteen monasteries belonged to the Congregation. In 1460, the abbey of Cervara and its affiliated monasteries were united to the Congregation of St. Justina by Pope Pius II. When the monastery of Monte Cassino became a member of the union in 1504, the name of the Congregation was changed to that of Monte Cassino or the Cassinese Congregation.⁸⁸ Gradually, one hundred and ninety monasteries in Italy and Sicily were affiliated with this highly centralized union. All authority was concentrated in the annual general chapter which elected the head of the whole congregation, a superior of the superiors, appointed the abbot for each monastery and also the visitator; it also required an account of each monastery. The monks belonged to the

Dispositione divina gregi dominico, 13 November 1431, MBR, T. 3, pars 3, II, p. 3, a charter of foundation of the new government; EUGENIUS IV, *Et si ex sollicitudinis debito pastoralis*, 23 November 1432, MBR, T. 3, pars 3, VI, pp. 7-9: a confirmation of this type of government, the authority of the General Chapter, the election and authority of the Prior; EUGENIUS IV, *Regularum vitam agentibus Apostolicum*, 30 June 1436, MBR, T. 3, pars. 3, XIII, pp. 14-16, completes the confirmation of the union and government, it also mentions that it is to be called a "union" -- *Congregationis Monachorum unitate alias de observatione S. Justiniae nuncupatae Ordinis S. Benedicti*.

⁸⁷ B. COLLETTE, *Italian Scholars and the Reformation: The Congregation of Santa Giustina of Padua*, Oxford, Clarendon Press, 1985, p. 3, identifies these monasteries as Verona, Bassano, Pavia and Genoa.

⁸⁸ JULIUS II, *Super cathedram pastoralis*, 22 November 1503, MBR, T. 3, pars 3, II, pp. 260-261.

congregation rather than to the individual monasteries. In addition to its important role in the reformation of monasteries, the Congregation of St. Justina established centralized government as another type of organization for the Benedictine Order.

Simultaneous to but independent of the reformation in Italy, a plan for reform was launched in Germany. The Council of Constance (1417) ordered the Benedictine abbots of Germany, a number of whom had attended the Council, to meet and implement triennial provincial and national chapters. Within a few years a number of monasteries had embraced the reform of the abbey of Bursfeld.⁸⁹ By 1464, the abbots of these monasteries decided to form a union. By 1500, about one hundred principal monasteries and some affiliated convents in Holland and northern Germany had united to the monastery of Bursfeld. It was a union of independent monasteries governed by the abbot of Bursfeld and three other abbots who were co-presidents. Each house retained the Benedictine principle of autonomy yet was

⁸⁹ Another plan for reform in Germany was centered at the abbey of Kastl, whose observance was patterned on that of Cluny and Hirsau. Between 1413 and 1458 about twenty-five monasteries were affiliated with the observance of Kastl. Each monastery retained its autonomy.

A number of monasteries in southern Bavaria, Swabia and Austria affiliated to the abbey of Melk in Austria. Like Kastl, a centralized union of these affiliated monasteries was never realized.

committed to the purpose of the union: an organized program which ensured uniformity and discipline by means of regular visitation of the principal abbot. The Bursfeld union, based on the Lateran system, was organized more like a federation than the centralized organization of the Cassinese Congregation. The union lasted for more than three hundred and fifty years.

The Council of Trent reinforced the reformation of monasticism and the closer affiliation of monasteries begun by Innocent III. It decreed that all monasteries "shall be bound within a year from the dissolution of the present council and thereafter every three years, to assemble in congregations in accordance with the constitution, *In singulis*."⁹⁰ It encouraged that if there were insufficient number of monasteries of one province to form a congregation, then the monasteries of one or more provinces may establish a congregation. Furthermore, once these congregations have been established,

the general chapters and the superiors and visitors elected by them shall have the same authority over the monasteries of their

⁹⁰ J. ALBERIGO [et al.], *Concilium Tridentinum*, Sessio XXV, de regularibus, c. VIII, p. 779: "Monasteria omnia, quae generalibus capitulis aut episcopis non subsunt [...]: teneantur, infra annum a fine praesentis concilii et deinde quolibet triennio, sese in congregationes redigere iuxta formam constitutionis Innocentii III, in concilio generali, quae incipit, *In singulis*, [...]." English translation by H. Schroeder, *The Canons and the Decrees of the Council of Trent*, pp. 222-223.

congregation and over the regulars residing therein as other superiors and visitors have in other orders, and they shall be bound to visit the monasteries of their congregations frequently, to apply themselves to their reform, and to observe whatever has been decreed in the sacred canons and in this holy council.⁹¹

The movement of reform and union of monasteries spread throughout Europe. Unions of monasteries occurred in Spain,⁹² Portugal,⁹³ Hungary,⁹⁴ and in France.⁹⁵ Most of

⁹¹ *Ibid.*, XXV Sessio, de regularibus, c. VIII, p. 779: "[...] Ipsis autem congregationibus constitutis, illarum generalia capitula et ab illis electi praesides vel visitatores eandem habeant auctoritatem in suae congregationis monasteria ac regulares in eis commorantes, quam alii praesides ac visitatores in ceteris habent ordinibus. Teneanturque suae congregationis monasteria frequenter visitare et illorum reformationi incumbere, et ea observare, quae in sacris canonibus et in sacro concilio sunt decreta." English translation by H. Schroeder, *The Canons and Decrees of the Council of Trent*, p. 223.

⁹² By 1436, some forty-five monasteries in Spain, including Montserrat, had united to the Abbey of Vallodolid, a union which was as centrally organized as the Cassinese Congregation.

⁹³ The union of the monasteries of Portugal approved by Pope Pius V in 1555 followed the organization of Valladolid.

⁹⁴ The Holy See approved a highly centralized union based in the abbey of Pannonhalma, Hungary, around 1514.

⁹⁵ One of the first was the union of the abbey of Chezal-Benoît, organized according to the centralized model of the Cassinese Congregation.

See CLEMENT VIII, *Quantum ex monasteriis pie institutis*, 7 April 1604, MBR, T. 5, pars 3, CCCXXVII, united the Congregations of Sainte-Vanne and of Sainte-Hydulphe, pp. 40-42. Within seven years twelve other monasteries joined this congregation.

See also GREGORY XV, *Ad militantis Ecclesiae regimen*, 22 March 1621, MBR, T. 5, pars 4, V, pp. 325-327:

them adopted, with some modifications, the centralized type of government of the Cassinese Congregation.

In the nineteenth century, efforts were made by different popes such as Pius VII and Leo XIII to unite all the Benedictine monasteries under one centralized authority. Leo XIII took a definite step toward a Benedictine union when he convoked a general chapter of the Cassinese congregation and appointed Archbishop J. Dusmet, archbishop of Catania, a Benedictine, to preside at the general chapter of 1886. The following year in a letter to Archbishop Dusmet, *Quae diligenter ad Nos*, Leo XIII presented a project for union. The Pope believed that the College of St. Anselm would help to bring greater unity to the Benedictine Order. He also pointed out that the strength and future of the Order would be firmer if the

the reformation of the Benedictine monasteries of France was entrusted to the care of Cardinal H. de Retz, archbishop of Paris and to Archbishop J. Davy du Perron, archbishop of Sens.

GREGORY XV, *Sacri apostolatus ministerio*, 17 May 1621, MBR, T. 5, pars 4, X, pp. 343-345, constituted the Congregation of Saint-Maur, comprised of the monasteries in France which had adopted the reform of Sainte-Vanne. Eventually approximately 180 houses, the majority of the monasteries of France joined the union of Saint-Maur. The organization of Saint-Maur corresponded to that of Sainte-Vanne.

various groups would unite as one body with one set of laws and government.⁹⁶

In 1893, the idea of a more unified Benedictine Order was presented to all the abbots in Rome. Archbishop Dusmet, representing the Pope, proposed a series of articles to create, elect, and define the role of an Abbot Primate and to organize the College of St. Anselm. The abbots were invited to respond to the different proposed articles. By and large, Leo XIII accepted their suggestions. The brief *Summum semper*⁹⁷ instituted the Benedictine Confederation with an Abbot Primate as head; his concern would be the good of the entire Benedictine Order, and his place of residence would be in Rome. The decree, *Inaestimabilis unitatis vinculo*, issued by the Congregation of Bishops and Regulars, clearly defined the position, jurisdiction, rights, and obligations of the Abbot Primate.⁹⁸

⁹⁶ LEO XIII, *Quae diligenter ad Nos*, 4 January 1887, in *Acta, Romae, Ex Typographia Vaticana*, 1881-1905, V. 7, pp. 1-7.

⁹⁷ ACTA SECRETARIARUM ROMANARUM, ex Secretaria Brevium, *Summum semper*, 12 July 1893, in *ASS*, 26(1893-1894), pp. 371-374.

⁹⁸ SACRA CONGREGATIO EPISCOPORUM ET REGULARIUM, Decree, *Inaestimabilis unitatis vinculo*, 16 September 1893, in *ASS*, 26(1893-1894), pp. 743-746.

B. Union within other monastic orders

Another branch of the Benedictine tree, the Camaldolese, founded in 1072 and consisting of monks (cenobites) and hermits, had several unions in its history. In 1256, Alexander IV confirmed the union of the Camaldolese, subject to the prior hermit who would be elected by the prior abbots and hermits of the united congregations.⁹⁹ Shortly after, in 1258, Alexander IV united all the Camaldolese congregations of the Order of St. Benedict, which included the monks of the Congregation of St. Michael of Murano, founded in 1212 by three of the hermits of Camaldoli.¹⁰⁰ They remained as one order until 1476 when the monks of St. Michael again became a separate Congregation. In 1513, Leo X decreed the restauration and union of the congregations of the hermits and cenobites.¹⁰¹ This union lasted until 1616 when the Congregation of St. Michael of Murano separated once more from the hermits. It was not until 1935 that the union of the Camaldoli Hermits of Etruria and the Camaldoli Monks was finalized. Through the years there were also attempts, although futile, to

⁹⁹ ALEXANDER IV, *Officii nostri nos admonet*, 16 June 1256, MBR, T. 3, pars 1, XXXII, pp. 374-375.

¹⁰⁰ ALEXANDER IV, *Officii nostri cura nos admonet*, 23 July 1258, MBR, T. 3, pars 1, XLIV, pp. 386-388.

¹⁰¹ LEO X, *Et si a summo rerum omnium Conditore*, 4 July 1513, MBR, T. 3, pars. 3, II, pp. 353-369.

unite two congregations of hermits: the Congregation of Camaldolese Hermits of Etruria or Tuscany and the Congregation of Camadolese Hermits of St. Romuald or Monte Corona.

In 1147, La Trappe, a secular abbey, was united to the Order of Cîteaux together with twenty-nine houses of the Congregation of Savoie and all the congregations affiliated with Clairvaux. Later, in 1497, Pope Alexander VI united the Congregations of the Monks of the Cistercian Order in Lombardy and Tuscany.¹⁰² The decree noted that the institutions of the united congregations would be called by the name of Congregation of Cistercians of St. Bernard of Italy, according to the statutes and to the order of the same government. It also noted that any opposition to the union would not be tolerated; the penalty would be excommunication which could be lifted only by the Holy See. The same Pope later revoked this decree of union. The union, however, was formed again, as a "reintegratio", by Pope Julius II in 1511.¹⁰³

¹⁰² ALEXANDER VI, *Plantatus in agro Dominico facer Ordo Cistercien*, 23 December 1497, MBR, T. 3, pars 3, X, pp. 240-242: the decree also presented a new government structure composed of a president, visitators, definitors and an annual chapter comprised of a representative of each house. Furthermore, it stated that all acts decided upon before the union remained valid until the first chapter.

¹⁰³ JULIUS II, *Ex paternae caritatis*, 24 March 1511, MBR, T. 3, pars 3, XXXII, pp. 323-325.

Leo XII encouraged the Trappists to form a union. In 1834, the Trappist monasteries in France which followed the rule of Armand-Jean de Rance were united and placed under the direction of the abbot of La Trappe, the superior of the president general of the Order of Citeaux. The decree allowed each monastery to continue its own customs. In 1836, two monasteries of Belgium were authorized to unite to form one congregation with the abbot of Westmalle as the vicar general. Later, in 1869, the abbot of St. Bernard and delegates from most of the abbeys met in Rome. It was decided to restore the office of abbot general and a general chapter. The organization reunited thirty abbeys grouped together in four congregations. In 1892, the abbots of the four Trappist congregations of La Trappe, Sept Fonts, Westmalle, and Italy met in Rome. In response to the encouragement of Leo XIII and as a result of the special chapter, it was decided that La Trappe, Sept Fonts, and Westmalle would reunite as one order under the title of the Order of Reformed Cistercians.¹⁰⁴ However, the Trappists of Italy, the Casimari Congregation, chose to remain autonomous. In 1902, the name of the union was changed to the Order of Reformed Cistercians of the Strict Observance. Since 1892, there exist two independent Orders, the

¹⁰⁴ See LEO XIII, Apostolic Letter, *Non mediocri*, 30 July 1902, in ASS, 35(1902-1903) pp. 385-388; see also PIUS X, Letter, *Inter plura et agregia*, 31 May 1905 in ASS, 40(1907), pp. 665-667.

Cistercians, who follow the original founder Robert of Molesme and his followers, Alberic and Stephen Harding,¹⁰⁵ and, the other, the Reformed Cistercians of the Strict Observance, who follow Armand-Jean de Rance.¹⁰⁶

Another example of a "federation" union was the regrouping of monasteries of the monks of Vallombrosa. The decree noted that the union was to be called the Congregation of the Monks of Vallombrosa and placed under one abbot general. It also determined beforehand several of the ordinances for the government of the monks: for instance, they would live according to the Rule of St. Benedict under the jurisdiction of the same abbot. The decree also emphasized that these mutually united monasteries were not dependent on one another and that each abbot retained his dignity and rights.¹⁰⁷

¹⁰⁵ L. Lekai, "Cistercensi", (Ordo Cisterciensis: OCist, SOCist, SOC, SORDCIST), 1098, in *Dizionario degli istituti di perfezione (=DIP)*, diretto da G. PELLICCIA (1962-1968) e da G. ROCCA (1969-), Vol. II, cols. 1058-1098.

¹⁰⁶ J. O'DEA, "Cistercensi Reformati", (Cistercensi della Stretta Osservanza, Stretta Osservanza di Citeaux, Trappisti, Ordo Cisterciensium Reformatorum seu Strictioris Observantiae: OCR, OCSO, CRO, CistRO, OCistRef, OLT), DIP, Vol. II, cols. 1101-1106.

¹⁰⁷ INNOCENT VIII, *Alto divinae providentiae consilio*, 31 January 1484, MBR, T. 3, pars 3, III, pp. 195-200.

C. Examples of union within the mendicant Orders

Almost from the beginning of the Franciscan Order, there was a tension between the groups known as the Observants and the Conventuals. After many attempts by a number of popes to unify the order, Leo X set up a Commission to consider the state of the Order of Friars Minor. Following the recommendation of the Commission, he summoned friars from both groups to come to Rome for a general chapter. It soon became evident that there was not going to be a reconciliation between them. In the end, some smaller groups, the Amadetti, Colettans, Discalced, Clarini, and the Recollects sided with the Observants which left the Conventuals alone. Somewhat disappointed but not undaunted, Leo X decided that the Observants would be entrusted with preserving the Order of Friars Minor. He issued the bull *Ite et vos in vineam meam*,¹⁰⁸ which united the aforementioned groups with the exception of the Conventuals. The bull decreed that there would be one Minister General to whom the friars would give obedience, and it also set out other important specifics of

¹⁰⁸ LEO X, *Ite et vos in vineam meam*, 29 May 1517, MBR, T. 3, p. 3, XXVI, pp. 450-454; see also L. WADDING, *Annales Minorum seu A S. Francisco Institutorum*, Ad Claras Aquas (Quaracchi), prope Florentiam, 1931-, T. XVI (1516-1540), pp. 43-48.

governance.¹⁰⁹ Ten days later, on June 12, 1517, Leo X issued the bull *Omnipotens Deus*,¹¹⁰ which stated that those who wished to keep their privileges, rents, and possessions would form a separate order with their own Master General and provincial council. It also said that no outside force could interfere with the two Orders and neither Order could interfere with each other. A two-thirds or, in some cases, a three-fourths vote of a community was needed in order for a community to change over to the other Order.¹¹¹

In the nineteenth century, another plan was proposed to strengthen the unity of the Order of Friars Minor. On October 4, 1897, Leo XIII, in the Apostolic

¹⁰⁹ Although a decree of union had been given, it took many more years for these groups to achieve unity within the Order of Friars Minors.

¹¹⁰ L. WADDING, T. XVI, pp. 51-54.

¹¹¹ The union of the Friars Minor of the Observance of France to the Friars Conventual of France is an example of such a change, see CLEMENT XIV, *Sacram minorum familiam*, 9 August 1771, MBR, *continuatio*, T. 4, CXXXVI, pp. 357-359; see also CLEMENT XIV, MBR, *continuatio*, T. 4, CXXXIX, *Felici, ac tranquillo*, 24 August 1771, pp. 364-366.

This decree of union concluded a procedure initiated by the Commission of Regulars in its effort to reorganize religious orders in France, to assist them in adapting their statutes to the exigencies of the time and to regroup communities with few members; see C. SCHMITT, "La fusione degli Osservanti con i Conventuali di Francia decisa da Clemente XIV a Roma nel 1771", in *Studi Francescani*, 87(1990), pp. 265-282.

Constitution *Felicitate quadam*,¹¹² in spite of their historical distinctions, united the different branches of the Order of Friars Minor,¹¹³ the Observants, the Reformed, the Discalced, and the Recollects under one Minister General. This decreed a total unity of government with one minister general, one procurator general, one secretary, and one postulator. The provinces which refused to observe the apostolic constitutions would be deprived of the right to receive novices.

The Order of Brother Hospitallers of St. John of God (1540), often called "Fatebenefratelli",¹¹⁴ began in Spain and spread rapidly throughout Italy and other European countries. In the early 1600's the Order was divided into two congregations, one based in Spain and the

¹¹² LEO XIII, Apostolic Constitution, *Felicitate quadam*, 4 October 1897, in ASS, 30(1897-1898), pp. 225-232.

¹¹³ Prior to the Apostolic Constitution, *Felicitate quadam*, the 1862 General Chapter attempted to address the possibility of union for the Observants, the Reformed, the Discalced and the Recollects. Pope Leo XIII presented the plan for union to the General Chapter of 1895. A separate vote was taken by each of the Franciscan branches. After the majority agreed, a commission was appointed to begin work on the constitutions for the Order.

¹¹⁴ R. BOTIFOLL, "Ospedalieri di San Giovanni di Dio", *Ordo s. Joannis a Deo (OSJD)*, *Fatebenefratelli (FBF)*, *Ordo Hospitalarius (OH)*, DIP, Vol. VI, col(s). 982-988; originally, this Order was lay in nature, but from 1572 some brothers were ordained for sacramental ministry.

other in Italy.¹¹⁵ By 1840, the Spanish Congregation, due to political circumstances, had become almost extinct with very few religious. The superior general of the Spanish Congregation notified the superior general of the Italian Congregation about the dilemma. After two centuries of separation, the two groups reunited as one body with one government and one superior general who resided in Rome.¹¹⁶ There was a formal act of "reunion" in 1888.¹¹⁷

D. Other examples of union from the twelfth to the nineteenth century

Various bulls had been issued in the early thirteenth century which addressed aspects of the organization and union of some of the congregations of hermits. In 1256, Alexander IV issued the bull, *Licet Ecclesiae Catholicae*, for the grand union of the various congregations of the Order of Hermits of St. William, St. Augustine, of Brother John Bono and the Hermits of Montefavale and Bretagne. It was also stated that the

¹¹⁵ See Paul V, *Breve, Priorum vivorum*, 12 April 1608, in *Bollario dell'Ordine di S. Giovanni di Dio*, F. RISI, ed., Roma, Artigianelli S. Giuseppe, 1905, pp. 150-151; see also Paul V, *Romanus Pontifex circa sacrarum Religionum et Congregationum*, 7 July 1611, in *Bollario dell'Ordine di S. Giovanni di Dio*, pp. 156-159.

¹¹⁶ See "Notizie intorno alla Riunione", in *Bollario dell'Ordine di S. Giovanni di Dio*, p. xxv.

¹¹⁷ See *Bollario dell'Ordine di S. Giovanni di Dio*, pp. xxvii-xxviii.

Order would be called the Brother Hermits of St. Augustine. It was a plan to make "one from many". The Pope insisted that it was to be a mutual union and that one order should not prevail over the others. In essence, the decree dealt with the different groups which comprised the union, presented the government structure to be headed by a prior general, confirmed the vow of poverty, and described the uniform habit. It strongly stated that all must adhere to the union and abide by the decisions taken in Rome. If necessary, the prior general and his successors were empowered to take measures against anyone who rebelled against the union. The Pope supported the measure in stating that the right of appeal would be denied.¹¹⁸ In the same year as *Licet Ecclesiae Catholicae* was issued, the Poor Catholics of the Augustinian Order joined (fusion)¹¹⁹ the Order of the Brother Hermits. Alexander IV confirmed the union in 1257. In 1818 the Congregation of the Hermits of St. Augustine of Lombardy joined, by means of fusion, the Brothers of the Order of Hermits. The decree specified

¹¹⁸ ALEXANDER IV, *Licet Ecclesiae Catholicae integritatem*, 2 May 1256, MBR, T. 3, pars 1, XXIX, p. 373-374.

¹¹⁹ F. DAL PINO, "Poveri Cattolici", DIP, Vol. VII, cols. 232-235.

that all of the goods, houses, rights, and actions of the former were incorporated into the latter.¹²⁰

The Order of the Clerks Regular of Somaschi offers an example of several unions within its history; some were successful and others were short-lived.¹²¹ After careful deliberation, the Clerks Regular of Somaschi and the Order of the Clerks Regular of Theatine¹²² united in 1546. This union lasted only until 1555. In 1566, some members of the Priests of the Reform of St. Mary of Tortona,¹²³ at the request of Bishop C. Gambara of Tortona, united to the Somaschi. Another group, the Priests of the Good Jesus of Ravenna,¹²⁴ seeking better direction for their seminary, requested incorporation with the Clerks Regular of Somaschi in 1612. The union was ratified in 1620 with the "incorporation" of the seminary in Ravenna and all its goods, but with the concession of an annuity to those

¹²⁰ PIUS VII, *Suprema apostolicae charitatis*, 15 May 1818, *MBR, continuatio*, T. 15, DCCLXXXIX, pp. 47-48; see also B. RANO, "Agostiniani", *DIP*, Vol. I, cols. 278-381.

¹²¹ See P. BIANCHINI, "Chierici Regolari Somaschi, (Somaschi; CRS)", *DIP*, Vol. II, cols. 975-978.

¹²² See F. ANDREU, "Chierici Regolari Teatini, (CR, CRT, OT, OTheat)", *DIP*, Vol. II, cols. 978-999.

¹²³ See M. TENTORIO, "Prete Reformati di S. Maria Piccola, di Tortona", *DIP*, Vol. VII, cols. 793-794.

¹²⁴ See *Ibid.*, "Prete del Buon Gesu, di Ravenna," *DIP*, Vol. VII, col. 786.

members who did not choose to join it. The Secular Priests of Christian Doctrine of Avignon (Doctrinarians) also sought to unite with the Clerks Regular of Somaschi.¹²⁵ The Doctrinarians had asked Rome to be Clerks Regular with solemn vows. This would only be allowed if they united with the Clerks Regulars of Somaschi.¹²⁶ The union lasted from 1616 until 1647.¹²⁷

In the eighteenth century, the Doctrinarians of Naples, a Society of Priests, sought to unite with the group from Avignon. In 1725, the union of the Doctrinarians of Naples with the Doctrinarians of Avignon was realized.¹²⁸ The decree specified that a unique congregation, constituted as one body, would be formed from the Doctrinarians of Naples and those of Avignon. It clearly stated, however, that all would follow the Rule of the Congregation of Avignon and that the superior general of Avignon would be the superior general of the newly constituted body. It also confirmed the scope of the

¹²⁵ See C. RISTA, "Dottrinari, di Avignone (Francia), Doctrinaires", *DIP*, Vol. III, col(s). 975-977.

¹²⁶ See PAUL V, *Ex injuncto Nobis*, 12 April 1616, in *MBR*, T. 5, pars 4, CCLXI, , pp. 207-209.

¹²⁷ INNOCENT X, *Commissi Nobis a Domino pastoralis*, 30 July 1647, "Dissolutio unionis Congregationis Doctrinae Christianae in Francia e Congregatione Somascha", *MBR*, T. 6, pars 3, LXXXVII, pp. 121-123.

¹²⁸ BENEDICT XIII, *Illius cujus ineffabili bonitate*, 9 September 1725, *MBR*, T. 12, CXV, , pp. 41-44.

congregation and its privileges and indulgences. The Naples congregation would be erected as a province, with a vicar general, elected by the chapter, as superior. In 1747, the Doctrinarians of Rome, who had approximately fifty members and eight houses joined the Doctrinarians of Avignon.¹²⁹

The Clerics of St. Viator, a clerical congregation founded in 1831 by Father Louis Querbes for the purpose of teaching in Catholic institutions,¹³⁰ had received both civil and pontifical approval. Bishop F. de Marguerie, of the diocese of St-Flour, sought security for a diocesan institute, the Brothers of Saint-Odilon,¹³¹ which did not have civil approval. The possibility of a fusion with the Clerics of St. Viator was discussed and negotiated. The contract stated that the diocesan institute would renounce

¹²⁹ BENEDICT XIV, *Apostolici muneris nobis*, 15 December 1747, "Unio Congregationis Clericorum Saecularium Doctrinae Christianae, cum diversis ordinationibus", *MBR, Benedicti Papae XIV, Graz, Akademische Druck-u Verlagsanstalt*, 1966, T.2, XLII, pp. 355-362.

See also C. RISTA, "Dottrinari, di Avignone (Francia), Doctrinaires", *DIP*, Vol. III, cols. 975-977; P. CENTI, "Dottrinari, di Napoli", *DIP*, Vol. III, cols. 977-978; *ibid.*, "Dottrinari, di Roma", *DIP*, Vol. III, cols. 978-979.

¹³⁰ See F. PRUD'HOMME, "Chierici de San Viatore, Clercs de Saint-Viateur", *DIP*, Vol. II, cols. 999-1004.

¹³¹ See P. ROBERT, *Vie du Père Louis Querbes*, Bruxelles, A. Dewit, 1922, pp. 372-388; see also R. AUBIN, "Frattelli di San'Odiolone, Frères de Saint-Odilon", *DIP*, Vol. IV, col. 728.

its autonomy, rules, and name and that the brothers would become subject to the superior of the Clerics of St. Viator. They would pronounce vows according to the prescribed formula of the Statutes of St. Viator. The contract also included the transfer of properties from the diocese of St. Flour to the Clerics of St. Viator with the stipulation of certain benefits and services to be rendered to the diocese of St. Flour.¹³² Within a decade, another group of Brothers sought to join the Clerics: the circumstances of the Brothers of St. John of Nant¹³³ were similar to those of the Brothers of Saint-Odilon. Bishop J. Croizier of Rodez desired to place the institute within one which was more stable and secure. Negotiations and discussions culminated with a contract similar to the one drafted for the Brothers of Saint-Odilon.¹³⁴ The Clerics of St. Viator accepted, by means of fusion, two more congregations in the early twentieth century.¹³⁵

¹³² See P. ROBERT, *Vie du Père Louis Querbes*, p. 374.

¹³³ See R. AUBIN, "Fratelli di San Giovanni, di Nant (Francia), Frères de Saint-Jean", *DIP*, Vol. IV, col. 707.

¹³⁴ See P. ROBERT, *Vie du Père Louis Querbes*, pp. 529-530.

¹³⁵ See P. ZIND, "Fratelli della Croce de Gesu, Frères de la Croix de Jésus de Lyon" (Rescript, March 18, 1922), *DIP*, Vol. IV, cols. 606-608; see also R. AUBIN, "Fratelli di Nostra Signora dei Campi, Frères de Notre-Dame des Champs, Canada" (April, 1931), *DIP*, Vol. IV, col. 681.

Another noteworthy example of fusion, due to the unique circumstances, was the unification of the Congregations of the Holy Spirit and of the Holy Heart of Mary. Although it was desired and initiated by both superiors, F. Libermann, founder of the Congregation of the Holy Heart of Mary, was the influential figure in its preparation and realization. Both superiors recognized the advantages that the unification would provide: the incorporation of a number of young and zealous missionaries of the Congregation of the Holy Heart would give new life to the dying Congregation of the Holy Spirit and, at the same time, the Congregation of the Holy Heart would become a part of a Congregation that enjoyed the twofold approbation of the Holy See and the French government. A dossier was submitted to the Congregation for the Propagation of the Faith. It included the postulatory letters of the two superiors and a list of conditions ascribed by both parties for the unification.¹³⁶ In addition, it stated that both congregations shared the same goals and presented a summary of the spiritual and temporal benefits of the fusion for the two congregations and their missionary activities.¹³⁷ After careful deliberation, the Congregation for the Propagation

¹³⁶ See M. LEGRAIN, *Une union de Congrégations au XIX^e siècle: Le Saint-Esprit et le Saint-Coeur de Marie*, Thèse pour le doctorat en Droit canonique, Paris, Institut Catholique de Paris, 1965, p. 130.

¹³⁷ See *ibid.*, pp. 132-133.

of the Faith gave an affirmative decision for the unification of the two congregations. The decree made it clear that the Congregation of the Holy Heart would cease to exist, that the members would be the members would be incorporated, and that they would be subject to the regulations of the Congregation of the Holy Spirit. At the same time, they would receive all of the privileges and rights of the Congregation of the Holy Spirit.¹³⁸ In spite of the painful reality of the dissolution of the Congregation of the Holy Heart of Mary, all of the members were in favor of the fusion. The members of the Congregation of the Holy Spirit also gave unanimous consent to the union.¹³⁹ At the time of the decree of union, September 4, 1848, seven members of the Congregation of the Holy Spirit formally adhered to the agreement, and thirty-five members of the Congregation of the Holy Heart of Mary were incorporated and agreed to live according to the constitutions of the Congregation of the Holy Spirit.¹⁴⁰ M. Monnet, superior of the Congregation of the Holy Spirit resigned, and F. Libermann was unanimously elected superior

¹³⁸ *Ibid.*, the decree stated on p. 223: "Quapropter vestrum nunc erit negotium istud unionis duarum Congregationum vestrarum ita perficere, ut cessante ex nunc ea quae sub titulo est SS. Cordis B.M.V. istius Socii et Alumni fiant, eorumdem jurium et privilegiorum participes, nec non iisdem disciplinae regulis subjecti."

¹³⁹ See *ibid.*, p. 152.

¹⁴⁰ See *ibid.*, p. 153.

by the chapter. In the years that followed the union, F. Libermann focused his energies in forming a united congregation in spirit and their way of life. Every effort was made to fulfill the initial conditions for the union: the title of the congregation changed to "Congregation of the Holy Spirit and of the Immaculate Heart of Mary"; retention of the Constitutions of the Holy Spirit but with modifications; a return to the true spirit of poverty, suppression of the "Second Order" of the Congregation of the Holy Heart, and additional statutes not foreseen by the approved rules. According to M. Blanchard, "through the fusion, the Society of the Holy Spirit was, neither legally nor canonically, but spiritually, a new institute: new because of its integral and more precise purpose, new in the current of fervor and the regularity that it received."¹⁴¹

E. Examples of union of lay institutes

Following the French Revolution many religious congregations of France tried to recoup their members and re-establish their way of life. Some congregations, unable to continue as autonomous groups sought to unite with a

¹⁴¹ *Ibid.*, p. 162: [...] "de par la fusion, la société du Saint-Esprit était, non pas légalement ni canoniquement mais spirituellement, un institut nouveau: nouveau par le but plus intégral et mieux précisé, nouveau par le courant de ferveur et de régularité qu'elle recevait."

more flourishing and stable one, or with one which had received civil recognition.

The Brothers of Christian Instruction of Ploërmel,¹⁴² founded in 1817, were joined by the Brothers of Bretagne or d'Auray¹⁴³ in 1819. The union of these two groups strengthened the foundation of the Brothers of Christian Instruction of Ploërmel. Later, in 1880, a group of lay religious who had been a distinct and economically independent part of the Congregation of Priests of St. Mary, Tincebray,¹⁴⁴ joined the Brothers of Ploërmel. Seventy-five brothers and fifteen houses were a part of the fusion.

Originally, the Marist Brothers were a part of the Society of Mary. In 1836, the Society received pontifical approval. The Brothers of Champagnat, however, were not included in the approbation and interpreted this exclusion as a warning sign that the Holy See would eventually direct the Society and the Brothers to form two separate

¹⁴² See R. CARNIR, "Fratelli dell'Istruzione Cristiana, di Ploërmel (Francia), Frères de l'Instruction Chrétienne", *DIP*, Vol. IV, cols. 624-625.

¹⁴³ See G. ROCCA, "Fratelli di Bretagne o D'Auray", *DIP*, Vol. IV, col. 598.

¹⁴⁴ See *ibid.*, "Sacerdoti di Santa Maria, di Tincebray (Francia), Congregatio Presbyterorum a S. Maria de Tincebray (PSM), Prêtres de Sainte-Marie", *DIP*, Vol. VIII, cols. 28-29.

congregations. Attempts were made to keep the two groups as one unit, but in 1852 the final decision was made to separate.¹⁴⁵ Concurrent with this decision, M. Champagnat had asked the Brothers of Christian Instruction of Valence to unite with the Marist Brothers of the Schools. These Brothers enjoyed civil recognition but had only a few members while the Marist Brothers had many members but did not have civil recognition. After lengthy negotiations, the two groups united in 1842 under the official name of Brothers of Mary of Christian Instruction, which remained their title until 1851.¹⁴⁶ In the meantime, Bishop H. Guibert, bishop of Viviers, sought to unite the Brothers of Christian Instruction of Viviers with another institute. In the end, he chose the Marist Brothers. This act of fusion was signed in Viviers in 1844.¹⁴⁷ In the early twentieth century, two more congregations united with the Marist Brothers. One of the congregations, the Josephite Marists, a small autonomous congregation founded in China,

¹⁴⁵ See A.G. DI PIETRO, "Fratelli Maristi della Scuole (FMS) o Piccoli Fratelli di Maria (PFM), Petits Frères de Marie", *DIP*, Vol. IV, cols. 653-665.

¹⁴⁶ See P. ZIND, "Fratelli dell'Istruzione di Valence (Francia), Frères de l'Instruction chrétienne du diocèse de Valence, o Fratelli di S. Paolo tre Castelli, Frères de Saint-Paul-Trois-Châteaux (Drôme)", *DIP*, Vol. IV, cols. 625-627.

¹⁴⁷ *Ibid.*, "Fratelli dell'Istruzione Cristiana, di Viviers (Francia) o Fratelli di Nostra Signora del Buon Soccorso, Frères de l'Instruction Chrétienne, Frères de Notre-Dame de Bon-Secours", *DIP*, Vol. IV, cols. 627-629.

joined the Marists Brothers in 1909. It was a decision motivated by the need for greater support for their catechetical work. All but one of the thirty-seven members of the Josephite Marists accepted the union.¹⁴⁸ The other congregation, the Brothers of Christian Instruction of Nancy, having endured difficult circumstances, joined (fusion) the Marist Brothers in 1912.¹⁴⁹ The Marists accepted two more congregations after the Code of 1917 was promulgated.¹⁵⁰

F. Union of institutes of religious women

The Church witnessed the foundation of many diocesan religious institutes of simple vows in the nineteenth century. Some of these institutes, because of a lack of vocations or of civil recognition sought to join a more stable, thriving congregation. It was also a time of uniting *sui iuris* houses into centralized congregations.

¹⁴⁸ See W. HENKEL, "Guisseppini Maristi", originally called the Catechists of the Mother of God, *DIP*, Vol. IV, cols. 1356-1357.

¹⁴⁹ See P. ZIND, "Fratelli della Dottrina Cristiana, di Nancy (Francia), Frères de la Doctrine Chrétienne du diocèse de Nancy", *DIP*, Vol. IV, cols. 610-613.

¹⁵⁰ See A.G. DI PIETRO, "Fratelli di San Pietro Claver, di Owerri (Nigeria) Brothers of St. Peter Claver" (Fusion, 1956), *DIP*, Vol. IV, col. 726. See also A.G. DI PIETRO, "Fratelli Operai di San Francesco Regis, Frères Ouvriers de Saint-François Régis, Le Puy (Francia)" (Fusion, 1959), *DIP*, Vol. IV, col. 686.

Several congregations accepted small groups, by means of fusion, in the early years of their history. One example is the Society of the Sacred Heart of Jesus founded by Saint Madeleine Sophie Barat in 1800.¹⁵¹ In 1804 and 1819 two small diocesan associations with only five members each, the Daughters of the Propagation of the Faith, Grenoble, and the Sisters of Providence, Bordeaux, asked to join the Society of the Sacred Heart. From 1824 to 1856 nine more institutes became a part of the Society.¹⁵²

The Sisters of Holy Family of Villefranche-de-Rouergue (France) also received a number of small communities in the early years of their congregation.¹⁵³ According to J. F. Zufferey, these different "fusions",

¹⁵¹ See *Società de Sacro Cuore de Gesu, Vie de la Vénérable Mère Barat*, Paris, E. De Soye et Fils, Imprimeurs, 1884, 2 vols; see also J. DE CHARRY, "Società de Sacro Cuore de Gesù, S. Sophie Barat", *DIP*, Vol. VIII, cols. 1683-1688.

¹⁵² Les Dames de Sainte-Sophie (1824), Soeurs du Sacré Coeur (1825), Soeurs du Sacré Coeur, Annonay (1831), Filles de la Providence, Charleville (1834), Les Dames de St-Pierre (1835), see *Società de Sacro Cuore de Gesu, Vie de la Vénérable Mère Barat*, Vol. I.

The Sisters of St. Brigit, Roscrea, Ireland (1842), Oblates de Ste-Marie, Elpidio, Italy, (1842), Les Dames de St-Pierre, Montfleury (1846), Les Dames de St-Paul (1826), Angoulême, (1856), see *Società de Sacro Cuore de Gesu, Vie de la Vénérable Mère Barat*, Vol. II.

¹⁵³ From 1832 to 1891, nine small congregations joined the Holy Family Sisters, see J. F. ZUFFEREY, "Sacra Famiglia di Villefranche-de-Rouergue (Francia) Suore delle", *Soeurs de la Sainte-Famille*, 1816, *DIP*, Vol. VIII, cols. 138-139.

plus new foundations contributed to the increase of membership and vigor in the Holy Family Congregation. In 1830, the Congregation had twenty-eight members and in 1900 it numbered over one thousand. Following Vatican II, five additional congregations joined the Sisters of Holy Family of Villefranche-de-Rouerque.¹⁵⁴

Regrouping of religious institutes also took place in countries other than France. Most incidents of union within the Sisters of Mercy, founded in Ireland (1827) by Catherine McAuley occurred after the Code of 1917, although a few took place in the latter part of the nineteenth century. While the Sisters of Mercy were apostolic in nature, the organization of the institute was similar to the structure of *sui iuris* monasteries. From 1842 to 1898, the Sisters of Mercy established houses in England, Canada, United States, Australia, New Zealand, South America, India, and South Africa. As the congregation became so widespread, the need for a more centralized structure became evident. Efforts toward this were sometimes initiated by the diocesan bishops. In 1871, Bishop L. Gillooly, bishop of Elphin, Ireland, united all the houses

¹⁵⁴ See *Ibid.*, col. 139: *Soeurs de l'Immaculée Conception, de Nogent-le-Routrou* in 1964; the Congregation of Our Lady of Consolation, London, England, in 1967; *Filles de Marie-Immaculée, de Ceignac* in 1970; *Religieuses de la Sainte-Famille de Pézens*, in 1972; *Soeurs de la Sainte-Famille de Mende* in 1978.

of Roscommon, Athlone, Elphin, Boyle, Summerhill, Castlereagh, Strokestown, and the houses that were dependent on the first foundation of Sligo.¹⁵⁵ Other motherhouses of the Sisters of Mercy in the United States, Australia, and other regions of Ireland also organized into centralized congregations.¹⁵⁶

Regrouping within the Congregation of the Sisters of the Presentation of the Blessed Virgin Mary founded in Ireland (1775) by Nano Nagle was similar to that of the Sisters of Mercy.¹⁵⁷

The last example, yet perhaps the most celebrated of unions of religious institutes of women prior to the Code of 1917 was that of the Roman Union of Ursulines. In

¹⁵⁵ G. ROCCA, "Misericordia, Suore della, Sisters of Mercy", *DIP*, Vol. V, col. 1388.

¹⁵⁶ *Ibid.*, cols. 1374-1402.

¹⁵⁷ G. ROCCA, "Presentazione della Beata Vergine Maria, Suore della, Sisters of the Presentation of the Blessed Virgin Mary", *DIP*, Vol. VII, cols. 753-773: initially, the Presentation Sisters had *sui iuris* houses but, like the Sisters of Mercy, they eventually formed centralized governments by uniting the houses within regions. For example, in San Francisco, California, (United States) four houses united in 1888; all of the houses of Cashel (Ireland), except for one, united under one superior in 1914. A centralization of the houses in Lismore (New South Wales, Australia) and in Victoria (Australia) occurred in 1908. At the request of Bishop M. Howley, St. John's, Newfoundland (Canada) all of the autonomous houses of the Presentation Sisters were also united under one superior general. The Sacred Congregation of Religious issued the decree of union, *Sacrorum antistites* on November 25, 1915.

spite of substantial differences between them, a union which involved sixty-three monasteries was formed in 1900.

The Roman Union of Ursulines had been preceded by a union of the monasteries of Blois, Rome, and Calvi in 1898.¹⁵⁸ The union was a culmination of the moral and financial assistance given to the monasteries of Rome and Calvi by the monastery of Blois.

Shortly after the union of the three monasteries, the Pope appointed Cardinal F. Satolli as Cardinal Protector of the union. In accordance with his mandate, Satolli, in a letter dated December 20, 1898, conveyed the important message to the new superior general of the union,¹⁵⁹ that the Holy Father would be very agreeable to an effective and durable union of all the Ursulines of the world. On July 29, 1899, Cardinal S. Vannutelli, Prefect of the Sacred Congregation of Bishops and Regulars, wrote to all the bishops of dioceses where Ursuline monasteries were located, presenting the advantages of such a union and noting that the Holy See wanted the bishops to examine the question with great care and to forward their opinion to it. The bishops were also asked to inquire about the

¹⁵⁸ M. BOSCHET, *Les origines de l'Union romaine*, Rome, Maison généralice de l'U.R., 1951, pp. 379-380, who notes that approbation was given on July 7, 1898 by the Sacred Congregation of Bishops and Regulars.

¹⁵⁹ *Ibid.*, p. 380.

dispositions of the religious and to help them understand the meaning and government of the Union. The letter further explained that the members would profess three vows, the traditional fourth vow taken by some Ursuline congregations being included in the vow of obedience. It also stressed that the decision of the members must be freely given.¹⁶⁰ The first general chapter of the Roman Union of Ursulines was convoked November 14, 1900.

The *motu proprio Apostolicae Sedi*, bringing the union into reality, was issued in 1905.¹⁶¹ The union was further actualized by the Chapter of 1926 when decisive measures were taken to ensure a more centralized union by the abolition of local stability of the religious, the

¹⁶⁰ SACRA CONGREGATIO EPISCOPORUM ET REGULARIUM, N. 17891, [Litterae], "Inter Religiosa Instituta: [...] Cum vero intersit, ut, quid Religiosae de hoc negotio sentiant, plena libertate significant, expedit ut, congruo tempore eisdem assignato, quo valeant rem totam coram Deo perpendere, per suffragia omnino secreta sua unaquaque mentem aperiat [...]", see M. BOSCHET, p. 536. See also "Litterae 21 Iulii 1899 et Decretum 17 Iulii 1903", in *De religiosis et missionariis, Supplementa et Monumenta, Periodica* (*Periodica de re morali canonica liturgica*), 1(1907), pp. 161-164, no. 65.

See SACRA CONGREGATIO EPISCOPORUM ET REGULARIUM, Rescript, [...] "integram hac de re manere libertatem uniuscuiusque Communitatis ad normam litterarum diei 21 Iulii 1899", in *ASS*, 37(1904-05), pp. 574-575; see also Rescriptum 10 Mart. 1902, in *De religiosis et missionariis, Supplementa et Monumenta, Periodica* (=Periodica), 1(1907), pp. 95-96.

¹⁶¹ Pius X, *Motu proprio, Apostolicae Sedi*, 8 May 1905, in *ASS*, 37(1904-1905), pp. 679-681.

appointment of local superiors by the major superiors, and a tertianship program.¹⁶² By 1953 there were 220 convents with some 6400 sisters belonging to the Roman Union.

CONCLUSION

Throughout its history the Church through its laws has attempted to serve its institutions by assisting them to attain their goals. Based on the pre-code theory and understanding of a public juridic person, the religious institute had the same constitutive elements as any other collegial juridic person: a "universitas personarum", an aggregate of persons with a specific name, statutes or constitutions, and the necessary funds to achieve its purpose.

The laws of the Church provided for the establishing a religious institute, for its life and, if necessary, for the dissolution of the institute. Conscious of its authority and jurisdiction, the Church exercised prudence in establishing a new foundation. After the Council of Chalcedon (451), a religious institute could be founded only by ecclesiastical authority. Following the IV Lateran Council, the foundation of a monastic institute was reserved to the Holy See. In time, religious institutes

¹⁶² ANON, "Chronique: L'Union Romaine des Ursulines", in *Revue des communautés religieuses*, 5(1929), pp. 35-40.

could be constituted by a formal act of competent authority, either by the Holy See or by a diocesan bishop. Once approved, the laws of the Church safeguarded the nature and purpose of the institute and its temporalities. As a legal entity, the religious institute could acquire, possess, and alienate property. The pre-code laws of the Church also provided for the dissolution of a religious institute. Like other juridic persons, it was perpetual by nature but, if it failed to adhere to its purpose or lacked members it could be dissolved by the same authority who created it, or it could become extinct from lack of members or another intrinsic element. If it was necessary or useful, the laws of the Church also provided for union of juridic persons -- union of parishes and union of benefices. This is also evident in the number of unions of religious institutes that occurred prior to the Code of 1917.

Although it was not widely expressed, some canonists recognized the necessity and advantages for small congregations to unite with more numerous and durable institutes already approved by the Holy See.¹⁶³

¹⁶³ A. BATTANDIER, *Guide canonique*, Paris, Victor Lecoffre Éditeur, 1898, p. 6; see also P. BASTIEN, *Directoire canonique à l'usage des congrégations à vœux simples*, Bruges, Ch. Beyaert, 1904, p. 6.

Most of the examples of unions of the monastic orders were either of the "federation" type, similar to that of an "equally principal" union, or of the more centralized type of organization, similar to the superior-inferior way of union. The former allowed a greater degree of autonomy, while the latter had less.

Beginning with the Clerics Regular there is evidence of another type of union, an "extinctive union" or a union "per confusionem". According to A. Reiffenstuel, extinctive union could be realized in two ways. From our examples, the prevailing way was that of one institute joining another; the juridical identity of only one remained, the other was suppressed. In this type of union, the institute that no longer existed relinquished its name, purpose, and identity, and assumed that of the other.

Another type of union involved the unification of independent houses of the same founder. In this case, each house or monastery relinquished its autonomy of government to form a centralized congregation.

Union of religious institutes, as the "real" union of benefices, is an exceptional procedure. Therefore, as it affects the very essence of the institutes, based on the juridic elements of union of benefices, there must be a just cause, proper investigation, and consent. Most of the

unions mentioned in this chapter occurred out of necessity or usefulness for the religious institutes and for the good of the Church.

The reason for many of the unions in the monastic orders was to unify a number of isolated monasteries or those with few members or in decline. At the same time it was to ensure a unified reform among the monasteries or congregations. Many of the congregations, however, sought to unite with another congregation because of need for civil recognition (in France), or because of financial difficulties, or to increase their membership and strengthen their works. Obviously, most sought to unite with one which had a similar spirit or purpose.

The second formality involved in the union of benefices was the "consent" of the concerned parties. Except for the example of the Roman Union of Ursulines, most of the examples show that the application of this formality was exercised through the Holy See, the diocesan bishops, and through the superiors general of the religious institutes. Some decrees of union mentioned that the members were to have a free and secret vote or that their decision was unanimous. They also mentioned that the opinion of the bishops was provided.

The charter of foundation or the decrees of union for the monastic, mendicant, and clerical orders were given by the pope personally. Since many of the lay institutes or congregations of religious women were given approbation by a diocesan bishop, according to pre-code law, the diocesan bishop could also issue the decree of union.

It is evident from some decrees of union that strict measures were taken to ensure the union. We find expressions such as, "opposition to the union will not be tolerated," or "no outside force may interfere with the two Orders and neither can interfere with the other", or "all must adhere to the union and abide by the decisions taken in Rome."

Although the pre-code legislation lacked specific laws regarding the union and fusion of institutes, there is ample evidence of different types of unification. In some cases, some formalities were observed, but it is difficult to know whether they were universally applied to the union of religious institutes. For many, it was a matter of "servatis servandis".

CHAPTER TWO

LEGISLATION RELATING TO UNIONS OF RELIGIOUS INSTITUTES

The promulgation of the 1917 Code of Canon Law was indeed a great achievement. For the first time since the *Corpus iuris canonici* was edited in the early XVth century, the Church issued a new collection of laws, this time a systematic codification of its legislation. Many of the norms promulgated throughout the centuries, such as those found in the *Corpus iuris canonici*, the decrees of the Council of Trent, the papal constitutions, and the decisions of the Roman congregations, were essential sources of the Code.

Above all, the Code was intent on emphasizing the eternal welfare of souls and on safeguarding the common good of the Church and its mission. In particular, it had as its purpose to provide service, order, and balance for its individual members and organisms. This chapter will attempt to explore how the Code of Canon law provided for the regrouping of religious institutes. It will also review significant canonical literature following the promulgation of the Code on the practice of fusions or unions of religious institutes. Finally, it will review the basic procedures observed in some particular types of union and fusion.

I. THE 1917 CODE OF CANON LAW

In view of the number of unions which occurred before the 1917 Code was promulgated, it is surprising that there were no specific canons in the Code which directly addressed the different types and effects of unification of religious institutes. We must therefore search, as canon 18 directs, for parallel texts which could be applied in such instances. Thus, the specific laws relating to juridic persons, the norms for the union of ecclesiastical benefices, and the pertinent laws on religious life will be examined in as much as they relate to the union of religious institutes.

A. Juridic persons

As in the Roman law and the doctrine of the pre-code era, the 1917 Code of Canon Law incorporated the concepts and principles of the establishment, functioning, and extinction of the juridic person.¹ In brief, the Code defined the juridic person,² noted how a juridic person is

¹ BENEDICT XV, *Codex iuris canonici*, 1917, (=CIC, 1917), Rome, Typis Polyglottis Vaticanis, 1918, 1386p. See T. BOUSCAREN, A. ELLIS and F. KORTH, *Canon Law, A Text and Commentary*, 4th revised edition, Milwaukee, Bruce Publishing Co., 1966, pp. 86-93; B. OJETTI, *Commentarium in codicem iuris canonici*, Romae, apud Aedes Universitatis Gregoriana, 1927-1931, Vol. 2, pp. 101-144.

² Cc. 99 & 100; see also F. MAROTO, *Institutiones iuris canonici*, Romae, apud Commentarium pro Religiosis, 1919-1921, Vol. I, Book II, pp. 536-542, nos. 456-460; A.

established, outlined the necessary elements for its constitution,³ and referred to its eventual divisions. The "moral person", also known as a "juridic person", or a "juridical entity",⁴ was constituted either in virtue of the law itself or by competent authority. This entity was considered a subject of canon law with particular rights and obligations. The moral person was either collegiate or non-collegiate.⁵ The "collegiate" juridic person was made up of a group of natural physical persons, e.g. a religious institute, a chapter of canons, or the college of cardinals, who participated in the decisions of the entity; it acted through a superior or a designated person. The law also prescribed precise regulations in regard to the acts of the collegiate moral person.⁶ On the other hand,

VERMEERSCH & J. CREUSEN, *Epitome iuris canonici*, Mechliniae-Romae, H. Dessain, 1933-1936, Tomus I, Quinta editio, pp. 189-195, nos. 222-226.

³ C. 100, §1 and 100, §2. See M. CORONATA, *Institutiones iuris canonici*, Taurini, Marietti, 1933-1939, Vol. I, Book II, pp. 163-168, no. 13^a.

⁴ The 1917 Code used the term "moral person" in numerous canons: Cc. 4, 103, 106, 1495, §2, 1498, 1499, 1500, 1501, 1552, §2, n.1, 1557, §2, n.2, 2235, §2. Other terms used in the Code synonymous to moral person were "juridic person" in Cc. 687, 1489, §1, 1495, §2; "juridical entity" in canons 1409 and 1410, and "moral body" as in canon 2255, §2.

⁵ C. 99; see also A. DUMAS, "Personnes morales d'après la réglementation du code", in R. NAZ [et al.], *Dictionnaire de Droit canonique*, Vol. 6, col. 1421: "Cette entité représente un groupe de personnes, *universitas personarum*, ou une masse de biens, *universitas bonorum*."

⁶ C. 103.

the non-collegiate person was comprised of property and other resources dedicated to a religious or charitable purpose, such as churches, seminaries, and benefices. It was governed by its proper statutes and administered by a board or an officer.

The law recognized that the juridic person is perpetual, that is, it does not cease unless suppressed by competent authority or, in the case of a collegiate person, if one hundred years have elapsed since the last member existed.⁷ There were different forms of suppression; for instance, there could be the suppression of the moral person itself, a conversion of one moral person into another one, or a union with another moral person, which is called an extinctive union.⁸

The pre-code principle that a legal entity can be suppressed by the same competent authority who created it was maintained, but with certain limitations. Thus, the Code named the specific person competent to suppress the various juridic persons. For instance, if a bishop had erected lay and pious associations, he could suppress them,

⁷ C. 102, §1, See also G. MICHIELS, *Principia generalia de personis in Ecclesia*, Tornaci, Desclée, 1955, especially Chap IV, pp. 534-549; F. MAROTO, Vol. I, Book II, pp. 544-545, nos. 463-464.

⁸ A. VERMEERSCH, "De personae moralis extinctione et resurrectione", in *Periodica de re morali canonica liturgica* (=Periodica), 20(1931), p. 85.

but only the Holy See could suppress religious institutes, benefices, or any association which it had constituted.⁹ Also reserved to the Holy See were both the union (*pleno iure*) of parishes¹⁰ or their extinctive union as well as the suppression or the dismemberment of benefices, as well as the transfer, division and dismemberment of religious benefices.¹¹ In addition, it was only with the permission of Holy See that the local ordinary could suppress or unite non-collegiate institutes of the Church.¹²

B. The religious institute as a juridic person

The canonical underpinning of a religious institute is founded in the fact that it has been constituted a public juridic person. Canon 488 of the 1917 Code presented the necessary elements for a religious institute to obtain moral personality: it is to be a society¹³ whose membership strives after a common good: it is approved by

⁹ See F. MAROTO, Vol, I, Book II, p. 545, no. 464 : Cc. 493, 498, 494, §1, 699, §2, 1470, §2, and 1494.

¹⁰ Cc. 1423, §2, 1424.

¹¹ F. MAROTO, p. 545, Cc. 452, §1 and 1422.

¹² *Ibid.*, p. 545, C. 1494, "[...] *nisi in tabulis foundationis aliud caveatur.*"

¹³ A. LARRAONA, "Commentarium codicis, canon 488", in *Commentarium pro religiosis et missionariis*, (=CpR), 2(1921), defines on p. 205: "Dicitur societas non solum generali sensu philosophico, sed sensu stricte iuridico, quatenus religio est non tantum persona collectiva, sed vera persona moralis collegialis ad sensum iuris (C. 99)."

the Church, and has its proper laws which define its primary and secondary ends, as well as the type of vows its members profess, and its specific form of government. As any public juridic person, a religious institute is comprised of the following elements: (1) a material element, the membership; (2) a purpose or reason for its existence; (3) the means for attaining its end, and (4) the formal element, the end for which it was established, that is, its canonical mission.

In fact, ecclesiastical authority recognizes the personality only of those institutions whose goal is in harmony with the ends pursued by the Church: worship, charity, Christian perfection, and teaching. The effect of the recognition is that the moral person and its goods acquire the quality of ecclesiastical realities to submit them to the jurisdiction of the Church and, in particular, to submit their goods to the regulations governing church property.¹⁴

Once approved by competent authority, then, religious institutes enjoy the advantages and possess the capacity of a juridic person.¹⁵ Although these institutes,

¹⁴ A. DUMAS, "Personnes morales d'après le Code", col. 1421, "En fait, l'autorité ecclésiastique reconnaît seulement la personnalité des institutions dont le but est en harmonie avec les fins poursuivies par l'Église: culte, charité, perfection Chrétienne, enseignement. La reconnaissance a pour effet de faire acquérir par la personne morale et par ses biens la qualité d'ecclésiastiques; de les soumettre dès lors à la juridiction de l'Église et, en particulier, de soumettre ses biens au régime de la propriété ecclésiastique."

¹⁵ See SACRA CONGREGATIO PER RELIGIOSIS, Decree, *Quod iam*, in AAS, 14(1922), p. 644: "[...] inter quae illud fundamentale est quod quaelibet Congregatio

as other juridic persons, are perpetual by nature, if necessity requires and as practice has shown, they may be united, or, for grave reasons, even suppressed, and their temporal goods disposed of according to arrangements made by the Holy See.

C. Union of benefices

The pre-code classification of the types of union and the norms regarding the union of benefices were incorporated into the 1917 Code.

1. Types and effects of union

Canon 1419, concerned with perpetual unions, defined three types of union of benefices: "extinctiva", "aeque principaliter" and "minus principalis".¹⁶

religiosa, legitime constituta, personalitatem moralem ad normam iuris induat eaque potiatur." See also A. LARRAONA, "Commentarium codicis: canon 488", in *CpR*, 2(1921), pp. 205-206; M. CORONATA, Vol. I, Book II, p. 606, no. 501, (b); J. ABBO & J. HANNAN, *The Sacred Canons*, St. Louis, B. Herder Book Co., 1957, Vol. I, p. 488.

¹⁶ C. 1419. "Unio beneficiorum est:

1419, 1° *Extinctiva*, cum aut ex suppressis duobus vel pluribus beneficiis novum atque unicum beneficium efficitur, aut unum vel plura ita alii uniuntur et esse desinant;

1419, 2° *Aequae principalis*, cum unita beneficia remanent prout sunt, neque alterum alteri subiicitur;

1419, 3° *Minus principalis*, seu per subiectionem vel accessionem, cum beneficia remanent, sed unum aut plura alii tanquam accessorium principali subiiciuntur."

A number of commentators on the Code noted that the "unio extinctiva" or the "unio per confusionem" can occur in two ways.¹⁷ The first is for a new benefice to be created from two or more existing ones. Each then loses its past juridic personality when it becomes the newly created benefice. The one which "emerges" appropriates the nature, privileges, and temporal goods, as well as the rights and obligations of the former benefices. The second way is for one or more benefices to be joined to another benefice. In this case, the former benefices cease to exist; their juridic identity is relinquished in order to assume the juridical identity of the other; only the latter "remains". In both types, if the rights and obligations conflicted with one another, the more favorable ones were assumed.¹⁸ The temporal goods, rights, and obligations of the suppressed institutes were transferred to the remaining one. As before the Code, extinctive union was considered

¹⁷ To name a few: C. BACHOFEN, *A Commentary on the new Code of Canon Law*, St. Louis, B. Herder Book Co. 1931, Vol. 1, pp. 501-502; A. BLAT, *Commentarium textus Codicis iuris canonici*, Romae, ex Typographia Pontificia in Instituto Pii IX, 1934, Vol. III, pp. 448-449, nos. 326-327; G. COCCHI, *Commentarium in Codicem iuris canonici*, Editio III, Taurinorum Augustae, Libreria Marietti, 1931-1937, Book III, pars V, pp. 213-215, no. 92; M. CORONATA, Vol. II, pp. 371-373, no. 980; J. ABBO & J. HANNAN, *The Sacred Canons*, Vol. II, pp. 654-655.

¹⁸ C. 1420, §1: "In unione exstinctiva, beneficio quod emergit aut remanet, omnia iura et onera exstinctorum competunt, et, si inter se componi nequeant, meliora ac favorabiliora."

odious in law because the original condition of the juridic person was extinguished. It is for this reason that this type of union was reserved to the Holy See.

The second type of union, the "equally principal union", was understood to be the uniting of two benefices of the same order or grade in such a way that there was no intrinsic change in the original nature of the benefice. Each benefice retained its title, rights, and autonomy; neither became subject to the other. This type of union is the least odious in law since the essence of both benefices remains intact. Neither is subordinate to the other.

The third type, called the "the less principal" or "subordinative" union, occurs when an inferior benefice is united accessorially to a superior one. Each benefice remains a juridic entity, distinct from the other, yet the accessory becomes subject to the principal benefice. The title of the accessory ceases; it becomes a part of and follows the nature of the principal benefice.

2. Competent ecclesiastical authority

The Code expressly named the competent authority to effect unions.¹⁹ Whereas competency to effect some unions was within the jurisdiction of the local ordinary, other

¹⁹ Cc. 1422-1425.

unions were reserved to the Holy See. Extinctive union of benefices and their suppression are juridical acts reserved to the Holy See, as are transfers, divisions, and dismemberment of a religious benefice. Other examples of union not within the jurisdiction of the ordinary would be the union of two dioceses, the joining of a religious benefice with a secular one and vice versa, or the uniting of benefices belonging to different dioceses.

3. Formalities of union

The formalities remained much the same as in the pre-code law. First of all, there must be a just cause; that is, necessity or the greater good of the Church.²⁰ Some of the specific reasons could be the welfare of souls, lack of necessary financial or human resources, or more effective coordination of services, expenses, and time. There also must be proof of the necessity of the union. Secondly, the competent authority must consult, or receive the consent of the interested parties.²¹

Therefore, a just and canonical reason, consultation or consent with the concerned parties, and thirdly, an authentic written document comprise the required

²⁰ C. 1423, §1.

²¹ Cc. 1424, 1427, §1, 1428.

formalities.²² While these norms governed the union of benefices or parishes, it stands to reason that they were also applicable to the union of other juridical persons.

D. Religious law: Union of religious institutes

Since the Code contained no specific canon relating to the fusion or union of religious institutes, it is essential to understand which laws of the Church served the practice of union. Most canonists concluded that fusion or union with another institute involved the suppression of at least one of the religious institutes. They referred to it as "an indirect or special suppression." As one commentator noted, "the fusion of many religious institutes into one always results in the suppression of the moral person of each of them, or at least of one of them."²³ Therefore, canon 493 was applied:

Every Institute, even if only diocesan, once legitimately established, even if it possesses only one house, cannot be suppressed except by the Holy See, to which is reserved in this case

²² C. 1428, §1.

²³ J. MOTHON, *Institutions canoniques*, Paris, Desclée de Brouwer, 1922-1924, T. 1, p. 400: "Comme de la fusion de plusieurs instituts religieux en un seul résulte toujours la suppression de la personne morale de chacune d'elles, ou d'au moins de l'une d'entre elles [...]"; see also R. NAZ, *Traité de droit canonique*, Paris, Letouzey et Ané, 1949, T. 1, p. 565, n. 811.

the disposition of the property, always, however, without prejudice to the wishes of the donors of the property.²⁴

The obvious application of this canon was the issue of cessation of a religious institute through an act of suppression. It stated that it was only the Holy See which had the competency to suppress a religious institute and that the disposal of the temporal goods of the suppressed institute was reserved exclusively to it,²⁵ observing the will of the donors.

A number of commentators explained that there was a distinction between the extinction and the suppression of a religious institute. The first happens as a result of a lack of members and the lapse of one hundred years (c. 102, §1), whereas the suppression of a religious institute is a

²⁴ "Quaelibet religio etiam iuris dioecesani tantum, semel legitime condita, etiamsi unica domo constet, supprimi nequit nisi a Sancta Sede, cui etiam reservatur de bonis in casu statuere, semper tamen salva offerentium voluntate," CIC, 1917, c. 493. See also *Codex iuris canonici, Canonical Legislation Concerning Religious*. Authorized English translation, Città del Vaticano, Libreria Editrice Vaticana, 1949, c. 493, p. 10.

²⁵ A. LARRAONA, "De erectione et suppressione religionis, provinciae, domus: canon 493", in *CpR*, 5(1924), p. 258, further emphasized: "Proinde, semper et in omnibus casibus prorsus incompetentes sunt ad Religionum suppressionem non solum potestas saecularis (146) sed etiam potestas ecclesiastica pontificia inferior."

decision motivated by grave and serious reasons and reserved to the Holy See.²⁶ A. Larraona noted:

A religious institute may perish *intrinsically* or *extrinsically*. To cease *intrinsically* or due to internal causes is known as *EXTINCTION*. This may not occur because of the destruction or cessation of the original aim (the sanctification of the members never ceases, but its specific purpose may cease, partially and gradually; the religious institute, however, does not cease by law but is either changed or suppressed by ecclesiastical authority); but occurs only, according to the tenor of the law, when there is a lack of members, (c. 102, §1). Ceasing to exist *extrinsically*, is called suppression, and it is nothing other than the act of competent authority, contrary to the act of erection and destructive of this latter. In the Code these words *suppression* and *extinction* are often used indiscriminately, the one for the other, and the exact meaning is to be sought from the context. See also Cc. 102, §1; 494, §2; 1501.²⁷

²⁶ See H. BALMÈS, *Les religieux à vœux simples d'après le Code*, San Giorgio Canavese, Chez l'auteur, 1921, pp. 35-36; J. PEJSKA, *Ius canonicum religiosorum*, Friburgi Brisgoviae, Herder & Co., 1927, p. 75; A. VERMEERSCH & J. CREUSEN, T. 1, 1933, p. 434, no. 600; F. WERNZ & P. VIDAL, *Ius canonicum*, Romae, Apud Aedes Universitatis Gregoriana, 1933, T. 3, pp. 62-63, no. 64; T. SCHAEFER, *De religiosis ad normam Codicis iuris canonici*, 4th edition, Roma, Typis Polyglottis Vaticanis, 1947, pp. 112-113, no. 273.

²⁷ A. LARRAONA, "De erectione et suppressione religionis, provinciae, domus: Canon 493", p. 256, footnote 140: "Religio perire potest ab *intrinseco* et ab *extrinseco*. Cessatio ab *intrinseco*, seu ex causa interna, appellatur verbo proprio *EXTINCTIO* et locum habere potest non ex destructione vel cessatione finis (*genericus*, id est sanctificatio membrorum nunquam cessat, *specificus* potest quidem partim et gradatim cessare sed non inde perit ipso iure Religio sed ab auctoritate ecclesiastica vel transformatur vel supprimitur) sed tantum, ad normam iuris, ex defectu membrorum (can. 102 §1). Cessatio ab *extrinseco* nuncupatur suppressio et aliud non est quam actus competentis auctoritatis actui erectionis contrarius ipsumque destruens. In Codice tamen haec verba, *suppressio*

Besides instances of extinction and suppression, the commentaries of A. Larraona,²⁸ M. Coronata,²⁹ F. Geser,³⁰ and L. Fanfani³¹ noted that a religious institute can also cease to exist through union with another religious institute.

J. Mothon and other canonists noted that since "the suppression of any institute, even if diocesan, is reserved to the Holy See, it follows that all fusions or unions of several institutes, even diocesan, are reserved to the Holy See alone."³² R. Naz notes, on the other hand,

et extinctio, promiscue usurpantur et ex contextu verus sensus eruendus est. Cfr. cc 102 §1, 494 §2, 1501."

²⁸ A. LARRAONA, "De erectione et suppressione religionis, provinciae, domus: canon 493", p. 258, (d): "[...] Suppressio reservata S. Sedi est, non solum suppressio explicita et directa sed etiam indirecta et implicita, quae in fusione duarum Religionum vel in transformatione substantiali Religionis contineretur."

²⁹ M. CORONATA, Vol. I, Book II, p. 628, no. 515, (c): "Exstingui etiam potest per unionem cum alia religione."

³⁰ See F. GESER, *The Canon Law Governing Communities of Sisters*, St. Louis, B. Herder Book Co., 1939, p. 145, no. 111, "by uniting with another religious institute."

³¹ See L. FANFANI, *De iure religiosorum*, Rovigo, Istituto Padano di Arti Grafiche, 1949, p. 31, no. 15: "Ordo seu Congregatio religiosa etiam per unionem cum alia Religione extingui potest; sed hoc quoque nonnisi cum licentia S. Sedis."

³² J. MOTHON, T. 1, p. 400: "[...] et que la suppression d'un institut quelconque, même diocésan, même ne possédant qu'une seule maison, est réservée au Saint-Siège, il s'en suit que toute fusion, ou union de plusieurs

that bishops can bring about a fusion of several congregations if they have the authorization of the Holy See, since it is at the cost of suppressing at least one of them.³³

There is ample evidence to show that although there were not explicit canons addressing the question of union of religious institutes, some knowledge and jurisprudence were available. While canon 493 is solicitous about the suppression of religious institutes, other concerns such as extinction from lack of members or the revival of religious institutes were left to experts in canon law. Additional matters fell under the common law of the moral person, or

instituts, même diocésains, en un seul, est réservée au Saint-Siège."

See also A. TABERA ARAOZ, *Derecho de los religiosos*, Madrid, Cocala, 1948, p. 41, no. 30, 3: "Por unión con otra Religión - Para hacer esta unión, sólo es competente la Santa Sede"; E. JOMBART, *Manuel de droit canonique*, Paris, Beauchesne et ses Fils, 1949, p. 166, no. 263: "Il faudrait recourir au Saint-Siège pour fusionner deux congrégations, car cela équivaudrait à en supprimer au moins une"; J. SANABRIA, *Derecho de religiosas*, Mexico, Editorial Josefina, 1956, p. 40, no. 25, 2: "Sólo la Santa Sede puede unir una Religión a otra. En este caso la Religión unida desaparece jurídicamente y pasa a formar parte de otra. Esta anexión es una forma velada de supresion."

³³ R. NAZ, *Traité de droit canonique*, T. I, p. 565, no. 811: "Il ne leur (les évêques) est pas permis, sans l'autorisation de Rome, de fusionner plusieurs congrégations, ce qui revient à en supprimer au moins une."

were decided by the principles of religious law, or were treated as special cases.³⁴

II. PERTINENT CANONICAL LITERATURE (1917-1962)

While there is a scarcity of material in regard to the subject, this section will attempt to highlight some of the significant canonical considerations on the question of union of religious institutes following the promulgation of the Code of Canon Law of 1917 and up to the Second Vatican Council.

One of the first expositions on union of religious institutes was a study by F. Maroto on the union of monasteries of women to a religious congregation under a common central government.³⁵ This recapitulation offers an overview of the canonical considerations involved in the unification of independent monasteries which had the same founder and scope. The author focused on the evolution of single

³⁴ A. LARRAONA, "De erectione et suppressione religionis, provinciae, domus: canon 493", pp. 256-257.

³⁵ F. MAROTO, "De unione plurium monasteriorum muliebrium", in *CpR*, 3(1922), pp. 305-317. P. Maroto had been the canonical advisor for the union of the Congregation of the Teaching Sisters of Mary Immaculate, "Decretum Pro Uniendis in Congregationem Domibus Sororum Docentium A Maria Immacolata", 12 March 1921; see J. LOZANO, "Insegnanti di Maria Immacolata, Missionarie Claretiane, Religiosas de Enseñanza de Maria Immaculada, Misioneras Claretianas", in *Dizionario degli istituti di perfezione*, (=DIP), Diretto da GUERRINO PELLICCIA (1962-1968) e da GIANCARLO ROCCA (1969-), Roma, Edizioni Paoline, Vol. 4, cols. 1713-1714.

monasteries into monasteries united by a common rule and a common purpose. The union of several houses with the same government and the same superior general was promoted in an effort to provide mutual assistance and to help the congregations to be more effective in their scope as well as to resolve more effectively certain problems relative to formation and to papal enclosure.³⁶

In addition, the role of both the Holy See and of the members of the institute was discussed. In the case of union of monasteries, the Holy See usually accedes to the union. However, before granting the request it examines the intentions of the sisters to see if they freely want it; in addition it requires that a chapter be convened in each house and that each sister have the opportunity for a secret vote; it also asks for the opinion of the bishops of the dioceses where monasteries or houses exist, and provides options for those members who are not favorable toward the union.³⁷ Finally, once all is clarified, the

³⁶ F. MAROTO, "De unione plurium monasteriorum muliebrum", p. 305, nos. I & II.

³⁷ *Ibid.*, p. 306, no. IV: "Attamen Sancta Sedes caute ac lente procedit, antequam unionis Decretum edat; et prius accurate perpendit utrum omnia concurrant quae requiruntur ad eiusmodi uniones suaviter et efficaciter perficiendas, maxime autem inquit de voluntate omnium Sororum utrum nempe ipsae libenter adhaereant necne propositae unioni; nam profecto Sancta Sedes invitas Religiosas nequaquam compellit ad unionem subeundam. Ideo solet iubere ut fiat praevia exploratio circa voluntatem uniuscuiusque singillatim Religiosae; requirit praeterea ut

Holy See issues the decree of union prescribing for its execution and setting forth some fundamental norms of application.³⁸

The members of the monasteries have the right either to accept or to reject the union. If the major part of the house votes for the union, it enters the union; but, if the major part of the house votes against the union, the house remains outside of it.³⁹ If the part which is against the union is not so great, so that moral unanimity exists then the house is aggregated to the union.⁴⁰ For those members whose will is different from that of the majority, whether for the union or against it, the Holy See alone provides the freedom, where the opportunity exists, to request a transfer to another house of the union or to one outside of it. Those members who are

in singulis Domibus omnes Moniales, capitulariter convenientes, propriam voluntatem suis secretis suffragiis ostendant de acceptanda vel reiicienda unione. Simul etiam audiuntur locorum Ordinarii in quorum Dioecesibus extant Monasteria seu Domus, quae ad unionem invitantur."

³⁸ *Ibid.*, pp. 306-307, nos. III-VIII.

³⁹ *Ibid.*, pp. 306-307, no. VI: "Quaeret forte quispiam quomodo definiatur an ista vel alia Domus sit necne unioni adscribenda. Igitur regula generatim desumitur ex suffragiorum. Si proinde in aliqua Domo maior Religiosarum pars non consentiat unioni, Domus illa relinquitur extra unionem [...]."

⁴⁰ *Ibid.*, p. 307, no. VI: "[...] Sed cum pauciores sunt Religiosae quae consensum non praebent unioni, ita ut habeatur fere suffragiorum unanimitas, moraliter sumpta, tunc, nisi aliud obstet, unioni adscribitur Domus [...]."

in the houses outside the union relinquish the status of the union but remain *bona fide* members of the houses of the Congregation and retain their former status. They do not enjoy the rights or the obligations of the union, but they are accountable to the local superior.⁴¹

In this situation, the new ongregation would be an institute of simple vows, even if all or most of the houses were of solemn vows. The sisters who had solemn vows remain with them; but in the future only simple vows are to be made. The papal enclosure will also cease, although this is not always applied in the strict sense. For example, the Ursuline Union, because of the different regions, established a distinction between those houses where solemn vows and papal enclosure are observed, and those where only simple vows are made and episcopal enclosure is applied.⁴²

The above case was not a union of two or more distinctly erected congregations but the unification of monasteries of the same founder. Nonetheless, these canonical formalities could also be applied to other types of union.

⁴¹ See *ibid.*, pp. 306-307, nos. IV-VII.

⁴² See *ibid.*, pp. 307-308, nos. IX-X.

A. Union: Types and juridic effects

In the years following the promulgation of the Code a small group of canonists offered general reflections on the topic and described the necessary steps involved in the preparation and realization of unions. D. Fohl noted that there are different forms of union, from the simple convention of cooperation, through the varied types of federative statutes to that of fusion.⁴³ In spite of the ambiguity in the understanding and implications of the notions of "fusion" and "union", two descriptions of unification remained fairly consistent. One type, the "extinctive union", occurs when one congregation is absorbed by another; the second, when two or more congregations unite to form a new congregation with new constitutions.⁴⁴

The first type would be the passage of one congregation to another, the former one adopting the constitutions, name, habit, and way of life of the

⁴³ J. FOHL, "Chronique de droit des religieux", in *L'Année canonique*, 4(1956), p. 187.

⁴⁴ J. CREUSEN, *Religieux et religieuses*, Bruges, Desclée de Brouwer, 7^e ed., 1957, p. 31, no. 29: "Elles ont d'ailleurs des formes diverses: l'union extinctive par laquelle une Congrégation est absorbée par une autre plus importante; la constitution d'un nouvel Institut qui réunit deux ou plusieurs Congrégations du même genre. Dans tous les cas, le recours au S.-Siège est exigé."

receiving congregation.⁴⁵ Although it meant the complete absorption of the one congregation by the other, it provided the former institute the opportunity to live a more normal and fruitful religious life. On the one hand, the canonical term "extinctive union", implied an indirect suppression and the dissolution of the moral personality of the absorbed congregation; on the other hand, in the one and same decision, the members, the houses, and the entire patrimony of the congregation were united to the receiving congregation.⁴⁶

The second type occurred when two or more congregations whose situation was more or less the same decided to form a new congregation with new constitutions.⁴⁷ In the act of union, the past history of each

⁴⁵ See E. BERGH, "Consultation: Fusion de Congrégations", in *Revue de communautés religieuses* (=RCR), 27(1955), p. 164; A. BOCQUET, "L'Union extinctive d'une congrégation religieuse à une autre", in *L'Année canonique*, 4(1956), p. 11.

See also J. FOHL, "Chronique de droit des religieux", p. 187; JEANNE D'ARC, "Les problèmes du nombre dans les congrégations religieuses", in *Supplément de la vie spirituelle*, 58(1961), pp. 414-415; J. GALLAN, "Practice of the Holy See", in *Review for Religious* (=RfR), 18(1959), pp. 78-79.

⁴⁶ For example, see E. BERGH, "Chronique: Fusion de deux congrégations", in RCR, 21(1949), p. 200; see also M. NEPPER, "L'Effort d'union dans les Congrégations françaises de Saint Joseph", in RCR, 35(1963), p. 37.

⁴⁷ See E. BERGH, "Consultation: Fusion de congrégations", p. 164; see also A. BOCQUET, "L'Union extinctive d'une congrégation religieuse à une autre",

congregation was inherited by all; the members and the patrimony of each congregation passed to the new congregation. The convergence of the congregations formed a new juridic entity; the former juridic entities were dissolved.⁴⁸

B. Preparation and responsibilities

The project of union requires prudent and careful planning. The serious nature and complexity of such a decision supposes a "spiritual choice" on the part of the congregation as well as the bishops in question and other interested parties. Although the primary motive of the project is the desire to do the will of God and to make a decision for the greater good of all, it also necessitates

emphasized in note no. 4, pp. 11-12: "J'éviterai de parler d'un autre mode de fusion évoqué par le P. Bergh et qui consisterait à supprimer deux instituts religieux pour constituer, avec leurs membres, leurs maisons et leur patrimoine, un troisième et nouvel institut."

In France, some congregations have been legally approved by the government while others, although established congregations are not legally recognized. This poses special problems concerning "fusion" and the property and goods of the congregation, see A. LAVAGNE, "Deux problèmes congréganistes devant le droit administratif français", in *L'Année canonique*, 8(1963), pp. 195-196.

⁴⁸ Descriptions of such a union are cited by E. BERGH, "Chronique: Fusion de deux congrégations", in *RCR*, 25(1953), pp. 28-31: "Congrégation des Soeurs de l'Enfant-Jésus" see also J. FOHL, "Chronique de droit des religieux", in *L'Année canonique*, 4(1956), p. 187: "Union S.-Dominique"; M. NEPPER, "L'Effort d'union dans les Congrégations françaises de Saint-Joseph", pp. 37-38: "Congrégation de Saint-Joseph de Vivers", "Congrégation des Soeurs le Saint-Joseph de Rodez."

sensitive attention to the human and psychological dimension of the enterprise.⁴⁹

In the face of few, if any, new members and the problem of maintaining the works of the institute, it is natural that superiors of a religious institute become preoccupied about the future of the institute and a possible solution for the dilemma.

Usually, the superior general and council would be the first to examine the possibility of union. If, after the initial discussion, prayer, and reflection, the majority of the council favors a fusion, a more detailed preparation would be initiated. Although both types of unification would be considered it is rare that the second type would be chosen. Even though the consequences are painful, more than likely, the superior general and council would choose to become a part of a more flourishing institute since the unification of several congregations to form a new institute is rare.⁵⁰

Directed by faith, the superior general and council first reflect, then seek to find a solution to the problem

⁴⁹ See E. BERGH, "Consultation: Fusion de congrégations", pp. 167-169; see also A. BOCQUET, "De l'union extinctive d'une congrégation religieuse à une autre", pp. 12-13.

⁵⁰ See E. BERGH, "Consultation: Fusion de congrégations", pp. 168-169.

of maintaining the works of the congregation as well as one that would serve the good of the members. It would be necessary for the superior general and council to assess the situation of the congregation: ageing membership, fewer vocations, and consideration for the spiritual élan of the members. They would also need to take into account the financial situation and the availability of members suitable for government or other responsible positions. All these factors must be addressed with great care and without prejudice.⁵¹

Within this time, the superior general would seek the counsel of and present the necessary information to the ordinary of the motherhouse.⁵² If the bishop's response is favorable, the superior general would begin to search for a congregation which would be receptive to the idea of a possible union. Information on the spiritual, disciplinary, apostolic, and financial status of the congregation would be available to the prospective congregation.⁵³

⁵¹ *Ibid.*, "Consultation: Fusion de congrégations", pp. 165 and 167.

⁵² A. BOCQUET, "De l'union extinctive d'une congrégation religieuse à une autre", p. 12: "Les Ordinaires [...] il est leur droit strict de décider, en premier, de l'opportunité de l'union [...]."

⁵³ See E. BERGH, "Consultation: Fusion de congrégations", p. 169.

Once the superior general and the general council of the prospective congregation made the decision in favor of the union, the two superior generals and their councils would begin a more intense preparation for the fusion. All must be prepared in a spirit of mutual understanding and sincere humility as well as with respect for the history and work of the other. Plans would be made that would assist the members in the transition: common retreats, discussion, or study days. For a specified period of time, certain affairs in regard to assignment of members or the sale of property may require consultation of the superior general of the institute that will be absorbed.

During this time, it would be necessary for the superior general and council of the congregation requesting the union to present the proposed project to the members of the congregation for their advice. A climate of respect and charity will help to keep the discussions and preparations focused on religious life, on the vows, and above any sentimental attachments and egoism.

It would also be necessary for the members to have a clear canonical understanding of the project of union and of the options available to them: either to accept the union, to seek a transfer to another congregation, or to

seek an indult of secularization.⁵⁴ The members also would be advised that if the union is realized, they would retain the rights attached to their time of profession.⁵⁵ Those members of the suppressed institute who refuse the affiliation to the designated institute cannot, whatever their number or titles, retain the moral personality of the suppressed institute and continue under the same name or give it another name unless the Holy See would decide otherwise.⁵⁶ If it is possible, the question would be examined by the general chapter, if not, the superior general should meet with all the local superiors or at least write for their advice.

Although it is not a juridic norm, it is wise for the superior general of the "adopting" congregation to

⁵⁴ See E. JOMBART, "Démembrement d'un Institut", in RCR, 15(1939), p. 160; E. BERGH, "Chronique: Fusion de deux congrégations", p. 30; *ibid.*, "Consultation: Fusion de deux congrégations", pp. 169-170; A. BOCQUET, "De l'union extinctive d'une congrégation religieuse à une autre", p. 12.

⁵⁵ See E. BERGH, "Chronique: Fusion de deux congrégations", p. 30; *ibid.*, "Consultation: Fusion de congrégations", 27(1955), p. 169; J. GALLEN, "Practice of the Holy See", in RfR, 18(1959), p. 78.

⁵⁶ A. BOCQUET, "De l'union extinctive d'une congrégation religieuse à une autre", p. 12, explains: "J'insiste encore pour que l'on sache bien que les membres de l'institut supprimé qui refuseraient l'affiliation à l'institut désigné ne sauraient, quel que soit leur nombre ou leurs titres, prétendre - le fait s'est rencontré - conserver à leur groupe dissident la personnalité morale de l'institut supprimé et lui donner survie sous un vocable ou un autre."

inform the members of the decision and to explain the situation, in order to prepare them spiritually and psychologically for the new members.

C. Canonical formalities

As with the union of benefices certain formalities would be required: reasons for the union and consultation or vote of the interested parties. In addition, a petition for the union from the interested parties would be necessary.

1. The Ordinaries and the canonical adviser

It is advisable that early in the project, the superiors general and councils would have the assistance of a canonical adviser. Sometimes the bishop of the diocese of the motherhouse or the Congregation for Religious would mandate someone to fulfill this role.⁵⁷

The adviser should have the necessary authority, be knowledgeable of the subject, sensitive to the history and to the members of the congregation, while possessing the proper canonical expertise to assist the congregation through the various stages in its project of union. A

⁵⁷ See E. JOMBART, "Projet de fusion", in *RCR*, 20(1948), p. 119; E. BERGH, "Consultation: Fusion de congrégations", p. 165; A. BOCQUET, "De l'union extinctive d'une congrégation religieuse à une autre", p. 12.

canonical adviser also allows the ordinary to play more of an arbitration or listening role in such a delicate matter.⁵⁸ It is also foreseeable that some superiors general would not be able to assume a leading role in guiding the congregation to decision; therefore a third party would be most helpful. Due to particular circumstances, the Apostolic See may appoint an apostolic visitor with this responsibility.

2. The required vote of the members

When it is opportune, the question of union is placed before all of the members of the requesting institute for a secret vote⁵⁹ because a fusion would bring about a substantial change of the constitutions and regulations.⁶⁰ Although the affiliation is realized as a group, it remains an individual choice.⁶¹

⁵⁸ See A. BOCQUET, "De l'union extinctive d'une congrégation religieuse à une autre", pp. 12-13.

⁵⁹ See J. FOHL, "Chronique de droit des religieux", p. 187.

⁶⁰ See E. BERGH, "Consultation: Fusion de congrégations", p. 169, believed that Canon 101, §1, n. 2 would apply.

⁶¹ A. BOCQUET, "De l'union extinctive d'une congrégation religieuse à une autre", p. 12: "[...] transfert des oeuvres et surtout affiliation -- toujours individuelle, même si elle se réalise en groupe compact -- des membres de l'institut supprimé à un autre."

If a great majority of the members voted in favor of the union, then the superior general and the general council would petition the Holy See for union. The canonical adviser would assist in preparing the formal petition.⁶²

3. The contents of the petition

The petition to the Congregation of Religious should have three parts. The first would include: 1) the motives for the union; 2) an historical exposé of the origin and status of the congregation seeking the union, together with other data relative to the state of the patrimony, the financial situation; 3) information about the members, houses, the works, and a projection of the future of the congregation. The second part would contain: the name, the history, and state of the congregation which would receive the first one. It would also include letters of acceptance from the members of the congregation seeking the union, from both of the superiors general and their councils, as well as the letters of acceptance from the bishops of the motherhouses. If a house would be suppressed in other dioceses, letters of acceptance of the union would

⁶² E. JOMBART, "Demembrement d'un institut", p. 160; see *ibid.*, "Projet de Fusion", p. 118; see E. BERGH, "Consultation: Fusion de congrégations", pp. 167-169; A. BOCQUET, "De l'union extinctive d'une congrégation religieuse à une autre", p. 14.

be necessary from the bishops in question. The third part would comprise the conditions which would enable the realization of the union, including an interim plan for government and the formation of new members. The modalities for the transmission of the houses and temporal goods, the incorporation of the members of the joining institute, and the provisions for those members who would not choose the union would also be contained in this part. The results of the secret vote should also be attached.⁶³

4. The decree of union

Although the Congregation for Religious had been cautious and discrete about the union of religious institutes, in respect for the acquired rights of the religious institute and the fear that it would disturb the community life of a congregation, nonetheless it has recognized and facilitated unions of religious institutes when the necessity was evident.⁶⁴ It would carefully consider all the information, the votation of the members, and, in particular, study the advice of the ordinaries and other interested bishops. If the Congregation for Religious

⁶³ A. BOCQUET, "De l'union extinctive d'une congrégation religieuse à une autre", pp 14-15; see also J. GALLEN, *Practice of the Holy See*, p. 78.

⁶⁴ E. BERGH, "Consultation: Fusion de congrégations", p. 164; A. BOCQUET, *De l'union extinctive d'une congrégation religieuse à une autre*, p. 11.

gave an affirmative decision, the decree of union would be issued.

Usually the introductory paragraph of the decree contained a brief history of the congregation. The dicastery would also mention that the circumstances prompting the petition as well as the consent of the members and of the ordinaries have all been considered.

The Holy See would usually determine the modalities of the union and mandate its execution to one of the interested ordinaries.⁶⁵ The execution includes the notification to the interested ordinaries, the two superiors general or the general chapters or houses of the "absorbed" congregation. The decree would anticipate a complete union of members and goods, saving the will of the donors. When the decree of union is executed, each member who would choose to enter the union would express this freely in writing.⁶⁶ The executor of the decree would be expected to send an account of the proceedings to the Congregation for Religious.

⁶⁵ E. BERGH, "Chronique: Fusion de deux congrégations", 21(1949), p. 200; *ibid.*, "Fusion de deux congrégations", 25(1953), p. 30. For the modalities of the execution of a decree, see also A. BOUQUET, "De l'union extinctive d'une congrégation religieuse à une autre", p. 16.

⁶⁶ For examples of several decrees of union, see F. MAROTO, "De unione plurium monasteriorum muliebrum", pp. 308-317.

The canonists stress the necessity of creating and maintaining a spirit of charity, humility, and mutual understanding from the time of the preparatory steps to the realization of the union.

III. INFLUENCE OF POPE PIUS XII

Throughout his pontificate, Pius XII raised many concerns about religious institutes. On numerous occasions, in discourses, letters, and addresses to various congresses, he spoke of the diverse gifts of religious institutes, encouraged religious to renew yet to safeguard their original spirit, and to update their way of life.⁶⁷ Superiors were exhorted to respect the liberty of the members, to be wise and sensitive in their governance, and to see that the members were adequately prepared for their apostolate.

It was also a time when efforts were made to encourage mutual relations and greater cooperation and when

⁶⁷ Important among these are: Allocution, *Annus sacer* (to the participants of the first international congress of religious), 8 December 1950, in AAS, 43(1951), pp. 26-36; Allocution, *Nous vous adressons* (to the participants of the first international congress of superiors general of Congregations of pontifical right), 15 September 1952, in AAS, 44(1952), p. 825; Allocution, *Sous la maternelle* (to the members of the second general congress of the states of perfection), 9 December 1957, in AAS, 50(1958), pp. 34, 38; Allocution, *Haud mediocri* (to the superiors general of religious Orders and Congregations of men), 11 February 1958, in AAS, 50(1958), pp. 153-161.

the climate was quite favorable for a closer juridical union among religious congregations. Prior to the Apostolic Constitution, *Sponsa Christi*, several federations of monasteries had occurred in France. In 1946, the Congregation of Religious approved the federation and the statutes for the monasteries of the Canonesses Regular Hospitallers of the Mercy of Jesus of the Order of St. Augustine. The federation, originally proposed by the Canonesses in 1937, was commended by Pius XII in 1939.⁶⁸ It would promote a spirit of unity and action but would respect the autonomy of each monastery, and each superior would remain a major superior. The Congregation of Religious, however, advocated a "stricter" union. Despite this response, Mother Yvonne-Aimée, the president of the Council of the Order, pleaded their intent, and after a meeting of the superiors, submitted the statutes according

⁶⁸ See PIUS XII, "Le benemerenze di un'eletta famiglia religiosa", Capitolo Generale delle Canonichesse Regolari di S. Agostino della Unione Romana, July 21, 1939, in *Discorsi e radiomessaggi di Sua Santità Pio XII*, Città del Vaticano, Tipografia Poliglotta Vaticana, 1955-1959, Vol. I, pp. 278-279: "Nous sommes heureux de voir, avec la fidélité essentielle aux origines de l'Institut, un autre trait, nouveau celui-là, dans la Congrégation de Notre-Dame au XXIème siècle. Vous avez compris, dans un monde avide d'instruction et devant une jeunesse féminine menacée en bien des pays par l'éclat d'un enseignement athée, vous avez compris l'utilité de l'union entre vos diverses maisons, pour coordonner et mieux répartir ensuite, à l'aide d'une Supérieure générale, les ressources intellectuelles dont dispose l'ensemble."

to the instructions from the Congregation.⁶⁹ The major objection of the Prefect of the Congregation was that canon law did not provide for a federation between monasteries of women, nor was there a precedent for such an organisation between independent monasteries of women.⁷⁰ G. Sauvage, a canonist, beseeched Rome to give authorisation for the project for six years, but this, too, was refused. Father Sauvage encouraged Mother Yvonne-Aimée and the Augustinians to continue to follow the project in hope that one day they would obtain canonical approval. After the Second World War, the superiors of the monasteries met to pursue the project and to elect a president for the federation. The Congregation of Religious gave official approbation on September 12, 1946. Thirty-two monasteries from England, France, and South Africa formed the Federation of the Canonesses of St. Augustine of Our Lady.⁷¹ The superior of the federation, assisted by a general council, would coordinate the intellectual and material goods for the welfare of all.

Mother Yvonne-Aimée met with Pius XII in the same year. The future Apostolic Constitution, *Sponsa Christ*,

⁶⁹ R. LAURENTIN, *Un amour extraordinaire: Yvonne-Aimée de Malestroît*, Paris, O.E.I.L., 1985, pp. 157-158.

⁷⁰ *Ibid.*, p. 159.

⁷¹ *Ibid.*, pp. 191-192.

and the Instruction, *Inter praeclara*, would reflect the essential aspects of the French federation of the Canonesses of St. Augustine: autonomy of the monasteries that comprised the federation, a coordinated effort of the members in order to preserve a unity of spirit and action, and the establishment of a common novitiate.

The federation of the monasteries of Our Lady of Charity was also approved by the Holy See in 1946. The purpose of both of these federations was to provide a better government, a more solid formation of novices, and a better preparation for their apostolate, while maintaining the autonomy of the monasteries. Although the statutes were brief, they defined the authority of the general chapter of the federation, the role of the superior general, and the composition and responsibility of the council of the federation. The Holy See was most favorable toward the efforts for coordination and mutual assistance expressed by these two federations.⁷²

In addition to the Apostolic Constitutions, *Provida Mater*,⁷³ and *Sedes Sapientiae*,⁷⁴ *Sponsa Christi* is considered

⁷² E. BERGH, "Fédérations de Monastères", in *RCR*, 21(1949), pp. 81-85.

⁷³ See PIUS XII, Apostolic Constitution, *Provida Mater*, 2 February 1947, in *AAS*, 39(1947), pp. 114-124.

⁷⁴ See *ibid.*, Apostolic Constitution, *Sedes sapientiae*, 31 May 1956, in *AAS* 48(1956), pp. 354-365.

one of the three important acts of Pius XII which affected religious life. For this reason, it is particularly important for our subject.⁷⁵

A. Apostolic Constitution *Sponsa Christi* (1950)

In 1947, on the occasion of the fourteenth centenary of the death of St. Benedict, Pius XII, recalled the fruitfulness of the different unions of Cluny and Bursfeld as well as the lasting federation of the "Black" Benedictines of 1893. He noted that a federation provides mutual assistance and fraternal support in the progress of discipline, yet respects the autonomy of the monasteries. He also noted, however, that the autonomy of a monastery could be too jealously guarded, that due to lack of religious some monasteries would be less able to fulfill their charges, could languish and could even slide into dangers.⁷⁶ In the forward of *Sponsa Christi*, he applied this message to monasteries of nuns. A federation would provide a structure for the better distribution of offices, temporary transfer of individual religious, mutual economic

⁷⁵ See *ibid.*, Apostolic Constitution, *Sponsa Christi*, 21 November 1950, in AAS, 43(1951), pp. 5-24. English translation in T. BOUSCAREN, *Canon Law Digest: Officially published Documents affecting the Code of Canon Law (=CLD)*, Milwaukee, Bruce Publishing [c1934- , Vol. III, (1942-53), pp. 221-239.

⁷⁶ PIUS XII, Homily, *Exsultent hodie*, 18 September 1947, in AAS, 39(1947), pp. 454-455.

assistance, and coordination of works.⁷⁷ Furthermore, changed circumstances even necessitated this movement.

The Apostolic Constitution *Sponsa Christi* was issued a few days before the General Congress on the States of Perfection. It specifically addressed issues faced by contemplative women religious. Pius XII voiced concern for the vitality and effectiveness of cloistered life and directly encouraged the institutes to attend to the domestic difficulties that existed in some of the monasteries. The Constitution also underlined the need for institutes to eliminate those elements which were not necessary or useful for their life: "These, if they are found to be no longer of any use or liable to hinder greater good, seem to have no special reason for being preserved."⁷⁸

Particularly relevant to the topic of this study, is the fact the *Sponsa Christi*, and the Instruction, *Inter praeclara*,⁷⁹ officially proposed unions of monasteries as

⁷⁷ *Ibid.*, *Sponsa Christi*, p. 13.

⁷⁸ *Ibid.*, p. 10: "Quando haec, vel iam prosunt, vel maius bonum impedire valent, nulla speciali ratione servanda videntur." English translation in *CLD*, Vol. III, p. 227.

⁷⁹ Sacra Congregatio de Religiosis, Instruction *Inter praeclara*, 23 November 1950, in *AAS*, 43(1951), Part II, pp. 41-44. English translation in *CLD*, Vol. III, pp. 244-247.

well as the establishment of federations of *sui iuris* monasteries. The 1917 Code in canon 488, §2, defined a monastic congregation as a union of several independent, (*sui iuris*) monasteries under one and the same superior.⁸⁰

Sponsa Christi highly recommended a federation of monasteries, "not only as a safeguard against the evils and inconveniences which can arise from complete separation, but also a means of promoting regular observance and the life of contemplation."⁸¹ A federation is, in the broad sense of the word, a union of monasteries which respects the mutual liberty of the monasteries. It allows each monastery to maintain its "essential notion of autonomy."⁸²

As a rule, a federation of monasteries would not be imposed, but, due to the reason for their recommendation, the Congregation for Religious could, in particular cases, deem it necessary.⁸³ The Instruction *Inter praeclara*

⁸⁰ C. 488, §2: "[...] Congregationis monasticae, plurium monasteriorum *sui iuris* inter se coniunctio sub eodem Superiore [...]."

⁸¹ *Sponsa Christi*, Art. VII, §2, no. 2, p. 18: "[...], tamen a Sede Apostolica valde commendantur non solum ad mala et incommoda praecavenda quae ex plena separatione oriri possunt, sed etiam ad regularem observantiam vitamque contemplativam provehendam." English translation in *CLD*, III, p. 237.

⁸² *Ibid.*, pp. 18-19, Art. VII, no. 5.

⁸³ *Inter praeclara*, p. 41, Part II, no. XVII: "[...] "Etsi ex regula Foederationes non imponantur, (art. VII, §2, 2), rationes tamen ex quibus in genere commendantur,

presented the following general purposes and advantages of unions and federations: 1) the legally recognized faculty and the canonically sanctioned duty of mutual assistance; 2) the establishment of novitiates common to all or to a group of monasteries; 3) the faculty and the moral obligation, according to the defined and accepted norms of the federated monasteries, of mutually interchanging nuns who may be necessary for government; 4) the possibility of mutual temporary exchange of nuns for health, moral, or material need.⁸⁴

If, however, it were considered necessary or advantageous, certain equitable conditions and suspensions of the autonomy could be adopted, or, if there were movement toward an even more centralized government, it would become a matter reserved to the Holy See.⁸⁵

A confederation is made up of federations of monasteries.⁸⁶ Both the federation and the confederation

ita in casibus particularibus urgere possunt, ut omnibus perpensis, a S. Congregatione ipsae tamquam necessariae aestimentur."

⁸⁴ *Ibid.*, pp. 41-42, Part II, no. XXII.

⁸⁵ *Sponsa Christi*, Art. VII, par. 5, nos. 1 & 2, pp. 18-19. English translation in *CLD*, Vol. III, p. 237.

⁸⁶ *Ibid.*, Art. VII, par. 3, p. 18. English translation in *CLD*, Vol. III, p. 237.

are organized and governed by their own statutes⁸⁷ and subject to the Holy See for approval.

In 1951, the Congregation for Religious sent letters to the Apostolic legates and to the superiors of monasteries of nuns.⁸⁸ The following year, the Congregation for Religious issued decrees of appointment of delegates for the preparation of federations of monasteries.⁸⁹ In 1953, it also published general norms relating to the duties of the appointed delegates.⁹⁰ An increasing number of federations continued to be constituted so that by 1956, two-thirds of the monasteries of all orders had been federated or were in the process of doing so.⁹¹

⁸⁷ *Ibid.*, Art. VII, par. 4, p. 18. English translation in *CLD*, Vol. III, p. 237.

⁸⁸ "Textus Epistolae ad Legatos Romani Pontificis", 7 March 1951, see P. ABELLAN, in *Periodica de re morali canonica liturgica*, 40(1951), pp. 298-304.

⁸⁹ For example, see *L'Attività della Santa Sede*, 1952, pp. 174-175.

⁹⁰ J. OCHOA, *Leges Ecclesiae post Codicem iuris canonici editae*, Roma, Commentarium pro Religiosis, 1966, Vol. 2 (1942-1958), Circolare N. 2536/51, 15 December 1953, no. 2395, cols. 3229-3231: "Normae generales in foederatione monasteriorum monialium a delegatis observandae." See also *CLD*, Vol. IV, pp. 213-214, for a copy of the same formula.

⁹¹ See S. ALONSO MORAN, "Las federaciones de los monasterios de monjas", in *Revista Española de derecho canónico*, 9(1954), pp. 413-428, who noted that even before the Apostolic Constitution, *Sponsa Christi*, a number of ecclesiastical authorities had voiced concern for the spiritual and temporal well-being of monastic religious. Many monasteries were suffering from a lack of vocations,

Within this same time period (1952) the Constitution of the Benedictine Confederation was approved.⁹² The Confederation comprised not only the monastic congregations of the Black Benedictines, but also a number of religious Orders which followed the Rule of St. Benedict. The Constitution of the confederation was divided into three sections: the nature and the goal of the Confederation, its government, and the College of St. Anselm.⁹³ The Constitution also addressed the feminine counterpart of the Order. In summary, monasteries or federations of nuns attached or aggregated to a monastic congregation or a confederated monastery were attached to the Confederation or could be aggregated to it.⁹⁴

economic problems and from fewer members who were able to perform the responsible tasks. Alonso Moran believed that the idea of federation of monasteries promoted by *Sponsa Christi* and the instruction *Inter praeclara* would provide a solution to some of these problems; see also J. FOHL, "Chronique de droit des religieux", p. 185.

⁹² PIUS XII, Apostolic Letter, *Pacis vinculum*, 21 March 1952, in AAS, 44(1952), pp. 520-522; see also R. MOLS & E. BERGH, "La Confédération bénédictine", in RCR, 25(1953), pp. 65-71.

⁹³ J. OCHOA, *Leges Ecclesiae post Codicem iuris canonici editae*, Roma, Vol. II, SC Religiosorum, "Lex propria seu constitutiones confoederationis congregationum monasticarum ordinis Sancti Benedicti", 21 March 1952, Prot. No. 2070/52, no. 2269, cols. 3014-3027. In 1960, the Olivetans joined the Confederation, then the Vallombrosians and the Camaldolese in 1966 and the Sylvestrines in 1973.

⁹⁴ *Id.*, Title I, Chapter 3, col. 3016, (16).

B. The general congress of the states of perfection

The first Congress of Religious held in Rome from November 26 - December 8, 1950 is often regarded as the beginning stage of renewal of religious institutes. Major superiors of religious institutes of both men and women were invited by the Congregation for Religious to meet and discuss common interests and concerns. At the closing of the Congress, Pope Pius XII, in the allocution *Annus sacer*, called attention to the changing conditions of the world and the necessity for religious institutes to adapt to new, emerging needs of the time. He urged them to maintain a balance between their interior life and external works, to discard outdated customs, and to accomodate their habit and life style to the modern world lest old ways become a hindrance to their service to others. It was indeed a call to *aggiornamento*.

In addition to addressing the many topics related to the adaptation of religious life, the Congress also underlined the need for a spirit of unity among religious institutes.⁹⁵ Some of the presentations and discussions of the Congress mentioned different types of possible

⁹⁵ A. LARRAONA, "Votorum congressus recensio generalis", in *Acta et documenta Congressus generalis de statibus perfectionis* (=Acta et documenta, 1950), Roma, Libreria Internazionale Pia Società San Paolo, 1952-1953, Vol. 4, pp. 294-306.

relationships or regrouping among religious institutes. The Congress recognized the increasing need and number of unions of institutes, most of them motivated out of necessity or for the spiritual, temporal, and apostolic good of the institutes and also for the greater good of the Church. Aggregations, federations of monasteries, and different types of union of religious institutes were presented.

1. Aggregations

E. Wagner, in his lecture, described aggregation as a union, but merely spiritual. He stated more specifically:

Aggregation is an act of competent authority whereby a congregation, society or institute is recognized and admitted as a moral member to the institute to which it is aggregated; consequently it participates in the indulgences and spiritual graces of the aggregating institute.⁹⁶

Usually aggregation is between a second or third order and a first order. It requires that there be a similar spirit and life between the two.⁹⁷ E. Wagner concluded, however,

⁹⁶ E. WAGNER, "Argumentum I: Formae aggregationis, unionis, subiectionis inter diversas Religiones, Societates et Instituta saecularia", in *Acta et documenta*, 1950, Vol. 2, no. 152, p. 485: "Aggregatio est actus auctoritatis competentis quo religio, societas vel institutum agnoscitur et admittitur ut membrum morale religionis cui aggregatur, ut exinde participet indulgentias et gratias spirituales illius religionis."

⁹⁷ G. COCCHI, "Argumentum I: Formae aggregationis, unionis, subiectionis inter diversas Religiones, Societates et Instituta saecularia", in *Acta et documenta*, 1950, Vol. 2, no. 153, p. 499.

that intercongregational relationships should be encouraged and extended, in the sense "that a greater union and collaboration could strengthen the works of the apostolate and charity, in order to obtain the common goals efficaciously and securely."⁹⁸

G. Cocchi, from the Congregation for Religious, distinguished between four forms of aggregation. The first form is passive aggregation, which is not strictly juridical, rather it is a moral and spiritual relationship, based on canon 492, §1. The second form of passive aggregation is juridical and implies a state of dependency, of subjection of one religious institute to another as stated in canon 500, §1. The third form, active aggregation which is merely spiritual, and sometimes called affiliation, brings with it a sharing of the merits, prayers, good works, and suffrages of the aggregating institute. Finally, the last form presented is active aggregation, not merely spiritual, which takes place

⁹⁸ E. WAGNER, in *Acta et documenta*, 1950, Vol. 2, no. 152, p. 498: [...] "ut maior unio et collaboratio in apostolatus et caritatis operibus vires confirmaret ad fines communes efficaciter et secure obtinendos [...]."

through a special concession of the Holy See.⁹⁹ Cocchi concluded:

Through the process of aggregation whether active, passive, spiritual or juridical, with moderate dependency or with stricter dependency, the privileges of the aggregating religious institute do not belong to the aggregated congregation. In the case of active aggregation which is not merely spiritual, an aggregated congregation or secular institute obtains joint participation in indulgences and spiritual graces, but not juridical privileges. In the case of juridical aggregation with subjection, the Holy See grants joint participation of certain privileges, to the extent that the sisters are capable of exercising them.¹⁰⁰

The contrary happens in the case of fusion or union of a religious institute with another one, particularly one that pursues the same aim. The institute obtains all of the privileges, even the juridical privileges of the congregation or institute to which it has united.¹⁰¹

⁹⁹ G. COCCHI, a written response to "Argumentum I: Formae aggregationis, unionis, subiectionis inter diversas Religiones, Societates et Instituta saecularia", in *Acta ed documenta*, 1950, Vol. 2, no. 153, pp. 499-500, Part I, (2).

¹⁰⁰ *Id.*, no. 153, p. 504, part III: [...] "Porro, per aggregationem quaecumque sit eius forma (activa, passiva, spiritualis, iuridica, cum moderata dependentia, vel cum strictiori dependentia) privilegia Religionis aggregantis non competunt, de se, Congregationi aggregatae; ut diximus in casu aggregationis activae non mere spiritualis, Congregatio aggregata aut Institutum saeculare aggregatum obtinet comparticipationem quoad indulgentias et gratias spirituales, non autem privilegiorum iuridicorum: aliquando autem S. Sedes in casibus aggregationis iuridicae cum subiectione concedit comparticipationem privilegiorum quorundam in quantum Sorores sint capaces."

¹⁰¹ G. COCCHI, no. 153, pp. 504-505, part III.

2. Federations and confederations

Several discussions and papers focused on the topic of federations of monasteries of nuns.¹⁰² It was mentioned that there was an increasing desire and need for union of monasteries. This type of regime has existed among the monasteries of men for a long time. It has played a major role in protecting and maintaining the spiritual ardor and regular observance of monastic life. History has also shown that isolated monasteries have more seriously and more quickly experienced difficulties than those which had a general chapter and regular canonical visitations. According to J. Creusen, it may be necessary to suppress those institutes with few members so that the members may pass to a more flourishing institute.¹⁰³

¹⁰² U. BESTE, a written response to "Argumentum I: Accommodata renovatio sacri instituti Monialium, Quaestiones practicae", in *Acta et documenta*, 1950, Vol. 1, no. 39, p. 346, (1),: [...] "Unio foederativa, coalescens ex pluribus eiusmodi monasteriis quorum unumquodque conservat propriam suam independentiam et personalitatem iuridicam, in iure proprio nomine vocatur Congregatio monastica." See C. SARTORI, a written response to "Accommodata renovatio sacri instituti Monialium. Quaestiones practicae," in *Acta et documenta*, 1950, Vol. 1, no. 41, pp. 351-353. V. (a Jesu Maria) TIRADO, a written response to "Accommodata renovatio sacri instituti Monialium. Quaestiones practicae", in *Acta et documenta*, 1950, Vol. 1, no. 42, pp. 353-361.

¹⁰³ See J. CREUSEN, a written response to "Argumentum I: Accommodata renovatio sacri instituti Monialium. Quaestiones practicae", in *Acta et documenta*, 1950, Vol. 1, no. 40, p. 349, (1).

Federations were recognized as a remedy for monasteries having a smaller number of nuns or experiencing other serious problems. In addition to improving spiritual formation and discipline, a federation could also be a vehicle of mutual assistance; it could provide a common novitiate, the transfer or exchange of nuns between the member monasteries, and even economic assistance. It would be important, of course, that the federated monasteries belong to the same branch of the same order. An adviser (religious male) from the same Order to which the monasteries belong should be designated and authorized by the Holy See to bring about the purpose of the federation and to serve as the liaison between the federation and the Holy See.

G. Cocchi added, however, that federations may not be the answer for those monasteries involved in an educational ministry which can hardly be reconciled with the strict laws of enclosure. In this case, he stated that it would be preferable to adopt a moderately centralized government which would maintain, more or less, the autonomy of the monasteries. If needed, it could proceed to the properly centralized government of a generalate, provinces, and local houses.¹⁰⁴

¹⁰⁴ See G. COCCHI, a written response to "Argumentum I: Formae aggregationis, unionis", in *Acta et documenta*, 1950, Vol. 2, p. 507, no. 153, Part V, (4).

3. Other types of unions

J. Rousseau, consultor for the Congregation for Religious, focused on questions concerning the renewal of monastic religious. He suggested that a change in government structure through union of monasteries could bring about renewal. This could occur in two ways.

In the first place, it could occur through the fusion of several monasteries into one new religious society under the guiding hand of a supreme moderator. The united monasteries would no longer be seen as *sui iuris* but *sui societatis*; therefore they would be governed by the laws of the new religious society. In this kind of union, the autonomy of the monasteries would be radically revoked. Such a change in government would not leave the juridic structures of the monasteries intact, nor would it appear to achieve any advantages. Therefore, Rousseau said, it would not be considered advisable.¹⁰⁵

The other way whereby monasteries could be united is through an administrative federation, under the governance of a presiding general. Since the bonds of federation would not, strictly speaking, lead to a union of

¹⁰⁵ J. ROUSSEAU, "Argumentum I: Accommodata renovatio sacri instituti Monialium. Quaestiones practicae: renovatio instituti: quoad regimen Monasteriorum", in *Acta et documenta*, 1950, Vol. 1, no. 38, p. 343, part 5, §2,a.

monasteries, the monasteries remain *sui iuris*, in accordance with the Code, even though there may be some lessening in power. The federation does not affect the authority of the local ordinary vis-à-vis the monastery, nor does it imply any derogation of law.¹⁰⁶

It was held that there was an increasing necessity for the union of religious institutes either in the form of several religious institutes uniting (centralization of institutes) or of a confederation.¹⁰⁷ Centralization, according to Cocchi, is usually described as a government with three levels of authority: the generalate, the provincialate, and the local house, completely distinct one from another, yet fully subordinated to the higher level. In centralized institutes the general superior and the major superiors have all the powers accorded by canon 502. In a monastic congregation or a confederation, a prior general, even though called a "major superior" or in some cases a "superior general", does not enjoy the full authority and jurisdiction which Canon law attributes to the general superior and major superior, but the authority

¹⁰⁶ *Id.*, pp. 343-344, no. 5, §2,b.

¹⁰⁷ G. COCCHI, response to "Argumentum I: Formae aggregationis, unionis", in *Acta et documenta*, 1950, Vol. 2, no. 153, Parts IV-V, pp. 505-508.

is defined by the Constitutions and particular decrees of the Holy See.¹⁰⁸

C. Consequential developments

Many of the themes initiated at the first general congress continued to be developed and implemented in subsequent international and national congresses.

1. Closer collaboration among institutes

Almost immediately, religious men and women responded to the invitation for closer collaboration as is evident in the organization of associations for teachers and nurses as well as the organization of national congresses. Also realized within this same period of time was the organization of the permanent Roman Commission of Superioresses General and the Commission of General Superiors of men. Their purpose was to provide opportunity for communication between the religious institutes and the Holy See and to serve as a consultative group for the Congregation for Religious.¹⁰⁹

Another significant development during this time was the assembly of representatives of religious institutes

¹⁰⁸ *Ibid.*, p. 506, Part V, nos. 1-2.

¹⁰⁹ T. BOUSCAREN, "Some Recent Constructive Work of the Sacred Congregation of Religious", in *The Jurist*, 17(1957), pp. 383-402.

within countries. Some thirty-three national associations were organized in the 1950s alone. These organizations proved invaluable in promoting mutual relationships among religious institutes and in assisting them in their task of renewal and adaptation.¹¹⁰

2. Topic of union

There was also increasing awareness and concern for the excessive number of small institutes of the same religious family or with the same apostolic purpose.¹¹¹ P. D'Azy expressed the opinion that it was necessary for the Holy See to provide a solution for the small apostolic congregations as it has provided federation for the small

¹¹⁰ See G. NARDIN, *Il movimento d'unione tra i religiosi*, Roma, Commentarium pro Religiosis, 1961, 399p. This work was devoted to the entire movement of unity initiated by Pius XII, the juridical union of religious institutes, federation of monasteries, the different associations of teachers, nurses, etc. and, finally, to the organization or conferences of religious institutes within a country or region. Chapter II, Article III presented the development of the national and international organizations of religious.

See also G. SCAPINELLI DI LEGUINO, "Movimento d'unione e di federazione de religiose nel mondo: Direttive della Santa Chiesa" in *Acta et documenta Congressus internationalis superiorissarum* (=Acta et documenta, 1952), Roma, Editiones Paulinae, 1952, pp. 141-162.

¹¹¹ P. D'AZY, "La vie et l'avenir des petites congrégations de religieuses actives", in *Vocations sacerdotales et religieuses* (*Vocation*), 55(1955), pp. 42-48, 97-102; 152-160.

contemplative monasteries.¹¹² The reorganization of religious institutes by means of fusion or union would assist the coordination of apostolic services and reduce the duplication of houses of formation, levels of government and even the number of institutes with only a few members.

The necessity for closer juridical bonds or union between institutes was also addressed by some national congresses within this period. In 1956, T. Urdanoz, in an address at the National Congress of Perfection and the Apostolate in Madrid, spoke of three types of union: union of faith, union of charity, and union of mutual cooperation and assistance.¹¹³ The third type recommended different forms of common organization -- governmental and administrative -- between distinct branches of religious families. This vertical type of structure, also referred to as a common and centralized government structure, would be supported by the laws of the Church, assisted by the Congregation for Religious and the proper laws of the institutes.¹¹⁴

¹¹² *Ibid.*, pp. 157-158.

¹¹³ T. URDANOZ, "Unión de los religiosos entre si: Necesidad y fines de la unión", in *Actas del Congreso nacional de perfección y apostolado*, Madrid, Editorial Co. Cul.S.A., 1957-1959, Vol. III, pp. 1129-1130.

¹¹⁴ *Ibid.*, pp. 1119-1130.

Again, in 1961, union of institutes was addressed by J. Garganta at the Second National Congress of Religious in Madrid. According to Garganta, unification could occur in several different ways. One way would be "constitutive union", a union between institutes that have the same spirit, e.g., the Roman Union of Ursulines or the Company of Mary. Another way, "extinctive union", would apply to institutes in a languishing condition with little possibility of further development. The members and goods would be incorporated in a congregation or monastery with greater spiritual and temporal vitality. The third way would be federation or confederation of congregations of simple vows, particularly those founded during the modern era and similar in spirituality and structure.¹¹⁵

Both T. Urdanoz and J. Garganta noted the many advantages of unification. Above all, it would provide a spiritual benefit for the members of the religious families and for the life of the Church. T. Urdanoz believed that there was true moral necessity and obligation for closer

¹¹⁵ J. GARGANTA, "Acomodación de las estructuras y de las prácticas de la vida religiosa a las exigencias modernas", in *Actas del II Congreso nacional de religiosos*, Madrid, Publicaciones "Confer", 1961-1962, Vol. III, p. 205; pp. 210-212.

collaboration and greater union between institutes of religious life.¹¹⁶

D. The Sacred Congregation for Religious

In 1953, the Sacred Congregation for Religious issued the third Schema of *Normae procedendi in Religionibus, societatibus, institutis erigendis, approbandis et quibusdam aliis circa ipsa mutationibus perficiendis*.¹¹⁷ The Norms, however, were restricted for the internal and private use of the Congregation. Their purpose was twofold: a) to provide the manner and praxis of the Curia in the establishment, approval, and the changes that may affect the juridic condition of the religious institutes; and b) to facilitate communication between the local ordinaries, superiors, and the Holy See. The Norms applied to religious institutes of solemn or simple vows, congregations of simple vows, societies of common life and to secular institutes.¹¹⁸ Part three of the Norms presented the praxis and jurisprudence used by the Congregation concerning: 1) the establishment and constitutions of

¹¹⁶ T. URDANOZ, "Union de los religiosos entre si: Necesidad y fines de la union", p. 1119.

¹¹⁷ SACRA CONGREGATIO DE RELIGIOSIS, *Normae procedendi in religionibus, societatibus, institutis erigendis, approbandis et quibusdam aliis circa ipsa mutationibus perficiendis*, Schema tertium: 1953, Roma, Typis Piae Societatis Sancti Pauli, 1953, 43p.

¹¹⁸ *Ibid.*, p. 3, nos. 2-4.

federation; 2) the changes of the juridic condition, special ends or constitutions of religious institutes; 3) the union of religious institutes, and 4) the division of religious institutes.

1. Types of union

Chapter Three of Part Three noted that many reasons could justify or necessitate union of legitimately constituted and approved institutes.¹¹⁹ Regardless of the reason or the way in which the union would be accomplished, the intervention of the Congregation for Religious would always be required.¹²⁰ Union could occur in two different ways: the institutes could be transformed in such a way that new constitutions are to be developed out of the already existing ones or, secondly, the institutes could be united in a way that one, so to speak is absorbed by the other. In this case, the constitutions remain about the same along with the special aim of the more favorable or better constitutions. This type of union could happen between an institute of diocesan right and one of

¹¹⁹ A copy of Chapter III, part III of the *Normae procendendi in religionibus, societatibus, institutis erigendis, approbandis et quibusdam aliis circa ipsa mutationibus perficiendis* is found in the Appendix.

¹²⁰ *Ibid.*, p. 39, no. 107.

pontifical right or between a society of common life and an institute of diocesan or pontifical right.¹²¹

2. Procedures

The Congregation for Religious established one set of procedures for union of institutes of pontifical right and another for institutes of diocesan right.

a. For institutes of diocesan right

In the case of institutes of diocesan right, the superiors of institutes of diocesan right would, first of all, discuss the matter with the local ordinary. If the union was necessary or useful, the ordinary of the place of the general house would submit a petition and other documents relating to the matter to the Congregation to obtain permission for the union.

The Roman Congregation would submit the cause for a vote of at least one consultor. It would then be submitted to the Congresso for examination and a decision. The consultor or consultors could act as an advocate to the Congresso. If the Congregation for Religious gave an affirmative response, the permission would be granted to the ordinaries of the places of the general houses to give

¹²¹ *Ibid.*, p. 39, no. 108.

the decree of union,¹²² respecting the instructions of the Congregation. The ordinaries of the places would need to define in which diocese the general superior would be established. The ordinary of the place of the principal house would need to communicate the entire matter to other ordinaries of those dioceses where there are established houses of the religious institutes. When the union is realized, the same bishop would need to send an authentic copy of the decree of union and also of the approved Constitutions to be preserved in the archives of the Holy See.¹²³

b. For institutes of pontifical right

The union of societies and institutes of pontifical right proceeded in a different way. First of all, the matter would be considered in the general chapter or an equivalent congregational assembly. If the decision was in favor of the union, the superior general with her respective council would send a petition, other documents relating to the matter and, if necessary, the constitutions to the Roman Congregation. A plenary Congresso would

¹²² In light of these Norms, union was considered to be an act of jurisdiction; thus, in the case of a diocesan institute, once the decision was made by the Congregation for Religious, the diocesan bishop had the competency to issue the decree of union.

¹²³ *Ibid.*, pp. 39-40, nos. 109, a-f & 110.

examine the cause, and the decision would be referred to the Pope.¹²⁴

i) The decree of union

The Congregation for Religious would issue the decree by which the institutes are united. To the extent that it would be needed, the constitutions would be approved, as a rule, *ad experimentum*. In some cases and for particular reasons, other instructions would be given especially concerning the effects of the union on the juridical condition of the members.¹²⁵

ii) Declaration of the members

If, due to the union, there are new obligations that could arise, a declaration and renewal of profession would be required from each member. Provisions would need to be made for the dissenting members of the institutes.¹²⁶

In summary, Chapter III, *De unione religionum, societatum, institutorum* defined types of unification and identified the competent ecclesiastical authority for fusion and union. Moreover, it presented the necessary

¹²⁴ *Ibid.*, p. 40, no. 111, a-c.

¹²⁵ *Ibid.*, p. 40, no. 111, d.

¹²⁶ *Ibid.*, p. 40, no. 112.

procedures relating to unification for institutes of diocesan right and for institutes of pontifical right.

IV. PRACTICE OF UNIONS FOLLOWING THE 1917 CODE

After the 1917 Code of Canon Law, as before its promulgation, numerous types of regrouping of religious institutes occurred. Some autonomous houses of the same order with similar constitutions, spirituality, and scope united to form one congregation. There were other congregations, however, who joined or passed to more stable ones. The selected examples, excluding federation and confederation, will illustrate the two most prevalent types which occurred after the Code of 1917, as well as some of the effects and formalities of each type. More importantly, the accounts will reflect the understanding and application of the legislation of the Code of 1917 in relation to the union of religious institutes.

A. Reunion within an order and congregations

In 1935, Pius XI, in the Apostolic Constitution, *Inter religiosos coetus*, decreed and established the union of the Congregation of the cenobite Camaldoli Monks with the Congregation of the Hermits of Camaldoli of Etruria. Since 1616, the Order of Camaldoli had been divided into two groups; the cenobites or monks and the hermits. The

latter group was divided into two congregations: the Etruria or Tuscany group and that of Monte Corona.

The Apostolic Constitution referred to the formal title of the Union, the continuation of the rights and privileges of the major superior, the requirements for the admission of candidates for the hermitage and detailed all that should be incorporated in the future constitutions of the congregation. In light of the fact that the new life would be more austere for the monks, the Constitution provided that each member would be free to choose to pass to the Congregation of the Camadoli Hermits, or to another religious institute, if it agrees, or for a priest to chose and find a bishop who would incardinate him to the diocese.¹²⁷ In addition, the members who did not want to transfer or to enter the secular clergy would be permitted to live in one house, according to conditions which were to be determined.¹²⁸ This house, however, would not be permitted to receive novices.¹²⁹ The decree also provided for the transfer to the new union of the goods which belonged to the Congregation of the Camaldoli Monks. Finally, after noting the options for the members, it

¹²⁷ PIUS XI, Apostolic Constitution, *Inter religiosa*, 2 July 1935, in AAS, 27(1935), p. 297, no. VI.

¹²⁸ *Ibid.*, p. 297, no. VII.

¹²⁹ J. CREUSEN, "Union des moines Camaldules aux ermites Camaldules", in RCR, 12(1936), pp. 36-37.

stated in no uncertain terms that the decree was to be accepted as it was written, not to be falsified, fought against, or debated. It was and always would be valid and was to be inviolably observed. No one will be permitted to go against or contradict this decree which is the will of the Holy See to unite, to establish, to concede, to decree, and to mandate this union.¹³⁰

It is possible to mention only in passing a few of the other reunions between small congregation who were originally of the same foundation, then became autonomous branches, e.g., the Augustinian Daughters of the Crucified;¹³¹ the Dominican Sisters of Holy Mary of Cape Town¹³² and the Congregation of the Sisters of Our Lady of Chambriac.¹³³

B. Unification of autonomous monasteries and self-governing houses of congregations of simple vows

The example of the union of the Company of Mary Our Lady illustrates an effort on behalf of the Order and the

¹³⁰ PIUS XI, Apostolic Constitution, *Inter religiosa*, pp. 297-298, no. VII.

¹³¹ See M. SALUTINI, "Agostiniane Figlie del Crocifisso", in *DIP*, Vol. I, cols. 207-208.

¹³² See H. CARPENTER, "Domenicane Irlandesi, Irish Dominican Sisters", in *DIP*, Vol. III, col. 889.

¹³³ See G. ROCCA, "Nostra Signora, di Chambriac (Francia), Suore di, Soeurs de Notre-Dame de Chambriac", in *DIP*, Vol VI, cols. 338-339.

Church, in consideration of the time-honored traditions of the Order and changing circumstances, to unite autonomous houses of the same rule and constitutions. The founding of the Order of Notre Dame, also known as the Order of the Company of Mary Our Lady, by Jeanne de Lestonnac in 1607 signifies a turning point in the history of religious institutes. The Order of Notre Dame was monastic in organization with papal enclosure yet apostolic and contemplative in scope. The character of the Order was essentially that of the Society of Jesus. From the beginning of the Company of Mary, the monastic traditions of choir, enclosure, and penances were subordinated to the apostolic end of the Order.¹³⁴ In spite of the efforts of Jeanne de Lestonnac and her adviser Jean de Bordes, S.J. to create a centralized form of government for the Company of Mary,¹³⁵ the Order was organized as autonomous monasteries and thus subjected to the jurisdiction of the bishops according to the Council of Trent.¹³⁶ With the passing of time, changing circumstances, the ravages of the French Revolution, the 1904 anti-religious laws of France, and the

¹³⁴ P. FOZ Y FOZ, *Genesis and Historical Evolution of the Pedagogical System of the Company of Mary Our Lady*, Madrid, n.p., 1981, p. 16.

¹³⁵ I. AZCARATE RISTORI, *El origen de los ordenes femeninas de enseñanza y la Compañie de Maria*, San Sebastian, Ediciones Lestonnac, 1963, pp. 70-73 and pp. 184-191.

¹³⁶ *Ibid.*, pp. 196-205.

persecutions suffered in Spain and Mexico, the Order realized the need for a centralized government. Pope Benedict XV, in a papal audience, sanctioned the union of sixty-three of the ninety existing monasteries on March 6, 1921.¹³⁷ In effect, the decree of union, promulgated by the Congregation for Religious on March 12, 1921, gave birth to a congregation, the Society of the Daughters of Our Lady,¹³⁸ within an Order since the Holy See permitted some of the monasteries to remain independent of the Union. The decree stated that the Society would have a centralized government, that papal enclosure would be suppressed although episcopal enclosure would be retained; it also declared that the future members would take simple vows yet respected the stability of the professed members. In 1955, the First Congress of the Daughters of Jeanne de Lestonnac was celebrated. Of primary importance was the naming of a "Mixed Commission" by the Congregation of Religious, consisting of members from the autonomous houses as well as from the centralized branch. Its purpose would be to revise the Constitutions and prepare all that would be necessary for the union of autonomous houses and the centralized

¹³⁷ A. ARRAZOLA, *Genesis y desarrollo de las constituciones*, Roma, n.p., 1981, Vol. II, p. 542.

¹³⁸ *Ibid.*, p. 541; The Decree approved the Constitutions, January 6, 1924. It stated that the title of the Congregation was *Societas Filiarum Mariae Nostrae Dominae* see pp. 554-555.

branch. The Congress was followed by meetings in 1956.¹³⁹ On December 27, 1956, Pope Pius XII, responding to the wishes of the Order and reflecting the mind of the Church,¹⁴⁰ united the independent monasteries and the previously united branch. The Order of the Company of Our Lady, as it would be called, was to have a centralized government, divided into provinces with moderators general, but governed by a general superior and general council.¹⁴¹ In respect of their tradition, the decree declared that solemn vows were to be reinstituted and papal enclosure would be mitigated to meet the needs of the teaching apostolate.¹⁴² Actually, the union seems to reflect the original intentions and plan of government of Jeanne de Lestonnac and her first companions.

The Union of the Sisters of Mercy of the United States provides an example of an amalgamation of numerous autonomous houses within one nation. As noted in the previous chapter, the Sisters of Mercy, founded by Catherine McAuley, spread rapidly throughout the English speaking world. In most instances, a central house with

¹³⁹ *Ibid.*, pp. 704-707.

¹⁴⁰ PIUS XII, Apostolic Letter, *Providentis Dei consilio vedetur contingere*, 27 December 1956, in AAS, 49(1957), pp. 889-894.

¹⁴¹ *Ibid.*, p. 892.

¹⁴² *Ibid.*, p. 893.

branch houses had been established, but more or less confined to one diocese. As in any widespread movement, there were variations of the Rule, weak foundations, and also some canonical irregularities among the different motherhouses. In the early twentieth century, the Holy See initiated steps to unite the self-governing units of sisters who followed the same constitution.¹⁴³

Between 1843 and 1929, the Sisters of Mercy established sixty motherhouses with almost 10,000 religious in the United States. Until 1927, the idea of union remained dormant, except for the unification of houses

¹⁴³ In 1902, the Apostolic Pro-Delegate, Cardinal Sebastian Martinelli, complying with the wishes of the Congregation for the Propagation of Faith, sent a letter to the hierarchy of the United States concerning the number of independent groups of religious, and, in particular, an inquiry about the numbers, conditions, etc., of the Sisters of Mercy. Martinelli's missive was followed by another from his successor, Archbishop Diomedede Falconio, February 18, 1905. He stated that in order to end some canonical irregularities, "it is advisable to unite all the Sisters of Mercy existing in this country under a general superioress, dividing the Institute into separate provinces," see J. SABOURIN, *The Amalgamation*, Saint Meinrad, Indiana, Abbey Press, 1976, pp. 18-23.

See also M. MERISE, *History in the Making*, Rosanna, Australia, Sisters of Mercy, Archives of the Convent of Mercy, Rosanna, 1970, who notes on p. 5: The union of small groups of religious, at least at the diocesan level, was recommended by Cardinal Girolamo Gotti, the Prefect of the Congregation for the Propagation of the Faith, upon reception of the report of the Third Plenary Council of Australia, 1905. Again, in 1925, the Apostolic Delegate, Archbishop B. Cattaneo, attempted to unite the Sisters of Mercy of Australia and New Zealand.

within a few dioceses¹⁴⁴ and for a few groups of sisters who met to discuss the possibility of union. Finally in 1927, a group of sisters, motivated by the need for unification of the Institute, met to discuss the project of union. They believed that the idea of union was conceived in Catherine McAuley's desire for unity and also that amalgamation of the Sisters of Mercy was the will of the Church. The latter was based on letters of Cardinal S. Martinelli and his successor, Archbishop D. Falconio. This meeting marked the beginning of a concerted and organized effort in the movement towards the eventual union of the Sisters of Mercy.

The momentum of the movement was sustained by the leadership of Sister Carmelita Hart. In one of her letters to the sisters, she stated the advantages of amalgamation:

[...] we will have but one Constitution, a stronger organization, uniform and better training for our novices, irregularities will be corrected, non-canonical houses will be closed, customs will be defined, [...].¹⁴⁵

¹⁴⁴ J. SABOURIN, pp. 31-32: Following the request of the Sisters of Mercy of Dubuque and Independance, Iowa, the Congregation of Religious issued a decree of union, March 16, 1922. On March 27, 1927, the Congregation of Religious issued a Rescript that united the different houses in the dioceses of San Francisco, Monterey, Los Angeles, California and Tucson, Arizona. This was known as the Burlingame Amalgamation.

¹⁴⁵ *Ibid.*, p. 97.

She urged the sisters: "we must be one family according to the heart of Mother McAuley."¹⁴⁶

After the preliminary meetings, there were four stages in the movement toward union. The first involved numerous communications between this indefatigable leader and the superiors of the motherhouses of the Sisters of Mercy.

Besides the communication with all the self-governing communities of the sisters, there were consultations with the bishops, meetings with the Apostolic Delegate, and conferences with canonical advisers. As to be expected in such a vast project, numerous fears surfaced among the sisters which had to be assuaged and a number of bishops openly opposed the project,¹⁴⁷ although, in the end, two-thirds of them favored it. Repeatedly, the sisters and bishops were reminded that, according to the pontifical approval given by the Congregation for the Propagation of the Faith in 1841 and the declaration of November 24, 1925

¹⁴⁶ *Ibid.*, p. 100.

¹⁴⁷ Some bishops would not permit the project to be presented to the sisters nor would they allow them to cast a vote in favor of or against the union, see *ibid.*, p. 66; pp. 76-77; pp. 80-81.

by the Congregation of Religious,¹⁴⁸ the Sisters of Mercy were a pontifical institute.

The second stage entailed forty-four sisters representing twenty-nine motherhouses assembling in June, 1928, to deliberate the cause of union for their communities. The petition, signed by twenty-nine motherhouses, requested that the autonomous house which they represented be united as one congregation with a central government.¹⁴⁹ In March, 1929, the Apostolic Delegate received the decree of Union from the Congregation for Religious. It stated that all of those who had originally signed the petition belonged to the Union. The decree also included the necessary procedure to be followed, enclosed a copy of the Constitutions of the Amalgamated Sisters of Cloyne to be used as a guideline, and stated that those members who did not vote in favor of the union would be bound by the constitutions of the union, but could not be transferred to another house without their express consent. The decree differed from the initial

¹⁴⁸ SACRA CONGREGATIO PER RELIGIOSIS, "Declaratio circa naturam iuridicam Congregationis Sororum a Misericordia (Sisters of Mercy)" in AAS, 18(1926), p. 14. In 1905, Archbishop D. Falconio noted in a letter to the bishops of the United States: "As the Constitutions of the Sisters of Mercy have been approved by the Holy See, this Institute cannot be considered as a diocesan one", see J. SABOURIN, p. 21.

¹⁴⁹ See J. SABOURIN, pp. 137-146.

understanding of the petitioners, for it stated that it was a union of members and goods rather than each house retaining its property and rights.¹⁵⁰ The Congregation of Religious responded to the petition as if it were a declaration of firm intent rather than just a request to initiate steps toward a union.

The third stage involved the communication of the decree by the Apostolic Delegate to the bishops and to the superiors of all the motherhouses of the Sisters of Mercy. In his letter to the Sisters, the Apostolic Delegate praised the decision for union and, as the decree mentioned, encouraged those communities who had not come to a decision to look favorably on the Union and to respond to the wishes of the Holy See. He added, "In those Communities that are still undecided, it is left to a vote of the sisters of each community in chapter assembled to decide whether it will amalgamate with the others or not."¹⁵¹ The chapter would allow each participant the fullest liberty to discuss reasons for or against the union. It was to be a secret ballot and all sisters, even those in temporary vows, were to enjoy the right to vote. The Apostolic Delegate noted that if the majority were in

¹⁵⁰ *Ibid.*, pp. 167-179.

¹⁵¹ *Ibid.*, p. 170.

favor of the union, the chapter should elect two delegates to the future general chapter.¹⁵²

The last stage was the chapter. The following matters were decided: the number and divisions of provinces as well as the location of the provincial houses. Provincial superiors, councilors, secretaries, and procurators were elected by the delegates of each respective province. The superior general, general councilors, secretary general and procurator general were also elected and unanimous agreement was reached on revision of certain sections of the Constitutions. These Constitutions were first approved January 20, 1931, then revised in 1941 and again in 1955.

The 1929 Union of the Sisters of Mercy of the United States included forty motherhouses, a total of 443 houses with 5,022 sisters in six provinces. Approximately twenty motherhouses remained independent of the union although some would later form a union within a diocese but independent of the Union. Between 1929 and 1962, however, nine more independent motherhouses joined the union.¹⁵³ By 1962, three new provinces had been added, and there were 7,300 sisters in the union.

¹⁵² *Ibid.*, p. 170, nos. 1-4.

¹⁵³ *Ibid.*, p. 266.

There was also widespread growth of the Sisters of Mercy in Australia and New Zealand. In 1953, fifteen of the twenty-one self-governing groups of the Sisters of Mercy of Australia and New Zealand met in Melbourne, Australia to discuss the Rule, uniformity of dress and spirit, in addition to the possibility of uniting the independent groups into one congregation. After considerable discussion eight of the groups agreed to petition the Holy See for permission to unite as one congregation with one general superior and council.¹⁵⁴ Eventually, the other nine groups in attendance decided to form a federation. This organization provided them with a structure which encouraged unity and mutual assistance yet their autonomy remained unchanged. The Sisters of Mercy of New Zealand chose to be independent of the Australian Union as well as of the federation.

The decree of union was promulgated July 26, 1954.¹⁵⁵ In the letters to the hierarchy and also to the

¹⁵⁴ M. MERISE, *History in the Making*, p. 18: All but one of the groups had been involved in either a diocesan or interdiocesan congregation with a centralized government; see also G. ROCCA, "Misericordia, Suore della, Sisters of Mercy", in *DIP*, Vol. V, cols. 1379-1402.

¹⁵⁵ Sacred Congregation of Religious, Copy of Decree of Union, Prot. No. 10853/52, Archives of Archdiocese of Melbourne, Australia: The decree declared that the Congregation formed by the union of the houses of the Sisters of Mercy in eight dioceses would be known as the "Australian Union of Sisters of Mercy." In addition, the decree declared that until the approval of the

sisters, Archbishop Romolo Carboni, the Apostolic Delegate, announced the decree of union and emphasized that the matter of union was to be placed before the communities of sisters for a vote. Furthermore, the Holy See would honor the request of those communities who petitioned for union as well as those who desired a federation: "Nothing, absolutely nothing, will be done (nor should it be done) against the will of any community whatsoever. On the other hand, everything will be done to see that the desires of each community are realized."¹⁵⁶ The communities which were not favorable toward either the union or federation would "be left in peace and liberty to continue just as they have always been."¹⁵⁷ The first general chapter of the Australian Union of the Sisters of Mercy was held in 1954.

We will mention only a few other examples of this type of union. In 1922, a number of houses of Carmelite Sisters united to form one congregation of the Third Order of Our Lady of Mount Carmel and St. Teresa: in 1968, they assumed a new name, the Congregation of the Carmelite

Constitutions by the Congregation for Religious, the Constitutions of the Congregation of the Sisters of Mercy of Washington should be observed with only those changes which are recommended by the said Congregation, the Apostolic Delegate or the General Chapter.

¹⁵⁶ R. CARBONI, Letter to the Bishops, No. 860/54, Archives, North Sydney, N.S.W.; *Id.*, Letter to the Sisters, No. 861/54, Archives, North Sydney, New South Wales.

¹⁵⁷ *Ibid.*, Letter to Bishops, No. 860/54.

Sisters of St. Teresa in Kerala, India.¹⁵⁸ The Dominican Sisters of the English Congregation of the Sisters of St. Catherine of Siena is a case where five pre-existing congregations with different foundresses united to form a new congregation.¹⁵⁹

C. Fusion of congregations.

In addition to the aforementioned unions, there were also a number of congregations who joined other more

¹⁵⁸ See V. MACCA, "Carmelitane Teresiane, di Ernakulam (India), Suore", *DIP*, Vol. II, col(s). 456-457.

¹⁵⁹ ANON., "An Historico-Juridical Report of the English Dominican Sisters of the Congregation of St. Catherine of Siena", was received in response to a formal inquiry from the Archives, Stone, England. This union was comprised of five pre-existing congregations. Each congregation had a different foundress, but all of them followed the Dominican spirit and tradition. In addition, they all observed similar constitutions and were engaged in the same kind of apostolic work. In 1928, the provincial of the English Dominican Brothers suggested the possibility of a union. The superiors of the different congregations met, proposed a plan for union which was submitted to all of the professed sisters of the five congregations for a secret vote. Three hundred and sixty-five sisters voted in favor of the union with only twelve votes against it. All ten of the local ordinaries of the dioceses where the convents were located were also in favor of the union. The Sacred Congregation for Religious issued the decree of Union, Prot. No. 48529/29, July 27, 1929. The decree noted that it was a union "of all persons and properties under the rule of one Mother General." It also stated the official title of the pontifically approved congregation, the place of the principal house and of the novitiate and, of course, the delegation, manner and matters for the General Chapter; see also H. CARPENTER, "Domenicane della Congregazione Inglese di Santa Caterina da Siena, Dominican Sisters of the English Congregation of St. Catherine of Siena", *DIP*, Vol. III, cols. 846-847.

flourishing or stable institutes. These types of regrouping are referred to as "fusion" (merger) or as "extinctive union".

Many of these were diocesan congregations with few members, no longer able to maintain their apostolic mission. Oftentimes, the congregations which joined others were of the same diocese or region and had similar apostolates. This was the case, for instance, of the Congregation of the Brothers of the Third Order of St. Francis of Helden (Holland) who joined the Congregation of the Brothers of St. Joseph of Heerlen;¹⁶⁰ or the Congregation of the Franciscan Sisters of St. Vincent de Paul, Voiron, who joined the Sisters of St. Mary Magdalene Postel in 1952¹⁶¹ and of the Gray Franciscans of Loo (Belgium), the Gray Franciscans of Wervik and the Franciscan Sisters "Penitent" of Poperinge who joined the

¹⁶⁰ G. VAN HULST, "Fratelli del Terz'Ordine de San Francesco, di Helden (Olanda), Broeders van de H. Franciscus", *DIP*, Vol. IV, col. 753; see also G. ROCCA, "Fratelli di San Giuseppe, di Heerlen (Olanda), Broeders van de H. Joseph", *DIP*, Vol. IV, cols. 712-713. Both congregations had been aggregated to the Friars Minor.

¹⁶¹ G. PETTINATI, "Francescane di San Vincenzo de Paoli di Voiron (Francia), Soeurs Franciscaines de St-Vincent de Paul", *DIP*, Vol. IV, cols. 440-441; see G. ROCCA, "Santa Maria Maddalena Postel, di Saint-Sauveur-Le-Vicomte (Francia), Suore di, Soeurs de Sainte-Marie-Madeleine Postel", *DIP*, Vol. VIII, cols. 724-725.

Gray Franciscans of Roeselare (Belgium)¹⁶² in 1953, 1954, and 1955 respectively.

CONCLUSION

The 1917 Code of Canon Law presented clear measures to guarantee the protection of religious institutes. It stated that once a religious institute was approved, the Church, by virtue of its authority, protects the original character, the rights, privileges, and goods of the moral person. Neither the end, nor the means, nor a change in the type of vows or constitutions, nor the erection, division, union, or suppression of provinces of an institute could occur without the approval of the Holy See. This principle was applicable to an order, a pontifical, or diocesan institute, unless the diocesan institute was established before *Dei providentis*, July 16, 1906. A religious institute could be suppressed only for serious reasons and solely by the Holy See.

¹⁶² H. ROGGEN, "Grigie Francescane, di Loo (Belgio), Suore, Grauwzusters Franciscanessen te Loo", *DIP*, Vol. IV, col. 1431; see *Id.*, "Grigie Francescane, di Wervik (Belgio), Suore, Grauwzusters Franciscanessen te Wervik", *DIP*, Vol. IV, col. 1432; see also G. ROCCA, "Francescane Penitenti, di Poperinge (Belgio) Soeurs Franciscaines Pénitentes de Poperinge, Zusters Franciscanessen Penitenten van Poperinge", *DIP*, Vol. IV, cols. 385-386; H. ROGGEN, "Grigie Francescane, di Roeselare (Belgio), Suore, Grauwzusters Franciscanessen van Roeselare", *DIP*, Vol. IV, col. 1432.

Although the years following the Code of 1917 mark a continuity in the pre-code practice of regrouping religious institutes, the notion of union, by means of fusion or union, was only implied by law. A careful examination of canon 493 reveals that, by and large, this procedure was considered an "indirect suppression", an implicit provision of the law. Importantly, however, the law recognized that the juridic procedure of different types of unification, if necessary, would ensure a continuation of the stability of life, of the rights, privileges and goods of the institute. Caution and formalities were necessary, as it was considered a grave matter which would affect, in some degree, the original character or purpose of the institute. Nevertheless, according to the literature, as the need for unification of religious institutes increased, the jurisprudence increased in an effort to provide the necessary assistance for the union of the institute, of its members and goods to another institute. This is evident in the federation of monasteries recommended by *Sponsa Christi* and *Normae procedendi* (Third Schema, 1953).

Other than federation and confederation, two other types of unification of religious institutes were described in the commentaries and literature. Despite the confusion surrounding the terms used to describe the two types of

regrouping such as "affiliation", "aggregation", "extinctive union", "fusion", or "union", continuity and clarity were found in the descriptions of both types. These seemed to be based on the two ways of uniting benefices mentioned in canon 1419,§1 or the "subordinative union" of canon 1419,§3. One is described as the unification of two or more congregations to form a new religious institute with new constitutions. Most of the time, this occurred between congregations with the same founder or between congregations with similar constitutions. The members and goods of all the involved institutes are united as one new institute. The other type is described as one congregation passing to or joining another one, thus assuming the name, the constitutions, and the traditions of the latter. The first congregation is suppressed while the members and goods are united to the "receiving" congregations. These two modalities were mentioned in Number 108 of *Normae procedenti* (Third Schema, 1953).

The basis of "union", its types, descriptions, distinctions, and consequent effects reflect the types and formalities of the canons governing the union of ecclesiastical benefices. It is not certain if the concepts and norms were interpreted and applied in a strict sense. Since canon 1419 was a restatement in its entirety

of the old law, it would, then, have to have been interpreted in accordance with the old law, according to canon 6, §2. The union of benefices, although permitted by law, was considered an exceptional procedure, therefore odious in law, and required a strict interpretation. Was this also the tenor of the law when applied to the fusion or union of religious institutes? It would seem so.

Unification of religious institutes, considered from the standpoint of an "indirect suppression" or in relation to the "extinctive union" mentioned in canon 1422, was reserved to the exclusive competence of the Holy See. From a study of the available literature, jurisprudence, and the cited examples, certain canonical formalities were to be observed. First of all, there would be the presentation of the reasons for fusion or union and the opinion of the bishops of the dioceses where houses of the institutes exist.

Secondly, each member of the institute must be given the opportunity to make a free choice, usually in a chapter. The project of union should not be forced nor impeded by anyone or any group. It would need to be discussed and decided with full freedom by each member. Some examples and literature noted that the required vote of a house or chapter would need to be a majority, or a great majority or moral unanimity in favor of the union.

It would seem, however, that if "not only an absolute majority, but also the quasi-unanimity of the chapter", would be required to introduce a change in the constitutions, then the same quasi-unanimity vote would also be required of the chapter in the matter of "union".¹⁶³ In addition to the vote of the members, it would also be necessary to make provisions for the dissenting members. Generally, those members could chose to transfer to another institute or to seek secularization.

Although there were general procedures for union of institute, we also saw that in some particular situations, e.g., the 1921 union of the Society of the Daughters of Our Lady, the union of the Congregations of the Teaching Sisters of Mary Immaculate, and the union of the Camadoli Monks with Camaldoli Hermits, other concessions were made.

The decree of union, issued by the Holy See, would also prescribe the fundamental norms governing its execution or important provisions pertaining to the particular union.

¹⁶³ A. LARRAONA, "Istruzioni conclusive alle Rev.me Madri Generali", Segretario della S. Congregazione dei Religiosi, in *Acta et documenta Congressus internationalis superiorissarum generalium*, Romae, Editiones paulinae, 1952, p. 258: "non solo dall maggioranza assoluta, ma anche dalla quasi unanimità delle capitolari."

The promotion of unity, through federation and union between religious institutes and the selected examples reveals that the Church was indeed favorable toward types of regrouping of religious institutes. The evidence of the *Normae procedendi* and of the different accounts illustrates the necessity of concern for justice in the matter and the amount of jurisprudence available in assisting institutes in a project of fusion or union.

CHAPTER THREE

TOWARDS THE 1983 LEGISLATION

Since the end of World War II, religious institutes have undergone many changes. Some of these were the result of the renewal and adaptation called for prior to or by the Second Vatican Council; others were brought about by the rapidly evolving conditions of the contemporary world. In spite of serious efforts at adaptation, many religious institutes are nonetheless still experiencing a crisis: dwindling membership has led to their reduced capacity for involvement in the mission of the Church and has even raised on the horizon the spectre of extinction.

This chapter, while eventually focusing on the new legislation, will first note certain trends affecting contemporary religious life in as much as they seem to be leading to various types of regrouping of institutes. It will then examine the legislation of the conciliar and post-conciliar period regarding fusion of small or languishing institutes and the option of union for institutes that are similar in spirit or apostolate. Following this, it will describe the evolution and content of canon 582 of the 1983 Code of Canon Law.

I. A RENEWED UNDERSTANDING OF RELIGIOUS LIFE

The Second Vatican Council provided the Church with a structure for dialogue, study, and self-examination regarding its internal life and its presence in a rapidly changing world.¹ The need to become a more creative force in the transformation of the world challenged every organism of the Church to renewal and adaptation; the conciliar and post-conciliar thrusts toward a renewed understanding of religious life were part of this concerted effort. This effort was guided by a renewed understanding of the role of religious within the People of God and the accepted principles of renewal based on fidelity to the Gospel and to the particular founders/foundresses of institutes of consecrated life.

A. The renewal of religious life

In the dogmatic Constitution on the Church, *Lumen gentium*, the Second Vatican Council placed religious life within the context of the People of God. By baptism, all the faithful are called to holiness, to grow in the

¹ According to M. NEAL, "A Theoretical Analysis of Renewal in Religious Orders in the U.S.A", in *Social Compass*, 18(1971), p. 20, "it was the evident decline of membership and support of the Church in Europe, the growing discontent of the critical masses regarding the meaning of service, and the alienation in the missions that forced the Church as a formal organization to call for a self-study and assessment of its goal and purpose."

fullness of the love of God and of neighbor, and to live according to the spirit of the beatitudes and the evangelical counsels.²

Religious share with all baptized members of the Church the dignity of Christians as well as the call to holiness and to discipleship. Their form of life is a particular way of participating in the sacramental nature of the People of God.³ It is a totally active response to a free and gratuitous gift of God,⁴ a consecration of oneself to God, through Jesus Christ by living the evangelical counsels, according to the constitutions of a particular institute. The profession of the vows of

² See SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church, *Lumen gentium*, 21 November 1964, in *Acta Apostolicae Sedis* (=AAS), Romae, Typis Polyglottis Vaticanis, 57(1965), pp. 44-50, nos. 39-43; Pastoral Constitution, *Gaudium et spes*, 7 December 1965, in AAS, 58(1966), pp. 1044-1045, no. 24.

³ See CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES AND CONGREGATION FOR BISHOPS, *Notae directivae, Mutuae relationes* (=MR), 14 May 1978, in AAS, 70(1978), p. 476, no. 4 & p. 479, no. 10.

⁴ See JOHN PAUL II, Apostolic Exhortation, *Redemptionis donum*, followed by page number and paragraph), 25 March 1984, in AAS, 76(1984), pp. 521-522, no. 6. English translation, Ottawa, Canadian Conference of Catholic Bishops, 1984, pp. 14-15, no. 6. See CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES (=CRIS), *Essential Elements in the Church's teaching on Religious Life as applied to Institutes Dedicated to Works of the Apostolate* (=EE), 31 May 1983, in *L'Osservatore Romano*, English edition, 29(793), 18 July 1983, p. 5, no. 13.

chastity, poverty, and obedience is rooted in individual baptismal consecration.⁵

The foundational element of religious life is rooted in the same charismatic life of the Church. Its renewal finds its inspiration in the on-going renewal of the Church itself. The conciliar fathers acknowledged that the whole Church was a pneumatic or spiritual reality,⁶ founded by Christ and lead by the Holy Spirit. The quality of its renewal is dependent on fidelity to its Founder and its origins. The emphasis on the fact that the Church was mystery, communion, a People of God endowed with a variety of gifts, replaced to some extent the institutional and juridical emphasis of the past.⁷ Charism

⁵ See LG, pp. 49-51, nos. 43-44; See SECOND VATICAN COUNCIL, Decree, *Perfectae caritatis* (=PC), 28 October 1965, in AAS, 58(1966), pp. 702-703, no. 1.3, pp. 704-705, no. 5; EE, p. 4, nos. 5-8.

See G. GHIRLANDA, "Ecclesialità della vita consacrata", in *La vita consacrata*, Bologna, Edizioni Dehoniane Bologna, 1983, pp. 28-36.

⁶ See Card. L. SUENENS, in *Acta synodalia Sacrosancti Concilii Oecumenici Vaticani II* (=Acta synodalia, followed by Volume, Period, Part and page number(s)), in *Civitate Vaticana*, Typis Polyglottis Vaticanis, 1970, Vol. II, Period II, Part III, pp. 175-178. English translation in H. KÜNG, et al., *Council Speeches of Vatican II*, London, Sheed and Ward, London, 1964, pp. 18-21.

See PIUS XII, Encyclical, *Mystici corporis*, 29 June 1942, in AAS, 35(1943), pp. 193-248.

⁷ See LG, pp. 6-7, no. 4, pp. 9-11, no. 7, pp. 16-17, no. 12, 2; SECOND VATICAN COUNCIL, Decree, *Apostolicam*

was recognized by the Second Vatican Council as a necessary and important element of the very essence of the Church.⁸

The Decree *Perfectae caritatis* presented the guiding principles of renewal of religious life: to return to the original source, namely the Gospel, and also to the inspirations, spirit, and intentions of the founder; secondly, to adjust to the physical, psychological, cultural, social, and economic conditions of the day.⁹ Moreover, the proper character, spirit, aims, function, and sound traditions constitute the patrimony of the institute and should be faithfully retained.¹⁰ According to J. Ochoa, "patrimony may be understood in general as all the

actuositatem, 18 November 1965, in AAS, 58(1966), pp. 839-840, no. 3,§3; pp. 861-862, no. 30,§6.

See S. HENRIQUEZ, in *Acta synodalia*, Vol. III, Period III, Part VII, p. 572: "Ecclesia, uti vidimus in schemate proprio, non est imprimis societas iuridica sed mysterium vivum: est Corpus Christi; est organon vivum qui agit in unitate; est veluti persona mystica, cuius sunt omnes operationes supernaturales fidelium: operationes enim sunt suppositorum."

⁸ See K. RAHNER, "Charism", in *Encyclopedia of Theology*, London, Burns & Oates, 1975, pp. 184-186.

⁹ See PC, p. 703, no. 2, a-e; .See also the historical accounts of the Decree, *Perfectae caritatis*: A. LE BOURGEOIS, "Historique du Décret", in *L'adaptation et la rénovation de la vie religieuse; décret "Perfectae caritatis"*, J. TILLARD, ed., Paris, Les Editions du Cerf, 1967, pp. 51-72; see F. WULF, "Decree on the Appropriate Renewal of the Religious Life", in H. VORGRIMLER, ed., *Commentary on the Documents of Vatican II*, Freiburg, Herder and Herder, 1967-69, Vol. II, pp. 325-326.

¹⁰ See PC, p. 703, no. 2,b.

aforesaid elements (character, spirit, form of life, and function), including the concept and the aspect, through which the origin of the institute and its history are determined."¹¹

Following the Council, the theme of fidelity to the spirit and aims of the founder were highlighted in a number of the documents.¹² The Exhortation *Evangelica testificatio*¹³ and the directives, *Mutuae relationes*, brought to light the theme of the charismatic dimension of religious life that was mentioned so often in the discussions of the Council fathers.¹⁴

¹¹ J. OCHOA, "Modus determinandi patrimonium constitutionale cuiusvis instituti perfectionis proprium", in *Commentarium pro religiosis et missionariis* (=CpR), 46(1967), notes on p. 344, "Hoc modo verbum 'patrimonium' retineri posset tamquam denominatio generalis, omnia praedicta elementa [...], conceptus et adspectus comprehendens, prout in origine Instituti et in eiusdem historia sunt determinata."

¹² See PAUL VI, *Motu proprio, Ecclesia Sanctae II* (=ES II), in AAS, 58(1966), p. 777-778, nos. 15-18; See CRIS, *Instruction, Renovationis causam*, 6 January 1969, in AAS, 51(1969), p. 103, Intro, #2. See CRIS, *Le scelte evangeliche, Religious and Human Promotion* (=RHP) (Plenaria of CRIS, 25-28 April 1978), *Informationes, Special Bulletin*. English translation in *Consecrated Life, Supplement*, 1981, the English Edition of *Informationes*, p. 18, no. 13; p. 24, no. 29; pp. 25-26, nos. 30-31; p. 26, no. 33, §a. See also EE, p. 3, no. 3.

¹³ See PAUL VI, *Apostolic Exhortation, Evangelica testificatio*, 29 June 1971, in AAS, 63(1971), pp. 496-526.

¹⁴ See *Acta synodalia*, Vol. III, Period III, Part VII, Cardinal J. DOPFNER, p. 431: "Etiam hodie Ecclesia opus habet impulsu et vigore religiosorum vere charismaticorum;" Cardinal A. BEA, p. 443: "Ordinum vel

Religious were reminded that their evangelical witness was to be in accordance with the "charism of the founder" of their institute.¹⁵ The document *Mutuae relationes* described the charism of the founders as "an experience of the spirit transmitted to their followers to be lived by them, to be preserved, deepened and constantly developed."¹⁶ Both documents noted that the "charism of religious life" has a revitalizing capacity which adapts itself to the needs of the modern world.¹⁷

congregationum religiosarum fundatores propria sua dona charismatica habuerunt et, asseclis et filiis suis quodammodo transmittentes, ea perpetua in Ecclesia reddiderunt;" see also P. PERANTONI, p. 459, no. 2; F. ODO DE WILDE, p. 613.

¹⁵ See *ET*, pp. 503-504, no. 11. For the first time, the notion "charism of founders" appeared in a Roman document.

See also S. HENRIQUES, *Acta synodalia*, Vol. III, Period III, Part VII, "Animadversiones scripto exhibitae," p. 571: "Fidelitas erga Fundatorem magis ecclesiologice et magis historice manifestanda esset. Charisma Fundatoris est vis dynamica ad promovendam vitam Ecclesiae peregrinantis secundum determinatas situationes historicas [...]."

¹⁶ See *MR*, p. 480, no. 11. English translation in A. FLANNERY, ed., *Vatican II More Postconciliar Documents* (=FLANNERY, Volume II), p. 217, no. 11. See also M. BUCKLEY, "The Charism and Identity of Religious Life", in *Review for Religious* (=RfR), 44(1985), pp. 656-657; F. CIARDI, "Theology of the Charism of Institutes", in *Vie Oblate Life*, 46(1987), pp. 157, 162-166.

¹⁷ *ET*, pp. 503-504, no. 11; see *MR*, p. 480, no. 11; pp. 485-486, no. 19. See also M. JURADO, "Consecrated Life and Charisms of the Founders", in R. LATOURELLE, ed., *Vatican II: Assessment and Perspectives Twenty-five Years After (1962-1987)*, New York, Paulist Press, 1989, Vol. 3, pp. 3-26.

Mutuae relationes underlined that the main obligation of the religious superior was to promote fidelity to the charism of the founder among the members of the institute.¹⁸ It also noted the responsibility of the hierarchy for the care of religious charisms as well as the protection of religious life in accord with the distinctive character of the institute.¹⁹

B. The juridical dimension of religious life

The 1983 Code of Canon Law reflects the ecclesiology of Vatican II and, as A. Boni explains, is based primarily on two essential and indispensable theological concepts: the understanding and consequences for the Christian in the reception of the sacrament of baptism, and the understanding of the Church as the "People of God" -- a covenant of mutual belonging.²⁰ Just as these two concepts provide the basis for the understanding of the 1983 Code of Canon law, the theological concept of "consecration" becomes the indispensable notion for

¹⁸ See *MR*, pp. 481-483, nos. 13-14, c.

¹⁹ See *ibid.*, p. 479, no. 9, a-d. See also *LG*, pp. 50-51, no. 44; See SECOND VATICAN COUNCIL, Decree, *Christus Dominus*, 28 October 1965, in *AAS*, 58(1966), p. 690, no. 33.

²⁰ A. BONI, "Codice e costituzioni religiose nel nuovo ordinamento giuridico della Chiesa", in *Apollinaris*, 58(1985), p. 451; see also *ibid.*, "Le fonti di diritto nella struttura del nuovo CIC", in *Apollinaris*, 56(1983), p. 380.

understanding the proper law of institutes of consecrated life.²¹ This constitutive and distinctive element of religious life -- a covenant with Christ by total consecration -- is characterized by the profession of religious vows or other sacred bonds and the aspect of witness expressed in fulfilling a Spirit-inspired but approved mission within the Church.

Cardinal R. Castillo Lara, in an address to the Union of Superiors General (1983), noted that the renewed emphasis on "charism", that is, the recognition of the evangelical counsels as a "divine gift" and of religious life as a gift to the Church is central to understanding the new legislation of consecrated life.²² Although canons 575, 577, and 578 highlight these gifts, "the entire Law on consecrated life revolves around the concept of the gift of

²¹ See *ibid.*, "Codice e costituzioni religiose nel nuovo ordinamento giuridico della Chiesa", p. 452.

²² See R. CASTILLO LARA, "Reflections on the New Code: Institutes of Consecrated Life", in *Union internationale des Supérieures générales, Bulletin (=U.I.S.G., Bulletin followed by volume and page number(s))*, 63(1983), pp. 9-14.

See also B. OLIVIER, "Il carisma della vita religiosa nel Concilio e post-concilio", in *Il carisma della vita religiosa dono dello Spirito alla Chiesa per il mondo*, B. OLIVIER et al., Milano, Editrice Ancora, 1979, pp. 31-32, notes that the documents of the Second Vatican Council presented the basic constitutive elements of the charism of religious life.

the Spirit to the Church and the patrimony which concretely represents it for each institute."²³

Throughout history, special gifts have been bestowed on individual persons "in view of a specific service within the community."²⁴ These individuals, guided by the Holy Spirit, actively promoted the perfection of charity, *ad utilitatem aliorum*, for the good of the Church. According to J. Ochoa, "charism denotes a gift of the Holy Spirit from whom it is established and handed over, and who is its first and final source, with its proper character, nature, form, and function."²⁵ History shows that the charism of these persons, their inner dynamism expressed in their spirituality and their sense of vocation often have attracted others to their particular life project. The collective charism of a religious institute is a particular manifestation of the mystery of Christ, that includes the collective charism of the founder, the charism of

²³ R. CASTILLO LARA, "Reflections on the New Code: Institutes of Consecrated Life", p. 12.

²⁴ H. KÜNG, "The Charismatic Structure of the Church", in *Concilium (English)*, 1(1965), no. 4, p. 31.

²⁵ J. OCHOA, "Modus determinandi patrimonium constitutionale cuiusvis instituti perfectiones proprium", p. 344: [...] "'charism' praesignaret *donum Spiritus Sancti* Instituto traditum, unde fluit, tamquam ab origine et ultima et supernaturali ratione, indoles, spiritus, forma vitae et munus Instituti proprium."

foundation, and also the personal charisms of each member.²⁶ B. Olivier notes that charisms are the patrimony of the entire Church and are indispensable for its existence, its growth, and life.²⁷

When a group seeks and receives approbation from competent authority of the Church, the particular charism of the religious institute becomes part of the ecclesial and juridical life of the Church. The approbation of the institute by the Church ensures the preservation of the charism from one generation of members to another beyond its founding period and later circumstances. Canon 578 states the concrete juridical expression of the constitutive elements of the charism of an institute. Furthermore, it states that the patrimony must be faithfully preserved by all. In addition, the proper law of the institute preserves a collective fidelity to the evangelical inspiration from which it takes its life. For it is "only by the convergence of the aspirations of all the members of the institute in communion with the charism of the founder and that of preceding generations that the

²⁶ G. GHIRLANDA, "Ecclesialità della vita consacrata", p. 40: "Quindi, il *carisma colectivo dell'istituto* come manifestazione di un mistero di Cristo, comprende il *carisma colectivo* di fondatore or di fondatrice, il *carisma* di fondazione, e anche i *carismi personali* dei singoli."

²⁷ See B. OLIVIER, "Il *carisma* della vita religiosa", p. 29.

charism of the institute can be recognized in its ever-relative fullness."²⁸

When an institute seeks to join with another to perpetuate its charism, under new circumstances, it is essential that it be aware of its founding gift.

C. Special situations facing contemporary religious life

The call to change, prompted by the Second Vatican Council, was no small matter for institutes entrenched by time, routine *minutiae*, and by a structure which supported the external formalisms of a community.²⁹ For many religious it was a time of increased tension since the process of

²⁸ T. LEDÓCHOWSKA, "A la recherche du charisme d'un institut religieux", in *Vie consacrée*, 49(1977), p. 11: "C'est donc uniquement par la convergence des aspirations de toute la communauté en communion avec le charisme du fondateur et celui des générations précédentes que l'on peut la reconnaître dans sa plénitude toujours relative."

²⁹ Prior to Vatican II, as noted by J. FAUX and T. MATURA, religious were strongly influenced and affected by the efforts of centralization and uniformity of the Church. J. FAUX, "Vie religieuse en 1970", in *Vie consacrée*, 42(1970), p. 235, explains: "Le fruit essentiel du Concile (obtenu substantiellement, dès le fait même de sa convocation) a été la sortie de l'immobilisme, notons-le, qui n'est pas traditionnel dans l'Eglise mais était devenu classique depuis environ un siècle et qu'avait porté à une sorte de paroxysme, en 1917 et dans les années suivantes, la codification du Droit canonique avec ses séquelles dans toutes les institutions ecclésiastiques." See T. MATURA, "Quelle vie religieuse pour demain?", in *Vie des communautés religieuses*, 38(1980), p. 131.

adaptation challenged, to some degree, almost every aspect of their lives.

More particularly, apostolic religious communities experienced vast and dramatic changes within a short period of time.³⁰ The implications of this have generated much concern, criticism, and analysis.³¹ In some parts of the world, particularly in Europe and North America, the situation of religious life can even be described as one of crisis, of ambiguity, and of insecurity.³²

³⁰ J. FAUX, "Vie religieuse en 1970", pp. 235-236, acknowledges: "Quand la vie religieuse est invitée à passer de la docilité à la disponibilité, avec toutes les ressources que la docilité comprimait, le grand éclatement que nous voyons ne doit pas étonner"; see also G. FOLEY, "Crisis and Opportunity in Religious Life", in *Origins*, 6(1976-1977), p. 220; J. TILLARD, "Vingt ans de grâce ou de disgrâce", in *Vie consacrée*, 58(1986), p. 334.

³¹ For example, see M. NEAL, "A Theoretical Analysis of Renewal in Religious Orders in the U.S.A.", pp. 7-25, who refers to the change of theology, its influence and the historical events which lead to Vatican II and its effort to make the Church and its structures capable of facing the human needs of contemporary times.

³² Among the more significant texts we cite: D. AMALORPAVADASS, *Vision of Religious Life in the Future and the Future of Religious Life*, (Mission Theology for our times, No. 12), Bangalore, National Biblical Catechetical & Liturgical Centre, 1980, 21p; V. COUESNONGLE, *Le courage de futur: Messages aux Dominicains*, Paris, Editions du Cerf, 1980, 170p; T. DUBAY, *Can Religious Life Survive?*, Denville, N.J., Dimension Books, 1973, 113p; M. J. LEDDY, *Reweaving Religious Life*, Mystic Ct., Twenty-Third Publications, 1990, 181p; B. SORGE, *Il futuro della vita religiosa*, Roma, Editrice Rogate, 1979, pp. 10-22.

The consequent tension cannot be ignored, for it affects the vitality of the congregation and its capacity for mission. For many congregations, the question of survival or the future of the institute became one of the most obvious concerns.³³

Contemporary literature reveals two prevailing concerns of the present situation of the Church and religious life: (1) it exposes the tension and problems in an age of increasing secularization, and (2) the decrease in membership due to the significant drop in the number of those entering religious life, and a correlative rise in the number of deaths and departures.

1. The phenomenon of secularization

The effect of the phenomenon of secularization is of grave concern for both the Church and religious life. One of the main questions confronting religious life in a world of increasing secularization is how to share the problems, pains, and joys of humanity³⁴ yet not to allow the

³³ For example, see A. DUCHARME, "Planning the Future of the Community", in *Canadian Religious Conference (=CRC) Dossier*, 1982, 30p; E. McDONOUGH, "Beyond the Liberal Model: Quo Vadis?", in *RfR*, 50(1991), pp. 171-188; ID., "The Past is Prologue: Quid Agis?", in *RfR*, 51(1992), pp. 78-97. See also D. NYGREN and M. UKERITIS, "Future of Religious Orders in the United States", in *Origins*, 22(1992-1993), pp. 257-272.

³⁴ Only a few works of a lengthy bibliography will be cited: L. BOFF, *Témoins de Dieu au coeur du monde*,

conveniences of science and the economics of power to reduce the capacity to bear witness to transcendent values or to diminish the fundamental commitment to the spiritual dimension of life. In order to be "free for God and the world" religious need to be "free of the world" -- free from the things which can enslave and dominate one's attitudes and behavior.³⁵ This liberty is necessary in order to witness to the spiritual dimension of humanity. S. Schneiders believes that if they are "to survive as religious in the mainstream it is imperative that religious articulate a new relationship to the world which is neither

Vendôme, Le Centurion, 1978, particularly Chapter 7, "Vie religieuse et sécularisation", pp. 170-196. , addresses the tensions between religious life and secularization, the realities and limitations of secularization, the temptations present in this relationship and the necessary attitudes of a religious within this milieu; A. DE BOVIS, "Vie religieuse et sécularisation", in *Vie consacrée*, 41(1969), pp. 257-279; see J. FICHTNER, "Religious Life in a Secularized Age", in *RfR*, 28(1969), pp. 21-34; L. GUTIERREZ, "La secularidad en la vida religiosa", in *Confer*, 15(1970), pp. 41-56;

See also G. ASCHENBRENNER, "Trends and Issues in Secularizing World", in *RfR*, 41(1982), pp. 186-206; J. BONNEFOY, "Présence au monde dans une vie religieuse", in *Vie consacrée*, 39(1967), p. 365.

³⁵ See L. BOFF, *Témoins de Dieu au coeur du monde*, pp. 184-185, pp. 260-269; S. SCHNEIDERS, *New Wineskins*, New York, Paulist Press, 1986, pp. 98-100.

See also E. BIANCHI, "Vingt ans après le concile", in *Vie consacrée*, 60(1988), pp. 72-73; B. DELPLANQUE, "La rénovation de la vie religieuse dans l'Église et le monde moderne", in *Supplément de la vie spirituelle*, 19(1966), p. 350, pp. 360-364.

a surrender to absorption nor the continuation of an adversary stance."³⁶

2. Dwindling membership and lack of vocations

One result of the crisis within religious institutes is the significant decrease in membership. "While such a phenomenon is not an entirely new one still the proportions which it has reached today are causing a searching analysis of causes which may lie behind it."³⁷

Two of the issues involved in the present problem of decline in membership are the large number of persons who have departed from religious institutes and secondly, the fact that fewer people are choosing this form of life.

a. Departures from religious life

B. Heiser reported that from 1969 through 1972, the Congregation for Religious and Secular Institutes had granted 24,194 dispensations from perpetual vows.³⁸ According to the compilations of *Pro Mundi Vita*, Bulletin 92, from 1970 through 1978, a total of 88,096 men and women

³⁶ S. SCHNEIDERS, *New Wineskins*, p. 98.

³⁷ C. SCHLECK, "Departures from Religion", in *RfR*, 27(1968), p. 682.

³⁸ B. HEISER, "What is Drawing Sisters away from Religious Life? What is Keeping Them in Religious Life?", in *U.I.S.G.*, 33(1974), p. 54.

left religious life. Apostolic religious women alone totaled 67,412 of that total number.³⁹

Although the trend began to decline, the *Annuario Statisticum Ecclesiae*, in the latest issue available to date, reported that from 1979 through 1987, an additional 28,022 religious women had been dispensed or had left at the expiration of their vows.⁴⁰

In the United States, 31,763 religious women departed from religious life between 1966 and 1981.⁴¹ M. Phádraig noted that in Ireland, from 1971-1981, almost as many religious women left (1,603) as entered (1,653).⁴²

M.A. Neal believes that it is difficult to pinpoint a reason for the large number of departures. She views the trend as more social than psychological, caused by the changing conditions of society, a broader interpretation of ministry, and new calls to service for the Church and

³⁹ See "Vie religieuse: nouveau départs?", in *Pro mundi vita*, Bulletin 92 (1983), p. 8.

⁴⁰ *Annuario Statisticum Ecclesiae*, In Civitate Vaticana, Secretaria Status, Rationarium Generale Ecclesiae, 1983, p. 346; *ibid.*, 1987, p. 354.

⁴¹ See M. NEAL, *Catholic Sisters in Transition*, Wilmington, Delaware, Michael Glazier, Inc., 1984, p. 21.

⁴² See M. PHÁDRAIG, "The Sisters' Image: A Sociological Report", in *Religious Life Review* (=RLR), 24(1985), p. 149.

humanity.⁴³ Although various studies have been conducted which provide some additional understanding to a complex phenomenon,⁴⁴ the weighty reality of decline in numbers and the effect on religious institutes and the Church still lingers.

b. The decline in vocations

Of equal gravity is the problem of fewer vocations.⁴⁵ M. Corbett and D. O'Murchú noted that "in 1960, there were 1,330,000 religious in the Catholic Church. By 1978 the number had declined to 1,104,130 and by 1986 had decreased by a further 17% to 944,250."⁴⁶ Although this dilemma is not as apparent in some parts of the world as others, the data presented in the *Annuario*

⁴³ M. NEAL, *Catholic Sisters in Transition*, p. 23. See "Nouvelles formes de vie communautaire", in *Pro mundi vita*, Bulletin, 41(1972), 36p; see also "Vie religieuse: nouveau depart?", in *Pro mundi vita*, Bulletin, 92(1983), pp. 10-29; these articles describe a number of new forms of "religious life" in various parts of the world.

⁴⁴ See G. PASTOR, *Analisis de contenido en los casos de abandono de la vida religiosa*, Madrid, Instituto Teologico de Vida Religiosa, 1974, 366p; L. RULLA, F. IMODA, J. RIDICK, *Psychological Structure and Vocation*, Dublin, Villa Books, 1979, 255p.

⁴⁵ M. NEAL, *Catholic Sisters in Transition*, pp. 66-69. Neal notes that in the conducted survey, 55.1% of the religious administrators identified "declining numbers" as the primary concern facing religious congregations today.

⁴⁶ M. CORBETT & D. O'MURCHÚ, "From Large to Small Communities: Reflections on Two Workshops", in *RLR*, 27(1988), p. 122.

Statisticum Ecclesiae reflects a continual decrease of religious priests, religious brothers, and religious sisters in institutes of pontifical right. For example, in 1974, the number of perpetually professed religious sisters⁴⁷ in institutes of pontifical right totaled 761,423; in 1984, the total was 678,468, and by 1987 the total number decreased to 652,579.⁴⁸

In Europe, the number of religious sisters declined 2,745 from 1984 to 1985. Except for Africa, the numbers of religious brothers decreased from 1984 to 1985 in Europe, Asia, Oceania, and North and South America. The number of religious priests increased from 1984 to 1985 in Asia but had decreased in other areas of the world.⁴⁹ Another example is the dramatic decrease of religious sisters in the United States; in 1966 there were 181,421 but by 1990 the number of religious sisters had declined to 103,269.⁵⁰

⁴⁷ Although the *Annuario Statisticum Ecclesiae* uses "women religious", for the sake of consistency, we will use religious sisters throughout the discussion.

⁴⁸ *Annuario Statisticum Ecclesiae*, 1979, p. 315; 1987, p. 357. See also D. O'DONNELL, "Clerical Religious: Taking Stock for the Synod", in *RLR*, 32(1993), notes on page 14, note no. 4: "One third of O.M.I. scholastics who take first vows do not take perpetual vows."

⁴⁹ A. FLANNERY, "Religious and Dwindling Numbers", in *RLR*, 27, 1988, p. 92.

⁵⁰ *The Official Catholic Directory*, New York, P.J. Kenedy, 1966, The General Summary, p. 1; 1990, The General Summary, p. 1.

As is obvious, significant decrease in numbers brings decrease in effectiveness and strength; for some congregations it is an inevitable step toward extinction.⁵¹ This had been problematic for some years in Europe and more recently in North America and Oceania. The Church in Europe voiced alarm in regard to vocations shortly after World War II.⁵² In a recent study on vocations in North America, Norbert Lacoste notes:

The decline in vocations started in Europe and in Canada during the 50s, then spread to the United States during the 60s and then to Australia and New Zealand during the 70s. There has been no decline in the Third World, and in nations where the Church is persecuted the decline is less than in similar nations where it is not.⁵³

The new vocations in Europe and North America do not equal the number of departures and the loss of members through death. For example, the data from the *Annuarium*

In 1966, there were 12,255 religious brothers in the United States, by 1976, this number had decreased to 8,563; in 1986, there were 7,429, then 6,743 in 1990. See *ibid.*, 1966, The General Summary, p. 1; 1976, The General Summary, p. 1; 1986, The General Summary, p. 1; 1990, The General Summary, p. 1.

⁵¹ See D. NYGREN and M. UKERITIS, "Future of Religious Orders in the United States", p. 270.

⁵² See É. BERGH, "Enquête sur les vocations féminines", in *Revue des communautés religieuses*, 19(1947), pp. 37-42, 89-105; P. LCRET, "Vocations féminines, souci d'Eglise", in *Vocations sacerdotales et religieuses (Vocation)*, 55(1955), pp. 157-160; 57(1957), 48-49, 99-103.

⁵³ N. LACOSTE, "The Vocation Ministry in North America", in *Pro mundi vita: Dossier*, 1987, p. 10.

Statisticum Ecclesiae, 1987,⁵⁴ reflected that the combined number of 2,719 departures (temporarily and perpetually professed) and the reported deaths of 13,189 professed religious sisters far exceeded the 4,730 religious sisters who pronounced perpetual profession. In France, A. Luchini, reported that from 1945 to 1973, there was a decline of 21% in membership of congregations of religious sisters.⁵⁵ M. Phádraig stated that recent vocations (1980s) in Ireland are only one third to one quarter of what they were in the 1960s.⁵⁶ Of the 15,000 religious in Ireland, 73% (10,950) are women, but only 10% are under thirty years of age.⁵⁷

In the United States, M. Neal noted that 32,433 women entered religious life between 1958-1962 compared with 2,767 women who entered between 1975-1980.⁵⁸ It was reported that in 1990, only 36% of the religious institutes

⁵⁴ *Annuario Statisticum Ecclesiae*, 1987, pp. 353-354, 358.

⁵⁵ A. LUCHINI, "La vie religieuse féminine demain", in *La vie spirituelle supplément*, 31(1978), p. 50.

⁵⁶ See M. PHÁDRAIG, "The Sisters' Image: A Sociological Report", p. 149.

⁵⁷ H. O'DONOGHUE, "Women's Congregations 25 Years after Vatican II", in *RLR*, 30(1991), p. 121.

⁵⁸ M. NEAL, *Catholic Sisters in Transition*, p. 20.

in the United States had received new members.⁵⁹ According to P. D'Azy, "to sustain itself, a congregation must have each year a new profession for 40 living religious."⁶⁰ In the study "Future of Religious Orders in the United States" (1992), D. Nygren and M. Ukeritis observed that "the average of the members of many congregations has increased to approximately 67 years old, while the number of religious had decreased 45 percent for brothers and sisters and 27 percent for religious priests."⁶¹

In view of this, it is not surprising that the need for unions and fusions is becoming more prevalent today and will probably increase in the next decades.

II. PROMOTION OF UNIONS: *PERFECTAE CARITATIS*

The Decree *Perfectae caritatis* addressed specific issues of renewal and adaptation in addition to the other practical concerns confronting contemporary religious life: lack of vocations, the problem of multiplicity of religious institutes, tension between religious and bishops as well

⁵⁹ E. McDONOUGH, "The Past is Prologue: Quid agis?", p. 78.

⁶⁰ P. D'AZY, "La vie et l'avenir des petites congrégations de religieuses actives", p. 45, no. 4: "Pour se soutenir numériquement, une congrégation doit avoir chaque année une profession nouvelle pour 40 religieuses vivantes."

⁶¹ D. NYGREN and M. UKERITIS, "Future of Religious Orders in the United States", p. 257.

as concern for religious institutes suffering from fewer members, as well as an ageing membership. For institutes and monasteries suffering from a severe lack of vocations, the decree proposed different types of union or of federation.

A. Basis of Union: Antepreparatory Commission

Shortly after the Antepreparatory Commission was constituted, a letter was sent to all of the future fathers of the Council.⁶² A significant number of responses expressed concern for small, feeble monasteries or languishing religious institutes that, due to a lack of members or vigour, were unable to fulfill their purpose. The comments on this serious topic resulted in the frequently-stated recommendation of regrouping those institutes that are small in number or those who share a similar spirit or purpose by means of a fusion or union,⁶³ as well as forming a federation or confederation among

⁶² See D. TARDINI, in *Acta et documenta Concilio Oecumenico Vaticano II apparando* (=Acta et documenta, followed by Series, Volume, Part and page number (s)), in Civitate Vaticana, Typis Polyglottis Vaticanis, 1960- , Series I, Vol. II, Part I, Prot. N. C/59, 18 June 1959, pp. x-xi.

⁶³ See *Acta et documenta, Series I, Appendix Vol. II, Part I*, pp. 690-695; see also *Acta et documenta, Series I, Vol. II, Parts I-VIII*.

monasteries with the same spirit or rule.⁶⁴ Suppression of weak monasteries or congregations was also recommended.⁶⁵ In an effort to ensure stronger foundations and to avoid the age-old problem of multiplicity of institutes, it was also recommended that caution and stricter norms be exercised in establishing new institutes.⁶⁶

The proposals submitted by the Congregation for Religious to the Antepreparatory Commission also expressed concern for institutes and monasteries suffering from lack of members and which did not give any further hope of increasing:

1. It is strongly recommended that small institutes that, after years, do not offer any founded hope of increasing, and do not differ from other institutes in their specific end, in their spirit, in their affiliation to a First Order and rarely differ even in their name, unite in a voluntary manner or aggregate themselves to a larger institute.

⁶⁴ See *ibid.*, Series I, Appendix Vol. II, Part I, pp. 690-695; see also *ibid.*, Series I, Vol. II, Parts I-VIII.

⁶⁵ See *ibid.*, Series I, Appendix Vol. II, Part I, pp. 690-695; see also *ibid.*, Series I, Vol. II, Parts I-VIII.

⁶⁶ See *ibid.*, Series I, Appendix Vol. II, Part I, pp. 690-697, see also *Acta et documenta*, Series I, Vol. II, Parts II-VIII.

2. And if the union in question appears to be obviously impossible, smaller and languishing institutes must be forbidden to accept novices in the future, so that in time they would become extinct.⁶⁷

In the context of the first paragraph, the term "aggregate" could even refer to extinctive union or fusion: a small institute is absorbed by a more flourishing one. A similar recommendation was also proposed in regard to the waning monasteries that showed no hope of revival:

Monasteries that are truly perishing and offer no founded hope of revival or progress must either be simply suppressed or at least forbidden to admit novices.⁶⁸

⁶⁷ See SACRA CONGREGATIO DE RELIGIOSIS, *Proposita et Monita SS. Congregationum Curiae Romanae*, in *Acta et documenta, Series I, Vol. III*, p. 233, Number XXI, De Unione aut foederatione parvorum Institutorum:

"1. Parva Instituta quae post annos nullam fundatam spem incrementi praebent, et quae ab alio aliisve Institutis quoad finem specificum, quoad spiritum, quoad alicui Primo Ordini affiliationem et non raro etiam quoad nomen non multum inter se differunt, enixe hortentur ut ad unitatem voluntarie se reducant, vel potius alicui maiori Instituto se adgregentur."

2. Quodsi haec unio impossibilis evidenter appareat, prohibeantur minora ac languescentia Instituta ne in posterum novitios recipiant, ita ut cum tempore extinguantur."

⁶⁸ *Ibid.*, p. 228, Number XIV, De monialibus et de clausura, no. 6: "Monasteria quae vere languescunt nullamque fundatam spem resurrectionis vel progressus praebent, plane supprimantur vel saltem prohibeantur ne novitias admittant."

Another proposal recommended federation of monasteries for both of monks and nuns.⁶⁹ Confederation of federations was also recommended.⁷⁰

B. Preparatory Commission: Union and Federation

The work of the Antepreparatory Commission provided the foundational basis for that of the Preparatory Commission. One of the questions that the Holy Father entrusted to the Preparatory Commission for study was unification of religious institutes.⁷¹

After 78 plenary meetings, the Preparatory Commission submitted its proposed *Schema De Statibus Perfectionis Adquirendae* for discussion in February, 1962.⁷²

⁶⁹ See *Acta et documenta, Series I, Vol. III, Proposita et monita SS. Congregationum Curiae Romanae, S. Congregatio de Religiosis*, pp. 233-234, Number XXIII, *De foederationibus et confoederationibus monasteriorum monialium*.

⁷⁰ *Ibid.*, pp. 233-234, Number XXIII, nos. 2-4.

⁷¹ V. VALERI, President of the Pontifical Commission of Religious, in *Acta et documenta, Series II (Praeparatoria), Vol. II, Part I*, pp. 139-142: "In prima categoria sunt quaestiones demandatae, scilicet, a Summo Pontifice selectae, et Commissionis de Religiosis studio commissae quae novem numerantur [...]", p. 140, no. 5: "De familiis religiosis unius eiusdemque Instituti, ad unitatem reducendis vel saltem in confoederatio copulandis."

⁷² See "Schema propositum a Commissione de Religiosis de statibus perfectionis acquirendae", in *Acta et documenta, Series II, Vol. II, Part II, Fourth Session, 23-24 February 1962: "Disceptatio - De statibus perfectionis acquirendae"*, pp. 653-737.

The topics of union of institutes and the federation of monasteries were addressed in Chapter XIV, *De institutis statuum perfectionis uniendis, supprimendis vel de novo condendis*.⁷³

Different types of union were presented in Numbers. 29-31 and 36.⁷⁴ Federation and confederation of autonomous monasteries were described in Number 32.⁷⁵ Except for an addition to Number 31, (the union of institutes with the same external works), the text of the articles on union and federation presented by the Congregation for Religious were incorporated verbatim into Chapter XII of the 1962 *Schema Constitutionis de statibus perfectionis acquirendae*.⁷⁶

See also "De statibus perfectionis acquirendae", in *Acta et documenta, Series II, Vol. III (Acta Commissionum et Secretariatuum Praeparatoriorum Concilii Oecumenici Vaticani II)*, Part I, pp. 433-495.

⁷³ See *Acta et documenta, Series II, Vol. II, Part II, Session IV*, pp. 721-722, nos. 29-38.

⁷⁴ See *ibid.*, p. 721, no. 29: [Necessitas arctioris unionis inter instituta]; p. 721, no. 30: [De unione institutorum commendanda]; p. 721, no. 31: [Unio institutorum eiusdem generis operum]; and p. 722, no. 36: [De institutis languescentibus].

⁷⁵ See *ibid.*, pp. 721-722, no. 32: [Foederatio et confoederatio monasteriorum sui iuris].

⁷⁶ See "Schema constitutionis de statibus perfectionis acquirendae" (=Schema constitutionis de statibus), in *Schemata constitutionum et decretorum ex quibus argumenta in Concilio disceptanda seligentur* (=Schemata constitutionum et decretorum), Series III, in *Civitate Vaticana, Typis Polyglottis Vaticanis, 1962-1963*, pp. 181-281.

C. Conciliar Commission: Union and federation

The task of the Conciliar Commission on Religious was to prepare a new schema which would include the material prepared by the Preparatory Commission, reflect a pastoral approach, contain only the "essential points"⁷⁷ and drastically reduce the text.

The abbreviated 1963 *Schema De statibus perfectionis acquirendae*,⁷⁸ contained only 51 articles as compared to the 201 articles of the previous schema.

The articles that governed the types of union and federation were significantly reduced further in the May,

See *ibid.*, p. 233, no. 95: [Necessitas arctioris unionis inter Instituta]; p. 233, no. 96: [De unione Institutorum commendanda]; p. 233, no. 97: [Unio Institutorum eiusdem generis operum]; p. 235, no. 102: [De Institutis languescentibus]; p. 233-235, no. 98: [Foederatio et confoederatio monasteriorum sui iuris].

⁷⁷ A. CICOGNANI, President of the Conciliar Commissions, Letter to the Coordinating Commission, *Acta synodalia*, Vol. V (Documenta et processus verbales), Part I, Session I, p. 183: "[...] e per quanto sara possibile si abbia cura di utilizzare il materiale elaborato dalle Commissioni preparatorie ed esaminato dalla Commissione Centrale preparatoria."

See *Acta synodalia*, Vol. III, Period III, Part VII, "Notae explicativae", p. 89.

⁷⁸ See *Schema constitutionis de statibus*, in *Acta synodalia*, Vol. III, Period III, Part VII, Appendix, pp. 751-780.

1964 *Schema De Religiosis*.⁷⁹ Although the proposals had been consolidated and condensed, the most important elements were retained.⁸⁰

Some of the remarks of the Council fathers supported regrouping religious institutes and confirmed the necessity for better coordination of the apostolic works of institutes.⁸¹ Most of the observations, however, focused on the issue of competence.

After the discussion of November 1964, in the Aula, 41 fathers proposed various ways for the local hierarchy to intervene along with the Holy See in regard to the

⁷⁹ See *Acta synodalia*, Vol. III, Period III, Part VII, pp. 85-89.

See *ibid.*, no. 16: "[De institutis et monasteriis languescensibus]", p. 88, (see no. 46 in the 1963 *Schema De Religiosis* in *Acta synodalia*, Vol. III, Period III, Part VII, p. 778).

See *ibid.*, no. 17: "[De unione inter instituta fovenda]", p. 88, (see nos. 41, 42, 43, 45 in the 1963 *Schema De Religiosis*, in *Acta synodalia*, Vol. III, Period III, Part VII, pp. 777-778).

⁸⁰ Numbers 17 and 18 governed union in the October 1964 *Schema De accommodata renovatione vitae religiosae*, see *Acta synodalia*, Vol. III, Period III, Part VII, no. 17: "[De institutis et monasteriis languescensibus]", pp. 149-150; no. 18: "[De unione inter instituta fovenda]", p. 150.

⁸¹ For example, see *ibid.*, "Animadversiones scriptae", A. LORSCHIEDER, p. 632; see *ibid.*, "Patrum orationes", P. PERANTONI, p. 459.

suppression of languishing institutes or monasteries.⁸² Due to the tenor of the discussion of November, 1964, the phrase "having consulted the local ordinaries" was added to Number 21 of the amended *Schema* (September, 1965)⁸³ as a prior condition for the judgement of the Holy See in the matter of fusion or of prohibition against accepting new novices.

D. Definitive text: Analysis of fusion and union

The promulgated Decree *Perfectae caritatis* advocated closer association, mutual support, and collaboration among religious institutes.⁸⁴

⁸² See *Acta synodalia*, Vol. IV. Period IV, Part III: "Expensio modorum de singulis numeris", p. 574, no. 21, 273: "41 Patres petunt interventum hierarchiae localis, una cum Sancta Sede, in institutis vel monasteriis languescentibus supprimendis, quod variis modis proponitur [...]."

⁸³ See *ibid.*, p. 527, no. 21. "[De institutis et monasteriis languescentibus]"; p. 527, no. 22: "[De unione inter instituta fovenda]."

⁸⁴ Besides the recommendation for union and federation of institutes and monasteries, the decree *Perfectae caritatis* also recommended the union or the establishment of conferences of major superiors, see *PC*, p. 711, no. 23; see also *MR*, pp. 503-504, no. 61.

See E. HERNANDEZ, "Conferences of Major Superiors", in *Consecrated Life (=ConLif)*, 11(1986), p. 283, presented an update on conferences of religious: "on the national level there are 142; on the international level there are two: The International Union of Superiors General of Women Religious (U.I.S.G.), and the Union of Superiors General of Men Religious, (U.S.G.). There are two supranational organisations: The Confederation of Latin American Religious (C.L.A.R.), and the Union of European Conferences

Numbers 21 and 22 reflect the pastoral attitude of the Second Vatican Council which realized that for various reasons, a lack of members, financial problems, or difficulties in fulfilling their internal as well as their external obligations and notwithstanding the good will of the members, a religious institute as a human organization may become obsolete and no longer viable. In an effort to provide assistance and to offer a solution to the problems that can arise from small monasteries and institutes as well as to increase the vigour of institutes, the decree recommended different types of regrouping or unification: amalgamation (fusion), union, federation, and association.

1. Number 21: Amalgamation and prohibition of novices

Number 21 recommends the amalgamation (fusion) of institutes and the prohibition of accepting any more members:

Institutes and monasteries, however, which the Holy See, having consulted the local ordinaries concerned, judges not to offer any reasonable hope of further development, are to be forbidden to receive any more novices. If possible, they are to be amalgamated with more flourishing institutes or monasteries, whose aims and spirit differ little from their own.⁸⁵

of Men and Women Major Superiors (U.C.E.S.M.)"; See *Annuario pontificio per l'anno [...]*, Città del Vaticano, Libreria editrice Vaticano, 1992, pp. 1598-1624.

⁸⁵ PC, p. 711, "No. 21: Instituta vero et monasteria quae, auditis Ordinariis locorum quorum intersit, iudicio Sanctae Sedis non praebeant fundatam spem

The primary concern in Number 21 is twofold: for the vocation and the over-all well-being of the members, and the fact that the institute is part of the life of the Church. Despite numerous efforts, some institutes were not able to attract new members and probably, in time, would not be able to provide an environment that would sustain and nurture vocations. There may also be problems in providing the necessary leadership and over-all support for the present members.⁸⁶

First of all, the recommendation for amalgamation is applicable to institutes and monasteries. In the context of this article, the term "uniantur", translated as "to be amalgamated", described the type of union called "extinctive", usually referred to as a "fusion". Most of the commentaries on *Perfectae caritatis* and the post-conciliar authors agreed on the following description and its juridical effects:

ut ulterius floreant prohibeantur ne in posterum novicios recipiant et, si fieri possit, alii instituto vel monasterio vegetiori, quod fine et spiritu haud multum differat, uniantur." English translation in A. FLANNERY, ed., *Documents of Vatican II*, (=FLANNERY, *Vatican II*), Grand Rapids, Michigan, William B. Eerdmans Publishing Co., 1975, p. 622.

⁸⁶ P. MOLINARI, "Introduction and Commentary, *Perfectae caritatis*", in *Supplement to The Way*, 2(1966), p. 60; J. GALLAN, "Questions and Answers", in *RfR*, 27(1968), p. 550; E. BERGH, "Les unions d'instituts", in *Vie consacrée*, 40(1968), p. 273, p. 281; L. MURABITO, "Union of Institutes and Union of Monasteries in Decline", in *ConLif*, 11(1987), pp. 274-276.

A fusion properly speaking is a union which is extinctive and non equal, and it entails the true absorption of one Institute by another one. Consequently, it also entails the true cessation or extinction of one Institute as such.⁸⁷

The members assumed the name, the constitutions, and the government of the receiving institute. The goods also passed to the receiving institute.⁸⁸ When the fusion is

⁸⁷ C. GORRICHIO, "Chronica: activitas S. Congregationis pro Religiosis durante Anno 1971", (=Chronica, followed by year), in *CpR*, 53(1972), p. 281, note 12: "Fusio proprie est unio extinctiva et inaequalis, et supponit veram unius ab alio Instituto absorptionem, et consequenter veram unius Instituti, qua talis, cessationem seu extinctionem [...]." See J. OCHOA, "Qualitates renovationis vitae religiosae ad mentem Concilii Vaticani Secundi", in *CpR*, 46(1967), p. 124: "Uniones, quae possunt esse extinctivae, aequae aut minus principales per subiectionem vel accessionem (cf. can. 1419)."

See also G. VAN DEN BROECK, *Où en est la législation canonique aujourd'hui?*, *Canons 487-672*, Rome, Tipografia della Pontificia Università Gregoriana, 1975, pp. 17-18: "Il faut noter cependant que la suppression ou l'extinction d'un Institut religieux ne se fait pas seulement par un acte officiel du S. Siège ou par la mort ou la sortie légitime des membres, mais elle peut se produire d'une manière indirecte par l'union ou la fusion d'un Institut avec un autre."

A. BARRIOS MONEO, "Información, de la Congregación de Religiosos", in *Vida religiosa*, 25(1969), p. 277; E. BERGH, "Les unions d'instituts", pp. 280-281; V. FAGIOLLO, *Decreto sul rinnovamento della vita religiosa Perfectae caritatis*, Casale Monferrato, Edizioni Piemme, 1988, p. 81. E. FOGLIASSO, *Il decreto 'Perfectae caritatis' sul rinnovamento della vita religiosa in rispondenza alle odierne circostanze*, Torino, Leumann, 1968, p. 515; J. GALLEN, "Questions and Answers", p. 550; H. JOULIA, *Union, fusion, fédération, association d'instituts religieux*, Paris, Comité permanent des religieux de France, Comité canonique, 1973, p. 13.

⁸⁸ H. JOULIA, *Union, fusion, fédération, association*, p. 17; see C. GORRICHIO, "Chronica: Anno 1973", in *CpR*, 55(1974), p. 87, no.(3): "[...] Decretum.

realized, the former institute loses its juridic personality.

An amalgamation or a fusion of institutes can occur as a result of the initiative and the free choice of the institutes in question or as a result of the decision of the Holy See, due to the institute's lack of reasonable hope of further development.⁸⁹

It is important to note that the article states "if possible", the institutes are to amalgamate. Sometimes, however, this may be too difficult due to the age of the members, or the incapacity to find a similar or receiving institute, or other factors.

The judgment to determine if an institute truly offers "no reasonable hope of further development" is reserved to the Holy See. Prior to the definitive judgment

Sorores Congregationis N., [...] Bona mobilia et immobilia ceteraque iura et obligationes Sororum Congregationis N. ad Institutum aggregans rite transferantur [...];" see T. BOUSCAREN and J. O'CONNOR, *The Canon Law Digest (=CLD)*, New York, Bruce Publishing Co., [c1934-], Vol. VI, (1963-1967), Canon 493, "Merger of Two Religious Institutes (S. C. Rel., 4 Feb., 1967) Private", p. 446: "The goods, the rights and obligations, and especially the burdens of foundations, if such exist, are likewise considered joined to the goods and obligations of the Congregation to which the Sisters themselves are joined, with observance, however, of those things which regard pious foundations."

⁸⁹ J. OCHOA, "Qualitates renovationis vitae religiosae", p. 124: "[...]Unio exstinctiva imponitur illis Institutis vel monasteriis sui iuris quae 'non praebeant fundatam spem ut ulterius floreant'."

to prohibit the institute or monastery from receiving new novices, the local ordinaries concerned are to be consulted. Other parties may offer or be contacted to provide additional information to verify the condition of the institute in question.

2. Number 22: Union, federation, and association

In line with the aim of promoting closer union or affinity among institutes, *Perfectae caritatis*, Number 22 proposed three different types of unification as a means to strengthen the relationship between religious institutes or among monasteries, to consolidate religious institutes, and to establish bonds of mutual support in regard to the apostolate. Number 22 states:

Institutes and independent monasteries should, as opportunity offers and with the approval of the Holy See, form federations, if they belong in some measure, to the same religious family. Failing this, they should form unions, if they have almost identical constitutions and customs, have the same spirit, and especially if they are few in numbers. Or they should form associations if they have the same or similar active apostolates.⁹⁰

⁹⁰ PC, p. 711, no. 22: "Instituta et monasteria sui iuris, pro rei opportunitate et approbante Sancta Sede, inter se promoveant foederationes, si quodammodo ad eandem familiam religiosam pertinent, aut uniones, si fere pares habent constitutiones et usus eodemque animantur spiritu, praesertim cum nimis sunt exigua, aut associationes, si iisdem vel similibus operibus externis incumbunt." English translation in FLANNERY, *Vatican II*, p. 622.

The text states that institutes and monasteries "should, as opportunity offers" form a federation, a union, or an association. In the context of this article, the motivational emphasis is the renewal and reinvigoration of the life of the institutes rather than necessity or grave reasons as noted in Number 21.

Number 22 reinforced the movement of federation, formally initiated for monasteries of nuns in the Apostolic Constitution *Sponsa Christi*⁹¹ and the Instruction, *Inter praeclara*.⁹² This article, however, extended the recommendation to include religious institutes and all independent monasteries,⁹³ if they belong to the same religious family. A. Scheuermann mentioned that federations could also occur among pontifical religious institutes, or

⁹¹ See PIUS XII, Apostolic Constitution, *Sponsa Christi*, 21 November 1950, in AAS, 43(1951), no. VII, pp. 18-19.

⁹² See CONGREGATION FOR RELIGIOUS, Instruction, *Inter praeclara*, 23 November 1950, in AAS, 43(1951), Part II, Numbers XVII-XXV, pp. 41-44.

See also JEANNE d'ARC, "Moniales, Monastères et Fédérations", in *Supplément de la vie spirituelle*, 19(1966), pp. 293-321, who raised questions about the lack of clarity concerning the responsibility of the president of the federation (not a major superior), the abbess of the monastery and the religious assistant related to fusion of one monastery with another and the problem of closing a monastery.

⁹³ An independent monastery has its own governance, novitiate, and autonomy. It is distinct from a monastery that is affiliated to a principal house or one that belongs to a congregation under the same superior.

small institutes of diocesan right, or those that belong to the same religious Order, or the Congregations of simple vows or those communities that live and follow the Rule of the Third Order of St. Francis.⁹⁴

Furthermore, as opportunity offers, religious institutes or monasteries that had almost the same constitutions or were animated by a similar spirit were to unite as one institute. Union, in this sense, was understood as an "equally principaled union", the process of uniting two or more religious institutes to form a new institute with a different structure and new constitutions.⁹⁵ The members and the temporal goods of the

⁹⁴ A. SCHEUERMANN, "Die Ordensleute in den Dokumenten des II. Vatikanischen Konzils", in *Archiv für Katholisches Kirchenrecht*, 134(1965), p. 361, (a): [...] "Sie sind aber auch denkbar als Föderationen zwischen Verbänden, vor allem kleinen Verbänden des diözesanen Rechts, die der gleichen Ordensfamilie zugehören, wie es z.B. die Kongregationen sind, die sich zur Regel der in Gemeinschaft lebenden Tertiären des hl. Franziskus bekennen."

⁹⁵ See J. OCHOA, "Qualitates renovationis vitae religiosae", p. 124: "*Unio aequae principalis suadet praeipue inter illa Instituta quae 'fere pares habent constitutiones et usus eodemque animantur spiritu'* (PC n. 22) [...]; alias ita solet fieri ut unita Instituta novum constituent Institutum, mediante igitur in praxi unione extinctiva."

See also C. GORRICHIO, "Chronica: 1971", 53(1972), p. 281, note 11 in reference to union in Number 22, PC: "[...] Haec species unionis, per se extinctiva ae aequalis, comportat, ut ex pluribus Institutis unum fiat, diversae quidem structurae et conformationis, in singulis casibus perpendendae [...];" A. Scheuermann, "Die Ordensleute in den Dokumenten des II. Vatikanischen Konzils", p. 361, (b).

institutes in question become a part of the newly created religious institute.⁹⁶ A new juridic person is created, and the past juridic personalities cease to exist.⁹⁷

The last type of grouping, substantially different than either a union or a federation, is an association.⁹⁸ It does not involve a "true and proper" juridical union between institutes but promotes collaboration and mutual assistance between institutes and monasteries that are dedicated to similar apostolic works.⁹⁹ Its purpose is to

⁹⁶ H. JOULIA, *Union, fusion, fédération, association*, pp. 24-25, b: "Tous les BIENS des divers instituts sont transférés canoniquement à la nouvelle congrégation, le statut civil devant être étudié dans chaque cas particulier"; J. O'CONNOR, *CLD*, Mundelein, Illinois, Chicago Province SJ, Vol. IX, (1978-1981), Canon 493, "Merger of Religious Institutes (S.C. Rel. et S. I., 29 May, 1971), p. 294: "Besides the persons, the property, both movable and immovable, and the other rights and obligations of each one of the communities are to be registered in the name of the new congregation."

⁹⁷ E. BERGH, "Les unions d'instituts", pp. 279-280; see also H. JOULIA, *Union, fusion fédération, association*, p. 21; A. BARRIOS MONEO, "Información. De la Congregación de Religiosos", p. 277.

⁹⁸ C. GORRICO, "Chronica: 1971", p. 280; see also J. OCHOA, "Qualitates renovationis vitae religiosae", p. 124, no. 1.

⁹⁹ See *Schema constitutionis de statibus perfectionis*, Numbers 95 and 97, which speak of this kind of association.

See also E. BERGH, "Les unions d'instituts", p. 276; L. MURABITO, "Union of Institutes and Union of Monasteries in Decline", p. 278, notes that the association spoken of in Number 22 could be compared to the type of "union" mentioned in articles XVII and XXII of *Inter praeclara*. It provides a means for spiritual and economic

to provide apostolic projects and efficiently coordinated ministry. The principal dispositions of an association usually include: respect for the autonomy of each institute and the establishment of various forms of assistance that would be mutually beneficial for the religious institutes and for the apostolate.

E. *Motu proprio Ecclesiae Sanctae*

The norms for implementing *Perfectae caritatis* were issued in the *motu proprio Ecclesiae Sanctae*. Numbers 39-43 of Part II of this document provided clear criteria and directives corresponding to the different types of unification of religious institutes and monasteries that were recommended in *Perfectae caritatis*. Both of these documents reflect the orientation and guidance that the Congregation for Religious and Secular Institutes have always followed concerning unification of religious institutes.¹⁰⁰

assistance for isolated monasteries but has a different juridical status from that of federations; see Instruction, *Inter praeclara*, Numbers XVII and XXII, p. 41.

¹⁰⁰ See ANON, "Il movimento unitario tra gli istituti religiosi", in *Vita consacrata*, 10(1974), p. 635, who refers to the address to the International Union of Superiors General presented by Archbishop A. Mayer, Secretary of the Sacred Congregation for Religious and Secular Institutes (1971-1986).

In the consideration of unification, the *motu proprio* instructed religious institutes to bear in mind the following:

40. In such cases and circumstances, the good of the Church must be kept in view, as also the particular character of each institute and the freedom of choice left to each individual religious.¹⁰¹

1. Criteria for suitable preparation of union

Number 39 of *Ecclesiae Sanctae* provided clear criteria for the adequate preparation of unions:

39. The project for a union between institutes - whatever its nature may be - supposes an adequate preparation, spiritual, psychological, juridical, according to the mind of the Decree *Perfectae Caritatis*. For this, it is often desirable that the institutes should have the help of some assistant approved by the competent authority.¹⁰²

In light of the three fundamental considerations and due to the seriousness of the matter, an adequate

¹⁰¹ *ES II*, p. 782, no. 40: "In praefatis casibus et circumstantiis bonum Ecclesiae prospiciendum est, debita tamen habita ratione sive indolis cuiusvis Instituti propriae, sive libertatis singulorum sodalium." English translation in *FLANNERY, Vatican II*, p. 632.

¹⁰² *Ibid.*, pp. 781-782, no. 39: "Promotio unionis cuiusvis generis inter Instituta supponit praeparationem idoneam spiritualem, psychologiam, iuridicam, ad mentem Decreti *Perfectae caritatis*. Hunc in finem, saepe opportunum erit ut ab aliquo Adsistente, a competenti Auctoritate approbato, Instituta adiuventur." English translation in *FLANNERY, Vatican II*, p. 632.

spiritual, psychological, and juridical preparation for union is necessary.

The degree of preparation of such a project usually corresponds to the nature of the union and the degree of affinity of the groups seeking union. Union, "whatever its nature may be", necessitates a careful preparation due to the fact that it will touch, in one way or another, the essential aspects of all that constitute the patrimony of the institute.¹⁰³

Whether it would be an amalgamation (fusion) or, for grave reasons, the suppression of an institute, the document stated that "each member of the religious institute would need to be consulted beforehand." Moreover, everything must take place in a spirit of charity. The document is concerned with the care that must be taken for the freedom of choice of the individual religious and also for those members who may not agree to the fusion or union.¹⁰⁴

The heart of the spiritual preparation is the recognition by the members of the common elements of consecrated life and of service to the Church. In respect

¹⁰³ See PC, p. 703, no. 2, b.

¹⁰⁴ See A. GUTIERREZ, "Conditio iuridica religiosorum non consentientium in unionem duarum Congregationum", in CpR, 59(1978), pp. 234-236.

of particular spiritualities and their distinct expressions, it is important for religious institutes to join with another with a similar spirituality and its expression in daily prayer and devotions.¹⁰⁵

The importance of the psychological preparation for a religious institute cannot be underestimated in such a delicate matter. It presupposes, first of all, that the superior general, the general council, and the membership understand the present situation of the institute, the number of houses and members, their age, works of the institute, and their temporal goods. There must also be opportunity for the members to discuss the advantages and disadvantages of a fusion or union, as well as to express the possible fear of change and loss.¹⁰⁶

Each type of regrouping, depending on its nature, has distinct juridical effects. Members of the religious institutes should have a clear grasp of the type of unification in question and its juridical effects as well as the choices for the member who does not choose to be a part of the union. It has been recommended that institutes

¹⁰⁵ *Ibid.*, p. 782, no. 40.

¹⁰⁶ See H. JOULIA, *Union, fusion, fédération, association*, pp. 19-20 and pp. 25-26; see also E. BERGH, "Les unions d'instituts", pp. 274-275.

be assisted by a facilitator, someone qualified in such delicate matters and approved by competent authority.¹⁰⁷

2. Criteria that govern fusion or suppression

The following criteria govern the decision for a fusion or the decision to forbid new novices or to suppress a religious institute or monastery:

41. In attempting to reach a decision concerning the suppression of an institute or monastery, the following are the criteria which, taken together, one should retain, after one has taken all the circumstances into consideration: the number of members remains small, even though the institute or monastery has been in existence for many years, candidates have not been forthcoming for a long time past and most members are advanced in years. If a suppression is finally decided upon, provision must be made that 'if possible (the institute) be amalgamated with a more flourishing (institute) whose aim and spirit differ little from its own' (*Perfectae Caritatis*, no. 21). Each religious must be individually consulted beforehand, and all must be done with perfect charity.¹⁰⁸

¹⁰⁷ See *ES II*, pp. 781-782, no. 39.

¹⁰⁸ *Ibid.*, p. 782, no. 41: "Inter criteria quae conferre possunt ad iudicium de suppressione alicuius Instituti vel Monasterii efformandum, omnibus circumstantiis perpensis, haec praesertim simul sumpta retineantur: parvus numerus religiosorum relate annos existentiae, candidatorum per plures annos carentia, aetas provectior maioris partis sodalium. Si ad suppressionem perveniendum erit, provideatur ut, 'si fieri possit, alii Instituto vel Monasterio vegetiori, quod fine et spiritu haud multum differat' (N. 21 Decr. *Perfectae caritatis*) aggregetur. Singuli autem religiosi antea audiantur et omnia in caritate fiant." English translation in *FLANNERY, VATICAN II*.

The criteria include the following realities: the number of members is small in proportion to the age of the religious institute; there have not been any new candidates for a number of years, for instance, 25 years; most of the members are advanced in age, for instance, a median age over 70.¹⁰⁹ If such a decision is made, the norm encourages the religious institute to join, by means of a fusion, a more flourishing institute.

G. LaFont noted that many religious institutes were founded in the nineteenth century in order to serve the numerous needs of a diocese. A number of these do not have the support of or attachment to a grand spirituality. In view of this, *aggiornamento* would mean "refoundation". Considering this situation and "the riches that are brought about by belonging to a larger group, one wonders if the federation, indeed a fusion with a congregation that has more structured doctrinal and institutional plans would not be the better solution for the development of members of religious institutes."¹¹⁰

¹⁰⁹ See *ibid.*, p. 782, no. 41; see also JEANNE d'ARC, "Moniales, Monastères et fédérations", p. 311, observed: [...] "quand ils ont passé très longtemps sans recevoir de postulantes, la moyenne d'âge monte dangereusement [...] il devient de plus en plus difficile aux soeurs de s'adapter aux jeunes, et à celles-ci de s'adapter à cette communauté."

¹¹⁰ G. LAFONT, "Esprit-Saint et le droit dans l'Institution religieuse" in *Supplément de la vie spirituelle*, 82(1967), p. 485, notes in note 10: [...] "de

Each of the unions and, of course, the suppression of an institute would require the approval of the Holy See.¹¹¹

III. FUSIONS AND UNIONS FOLLOWING VATICAN II (1963-1983)

Although some fusions and unions occurred prior to the Second Vatican Council,¹¹² a significant increase occurred in the wake and spirit of Vatican II. According to *L'Attività della Santa Sede*, 139 fusions and 36 unions occurred from 1965 to 1979.¹¹³ There were no additional

la richesse qu'apporte l'appartenance à un grand corps, on peut se demander si la fédération, voire la fusion avec une congrégation plus structurée sur les plans doctrinal et institutionnel n'est pas la solution la meilleure pour l'épanouissement religieux des sujets."

¹¹¹ *Ibid.*, pp. 781-782, no. 39; see also PC, nos. 21 and 22.

¹¹² The Major Superiors of France were aware of the problem of fewer vocations to religious life and the decreasing membership of many of the religious institutes in France. In October, 1961, the Major Superiors of France met with Cardinal M. Feltrin, Archbishop of Paris and Reverend P. Philippe, Secretary of the Sacred Congregation for Religious and Secular Institutes, concerning the question of fusions.

¹¹³ See SACRA CONGREGAZIONE DEI RELIGIOSI, in *L'Attività della Santa Sede*, Città del Vaticano, Tipografia Poliglotta Vaticana, [1941 -], see: 1965, p. 647; 1966, pp. 930-932; 1967, pp. 1227-1228; 1968, pp. 1252-1253; 1969, pp. 688-690; 1970, pp. 721-722; 1971, pp. 601-602; 1972, pp. 554-555; 1973, p. 540; 1974, p. 499; 1975, pp. 531-532; 1976, p. 455; 1977, pp. 498-499; 1978, p. 549; 1979, p. 1035; 1980, pp. 947-948; 1981, pp. 854; 1982, pp. 1039-1040. *L'Attività della Santa Sede* also listed the "Associations" and "Federations".

See also CpR: 46(1967), pp. 417-418; 52(1971), pp. 282-283; 53(1972), pp. 281-282; 54(1973), p. 181; 55(1974),

fusions reported from 1979 through 1983, nor additional unions from 1980 through 1983. Except for a few, all of the fusions or unions pertained to institutes of religious women.

L'Attività della Santa Sede, 1966¹¹⁴ reported that the Congregation for Religious and Secular Institutes had created the Office for Federation, Unions, and Fusions. It would receive and provide assistance for those institutes that sought one of the four types of unification. Beginning in 1968, the publication listed the approved fusions and unions under the affairs of the Office of Union.

In 1973, the Canonical Committee of the Permanent Committee of Religious of France published "*Union - Fusion - Fédération - Association d'Instituts religieux*."¹¹⁵ This booklet described each of the four types of unification recommended by the fathers of the Second Vatican Council. In addition, it provided considerations for the spiritual, psychological, and juridical preparation proper to each of

pp. 87-88; 56(1975), 157-158; 57(1976), p. 144; 58(1977), pp. 243-244; 59(1978), 253-254; 60(1979), p. 336; 61(1981), p. 149.

¹¹⁴ See *L'Attività della Santa Sede*, 1966, p. 929. See also *CpR*, 52(1971), pp. 282-283.

¹¹⁵ See H. JOULIA, *Union, fusion, fédération, association d'instituts religieux*, Paris, Comité permanent des religieux de France, Comité canonique, 1973, 32p.

the ways of unification. Furthermore, it explained the canonical norms and necessary procedures for fusion, union, federation, and association. It was informative and helpful for both bishops and religious institutes.

Archbishop A. Mayer (later Cardinal), Secretary of the Congregation for Religious and Secular Institutes, spoke about the movement of union at the meeting of the International Union of Superiors General around 1973.¹¹⁶ He referred to the scarcity of vocations and the many religious institutes which have only a few members. In view of this, union is favored by both central and local religious authorities. Archbishop Mayer noted also that the union of institutes has occurred through the ages but that it was particularly accentuated by the Second Vatican Council. Two of the important advantages of union of institutes were underlined: efficacy in the apostolic area and the benefits of a more solid formation for the members.

Normally, it would be the institutes that would decide to unite with another institute. Such a decision would be made after mature reflection and adequate preparation according to the Decree, *Perfectae caritatis* and the *motu proprio, Ecclesiae Sanctae*.

¹¹⁶ ANON, "Il movimento unitario tra gli istituti religiosi, pp. 635-636.

A. Motives and examples of fusion and union

Some institutes of consecrated life as well as some diocesan bishops regarded fusion as a viable solution for the problem of weak and small institutes. Other more flourishing institutes, motivated by the desire for unity or for an increase in their vigour and effectiveness in apostolic work, sought to unite with other institutes similar to their own. It was recognized that union may not provide an increase in vocations but could be most beneficial for stability of consecrated life and fidelity to the mission of the Church.

Some of the unions included between two to six institutes that had different founders; others comprised small autonomous communities that had the same founder, e.g., the Sisters of Presentation of the Blessed Virgin Mary (Ireland).¹¹⁷ At other times, it was a union of distinct institutes such as the Sisters of Christ, *Union Mysterium Christi*, Paris.¹¹⁸

¹¹⁷ See for example, "Union of Presentation Sisters in Ireland", in *Informationes*, 1(1975), pp. 166-167. The Union, promulgated 19 July 1976, comprised a total of 17 groups, a centralized congregation besides four autonomous houses with filial houses. Father Michael O'Reilly served as the designated canonist for this Union. In 1981, Bandon and Crosshaven joined the Union, see *Dizionario degli istituti di perfezione (=DIP)*, Directed by G. PELLICCIA (1962-1968) and G. ROCCA (1969-), Vol. I- , Vol. VII, cols. 772-773.

¹¹⁸ See *L'Attività della Santa Sede*, 1976, p. 455.

Some practical examples of fusion and union could be noted; they are probably representative of the other families of religious institutes.

According to the Order of Friars Minor, for instance, a number of religious institutes of religious women aggregated to the First Order have become extinct either from fusion or union.¹¹⁹ Thus following the Second Vatican Council, seven congregations had amalgamated and two unions were formed from Franciscan institutes. In 1968, the Union of the Sisters of St. Francis Assisi of Bordeaux was constituted from six Franciscan institutes of religious women in France; and in 1970, a new institute, the Franciscan Clarist Sisters of Kerala was formed from six autonomous Clarist institutes of the Syro-Malabar rite.¹²⁰

It was noted that within the family of the Sisters of St. Joseph, Le Puy, in 1965, six congregations of the Sisters of St. Joseph united to form a new institute, the Sisters of St. Joseph of Rodez.¹²¹ From 1965 to 1980, five congregations joined another by means of fusion, one institute reunited with its foundation, and one province

¹¹⁹ See *DIP*, Vol. VI, col. 214.

¹²⁰ See *DIP*, Vol. II, cols. 1138-1139, "Clarisse Francescane Malabaresi."

¹²¹ See *DIP*, Vol. VIII, cols. 533-534.

separated and joined another congregation of the Sisters of St. Joseph by mean of fusion.¹²²

Within the family of institutes of religious sisters of the Sacred Heart,¹²³ it was noted that from 1965 to 1978, sixteen congregations joined others by means of fusion, two institutes reunited with their original foundation and, in 1968, three institutes united to form the Sisters of "La Retraite."¹²⁴

Based on the history of 159 canonically approved institutes of lay religious brothers, as presented in the *Dizionario degli istituti perfezione*,¹²⁵ two institutes were suppressed,¹²⁶ three institutes joined another institute by means of a fusion, and one union was realized after the

¹²² See *ibid.*, cols. 533-571.

¹²³ P. NAPOLETANO, "Il 'Sacro Cuore' nella denominazione degli istituti religiosi. Influsso di una Spiritualità," Appendice, in *Claretianum* 23(1983), pp. 70-114. This list was cross-referenced with information from *DIP*.

¹²⁴ *Ibid.*, p. 92, nos. 195 & 200; see also *DIP*, Vol. VII, col. 1838-1839, "Suore del Ritiro, Soeurs de la Retraite."

¹²⁵ See *DIP*, Vol. IV, cols. 590-806.

¹²⁶ See *DIP*, IV, cols. 608-609, "Fratelli del Cuore Immacolata di Marie (Tanzania), suppressed in 1970; see also P. NAPOLETANO, "Il 'Sacro Cuore' nella denominazione degli istituti religiosi", p. 107, no. 356. See also *DIP* IV, cols. 803-806, "Fratelli della Carità - detti Fratelli Bigi", suppressed in 1971.

Second Vatican Council.¹²⁷ However, 18 fusions had occurred between 1819 to 1965. Between 1900 to 1964, five institutes were suppressed¹²⁸ and 30 institutes have either disappeared or become extinct.¹²⁹ According to the data, presented between 1970-1975, two institutes had over 8,000 members,¹³⁰ four had over 1,000, five had between 400 and 750 members, but 78 institutes had fewer than 300 members, with 49 with 50 or less members and 33 of those with less than 25 members.

¹²⁷ See *DIP*, Vol. IV, col. 602, fusion, "Fratelli Catechisti e Insegnanti del Sacro Cuore," (Vietnam); *DIP* IV, col. 714, fusion, "Fratelli di San Guiseppe" (Kenya).

L'Attività della Santa Sede, 1968, mentioned one union and one fusion, p. 1252: "Congregazione dei Fratelli di Sant'Alessio, di Neuss (Koln), composta dall'Istituto dei Fratelli di Sant'Alessio, di Neuss, e da quello dei Fratelli di Sant'Alessio, di Siegburg (Koln), 8 Novembre 1967;" *Ibid.*, 1975, p. 530: "Fratelli Alessiani del Belgio con i Fratelli Alessiani di Signal Mountain (U.S.A.)."

¹²⁸ See *DIP* IV, col. 594, "Fratelli dell'Annunciazione", suppressed in 1901; *ibid.*, cols. 603-604, "Fratelli Catechisti del Santissimo Sacramento e di Nostra Signora del Carmelo", suppressed in 1946; *ibid.*, col. 754, "Fratelli della Vita Apostolica", suppressed in 1964.

¹²⁹ See *DIP*, Vol. IV, col(s). 590-806.

¹³⁰ In 1975, the De La Salle Brothers had 12,641 members, see *DIP*, Vol. IV, col. 745, "Fratelli delle scuole Cristiane"; in 1992, there were 8,285 members, see *Annuario pontificio per l'anno [...]*, 1992, p. 1415.

In 1975, the Marist School Brothers had 8,038, see *DIP*, Vol. IV, col. 658, "Fratelli Maristi delle Scuole"; in 1992, there were 5,896, see *Annuario pontificio per l'anno [...]*, 1992, p. 1417.

In retrospect, some institutes of consecrated life entered the project of fusion too quickly and without adequate preparation.¹³¹ For some, the decision was imposed by the diocesan bishop. As noted by A. Battandier, earlier this century the question of fusion of institutes is, in theory, excellent; nonetheless it is one of the most sensitive questions to be realized.¹³² This accounts for the present cautious and prudent approach of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life.

B. Examples of exception to fusion

Although there were general guidelines for fusion and union, at times special considerations were made for particular situations. For example, the fusion of a monastery of the the third order called "Monache Minime Paoline della Rocca di Todi" (founded in 1739), with the

¹³¹ M. DORTEL-CLAUDOT, "Quaestiones hodiernae de fusionibus, unionibus ac foederationibus institutorum vitae consecratae", in *Periodica de re morali canonica liturgica*, 79(1990), p. 680, no. 4.

For example, "de Congregatie van de Zusters van het Geloof", Belgium, received five congregations between May, 1954 and May, 1955. It increased "the Congregation of the Sisters of Faith" by one hundred, eighty-one sisters and 22 communities (convents).

¹³² A. BATTANDIER, *Guide canonique*, 6th edition, Paris, J. Gabalda, 1923, p. 7.

Second Order of Minim Nuns.¹³³ Due to the lack of vocations, the Sisters Minim of Todi realized that their future existence was threatened. The letter explaining their situation and requesting advice was sent to the Congregation for Religious and Secular Institutes (=SCRIS). The Congregation, in turn, consulted with the Corrector General of the Order of Minim and with the Ordinary of Todi. Since the Sisters of Todi observed the Rule of St. Francis of Paula, it was proposed that they join the Second Order of the Minim Nuns of St. Francis of Paula. The sisters proceeded with a secret vote which was unanimously in favor of the union. With the approbation of the union, the Sisters of Todi were incorporated as religious of the Order of the Minim Nuns of Spain. The president of the Minim Nuns of Spain sent several nuns from the Spanish Minims to assist the Todi community with their formation and adaptation. After a basic period of temporary vows (canon 574), the sisters pronounced solemn vows and were to observe papal cloister. If, however, any of the sisters did not wish to take solemn vows, they were free to continue with simple vows but were bound to the observance

¹³³ ANON, "Adnotationes: De unione monasterii Tudertini Tertii Ordinis a Sancto Francisco de Paula secundo ordini monialium Minimorum", in *CpR*, 47(1968), states on p. 171: [...] "id est de communitario transitu; b) consequenter, ipsum Monasterium seu Domus, qua talis, profunde immutatur; loqui potest de canonica 'conversione' personae moralis, de inferiori ad superiorem speciem (cfr. canonem 1421) [...]."

of the laws of papal cloister.¹³⁴ The decree also stated that they were to follow the statutes of the Federation of the Spanish Minim Nuns.

Another situation with particular modalities was the union of the Institute of l'Action de Grâce¹³⁵ with the Daughters of Jesus.¹³⁶ Beginning in 1961, the Institute, a contemplative cloistered monastery, searched for a possible federation with another contemplative monastery or an aggregation with an apostolic congregation. After refusing a possible fusion with the Congregation of the Servants of the Blessed Sacrament, the Institute of l'Action de Grâce, a diocesan congregation of Mauron founded in 1884, asked to form an association with the Daughters of Jesus, a pontifical institute. A fraternal relation had already existed between the two congregations. After the project was studied by both congregations, the Sisters of l'Action de Grâce cast a secret vote. All were in favor of forming an association with the Daughters of Jesus. The diocesan

¹³⁴ See J. O'CONNOR, *CLD*, Vol. VII, pp. 459-460. See also ANON, "Adnotationes: De unione monasterii Tudertini Tertii Ordinis a Sancto Francisco de Paula Secundo Ordini Monialium Minimorum", p. 169.

¹³⁵ See G. ROCCA, in *DIP*, Vol. I, col. 1012, "Azione di Grâzie, Suore dell', Institut de l'action de Graces."

¹³⁶ See G. PETTINATI, in *DIP*, Vol. III, cols. 1591-1592, "Figlie de Gesù di San Giuseppe, di Kermaria (Francia), Filles de Jésus de St-Joseph de Kermaria."

bishop also supported the project. On December 8, 1961, a petition was sent to the Congregation for Religious and Secular Institutes.

The Congregation for Religious and Secular Institutes issued the decree January 22, 1968. The Association *Ad experimentum* was approved for a period of three years. The Association proved beneficial for both congregations. During this time, however, the Sisters of l'Action de Grâce saw the necessity for a more permanent and closer juridical relationship with the Daughters of Jesus. The sisters, by unanimous vote, requested that their congregation be a part of the jurisdiction of the superior general of the Daughters of Jesus. The original conditions of safeguarding the proper character of their contemplative cloister remained the same. The diocesan bishop and the general chapter of the Daughters of Jesus agreed to their request. The new clauses for union were elaborated and forwarded to SCRIS. On November 21, 1970, a decree (No. 7763/67) was given with the condition that the clauses could be revised at the general chapters of the Daughters of Jesus.

In 1984, a letter was sent to the Superior General of the Daughters of Jesus from the Congregation for Religious and Secular Institutes. It stated that the Congresso approved in principle the Statutes of the

Community of l'Action de Grâce. The Superior General of the Daughters of Jesus responded by letter which explained the history of their union and its modalities.¹³⁷ In September 29, 1984, the Congregation for Religious and Secular Institutes issued a decree that stated that the Statutes of the Community of l'Action de Grâce had been approved, with certain modifications.¹³⁸ The Sisters of the l'Action de Grâce would conform to the Constitutions of the Daughters of Jesus for the general guidelines of consecrated life.

There are several unique features about this union. First, the Institute of the Action of Grâce was a cloistered contemplative congregation while the Daughters of Jesus was an active apostolic congregation. Another feature is the size of the congregations. In 1986, the Sisters of l'Action de Grâce had 15 sisters and the Daughters of Jesus had 2,095.¹³⁹ The most central feature, however, was the particular modality for safeguarding the proper character of the Community of l'Action de Grâce,

¹³⁷ Congrégation des Filles de Jésus, Paris, Prot. n. V. 127 - 1/81, Lettre, 16 mars 1984.

¹³⁸ SACRA CONGREGAZIONE PER I RELIGIOSI E GLI ISTITUTI SECOLARI, Prot. n. V. 127-1/81, Decree, 29 Settembre 1984.

¹³⁹ From January, 1969 to January, 1986, the Sisters of the Community of l'Action de Grâce decreased from 18 to 15; the Daughters of Jesus decreased from 2,894 to 2,095.

according to their original charism of thanksgiving for the the gift of the Eucharist.¹⁴⁰

History provides many examples of religious institutes founding daughter houses in mission countries. In some instances, due to distance and cultural differences, the communities may grow apart. The Sisters of St. Joseph, Fall River, founded in 1902, were a province of the Sisters of St. Joseph, Le Puy, France. In 1972, the Sisters of St. Joseph, Fall River, were only 96 sisters. In view of this and of *Perfectae caritatis*, the Provincial Superior and the sisters began to think seriously of a fusion or union. The Provincial consulted with the Superior General of the Sisters of St. Joseph of Le Puy. After serious deliberation between the Superior General, the Provincial Council and the Sisters of Fall River, it was decided that the Province should search to unite with a congregation in the United States. Eventually, the

¹⁴⁰ Sister Ellen Martin, Superior General of the Daughters of Jesus, remarked, in an interview, that the union has been dynamic and mutually enriching for both the Community of l'Action de Grâce and the Daughters of Jesus.

For a summary of the Union of the Institute of l'Action de Grâce with the Daughters of Jesus, see H. DANET, *Signé d'une croix: une histoire de soeurs: les Filles de Jésus de Kermaria*, Paris, Desclée, 1990, pp. 396-397.

community requested unification with the Sisters of St. Joseph, Springfield.¹⁴¹

In accord with canon 494,§2 the Superior General and the Council of the Sisters in Le Puy gave permission for all property to accompany the fusion of the Sisters of St. Joseph, Fall River, to the Congregation of the Sisters of St. Joseph, Springfield.¹⁴²

C. Federations of monasteries and institutes

Monasteries of the same religious families continued to form federations. A. Barrios Moneo noted in 1968 that approximately 1,781 monasteries belonged to one of the 142 federations.¹⁴³ By 1987, according to T. Carey,

[...] of some 2,900 monasteries of contemplative life in the world, over 2000 belong to a federation or association. Add to this the fact that a number of Benedictine monasteries belong to a congregation, and we see that the

¹⁴¹ M. MODDE, *Canonical and Pastoral Aspects of Suppression and Unification of Communities of Women Religious in the United States of America*, Washington, D.C., Catholic University of American, 1976, pp. 28-35.

¹⁴² The Sacred Congregation for Religious and Secular Institutes issued the decree of union on August 23, 1974, see *ibid.*, p. 70.

¹⁴³ A. BARRIOS MONEO, "Monasterios e institutos federados", in *Vida religiosa*, 25(1968), pp. 267-271. One federation of male religious is mentioned, see *Vita religiosa*, 4(1968), pp. 175-176: "Sei Congregazioni francesi maschili, di cui quattro di diritto pontificio e due di diritto diocesano, il 25 gennaio 1967 si sono unite, costituendo la Federazione di Notre-Dame [...]."

vast majority of monasteries are linked with those of the same order or institute.¹⁴⁴

After the Council, a number of religious institutes also began to form federations: for example, the Congregations of the Italian Sisters of St. Joseph, the Congregations of the the Sisters of St. Joseph of Canada,¹⁴⁵ the Dominican Sisters of St. Catherine of Siena of France,¹⁴⁶ the Sisters of Mercy of England¹⁴⁷ and the Sisters of Mercy of Australia.¹⁴⁸ Each of the federations included at least five autonomous institutes.

Some religious institutes also formed a federation as a preliminary stage to an eventual union, for example,

¹⁴⁴ T. CAREY, "Contemplative Life", in *ConLif*, 11(1986), p. 183.

¹⁴⁵ See *L'Attività della Santa Sede*, 1966, p. 929.

¹⁴⁶ See *ibid.*, 1967, p. 1227.

¹⁴⁷ See *ibid.*, 1969, p. 688. This federation included 25 autonomous communities of the Sisters of Mercy.

¹⁴⁸ The Australian Union of the Sisters of Mercy and Australian Federation of the Sisters of Mercy united to form a single structure the "Institute of the Sisters of Mercy of Australia." Consequently, the provinces of the Union returned to their original canonical status as independent congregations. Insofar as the structure respects the traditional autonomy of the individual Congregations of the Sisters of Mercy, the Institute is somewhat closer to a federation than to a union. See CONGREGATIO PRO RELIGIOSIS ET INSTITUTIS SAECULARIBUS, Prot. n. B. 180-1/80, Letter, 20 June 1981; Prot. n. B. 180-1/80, Decree, 20 June 1981. See also H.M. DELANEY, *The Evolution of Governance Structures of the Sisters of Mercy of Australia*, Ottawa, Saint Paul University, 1991, xix-246p. (Ms.).

the Congregations of Saint Ursula of Anne of Xainctonge, the Ursulines of St. Angela Merici, and the Sisters of Christ, Union *Mysterium Christi*.¹⁴⁹ This seemed to have been anticipated by the Congregation for Religious and Secular Institutes, for it recommended that the constitutions of an association or federation be written in a way that they could be adapted or accomodated so that in the future everything would be ready for the realization of closer juridical union.¹⁵⁰

IV. THE DEVELOPMENT OF A NEW PRESCRIPTION OF LAW

In light of the practical experience gained after the Council, it is not surprising to note that some consideration had to be given to the phenomenon of union in the new legislation of the Church. We shall now examine the process that was followed to prepare the new canon.

¹⁴⁹ See *L'Attività della Santa Sede*, 1966, p. 929: [...] "Federazione delle Congregazioni di Sant'Orsola d'Anne de Xainctonge (15-6-1965)"; p. 930, "Federazione di Sant' Angela Merici delle Orsoline di Francia (3-10-1966)"; *ibid.* 1969, pp. 687-688, "Federazione 'Mysterium Christi' [...] (27 gennaio 1969)." For a description of the preparation and historical development of the federation "Mysterium Christi", see *Federation Mysterium Christi*, n.p., n.d., 36p.

¹⁵⁰ C. Gorricho, "Chronica: 1979", in *CpR*, 61(1980), p. 149, note 6, "i) item, sapiens Constitutionum aptatio et accommodatio, ita ut in futuro omnia prompta sint sive ad foederationem sive consociationem firmandam, sive ad verae unionis pactum ineundum."

A. Initial proposal on fusion and union

In 1986, *Communicationes* published a more detailed report of a synthesis, previously published in *Communicationes*, 1970,¹⁵¹ of the third session (January 22-26, 1968) of the coetus or study group concerned with "Institutes of Perfection". The report included the discussion of the preliminary canons and of the notion of fusion and union of institutes.¹⁵²

The Relator proposed the following formula for the canon on fusion of institutes:

Extinctive unions of religious institutes which imply a fusion of one or more with another (institute) are reserved to the Apostolic See.¹⁵³

He added that "although the present Code is silent about this matter, this question must now be treated because of the dispositions of the Second Vatican Council in the Decree, *Perfectae caritatis*, Numbers 21 and 22."¹⁵⁴ During

¹⁵¹ *Communicationes*, 2(1970), p. 178, no. 10: "[...] Tandem introductum est praescriptum iuris quoad fusionem institutorum ad uniones efficiendas - si et quatenus erit necessarium - de quibus loquuntur Patres Conciliares in Decreto *Perfectae Caritatis*, nn. 21, 22."

¹⁵² See *Communicationes*, 18(1986), pp. 171-207.

¹⁵³ *Communicationes*, 18(1986) p. 203: "Uniones extinctivae institutorum religiosorum quae fusionem unius vel plurium cum alio secumferent Sedi Apostolicae reservantur."

¹⁵⁴ *Ibid.*, p. 203: "Quaestionem hanc - dicit Rev.mus Relator - oportet nunc tractare, quamquam Codex

the discussion that followed, various consultors questioned the understanding and the use of the words "fusion" and "union". The Secretary agreed that "unions by accession" would not be called extinctive unions because "in accession the nature of the principal institute is not extinguished."¹⁵⁵ Following the discussion, the sub-commission agreed to the formula proposed by the Secretary:

Fusions (extinctive unions), whether a new institute springs forth from several institutes or if one accedes to another, are reserved to the Apostolic See.¹⁵⁶

It was also agreed that the proposed canon be placed before the one on the suppression of institutes.

B. Federation of monasteries

Communicationes 1985,¹⁵⁷ elaborated on the second session (May 8-12, 1967), of the Commission for Institutes of Perfection. Since the consultors had different viewpoints, the proposed canon concerning federation and confederation of monasteries, the presiding official

vigens de re sileat, ob dispositiones datas a Concilio Vaticano II in Decr. *Perfectae caritatis*, nn. 21 et 22."

¹⁵⁵ *Ibid.*, p. 203: "Exc.mus Consultor quaerit utrum uniones per accessionem dici possint uniones extinctivae necne. (Concordat Rev.mus Secretarius, quia in accessione figura instituti principalis non extinguitur."

¹⁵⁶ *Ibid.*, p. 204: "'Fusiones (uniones extinctivae) institutorum religiosorum, sive cum ex plurimis novum oritur sive cum unum ad aliud accedit Sedi Apostolicae reservantur' (Placet)."

¹⁵⁷ See *Communicationes*, 17(1985), pp. 144-145.

decided that the study of the matter needed to be postponed until a more opportune time.

It was only at the sixteenth session that the matter came up again. It was reported that the Commission acknowledged that due to the existence of federations between monasteries and the benefits that can accrue for them, federations must be recognized by the new law, provided that the monasteries are of the same monastic family. These federations could also join together in confederations. The Commission believed, however, that it would be difficult, perhaps prejudicial, to establish particular determinations on the matter. In fact, the responsibility for determining the structure of the federation and its government belongs to the monasteries themselves. These, of course, would require the approval of the Holy See.¹⁵⁸

C. Fusion, union and federation:
1977 and 1980 drafts

After examining and reworking the 1974 preliminary draft,¹⁵⁹ the Commission published the 1977 draft.¹⁶⁰ As

¹⁵⁸ See *Communicationes*, 6(1974), p. 87, no. 18.

¹⁵⁹ See *Communicationes*, 6(1974), pp. 48-50.

¹⁶⁰ See *Schema canonum de institutis vitae consecratae per professionem consiliorum evangelicorum*, Romae, Typis Polyglottis Vaticanis, 1977, (=Schema canonum), 36p. English translation in PONTIFICAL

planned, this 1977 draft was distributed to the various dicasteries of the Roman Curia, the Conferences of bishops, Unions of Superiors, the ecclesiastical Universities and faculties for comments.¹⁶¹

1. 1977 Draft: Canons 12, 102 and 113

Canon 12 of the 1977 Draft designated three types of regrouping of institutes of consecrated life:

Federations, fusions, and unions of institutes of consecrated life are reserved to the Apostolic See alone.¹⁶²

An additional norm for federation and confederation of monasteries of the same monastic family was proposed in canon 102:

§ 1. The monasteries of the same monastic family may, with the consent of the Apostolic See, be united into federations and these in turn may into Confederations.

COMMISSION FOR THE REVISIONS OF THE CODE OF CANON LAW, Schema of Canons on Institutes of Life Consecrated by Profession of the Evangelical Counsels: Draft, Washington, D.C., Publications Office, U.S. Catholic Conference, 1977, (=Schema 1977), 73p.

¹⁶¹ See *Communicationes*, 6(1974), p. 31.

¹⁶² *Schema canonum*, p. 4: "Foederationes, fusiones et uniones Institutorum vitae consecratae uni Sedi Apostolicae reservantur." English translation in *Schema 1977*, p. 8.

§ 2. Each federation or confederation is governed by its own law, but the autonomy of each individual monastery must always be preserved.¹⁶³

Canon 113 was proposed for uniting autonomous chapters of canons regular:

A number of autonomous chapters of canons regular may join together under the same president; several institutes of canons of the same type may, with the consent of the Holy See, form a confederation under an abbot primate.¹⁶⁴

Most of the commentaries on the 1977 draft attempted to present a clearer understanding of the terms of "federation", "fusion" and "union".¹⁶⁵ Different advantages of the various forms of regrouping were also mentioned: an opportunity for survival for small

¹⁶³ *Ibid.*, p. 30: "§1. Monasteria eiusdem familiae monasticae in foederationes, hae vero in confoederationem, uniri possunt cum beneplacito Apostolicae Sedis.

§2. Quaelibet foederatio aut confoederatio proprio regitur iure, salva tamen semper monasteriorum autonomia." English translation in *Schema 1977*, p. 61.

¹⁶⁴ *Ibid.*, p. 33: "Congregari possunt sub eodem Praeside plura Capitula canonicorum regularium sui iuris; confoederari autem possunt sub Abbate Primate plura eiusdem generis canonicorum Instituta cum beneplacito apostolico." English translation in *Schema 1977*, p. 67.

¹⁶⁵ L. HUGHES and J. WALSH, "Canon Law and Religious Life", in *The Way Supplement*, 33(1978), p. 38; K. O'ROURKE, "The New Law for Religious: Principles, Content, Evaluation", in *RfR*, 34(1975), p. 31.

institutes¹⁶⁶ and an opportunity for "reunion" for those institutes that may have been separated by circumstances.¹⁶⁷

2. Revision of the 1977 and 1980 Drafts

The topic of fusion, union, and federation was re-examined in the third session (February 27, 1979) on the revision of the 1977 draft. Canon 9, the amended text, reflected canons 12, 102 and 113 of the 1977 draft:

1. It is reserved to the Apostolic See to federate institutes, monasteries or the chapters of canon regular, or to confederate those that are federated.

2. To the same Apostolic See are reserved fusions and unions of Institutes.¹⁶⁸

Several of the consultors proposed that the canon define the juridical content of the terms of "fusion" and "union".¹⁶⁹ The other consultors suggested, however, that,

¹⁶⁶ L. HUGHES and J. WALSH, "Canon Law and Religious Life", p. 38.

¹⁶⁷ J. BEYER, "The New Law of the Church for Institutes of Consecrated Life I", in *The Way Supplement*, 22(1974), pp. 107-108.

¹⁶⁸ *Communicationes*, 11(1979), Session Three of the Revision of the 1977 Schema, p. 48, canon 9: "§1. Instituta, monasteria vel canonicorum regularium capitula foederare vel foederata confoederare Sedi Apostolicae reservatur.

§2. Eidem Sedi Apostolicae reservantur Institutorum fusiones et uniones."

¹⁶⁹ *Ibid.*, Session Three of the Revision of the 1977 Schema, p. 48: "Un secondo Consultore suggerisce di dire qualche cosa riguardo al contenuto dei termini

due to the possibility of the variety of fusions and unions, it would be better to make a general formulation that included the actual content of the two paragraphs rather than to define the terms.

Another consultor suggested that fusions and unions of institutes of diocesan right be left to the diocesan bishop. The Secretary and the other consultors believed that it would be more prudent that they be reserved to the Holy See, - to safeguard -- in the face of the eventual abuses which could occur -- the rights of the institute.

After the discussion, the following two questions were submitted for a vote:

1. Whether the fusion, union, federation and confederation of all institutes, even those of diocesan right, must be reserved to the Holy See.

2. If the following general formula would be approved: "Fusions and unions of institutes of consecrated life are reserved to the Apostolic See alone; confederations and federations are also reserved to it."¹⁷⁰

'fusione' (in cui un Istituto assorbe completamente l'altro), e 'unione' (quando cioe i due Istituti rimangono ciascuno con il proprio nome)"; see also *ibid.*, p. 48: "Un quarto Consultore [...], si dimostra favorevole a che si diano nel canone alcune elementi atti a definire il contenuto giuridico dei termini 'fusione' ed 'unione'."

¹⁷⁰ *Ibid.*, p. 49: "1) se si debba riservare alla Santa Sede la fusione, unione, federazione e confederazione di tutti gli Istituti, anche di quelli di diritto diocesano (placet 11);

2) se si approva la seguente formula generica del canone: 'Fusiones et uniones Institutorum vitae consecratae

Both questions received agreement. Hence, the text became canon 511 of the 1980 Draft¹⁷¹, then canon 585 of the 1982 Schema.¹⁷²

V. THE 1983 CODE OF CANON LAW: CANON 582

This section will examine the terms and juridical distinctions of the different types of unification, other related laws, the underlying principles of the canon, and the competent ecclesiastical authority for the matter. The preparation, responsibilities of various persons, and the canonical procedures for fusion and union will be discussed in the fourth chapter.

A. Content and general juridical notions

Canon 582, the newly enacted law for the four different types of regrouping institutes, is a norm common to all institutes of consecrated life and to societies of apostolic life, whether of diocesan or pontifical right.

uni Sedi Apostolicae reservantur; eidem quoque reservantur confoederationes et foederationes' (placet 11)."

¹⁷¹ *Codex iuris canonici: Schema patribus commissionis reservatus* (=Schema 1980), Città del Vaticano, Libreria editrice Vaticana, 1980, p. 124, canon 511: "Fusiones et uniones Institutorum vitae consecratae uni Sedi Apostolicae reservantur; eidem quoque reservantur confoederationes et foederationes."

¹⁷² *Codex iuris canonici, Schema novissimum iuxta placita patrum Commissionis emendatum atque summo Pontifici praesentatum*, E Civitate Vaticana, Typis Polyglottis Vaticanis, 1982, p. 109.

Fusions and unions of institutes of consecrated life are reserved to the Apostolic See alone; confederations and federations are also reserved to it.¹⁷³

While canon 582 is a new law, fusions, unions, and federations have happened with such frequency in the recent past that there is already a body of jurisprudence that has been tested with the experience of trial and error.

The law offers a generalized formulation of fusion and union, as they can occur in several ways. Through the new law, explicit provision is made for the two modalities of fusion and union. It is evident from the different commentaries that there is now a greater agreement in the distinctions and use of the terms.¹⁷⁴

¹⁷³ Can. 582 - "Fusiones et uniones institutorum vitae consecratae uni Sedi Apostolicae reservantur; eidem quoque reservantur confoederationes et foederationes", *Codex iuris canonici auctoritate Ioannis Pauli PP. II promulgatus*, Libreria editrice Vaticana, 1983, p. 107 (=CIC, 1983). English translation: *The Code of Canon Law* prepared by THE CANON LAW SOCIETY OF GREAT BRITAIN AND IRELAND in association with THE CANON LAW SOCIETY OF AUSTRALIA AND NEW ZEALAND and THE CANADIAN CANON LAW SOCIETY, London, Collins, 1983, p. 106 (=Code of Canon Law).

¹⁷⁴ To name a few, see A. CALABRESE, *Gli istituti religiosi*, Roma, Foni Vive, 1986, pp. 33-34; L. CHIAPPETTA, *Il Codice di diritto canonico*, Napoli, Edizioni Denoniane, 1988, Vol. I, p. 679; E. GAMBARI, *I Religiosi nel Codice*, Milano, Editrice Ancora, p. 46; COMITE CANONIQUE DES RELIGIEUX, *Conférence française des supérieures majeures, Conférence des supérieurs majeurs de France, Directoire canonique: vie consacrée et sociétés de vie apostolique*, Paris, Les Editions du Cerf, 1986, pp. 65-66; D. ANDRES GUTIERREZ, *El derecho de los religiosos*, Madrid, Publicationes Claretianas y Commentarium pro Religiosis, 1984, p. 17; J. TORRES, *Commentario ai canoni 573-606*,

The new law has also eliminated a certain ambiguity concerning the temporal goods of the institute in question. As fusion and union involve an indirect suppression of one or more institutes, in the case of fusion, the temporal goods, rights, and obligations of the amalgamated institute pass to the receiving institute. In the case of union, the temporal goods pass to the new juridic person.

Although it has rarely been employed, if necessary, the praxis of the new law, can prohibit the institute or monastery from receiving new novices.

The other two forms, federations and confederations, entail no change from previously accepted practice.¹⁷⁵ There was no explicit reference to the term "association" in canon 582.

Scuola Pratica de Teologia e Diritto della Vita Consacrata, Roma, Sacra Congregazione per il Religiosi e gli Istituti Secolari, 1983-1985, part 1, p. 29, 2; E. O'HARA, "Norms Common to Institutes of Consecrated Life", in J. HITE, S. HOLLAND D. WARD, ed., *A Handbook on Canons 573-746*, Collegeville, The Liturgical Press, 1985, p. 39.

¹⁷⁵ See JOHN XXIII, 'Caritatis unitas', *Confoederatio Congregationum Ordinis Canoniorum Regularium S. Augustini Approbatur*, 6 May 1959, in *AAS*, 51(1959), pp. 630-633. See also J. BEYER, "Il nuovo Diritto degli Istituti di vita consacrata," II, Parte Speciale, in *Vita consacrata*, 11(1975), noted on p. 416: "Il nuovo Diritto riconosca la Confederazione dei Canonici Regolari di S. Agostino, nonche il suo Abate Primate (mentre ora sembra esistere solo quello dei Benedettini)."

B. The religious institute as a juridic person

The proper nature of the institute of consecrated life is its existence as a "universitas personarum" constituted by law itself.¹⁷⁶ In accord with canon 1255, it is capable of acquiring, retaining, administering, and alienating temporal goods.¹⁷⁷ The institute, as other juridic persons, has rights and obligations that are over and above those of the individual members of the institute. Accordingly, as a public juridic person (c. 634,§1),¹⁷⁸ it functions for the common good in the name of the Church. Once the Church has approved a public juridic person, the laws support and preserve the intrinsic essential elements of this person: its members, its purpose, and the temporal goods that support its goals.

In the case of union of institutes of consecrated life, canon 121, a significant addition to the law, is to be observed:

When aggregates of persons or of things which are public juridical persons are so amalgamated that one aggregate, itself with a juridical

¹⁷⁶ Cc. 113, 2; 114,1; 116,2.

¹⁷⁷ See Cc. 1256; 1257; 1279.

¹⁷⁸ Can. 634, §1: "Instituta, provinciae et domus, utpote personae iuridicae ipso iure, capaces sunt acquirendi, possidendi, administrandi et alienandi bona temporalia, nisi haec capacitas in constitutionibus excludatur vel coarctetur", CIC, 1983, p. 116. English translation in Code of Canon Law, p. 115.

personality, is formed, this new juridical person obtains the patrimonial goods and rights which belonged to the previous aggregates; it also accepts the liabilities of the previous aggregates. In what concerns particularly the arrangements for the goods and the discharge of obligations, the wishes of the founders and benefactors, and any acquired rights, must be safeguarded.¹⁷⁹

As can be noted, in the case of the amalgamation of one juridical person with another, certain elements are to be considered. This law is interested in respecting the will of the founder, protecting the intention of the donor regarding the property of the juridic person and preserving the acquired rights of others, such as contractual agreements.¹⁸⁰

C. Principles involved in Canon 582

A broad interpretation of "subsidiarity" and "collegiality", two of the major theological principles of

¹⁷⁹ Can. 121: "Si universitates sive personarum sive rerum, quae sunt personae iuridicae publicae, ita coniungantur ut ex iisdem una constituatur universitas personalitate iuridica et ipsa pollens, nova haec persona iuridica bona iuraque patrimonialia prioribus propria obtinet atque onera suscipit, quibus eaedem gravabantur; ad destinationem autem praesertim bonorum et ad onerum adimplentionem quod attinet, fundatorem oblatoorumque voluntas atque iura quaesita salva esse debent", CIC, 1983, p. 18. English translation in *Code of Canon Law*, p. 18.

¹⁸⁰ J. O'CONNOR, "Formula for Merger of Religious Institutes", in *CLD*, Vol. VIII, (1973-1977), p. 324: "[...] On the other hand, special forms of property or pious legacies, if any, should be expended for the purpose specified by the offerers or testators. Similarly, rights which may perchance have been acquired by others, should be preserved entire, as the case warrants."

the Second Vatican Council can be applied to the procedures for fusion and union. Although these two modalities were recommended by the Council and are now confirmed by law, generally the institutes are left free to decide in favor of or against a project of union or fusion. When an institute does initiate discussion of the matter, the members are to be involved, eventually in a collegial manner, as prescribed by *Perfectae caritatis*, Number 4, that is, "Effective renewal [...] cannot be achieved save with all the members of the institute."¹⁸¹

The more specific principles underlying canon 582 are: fidelity to the Second Vatican Council to promote and strengthen institutes; promotion of the welfare of the Church, preservation of the spiritual patrimony, and respect for the institute's autonomy, and recognition of the individual right to freedom of choice. Moreover, there are also the principles concerning the acquired rights and privileges of the juridic person besides respect for the intentions of the donors.

¹⁸¹ PC, no. 4: "Efficax renovatio et recta accommodatio obtineri nequeunt nisi cooperantibus omnibus instituti sodalibus." FLANNERY, Vatican II, p. 613. See also *Acta Synodalia*, Vol. IV, Period IV, Part III: "Expensio modorum de singulis numeris", p. 575, "R: Subintelligur in textu approbato, in hunc sensum provisum. Cf. etiam num 4."

D. Competence: Reserved to the Holy See

As in the praxis of fusion or union of religious institutes under the 1917 Code, the competence of the new law is reserved to the Holy See.¹⁸² There are definite reasons why the unification of institutes is to be reserved exclusively to the Holy See. Obviously, fusion or union is a grave and serious matter. First of all, both are acts of indirect and gentle suppression of at least one institute.¹⁸³ The juridical consequences affect the members of the institute, its spiritual patrimony (c. 578), and its autonomy of life (c. 586).

The reservation of the matter to the Holy See also guarantees the protection of the freedom of choice of the members as well as the rights of the juridic persons, particularly those related to ecclesiastical goods. In addition, the Church bears responsibility to promote consecrated life and to preserve the existence of institutes as they are a vital part of its life. The responsibility rests with the Holy See to ensure that all aspects of the matter are carefully examined:

¹⁸² Cc. 360, 361 & 582.

¹⁸³ D. ANDRÉS, "La supresion de los institutos religiosos estudio canonico de los datos historicos mas relevantes", in CpR, 67(1986), p. 46.

It is precisely the task of the Code of Canon Law to define and to safeguard, on the one hand, the legitimate freedom and rights which are due the members of the ecclesial community and, on the other, to define and to safeguard the 'common good' of this same community, in conformity with its human-divine nature and the mission which God has assigned to it.¹⁸⁴

In this matter, one of the following Congregations of the Holy See would be involved, depending on which one the institute depends: the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (=CICL),¹⁸⁵ the Congregation for the Oriental Churches, or the Congregation for the Evangelization of Peoples.

CONCLUSION

This chapter has attempted to describe the broad cultural context and the accelerated societal changes of

¹⁸⁴ A. CASAROLI, *Presentazione ufficiale del nuovo Codice di Diritto canonico*, Discorso di Sue Em.za Rev.ma. Card. Agostino Casaroli, Segretario de Stato, in *Communications*, 15(1983), p. 38: "Il Codice di Diritto Canonico ha appunto il compito di definire e di tutelare, da una parte, la legittima libertà e i diritti che spettano ai membri della Comunità ecclesiale e, dall'altra, il 'bene comune' di questa stessa Comunità, conformemente alla sua natura umano-divini e alla missione che Dio le ha assegnata." English translation in *PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, Promulgation and Official Presentation of the Code of Canon Law*, 3 February 1983, Vatican, pp. 26-27.

¹⁸⁵ JOHN PAUL II, *Apostolic Constitution, Pastor bonus*, 28 June 1988, in *AAS*, 80(1988), p. 886, no. 105. This Apostolic Constitution changed the name of the Congregation for Religious and Secular Institutes (=CRIS) to the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (=CICL).

the past thirty years that have affected religious institutes. It also presented observations regarding the internal changes experienced by religious institutes since the Second Vatican Council.

The present situation of fewer vocations to religious life and the increasing number of small institutes accentuate the necessity for fusion and union. It is surprising that none of the post-conciliar documents, other than the indirect reference in *Mutuae relationes* (no. 51, a-2) to the proposed criteria to judge the authenticity of charism, mentioned fusion or union. One concludes that the Church had hoped that the problems of diminishing membership and fragile institutes addressed by the Second Vatican Council would be resolved by renewal and *aggiornamento*.

On the contrary, as the circumstances have evolved, one of the crucial problems that contemporary religious institutes must face is diminishing membership, its effect on the *raison d'être*, and the mission of the institute for the people of God. In view of these facts, each institute must decide whether the charism has the vitality of spirit and the quality of fecundity to sustain its purpose and to enable it to fulfill its ecclesial mission.

The newly enacted law, canon 582, climaxed at least a century of juridical development that governs unification of institutes. Together with the increased need of the last fifty years there developed a more mature body of law regulating the canonical procedure of fusion and union. A significant addition to the body of law is recognition of the human process: the necessary consideration for an adequate spiritual, psychological, and juridical preparation for the members of the institute. Obviously, the value of fusion and union is recognized, but the difficulty that persists is found in mediating the laws of the Church, the needs of the members, and the possible remedies other than suppression for religious institutes with few members.

The praxis of the Roman Curia is to support and to assist religious institutes and their members in the project of unification, but it leaves the institute free to make its own decision. It has major concern for the welfare of the members, hence it underlines the freedom of choice of the members in the matter. The Roman Curia does foresee, however, that there may be situations that may require its intervention.

CHAPTER FOUR

CANONICAL PROCEDURE FOR FUSION AND UNION

The previous chapters spoke of juridic persons in relation to the unification of religious institutes. They also described the terms "fusion" and "union" and the distinct juridical effects of each. Reference was also made to the spiritual and psychological preparation that was necessary for different types of unification.

In view of the 1983 Code of Canon Law, the basic purpose of this chapter is to consider both the human and the canonical processes in instances of fusion and union, while attempting to address the rights and obligations both of the institutes and of the members in such instances.

Specifically, the chapter will first outline the contents of the preliminary stage of preparation, and then will attempt to explain the canonical process and formalities. Some possible transitional clauses in cases of fusion will be also considered as well as the necessary elements to be contained in the transitional statutes of union. Finally, a description of the over-all responsibilities of the supreme moderator, of the council, of the members of the institute, the general chapter, and of other interested parties will be covered both in relation to the

preliminary preparatory stage and in reviewing the canonical procedure.

The procedure is governed by the praxis of the Holy See, as noted in Canon 582, but the practical approach has been "to consider each situation on its own merit and to come to a decision based on prudence, charity and equity."¹

I. PRELIMINARY STAGE: FUSION OR UNION

The previous chapter has described various factors that have contributed to the present state of contemporary religious life. Certainly, the present situation of many religious institutes is a precarious, fragile one. Many are disappointed that they are not attracting new members, are saddened by losses of members and the closing of apostolates; they are now confronted by a different, unforeseen future. The present phenomena challenge contemporary religious institutes to face seriously the facts of their situation, to reflect and consider the possible options in order to respond to the current situation of declining membership and its consequences.

¹ V. VALERI, in *Acta et Documenta Concilio Oecumenico Vaticano II apparando*, Series II, Praeparatoria, in Civitate Vaticana, Typis Polyglottis Vaticanis, Vol. II, Part II, p. 725: "Quin in re tam gravi aliquid nimis rigide decernere voluerit, aestimavit melius singulos casus pro cuiusque merito perpendendos esse et iuxta criteria hic posita resolvendos, semper 'magna cum prudentia et caritate atque in omnibus perfecta servata aequitate'."

This section will present general factors that are usually considered before a more detailed preparation of fusion or union occurs. It will speak of motives, elements to be taken into account, some aspects of preparation and the initial communication with the Holy See.

A. Motives and other considerations

It is a fact that a religious institute can pursue fusion or union out of necessity. Nevertheless, it could also be motivated by the belief that the intentions of the founder could be better realized, perhaps even reinvigorated, by combining its history and charism with those of another institute similar to its own. In this way, fusion and union could be a means to strengthen consecrated life, to consolidate the timeless values of the charism of the institute, and to achieve greater efficacy and coordination of services.

Certainly, the motivation for the decision of fusion or union must come from a source deeper than simply a desire to continue the works of the institute.² It originates in the desire to do God's will, to fulfill the

² See M. BAIR & J. HITE, "The Merger and Union of Religious Institutes", in *Bulletin on Issues of Religious Law*, Vol. 3, April, 1987, Canon Law Society of America, Conference of Major Superiors of Men, Leadership Conference of Women Religious, National Conferences of Vicars for Religious (=CLSA, CMSM, LCWR, CVR), p. 2.

mission of the people of God, and to live consecrated life albeit expressed within a different structure. A decision for fusion or union requires that all of the members of the institute participate in a process of reflection and discernment.³ It is more than simply an analysis of the situation, the use of critical judgment and making a decision. Discernment involves "the exercise of human reason joined to and inspired by faith."⁴ Religious belonging to institutes that have experienced the process of fusion or union have often described it as a spiritual journey, a "Paschal Mystery".⁵

In addition to the three fundamental considerations and the essential aspects of preparation noted in *Ecclesiae Sanctae*,⁶ the project of fusion or union also requires that other aspects be considered. These may include

³ SECOND VATICAN COUNCIL, Decree, *Perfectae caritatis*, 28 October 1965, in *Acta Apostolicae Sedis* (= AAS), 58(1966), p. 704, No. 4: "Efficax renovatio et recta accommodatio obtineri nequeunt nisi cooperantibus omnibus instituti sodalibus."

⁴ M. AZEVEDO, "Discernment and Elections in Religious Institutes", in *Review for Religious* (=RfR), 48(1989), p. 713.

⁵ Tape interview with Sister Annie DUMAS, Soeurs du Christ, Paris, 12 December 1985; see also C. TOOMEY, "A Choice for Life", paper prepared for the Leadership Conference of Women Religious of the U.S.A. (=LCWR), 1987, pp. 3-4.

⁶ See PAUL VI, *Motu proprio, Ecclesiae Sanctae II* (ES II), 6 August 1966, in AAS, 63(1971), pp. 781-782, nos. 39-41.

cultural, geographical, and financial circumstances as well as the civil structure of the institutes and their apostolates. Several of the sisters who were interviewed identified spirituality as one of the most important of the factors.⁷ In light of these general issues, some institutes have created specific criteria to assist in their search for and selection of another institute.⁸

⁷ For example, Interview with Soeur Marie du Rosaire Métivier and Questionnaire #090, the fusion of the "Soeurs de Notre-Dame des Anges d'Angoulême (Soeurs de Puypéroux) with the "Soeurs de la Sainte Famille de Bordeaux", Part II, Question 8: "La Sainte Famille a été choisie de préférence à d'autres congrégations parce que sa spiritualité semblait tout à fait en accord avec celle de la Cong. N.-D. des Anges;" Part III, Question 2: "D'après mon expérience, je conseillerais à une toute petite congrégation de fusionner avec une grande dont la spiritualité aurait des points communs avec elle et qui donnerait toute garantie de vitalité, d'unité intérieure et de fidélité à l'esprit de son fondateur ou de sa fondatrice; et aussi qui aurait des oeuvres semblables aux siennes."

Interview with Soeur Annie Dumas, Soeurs du Christ, Questionnaire #100, Union - Soeurs de la Croix du Puy with six other congregations, Part II, Question 8: "Au départ rassemblement des diverses Congrégations de la Croix autour de la spiritualité de la Croix [...]."

Interview with Sr. Therese-Maylis, Religieuses de l'Assomption, Paris and Questionnaire #099, fusion of "Gardiennes Adoratrices de l'Eucharistie" with "Religieuses de l'Assomption", Part II, Question 8: "Spiritualité d'adoration, éducation, ouverture missionnaire."

⁸ M. BAIR & J. HITE, "The Merger and Union of Religious Institutes", pp. 2-3. See also M. NOTH, "An Experience of Reunion: One Divided - Becomes One", in *RfR*, 46(1987), p. 389, who presents the following as the important factors considered in their search: "1) The study was to be limited to congregations with a Franciscan charism; 2) One not too large; 3) With a similar apostolate or mission; 4) To be located in the Midwest; 5) Preferably

B. PREPARATION

The Church realizes that a religious institute is not just a faceless juridic entity, but it is a society comprised of human beings who have lived the evangelical counsels according to a specific charism, within a given historical-cultural context. There is great regard for the spiritual and psychological welfare of the members. Therefore, the regrouping of religious institutes must be approached in the spirit of the Second Vatican Council, keeping in mind that "Each member must be consulted beforehand, and all must be done in perfect charity."⁹

It is essential that the canonical procedure be preceded by a time of preparation. Experience shows two aspects in regard to preparation for unification. First, that there be several stages of preparation with a directional time plan for each stage. Second, the initiatives taken during the preliminary stage are foundational to the successful realization of either type of unification.

The immediate objective of the preliminary stage is to provide adequate spiritual, psychological, and juridical

an American foundation; 6) Also by preference, a Pontifical Institute"; see also C. TOOMEY, "A Choice for Life", p. 2.

⁹ ES II, p. 782, no. 41: "Singuli autem religiosi ante audiantur et omnia caritate fiant."

preparation for the members. It should be particularly attentive to the human dimension of the project. For, although religious institutes have experienced many changes, particularly in the last thirty years, it is important for the members to begin the process with a healthy attitude toward change. D. Markham notes:

If [...] we are able to envision change as an inevitable occurrence that can be anticipated and looked forward to, even though it will carry with it a share of pain and disruption, our responses are likely to be more constructive. Adaptive means of living in change include an identification and clarification of the situation, the maintenance of appropriate levels of anxiety, necessary grieving, and the formulation of open systems for evaluation.¹⁰

These healthy responses toward change can assist the members to focus on initiative, creativity, and life in their decision-making process rather than being governed by denial, paralyzing anxiety, pathological grieving, and rigidity.¹¹

It is possible that an institute could have several phases of preparation for unification. This would depend on the particular organizational plan and creativity of the institute. Thus, for instance, the preliminary stage would

¹⁰ D. MARKHAM, "Psychological Aspects of Change", in *Human Development*, 5(1984), p. 28.

¹¹ *Ibid.*, p. 27. See also E. O'HARA, "Issues of Aggregation, Merger and Dissolution", in *Proceedings of the Forty-Ninth Annual Convention of the Canon Law Society of America*, Nashville, TN, 1987, pp. 164-166.

be devoted to a participative process of discussions, committee work, and other activities within the institute itself. This process will help the members to become informed of the various elements of unification, so that in due time they can freely vote from the depths of themselves.¹² Together in prayerful discernment, they would identify the facts and consider the options.

A part of the preliminary procedure could also involve informal meetings between the administrations of potential institutes. After a period of time, the general administration¹³ could take an informal vote of the members in order to decide whether the institute should proceed with definite plans for unification. Some institutes have mandated that there be a certain percent of affirmative votes if they are to proceed to the next phase.¹⁴

¹² M. NOTH, "An Experience of Reunion", notes on p. 391, that the ultimate goal of the process of intense study for the "reunification" of the Sisters of St. Mary and of the Sisters of St. Francis, was to prepare each sister of both institutes to be able to make a free, informed decision for or against reunification.

For examples of participative decision-making processes, see *ibid.*, pp. 393-400; see also U. SCHWALEN, "Looking Back that Others Might Look Forward", in *RfR*, 49(1990), pp. 545-560.

¹³ Although "general administration" is not a canonical term, the writer has chosen this term to describe the one body comprised of the supreme moderator (C. 622) and the general council (C. 627).

¹⁴ M. NOTH, "An Experience of Reunion", p. 397, notes that the two religious institutes decided that a 2/3

During the second phase of the preliminary stage, the religious institute would search for one that would be similar in spirit and receptive to the project of fusion or union. Once this decision would be made, the process would be marked by a more intense time of preparation, joint meetings and definite plans for the realization of the unification.

Although some juridical issues of unification were discussed in the initial phase, the juridical effects and canonical formalities of fusion and union would be further elaborated during the second phase. The praxis requires that the members be assured that the fusion or union will protect their acquired rights. A *ius quaesitum* is a subjective right acquired in virtue of a juridical fact already performed and completed.¹⁵ Each member, by virtue of perpetual religious profession, enjoys the acquired right to live her entire life in the institute of her profession. It is of primary importance that the members be informed and knowledgeable of the canonical norms and

or 66-2/3 percent would be acceptable to proceed to the next phase for a more intensive study for reunification.

¹⁵ J. ABBO & J. HANNAN, *The Sacred Canons*, St. Louis, B. Herder Book Co., 1957, Vol. I, p. 7.

that govern unification.¹⁶ Normally, a canonist would assist the institutes in these matters.

In compliance with *Ecclesiae Sanctae*¹⁷ and the required canonical formality that a "secret formal vote" of each member would be required, a formal consultation would have to be conducted.¹⁸ This usually marks the beginning of the official canonical procedure.

C. Holy See

Either in anticipation of a fusion or a union, or after the informal, preparatory stage, the institute will contact the Holy See for instructions regarding the possibility of unification. The response of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CICL),¹⁹ for example, is dependent on the inquiry. It may provide a summary outline

¹⁶ See R. HILL, "Combining Religious Institutes", in *RfR*, 47(1988), p. 143; E. O'HARA, "Issues of Aggregation, Merger and Dissolution", pp. 155-168.

¹⁷ *ES II*, p. 782, no. 41.

¹⁸ *Ibid.*, p. 782, no. 40: "In praefatis casibus et circumstantiis bonum Ecclesiae prospiciendum est, debita tamen habita ratione sive indolis cuiusvis Instituti propriae, sive libertatis singulorum sodalium."

¹⁹ JOHN PAUL II, *Apostolic Constitution, Pastor bonus*, 28 June 1988, in *AAS*, 80(1988), p. 886, no. 105. *Pastor bonus* changed the name of the Congregation for Religious and Secular Institutes (CRIS) to the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (=CICL).

of the process,²⁰ stating that a suitable preparation is an essential part of the procedure, that the members are to be free in their choice, and noting all that will be juridically required in the procedure. As has been the praxis, it would also appoint or recommend that an expert or a canonist help the institute in its undertaking of a fusion or union.²¹

II. CANONICAL PROCEDURE FOR THE FUSION OF INSTITUTES

Due to the eventual loss of autonomy of the institute and the necessary adjustment of the members to living consecrated life in a institute different from the one they joined, any project of fusion requires great sensitivity and moral support.

A. Initial stage

The beginning phase of the canonical procedure entails an informal, but significant period of preparation.

²⁰ See W. SCHUMACHER and J. CUNEO (eds.), "Religious Life", in *Roman Replies and CLSA Advisory Opinions*, Canon Law Society of America, Washington, DC, 1986, p. 46.

²¹ For example, SACRA CONGREGATIO PRO RELIGIOSIS ET INSTITUTIS SAECULARIBUS (=CRIS), Prot. n. C. 91a-1/74, Letter, 20 December 1974.

Understandably, the person should also be sensitive to the human process of the project. It could be that the institute may need to call on several people with particular areas of expertise.

It is also a difficult time, for the institute must face certain painful realities and make serious decisions that will affect each member as well as the institute itself. This stage requires the members to listen to each other and to act with faith, respect, and courage.

1. Spiritual preparation

Generally, the years preceding a fusion are characterized by the desire to maintain the works of the institute and to survive at all costs. Eventually, the members begin to speak of their situation, to discuss the facts, and often go so far as to list their options. Although "fusion" may be one of the options, in most cases, the institute will choose another one such as "renewal and recruitment" rather than broach the subject.²²

For some institutes, the courage to address the topic openly comes from someone close to but outside of the institute, e.g., the bishop or the vicar for religious. In others, the topic may be initiated by the general chapter or the general administration. Gradually, usually with assistance from experts, the members of the institute begin to face the over-all consequences of fewer members

²² See U. SCHWALEN, "Looking Back that Others Might Look Forward", p. 554; see also C. TOOMEY, "A Choice for Life", p. 3.

and discuss their options.²³ This is not an easy task. First and foremost, there is attachment to their charism and identity. After all, the institute owes its origin and spirit to a founding charism; its mission and the formation of the members have been shaped by this charism. Throughout its history, the gift -- part and parcel of the life of the members -- has been faithfully fostered, remembered, and celebrated.

When the members begin to accept the possibility that the history of the institute may change its course and that its patrimony may have to be modified or changed, they begin a new phase of discernment. They will need to enter into and "to live the decision-making process itself in a context of prayer."²⁴ Discernment, in this sense, will enable the institute to move forward, beyond a lifetime of a particular way of living the evangelical counsels. Then it will be able to focus on the fact that the inspiration of the institute is the same as that for any other one and that the primary mission of all religious is to continue the mission of Jesus. The evangelical call of following Christ is the patrimony common to all

²³ See for example, U. SCHWALEN, "Looking back that Others Might Look Forward", pp. 556-558; M. NOTH, "An Experience of Reunion", pp. 390, 392-393 & 400.

²⁴ M. AZEVEDO, "Discernment and Elections in Religious Institutes", p. 713.

religious institutes just as the following of the Gospel is the supreme rule common to all institutes.

The Apostolic Exhortation *Evangelica testificatio*²⁵ and the document *Mutuae relationes*²⁶ noted that charism has a revitalizing capacity for fresh initiative and a creative adaptability to the changing historical needs of the Church and society. Could this not also be applied, in light of the changing circumstances, to the present needs of some religious institutes? Perhaps it is the moment for some institutes to give thanks for their origin and life but seriously and courageously to consider another way to preserve their charism.

While the topic of fusion may be initiated by the superior general and council, or by the general chapter or a special committee, the entire institute must take part in the process. As adults, they collectively seek the will of God as for all common projects of the past, especially the *aggiornamento* of Vatican II and the task of rewriting

²⁵ See PAUL VI, Apostolic Exhortation, *Evangelica Testificatio*, 29 June 1971, in AAS (63(1971)), pp. 503-504, no. 11.

²⁶ See SACRED CONGREGATION FOR BISHOPS AND SACRED CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES, Directives for Mutual Relations Between Bishops and Religious in the Church, *Mutuae relationes*, 14 May 1978, (= MR, followed by page and paragraph number), in AAS, 70(1978), pp. 580-581, nos. 11-12.

their constitutions. A fundamental criteria for the collective discernment could be:

- fidelity to humanity and to our times;
- fidelity to Christ and to the Gospel;
- fidelity to the Church and to its mission in the world;
- fidelity to religious life and to the charism of one's institute.²⁷

These four criteria taken from the document *Religious and Human Promotion* could help the members of the institute transcend their individual interests so that they will be able to discern from a broader, deeper basis of fidelity.

When another institute accepts the project of fusion, common retreats and days of prayer could be planned for both institutes. Other meetings and discussions could provide time to exchange information concerning the charism, spirituality, and history of the institutes

²⁷ CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES, *Le scelte evangeliche*, Religious and Human Promotion (=RHP), (Plenaria of SCRIS, 25-28 April 1978), *Informationes*, Special Bulletin. English translation in *Consecrated Life* (=ConLif), Supplement, 1981, the English translation of *Informationes*, p. 18, no. 13. See also V. DE COUESNONGLE, "Riflessioni sulle conclusioni della Plenaria della S.C.R.I.S.", in *Vita consacrata*, 14(1978), pp. 549-561.

2. Psychological preparation

Within the spiritual context of the four criteria of fidelity, the topic of fusion would be approached. From the beginning, it would be important to create an atmosphere of openness and mutual respect among the members. The process requires honest dialogue and intense collaboration on the part of all of the members.

Naturally, fears will arise: fear of loss of identity, of change, as well as a number of fears that surface because of cultural, educational, or geographic differences. Openness is an important aspect of the process for,

when we are able to articulate our perceptions, our fears, and our hopes to one another, we give each other the courage to completely rethink what it is we are doing.²⁸

This may be an occasion to invite someone with particular expertise to help address these issues with the members.

a. First phase

Intertwined with the discernment and the on-going necessity of maintaining an atmosphere of openness and charity, the general chapter, the general administration, or a special assembly would need to assist the members "to

²⁸ D. MARKHAM, "Psychological Aspects of Change", p. 28.

identify and clarify the situation." This would require, first of all, a presentation of the basic demographics of the institute: the number of members, a pyramid of the age groups, the present ministries, the situation of houses, and a financial report. The report would reflect the present and projected needs of the institute in terms of personnel, ministries, and properties. Secondly, it would be necessary for the members to understand the implications of this data in terms of the future: possible termination of certain apostolates, increasing costs, and less income. One congregation presented a fact sheet that included the number of members, the median age, the particular exigencies of their apostolate, and situation. This was accompanied by the following questions:

1. Having been informed of the conditions of our life, its state and the exigencies, how do you envision the future of the Congregation? - regrouping our strength by closing certain houses (Yes or No), or having a closer relationship with a stronger Congregation (Yes or No)?
2. For which reasons - human and supernatural - do you fear or choose a closer relationship with another congregation?
3. Mention three or four points that you consider essential to our vocation which would have to be safeguarded in case of union with another Congregations.
4. In your opinion, would you see union with another Congregation as a death or as a renewal of life for us?²⁹

²⁹ Enclosure sent with Questionnaire #099 from the "Religieuses de l'Assomption": "1° Etant donné l'état actuel de la Congrégation (moyenne d'âge, les exigences [...], les conditions de vie [...], comment envisagez-vous l'avenir de la Congrégation - regroupement des forces par la fermeture encore de certaines maisons (Oui/Non), a

Another congregation believed it would be helpful to have professional analysts conduct a comprehensive study.³⁰ Indeed, an objective study of this nature could help the institute to identify its present situation, to list priorities, set goals, and assist it in its decision regarding a fusion.

b. Second phase

After an initial period of discernment and discussion, other questions can be raised. One institute posed the following:

1. What do we stand to gain?
2. What are we divesting ourselves of?
3. What contributions do we have to make?³¹

Once the question of fusion has been posed and sufficient time has been taken for collective discernment, the supreme moderator and council begin to search for an institute that has a similar spiritual and apostolic

rapprochement avec une autre Congrégation plus forte (Oui/Non); 2° Redoutez-vous ou désirez-vous un tel rapprochement, pour quels motifs - humains - surnaturels? 3° Voulez-vous exprimer trois or quatre points qui vous paraissent essentiels à notre vocation et vous semblent devoir être sauvegardés en cas d'union avec d'autres. 4° A votre avis, l'union avec une autre Congrégation serait-elle pour nous une mort ou un renouveau de vie?"

³⁰ See U. SCHWALEN, "Looking Back that Others Might Look Forward", p. 555.

³¹ See *ibid.*, p. 558.

orientation. Other questions of affinity, such as spirit, mentality, ministries, and compatibility of lifestyles must also be examined. The over-all question would be: "would the partnership with a particular institute be effectively and psychologically feasible for both institutes?"

At times, geographic proximity, historic bonds and general circumstances may indicate the choice of such an institute. On the other hand, it may take more time and effort to find an institute that meets these criteria and is willing to receive the community by means of a fusion.

When an institute is found, it is essential that good relations be established between the major superiors and their councils as well as between the members. Common discussions and meetings could offer opportunities for the members to become acquainted with each other and knowledgeable of the history, ministries, and lifestyle of each institute.³² Perhaps, if feasible, a common apostolic project could be planned so that members could come together on an equal basis and with a common purpose.

³² See *ibid.*, p. 557; see also M. BAIR and J. HITE, "The Merger and Union of Religious Institutes", p. 5; see M. NOTH, "An Experience of Reunion", pp. 399-400.

3. Juridic preparation

The initial period of preparation does not take the place of the canonical procedure, but it provides the time for the necessary adjustment and the preliminary acts that precede any canonical formalities.

a. First phase

First of all, for the members of the requesting institute, it is an informal period for discussion and understanding of the juridical effects of fusion. This would include an opportunity to address such issues as acquired rights³³ as well as the right and obligation of the institute to preserve its charism. Mindful of the other factors and of their acquired rights, the members would try to reach a *modus vivendi* between the subjective freedom of each member and the common good of the religious institute. At the same time, there should not be any pressure for or against the fusion or union.

Secondly, after holding preliminary meetings, and developing mutual trust, the requesting institute would

³³ See J. O'CONNOR, *The Canon Law Digest (CLD)*, Mundelein, Illinois, Chicago Province SJ, Vol. VIII, (1973-1977), "Formula for Merger of Religious Institutes (S.C. Rel et S. I., 1973): Canon 493", page 324: [...] "Similarly, rights which may perchance have been acquired by others, should be preserved entire, as the case warrants."

submit a full report to the general administration of the receiving institute. This would include a brief history and the following demographics:

1. The total number of religious and their ages.
2. The types of apostolate, the location and the number of members involved in particular ministries.
3. The economic situation (the state of the patrimony, both movable and immovable goods).
4. A financial statement with a general summary of receipts and expenditures from the last three years.³⁴

During this time the general administrations of the institutes could exchange their constitutions to discuss similarities and differences between them. Together, they could envision how the spirit and purpose of the requesting institute will continue in the receiving one. When opportune, either now or later, the members of the requesting institute could also be directly involved in these discussions.

³⁴ Canon 1283, §2; see also M. DORTEL-CLAUDOT, *Union - Fusion - Fédération d'Instituts religieux*, Paris, Comité Canonique des Religieux, 1988, p. 14.

M. Dortel-Claudot, a canonist of Lyons, France, has personally assisted the creation and evolution of twelve federations and fifteen fusions. He was also designated the religious assistant by the Congregation for Religious and Secular Institutes to advise the nine unions that were realized in France between 1972 and 1986, see *ibid.*, "Quaestiones hodiernae de fusionibus, unionibus ac foederationibus Institutorum vitae consecratae", in *Periodica de re morali canonica liturgica*, 79(1990), p. 677.

It would also be opportune at this time to discuss different ways in which the founder and the history of the amalgamated institute will be remembered and integrated into the history of the receiving one. For both institutes, it will be a new chapter in history.

Also, at an opportune time within the initial phase of preparation, the two institutes should contact the diocesan bishops according to the following criteria:

1. If the requesting institute is of diocesan right or if it is pontifical right but is established in only four or five dioceses, it must have the approval of all the bishops of the dioceses where it has one or more houses.

If the asking institute is of pontifical right but is established in more than five dioceses, it is sufficient that the bishops be informed.

2. If the receiving institute is of diocesan right, it is necessary to have the approbation of all the bishops of the dioceses in which it has one or more houses. If it is of pontifical right, it is sufficient that the bishop of the general house be informed.³⁵

The important matter, at this stage, is that the bishops be well informed of the project. The written approval of the bishops is not required until the formal canonical procedure.

b. Second phase

Before proceeding to formal votes, it would be important for the general administrations of the two

³⁵ See *ibid.*, p. 15, nos. 2.3.3 & 2.3.3.3.

institutes to reach an agreement regarding a transitional plan. The CICL requires a preliminary fundamental agreement for the disposition of temporal goods according to the norms of law.³⁶ The content of this agreement must be clearly presented to the members of the requesting institute. It should also be included in the petition for fusion and receive the approval of the Holy See.

Apostolate, personnel, health care of members, cost of professional training for ministry, and of maintaining buildings are all necessary items to be discussed in the transitional plan. It may be that the receiving institute will not be able to maintain, in terms of personnel and cost, some of the apostolates or some of the buildings of the requesting institute.

These are delicate matters and the issue of property is a particularly sensitive one. It represents the commitment, sacrifice, and dedication of both the past and present membership. As the members have shared the joy of continuing, sometimes even beginning an apostolate of the institute, it is natural for them to share the grief and pain of its possible closing and even the reality of the possible dissolution of their institute.

³⁶ See M. BAIR & J. HITE, "The Merger and Union of Religious Institutes", p. 4, no. 6.

Depending on the terms of the transitional plan and the agreement of the general administration of the receiving institute, it may be necessary for the requesting institute to begin procedures to transfer property and goods, particularly where the intentions of donors are involved. In the case of restricted funds, whether due to the intentions of the donors or because they are part of an irrevocable trust fund, the diocesan bishop in accord with canon 1310, §2,³⁷ can diminish the obligations equitably. The intervention of the diocesan bishop would fulfill the canonical obligation but the requirements of civil law would remain. Other matters concerning property may be postponed. Eventually, the general administration of the requesting institute will need the assistance of civil lawyers to handle property titles, dissolution papers for the incorporated entities, issues pertaining to civil incorporation, and finally, the civil dissolution of the institute itself.

³⁷ C. 1310, §2: "Si exsecutio onerum impositorum, ob imminutos redditus aliamve causam, nulla administratorum culpa, impossibilis evaserit, Ordinarius, auditis iis quorum interest et proprio consilio a rebus oeconomicis atque servata, meliore quo fieri potest modo, fundatoris voluntate, poterit eadem onera aequè imminuere, excepta Missarum reductione, quae praescriptis can. 1308 regitur."

B. The canonical formalities relating to fusion

At an opportune time, according to the judgment of the canonical assistant/facilitator and the general administrations of the two institutes, the project enters a more official phase, one which entails voting by the members.

1. Consultation of the members

The first stage of this procedure is consultation with each member of the requesting institute. Besides being juridically required, the consultation is significant, for it allows each member to participate in the discussion and to have a voice in the matter. The CICL usually recommends "a majority of more than 80%",³⁸ or the "greatest possible majority" of affirmative votes.³⁹ At times, though, when a fusion was necessary, it has specified a two-thirds majority of affirmative votes.⁴⁰ The results of the consultation of the members are to be included in the formal petition to the Apostolic See.

³⁸ CICL, Prot. n. B 220-1/86, Letter, March 1, 1988.

³⁹ CICL, Prot. n. DD. 94-1/85 L.24-1/85, Letter, July 18, 1985.

⁴⁰ CRIS, Prot. n. C. 196 - 1/76, Letter, May 18, 1978.

a. Manner of consultation

It would be prudent to present to each member the text of the vote and to review with them the juridical effects of fusion before the formal consultation, which is sometimes referred to as a "referendum".

The preliminary consultation can be carried out either by a written and secret vote or by oral consultation.⁴¹ The members are to be reassured that they are entirely free in making a choice to be a part of the fusion or not. Whether it be a written or an oral consultation, it is to lead eventually to a "secret formal vote", in accord with canon 172, §1.⁴²

The general administration, depending on circumstances, would choose the method that best allows its membership to express its opinion. If the general administration of the requesting institute judges it useful

⁴¹ M. DORTEL-CLAUDOT, *Union - Fusion - Fédération d'Instituts religieux*, pp. 15-16.

⁴² C. 172, "§1. Suffragium, ut validum sit, esse debet:

1° liberum; ideoque invalidum est suffragium eius, qui metu gravi aut dolo, directe vel indirecte, adactus fuerit ad eligendam certam personam aut diversas personas disiunctive;

2° secretum, certum, absolutum, determinatum", *Codex iuris canonici auctoritate Ioannis Pauli PP. II promulgatus*, libreria editrice Vaticana, 1983, (=CIC, 1983).

to hold a written consultation the inquiry could be posed as follows:

1. Do you accept that your Institute join with Institute N? ☐ Yes ☐ No

2. If no, and if the institute as a whole votes in favor of joining Institute N:

Is it your intention to transfer to another Institute?
☐ Yes ☐ No

Or is it your intention to seek dispensation from your Religious vows: ☐ Yes ☐ No

It belongs to the general administration to count the votes and to evaluate the results. If a member has abstained from her right to vote, it is considered a negative response.⁴³

In the judgment of the general administration of the requesting institute, the written consultation could be replaced by another procedure such as an oral consultation. Each member of the institute would then meet personally with the supreme moderator (or the bishop of the motherhouse). The following two points would be raised:

1. Give your point of view and a "yes" or "no" on the subject of fusion with Institute N.
2. Indicate your intentions if the fusion is accepted.

⁴³ See CICL Prot. n. B 220-1/86, March 1, 1988, Letter to Sister Rita Powell, President of the Federation of the Sisters of Mercy of the Americas; see C. DARCY, *The Institute of the Sisters of Mercy of the Americas: the Canonical Development of the Proposed Governance Model*, Ottawa, St. Paul University, 1992, (Ms.), Appendix IV - D, p. 304.

If the bishop met with the members, it would be important for him to share the general results with the supreme moderator.

b. Consideration for members who refuse to join the receiving institute

According to the jurisprudence, provisions would need to be made for the members who choose not to be part of the fusion.

Where the consultation is written, the supreme moderator would need to contact the members who do not wish to be part of the fusion and speak with them about their personal intentions. If they choose to transfer, it is the responsibility of the supreme moderator of the requesting institute to assist them in accord with canon 684. The process should be initiated at this stage because of the time involved in finding an institute willing to accept the member.⁴⁴

If proper law has not provided for financial assistance in the case of a transfer, an agreement should be made between the supreme moderator of the requesting institute and the supreme moderator of the institute that will receive the member. This should be done in accord

⁴⁴ R. McDERMOTT, "Transfer - Canons 684-685," in *Bulletin on Issues of Religious Law*, Vol. 5(1989), no. 1, 4p.

with canon 702, §2. Once the fusion has been realized, it may be wise that an agreement be made between the institutes for the duration of the probationary period.

If a member with perpetual vows chooses to request an indult of departure,⁴⁵ the institute is to observe both universal and proper law. In such cases, it must observe both equity and evangelical charity,⁴⁶ in providing moral, spiritual, social, and financial assistance for the member, especially if this person has spent a significant period of time in religious life. The following norms could assist in determining financial assistance: 1) the need of the individual, e.g. education, employment possibilities, 2) the financial condition of the institute, and 3) existing provisions in society, e.g. social security or availability of health care.⁴⁷

Canon 688, §2 is to be observed if the member with temporary vows would ask for an indult to leave the

⁴⁵ C. 691.

⁴⁶ C. 702, §2; A. CUSCHIERI, *Introductory Readings in Canon Law*, Lewiston, New York, The Edwin Mellen Press, 1988, p. 127: "Equity is thus conceived of as a rightful claim of the individual rather than the virtue of magnanimity on the part of the Superior."

⁴⁷ See R. McDERMOTT, "Canon 702,2 - Equity and Charity to Separated Members", in *Bulletin on Issues of Religious Law*, CLSA, CMSM, LCWR, CVR, Vol. 6, (1990), no. 2, p. 4.

institute if the institute would be of diocesan right or if the member belongs to an autonomous monastery.

c. Evaluation of the consultation

It is the responsibility of the general administration of the requesting institute to evaluate the results of the initial stage, whether it was a written and secret consultation, an oral one or a consultation conducted according to another form. It considers not only the numerical results of the consultation -- those who are in favor of the fusion and those who are against it -- but also the actual state of mind and the dispositions of the members toward the fusion. The general administration would need to discern if the moment has come to move to the next stage, to prolong the informal preliminary stage, or simply to renounce the project of fusion with a given institute.

According to M. Dortel-Claudot, it is not necessary at this stage to have a "quasi-unanimous"⁴⁸ vote in favor of the fusion for the general administration to proceed to the next stage of the process.

⁴⁸ M. DORTEL-CLAUDOT, *Union - Fusion - Fédération d'Instituts religieux*, p. 16. "Quasi-unanimous" is usually interpreted as 80% affirmative votes of those who are present and voting.

To ensure that all of the members are sufficiently informed and have the freedom to decide to be or not to be a part of the fusion, the institute or the bishop of the diocese of the general house may request that a canonical visitor be appointed to meet individually with each member.⁴⁹

d. The receiving institute

While it is not required that the members of the receiving institute be consulted, it seems that it would be wise and beneficial for the members of both institutes if the receiving institute could do so in some way or another.⁵⁰

2. The deliberative vote

Having considered the results of the consultation of the members and other pertinent factors, the general administration of the requesting institute must now determine by an official and deliberative vote whether to proceed with the fusion. This act must take place before

⁴⁹ M. NOTH, "An Experience of Reunion", p. 402; see also U. SCHWALEN, "Looking Back That Others Might Look Forward", p. 562.

⁵⁰ See M. MODDE, *Canonical and Pastoral Aspects of Suppression and Unification of Communities of Women Religious in the United States of America*, Washington, D.C., Catholic University of America, 1976, pp. 31-32.

the petition can be forwarded to the Apostolic See. It is the opinion of M. Dortel-Claudot and others that the institute can choose to do this in one of the two ways:

1) The decision to present the request for fusion to the Holy See is taken by the general administration alone by means of a secret and collegial vote, with an absolute majority of votes in favor.

2) The decision is taken by the general chapter, either ordinary or extraordinary, by means of a secret vote, according to the proper law of the institute concerning chapter votes.⁵¹

It is the administration's decision to choose between these two forms, taking circumstances into account.⁵²

However, in many cases, the Holy See has required both the vote of the general administration and a majority of at least two-thirds of the general chapter. It seems that, if it is possible, the deliberative vote should include that of the general chapter since, according to canon 631, §1, its first responsibility is to protect the patrimony of the institute and to handle matters of major import affecting the entire institute.

⁵¹ M. DORTEL-CLAUDOT, *Union - Fusion - Fédération d'Instituts religieux*, p. 17, no. 3.4.

Canon 119,2. An "absolute majority of votes" requires a majority of more than half of the votes of those who are present and voting (e.g. 3 out of 5).

⁵² M. DORTEL-CLAUDOT, *Union - Fusion - Fédération d'Instituts religieux*, p. 17, no. 3.4.

Whether the requesting institute decides by the vote of its general administration or of its chapter, or whether both the general administration and the general chapter submit the request for fusion to the Holy See, it is a collegial act.⁵³ The text of the vote could be as follows:

Having been informed of the possible fusion with [the "receiving" institute] and of the results of the formal consultation of the members, do you wish to petition the Holy See for your congregation to join this institute, by means of fusion? ☐Yes ☐No

From the time of the first consultation with the members to the decisive vote of either the general administration or of the general chapter or of both, the supreme moderator of the requesting institute keeps the supreme moderator of the receiving institute informed so that the two will proceed in complete awareness.

After the requesting institute has officially decided to petition the Holy See for the fusion, the receiving institute must officially agree to accept the fusion or decide not to do so. Normally, this is a decision of the general administration requiring an absolute majority of votes, by means of a collegial and secret vote.⁵⁴

⁵³ See Canons 127, §1 and 166.

⁵⁴ M. DORTEL-CLAUDOT, *Union - Fusion - Fédération d'Instituts religieux*, p. 17, no. 3.5.

When these matters have been accomplished the official petition for the fusion can be sent to the Holy See.

3. The contents of the petition and the accompanying documentation

The dossier would include specific information from the requesting institute, the receiving institute, from both institutes together, and from the bishops involved.

a. Part I: from the requesting institute

The requesting institute would be responsible for the following:⁵⁵

1. The official letter of request from the supreme moderator, countersigned by the general council.
2. A complete list of the religious of the institute: name, the religious name, age, qualifications (i.e.), academic degrees, etc., the dates of temporary and perpetual profession of each member.
3. List of houses and description of the apostolate of each or of the ministries of the institute.
4. Brief history of the institute.
5. An explanation of how the institute has arrived at the request of fusion: informal preliminary stage and the mutual development of the two institutes; the type of consultation (written or oral) with the members and the results of the consultation.
6. An explanation of the motives.

⁵⁵ See W. SCHUMACHER and J. CUNEO (eds.), "Religious Life", pp. 46-47; see M. BAIR and J. HITE, "The Merger and Union of Religious Institutes", pp. 4-6.

7. Procedure used to make the decision for the request of fusion: the general administration or the general chapter; the required majority, the number of "yes" votes, the number of "no" votes, the number of abstentions.

8. The number of the members who do not intend, when the moment comes, to accept the fusion and their intentions for the future.

b. Part II: from the receiving institute

The receiving institute must submit the following:

1. An official declaration of acceptance of the other institute by means of a fusion.⁵⁶ The letter would be signed by the supreme moderator and council. It would also include a written account of the oral deliberations of the general council in regard to the fusion.
2. In addition, a brief history of the institute should be attached.
3. Finally, it should include a presentation of the eventual transitional clauses regarding the requesting institute and accepted by the receiving institute.⁵⁷

⁵⁶ CICL, Prot. n. DD. 94-1/85 L.24-1/85, Letter, 18 July, 1985.

⁵⁷ U. SCHWALEN, "Looking Back that Others Might Look Forward" presents the following "Table of Contents" of their petition for fusion, pp. 560-561: 1) the Bishop's Cover letter; 2) the formal petition signed by the members of the general administration; 3) the letters of acceptance by Sisters of St. Joseph, Carondelet (the superior general and the council, the provincial superiors and Council of the St. Paul and the St. Louis Provinces); 4) the response of the Sisters of Superior, Wisconsin, to the acceptance; 5) the process used for the decision for amalgamation; 6) the reports of the canonical visitor; 7) financial information and reports; 8) historical material; 9) the list of members with their dates of birth and profession; 10) terms and conditions of fusion.

c. Part III: from both institutes

The two institutes must, at the minimum, declare at this stage that the movable and immovable goods of the requesting institute would become the property of the receiving institute, conforming to the particular civil legislation. The agreement, of course, would respect the intention of the donors and consider the reasonable delay that is usually involved in the transfer of property.

By this agreement, it stands to reason that the receiving institute is committed to pay the debts and to fulfill any contracts made by the requesting institute prior to the fusion.

d. Part IV: from the Bishops

The written approval ("nihil obstat") of all the bishops who were contacted during the preliminary stage must be attached to the dossier. The CICL considers their opinion very carefully. Many of the decrees of fusion or union state "having carefully considered the matter and obtained the opinion of the local ordinaries concerned",⁵⁸ or some similar formula.

⁵⁸ See, for instance, CRIS, Prot. n. 35863/80 (C. 91a), Decree, 13 July 1981.

Since the sending of the dossier to the Holy See is purely an administrative matter, it could be sent in one of the following ways: if both institutes are of diocesan right, it is sent by the bishop of the general house of the requesting institute; if the requesting institute is of pontifical right, while the receiving institute is of diocesan right, the dossier is also sent by the bishop of the general house of the requesting institute; if the receiving institute is of pontifical right, the dossier is sent by its own superior general, whether the requesting institute is of diocesan or of pontifical right.

The communication between the institute and the Holy See is often sent through the Apostolic Nunciature of the nation.⁵⁹

4. The decree of fusion

After carefully considering the results of the consultation of the members and the opinion of the bishops, and having studied the question according to the proper procedure, the competent Roman dicastery either refuses the petition or promulgates the decree of fusion.

⁵⁹ See U. SCHWALEN, "Looking Back that Others Might Look Forward", p. 560; see CRIS, Prot. n. C. 196 - 1/76, Letter, 18 May, 1987.

The decree usually speaks of the rights of the members and the protection of property. It usually states that the members of the requesting institute would remain "in the same condition as they are now."⁶⁰ Some decrees require that each member of the requesting institute make a formal written declaration if she intends to be a part of the receiving institute or a declaration to refuse to be a part of the fusion. This document is to be signed spontaneously and freely and kept in the archives of the receiving institute. In addition, the decree or the letter accompanying the decree would state that if a member does not wish to belong, she may transfer to another institute.⁶¹

The following is an example of part of a decree of fusion:

Having considered the testimonial letters of the Ordinary of Superior, Wisconsin and having heard the vote of each Sister and the General Chapter of each institute, the Congregation for Religious and Secular Institutes on the 10th day of January, 1986, after maturely considering the petition, by the present Decree has decided that, safeguarding the liberty of the Religious Sisters, the Institute of the Sisters of St. Joseph of Superior can unite with the Institute

⁶⁰ See CRIS, Prot. n. C. 91a-1/81, Decree, 16 July 1982.

⁶¹ For example, see CRIS, Prot. n. C. 196 - 1/76, Decree, 18 May 1978.

of the Sisters of St. Joseph of Carondelet, observing the other requirements of law.⁶²

It would also include reference to the consultation of the members and state whether the fusion received a "majority of affirmative votes".⁶³ The decree or the accompanying letter may also respond to certain items of the petition such as the transitional plan.⁶⁴

Besides the above, the goods, both movable and immovable, as well as the other rights and obligations of the requesting institute would be duly ascribed to the receiving institute. However, special goods or pious legacies would be used according to the fixed intention of the donors or testators. The archives of the requesting institute also would become a part of the archives of the receiving institute.

According to canon 54, §1, the Roman decree of fusion no longer needs to be executed. It takes effect the moment that the supreme moderator of the requesting institute has received it.⁶⁵ If, however, the Holy See

⁶² W. SCHUMACHER and J. CUNEO (eds.), "Religious Life", p. 48.

⁶³ CICL, Prot. n. B 220-1/86, Decree, 8 June 1991; see CRIS, Prot. n. C. 91a-1/81, Decree, 16 July 1982.

⁶⁴ See CRIS, Prot. n. C. 196-1/76, Letter, 18 May 1978.

⁶⁵ See M. DORTEL-CLAUDOT, *Union - Fusion - Federation d'Instituts religieux*, p. 20, no. 3.7.

chooses to have it executed by a bishop, the letter would give precise instructions on the modalities of execution. The one who executes the decree would receive the original, then after the execution, this document would be placed in the archives.

If the decree is executed according to canon 54, the original copy of the decree would be given to the supreme moderator of the requesting institute. A photocopy would be sent to the bishop of the general house of the requesting institute and to the supreme moderator of the receiving institute.

5. The personal declaration of each member

Certain canonical formalities must follow the decree. At times, though, they take place before the formal decree is duly promulgated. This, too, depends on circumstances. The first is that each member is to "declare her willingness to be a member of the receiving institute."⁶⁶ The manner in which this is accomplished is left to the judgment of the supreme moderator.

Hence, immediately after receiving the Roman decree of fusion, the supreme moderator of the requesting institute would distribute to each religious, including

⁶⁶ See CRIS, Prot. n. 35863/80 (C. 91a), Decree, 13 July 1981.

those on exclaustation and those living outside of the community, the following document:

Page one, the Personal Act of Adhesion:

My congregation will henceforth be united, by means of fusion, to Institute N .

I, _____, wish to become a member of the receiving institute, whose constitutions I will observe.

(The member would sign her name and date the text.)

Page two, a Declaration to Refuse to be a part of the receiving institute:

I, _____, do not wish to be a part of Institute N to which my congregation will be united.

In consequence, I request to transfer, conforming to canon 684 of the Code of Canon Law, to another Institute that would be willing to receive me.

(Or) In consequence, I shall request an indult of departure.

On the day designated by the supreme moderator of the requesting institute, each member shall send to the supreme moderator one of the two pages, duly signed. The congregation may want to plan a special liturgy or assembly for the occasion.

If necessary, a member could be granted a delay, usually for one month, to allow for further reflection. If the member requests a longer period of reflection, the supreme moderator of the requesting institute could agree to this exception for an additional period of six months,

if the supreme moderator of the receiving institute, duly informed, is in agreement.

a. Religious who accept the fusion

The members of the requesting institute would enter the receiving institute with the same condition of religious profession as they had before the fusion; that is, they would be in perpetual or in temporary vows as the case may be. Their profession date would be the date of their profession in the original institute. The last will and testament, patrimonies and dowries would accompany them, but they could be changed if necessary.

b. Religious who refuse the fusion

A religious who gave a "no" response during the consultation, has the right to change her opinion and to sign the act of adhesion. Likewise, a religious who gave an affirmative response in the earlier stage, having adequately reflected on the matter, can now refuse the fusion.

While most decrees of fusion only mention the option of transfer for the members who refuse to be part of the fusion,⁶⁷ the law provides that "for very grave

⁶⁷ See CRIS, Prot. n. L. 116-1/84, Letter, 28 July, 1984.

reasons, a religious who is professed in perpetual vows can seek an indult of departure."⁶⁸ At times, CICL may state this in a letter of instructions to an institute requesting information regarding a possible fusion.⁶⁹

i. Indult of transfer

If the member wishes to transfer, it is strongly advised that the procedure be initiated during the preparatory stages. First, the member before signing the statement of refusal must find an institute that is willing to receive her as foreseen by canon 684, even if it means requesting an additional delay of six months. Before the promulgation of the decree, the supreme moderator of the requesting institute would be responsible to assist the member. Following the decree, if it is agreeable to the supreme moderator of the receiving institute, the former supreme moderator could continue to provide guidance in the matter. Once the decree is promulgated, the member would

⁶⁸ C. 691.

⁶⁹ W. SCHMACHER and J. CUNEO (eds.), "Religious Life", cited from a letter sent by the Congregation for Religious and Secular Institutes, p. 47: "No. 5. Of primary importance is that each Sister of the amalgamating Institute be entirely free in making her choice to be part of the union, or to transfer to another Religious Institute, or to request a dispensation from her vows."

need permission from the Holy See to transfer to another institute.⁷⁰

If the member belongs to an autonomous monastery within a federation or confederation, permission of each general superior is required to transfer; but, according to canon 684, §3, only the consent of the chapter of the receiving monastery is needed. Proper law is to be observed.

If a member wishes to transfer from one type of institute to another, e.g., from a religious institute to a secular institute or to a society of apostolic life, permission from the Holy See is required. This is in accord with canons 684, §5; 730 and 744, §2.⁷¹

ii. Indult of departure

Of course, it is the hope that the members will remain true to their vocation to religious life, either by accepting to be a part of the fusion or by transferring to another institute. Nevertheless, a member who refuses these two choices can, by way of exception, request from

⁷⁰ See CRIS, Letter, Prot.n. L. 116 - 1/84, 28 July 1984.

⁷¹ R. SMITH, "Issues of Separation and Transfer among Religious: Context and Procedure", in *Proceedings of the Forty-Seventh Annual Convention of the Canon Law Society of America*, 47(1985), pp. 97-104.

competent authority an indult of departure from religious life according to canons 688, §2 or 691. An indult of departure for a member of a secular institute is provided for in canon 727. With regard to an indult of departure for a member of a society of apostolic life, the procedure is stated in canon 743.

c. Special cases

If a religious refuses to be a part of the receiving institute, it is absolutely excluded that she pretend to continue belonging to the former institute since its juridical existence ceased when the decree became effective.

A religious who refuses to sign the declaration to join the fusion and, after an additional designated time, does not find an institute willing to accept the transfer, must canonically be regarded as a part of the receiving institute and submit to the constitutions and authority of that institute. M. Dortel-Claudot believes that the member, however, can continue to search for an institute for a reasonable but limited time, and, in the spirit of *Ecclesiae Sanctae* that "all must be done in perfect

charity",⁷² can be assisted by the former supreme moderator of the amalgamated institute.⁷³

If a religious refuses to sign the declaration to join the fusion and transfers, in accordance with the law, to another institute but, after a period of probation in the institute does not make perpetual profession, that religious must also be canonically regarded as being a part of the receiving institute, at least in order to obtain an indult of departure (canon 684,§2).

In some exceptional cases of fusion, the Holy See has permitted a province of a religious institute that is located in a country other than the generalate to join a religious institute in the particular country of the province. In such cases, canon 122 concerning the division of a juridic person would be observed. These exceptions reflect the position that the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life considers each case on its own merit, especially the

⁷² ES II, p. 782, no. 41.

⁷³ This is based on the opinion of A. GUTIERREZ, "De religiosis non consentientium in unionem religionum", in *Commentarium pro religiosis* (=CpR), 59(1978), pp. 234-237.

spiritual and psychological welfare of the members in question.⁷⁴

C. Transitional stage

The time of transition, in accord with the transitional clauses, has great psychological importance for the members of the amalgamated institute. It provides them time to adapt progressively to their new constitutions and institute. Yet it is important that the transitional clauses not be unnecessarily multiplied, nor allowed to interfere with the realisation of true unity. The following are examples of such transitional clauses.

1. Government

It could be arranged that the former supreme moderator be a member of the general council of the

⁷⁴ For example, the Sisters of St. Joseph, Fall River, a province of Le Puy, joined the Sisters of St. Joseph, Springfield, by means of fusion; see M. MODDE, *The Canonical and Pastoral Aspects of Suppression and Unification of Communities of Women Religious in the United States of America*, Chapter III, pp. 25-40. Another example, 26 of the 31 members of the English Province of Notre-Dame de la Compassion (Compassion de la Sainte-Vierge), St. Denis, chose to join the Congregation of the Servants of Mary (Servite Sisters) in London rather than to be a part of the fusion of their Congregation with the Soeurs de la Charité de Saint-Louis, Vannes. This information is gleaned from an interview with the archivist of the Soeurs de la Charité de Saint Louis, who was a member of the former Congrégation Notre-Dame de la Compassion, and from Questionnaires #108 and #109 from the Servants of Mary, Rome.

receiving institute for a period of three years or until the next general chapter. At times, the Holy See has specified that this be done.

If the accepting institute is divided into provinces, it could be possible that the amalgamated institute could continue as a province within the accepting institute, yet following the constitutions of that institute. For a certain time the former supreme moderator of the amalgamated institute could be the provincial superior.

2. The apostolic works

A transitional clause could, for example, foresee that a house involved in a particular ministry could not be suppressed for a certain number of years. Such a clause would not be acceptable, though, in the case of an institute with a small number of houses.

3. The members

A transitional clause could provide that the religious of the amalgamated institute would not be transferred to a house belonging to the accepting institute from the time of the fusion, without her explicit consent, for a period of two or three years.

It is so important that the amalgamated members be welcomed and kindly received by the accepting institute. As soon as possible, they should become fully integrated and participative members. Members in responsible positions of the accepting institute would especially need to be sensitive to the amalgamated members.

4. Administration of property

In the matter of property, a transitional clause could provide that the treasurer of the former institute work with the treasurer of the accepting institute for a period of two to three years.

It could also be foreseen that no house of the amalgamated institute would be sold without prior consultation with the former supreme moderator for a particular period of time.

III. CANONICAL PROCEDURE FOR THE UNION OF INSTITUTES

Many of the comments on fusion are also applicable to the procedures for union. Union, like fusion, can be motivated by need or usefulness as well as a desire to form a juridical alliance of mutual support, strengthened by a shared spirituality and the desire to serve the present needs of the people of God. For some institutes, the

primary reason is a spirit of fidelity to a similar charism or spirituality.

Union would have an appeal for institutes that have had a common historical origin and the same founder but, due to certain circumstances, were later separated. It provides an opportunity for the institutes to re-unite.

Union could also be a consideration for institutes belonging to the same Third Order (Franciscans, Dominicans, Augustinians) and others that are close in their spirit of life and follow the same spirituality, e.g., that of St. Francis de Sales. The possibility of union, however, is not limited only to religious institutes that have shared an earlier history or to those institutes belonging to the same Third Order.

A. Preparatory Stage

While union may be less traumatic in its over-all effect than fusion, it too requires research, careful dialogue, and long-term planning with a directional schedule.⁷⁵ The significant difference between fusion and

⁷⁵ For a clearly-planned, participative approach to union, see M. NOTH, "An Experience of Reunion", pp. 383-405; see A. DUMAS, *SISTERS OF CHRIST, Union Mysterium Christi*, n.p., n.d., 108p. which provides an account of seven congregations in their progression from autonomous institutes to the Federation "Mysterium Christi" and, finally, to the union promulgated December 27, 1976.

union is that union is a life-giving project; there is the detailed planning of and the anticipation for creating something new. The charism and the past history of each institute contributes to the foundation of the new institute.

1. Spiritual preparation

The project of union springs forth from faith, from courage to share a common vision of a new institute and a bold resourcefulness to create something new. They come to acknowledge that each of their institutes is just "one particular manifestation, culturally and historically determined, of a more universal charism, called religious life."⁷⁶ The institutes envision that the union of the congregations will reflect the particular manifestation of each institute but, importantly, will safeguard the primary gift of religious life and similarity of charism. They act from the belief that the "the whole is greater than the sum of the parts."

The members must approach the project with a dynamic initiative similar to that of other founders of religious institutes: an intense passion for the Gospel, a

⁷⁶ D. O'MURCHU, "Refounding Religious Life", in *Religious Life Review*, 28(1989), p. 238.

love for the Church, and a desire to serve the needs of the time.

M. Dortel-Claudot believes that in light of *Perfectae caritatis*, no. 22, there is a kind of spiritual logic to the unification of one or more institutes similar in constitutions and spirit. Once the process is viewed as such, "it is then fully positive in the sense of history, and only the spirit of self interest would be able to argue against the process of union."⁷⁷

The spiritual dimension of union also depends on the discernment process, the fundamental motivation and the suggested criteria for collective discernment presented above for fusion of institutes.

2. Psychological preparation

Although the members will be focused on a "new institute", differences and fears will need to be acknowledged and dealt with by each of the institutes involved.

In a time of crisis, it is often the case that institutes become more self-absorbed, concentrate only on

⁷⁷ M. DORTEL-CLAUDOT, *Union - Fusion - Fédération d'Instituts religieux*, p. 30. no. 2.1.2: "Elle est alors pleinement positive, dans le sens de l'histoire, et seul 'l'esprit de clocher' pourrait être invoqué pour se mettre en travers."

"survival", and lose sight of their *raison d'être*. Consequently the common purpose begins to diminish, the common good loses its priority, and the energy of the collective membership becomes fragmented. Union of institutes can offer a structure for existing communities, similar in nature, to consolidate and actually to become one in purpose, spirit, and character. It can be seen as a special call for the members of similar institutes to transcend their independence, their "survival mentality", and to participate in creating a united future. Even from a practical point of view, it can be seen as an innovative way to combine the talents and energies of the members and the patrimonial goods of each institute in order to coordinate the needs of the institutes and to respond more fully to the needs of humanity.

a. First phase

During the first steps, each institute would have to participate in the same types of activities as were presented for members in preparation for a fusion. It would be important for them to have the opportunity to discern, identify facts, share fears, and list the perceived advantages and disadvantages of union. Mindful that all should be done in charity, each member contributes to create an atmosphere of respect and trust.

Days of prayer, spiritual conferences, and informal meetings with members of the other interested institutes could be planned. It may be that some institutes already have established a bond through the apostolate, the same spirituality, or perhaps because they are members of the same federation.

b. Second phase

The second phase would continue to provide opportunities for the members to come together in prayer and preparation. Articles could be recommended for discussion⁷⁸ or workshops planned to address particular topics related to union, such as conversion, fear, change, and transformation. Committees composed of representatives of each of the institutes could be created to assist in particular areas of preparation. If well planned, the process of union will respect the sensitivities and legitimate concerns of all those involved.

⁷⁸ See D. MARKHAM, "Psychological Aspects of Change", pp. 24-28; see also M. JOHNSON, "Inventing a Group's Future", in *Human Development*, 12(1991), pp. 35-39.

See also S. SAMMON, "The Transformation of Religious Life", in *Origins*, 21(1991-1992), who identifies and explains on pp. 188-189, the different losses or changes that have occurred in many religious institutes in the last thirty years and speaks of the necessity of ritualizing these changes.

3. Juridic preparation

The objective of the juridic preparation of union is the same as that of fusion.

a. First phase

The first phase is an informal time for questions and discussion concerning the acquired rights of the members, the juridic effects of union and the implications for the members.

In the case of union, the juridic effect is the same for all of the institutes that join it. Each loses its previous juridic identity but, with the decree of union, all of the institutes that comprise the union assume the same identity and are members of the new institute. Regardless of the number of members or of property holdings, they are, juridically speaking, on an equal basis and share the history of the institutes that have given birth to the new one.

Those who refuse to join the new institute have the same options as in a fusion, according to the norms of law.⁷⁹

⁷⁹ See A. FULWILER, "Degrees of Voluntary Separation and Congregational Responsibility", in *Proceedings of the Forty-Fifth Annual Convention of the Canon Law Society of America*, 45(1983), pp. 193-200.

According to canon 123, the new institute receives all of the goods and patrimonial rights of the former institutes. It also assumes all of the rights and obligations of the latter, respecting, of course, the intentions of the donors.

At an opportune time during the preparation period, either in the first phase or the second, the institutes need to make contact with the diocesan bishops concerned. These are to be well informed about the motivations, preparation, and aspirations for the project of union. If all the institutes are of diocesan or of pontifical right, but established in four or five dioceses, it is necessary to contact all of the bishops in which an institute has one or more houses. If one or the other of the institutes is of pontifical right but established in more than five dioceses, it is usually sufficient that the bishops be informed. The written and signed approbations of the bishops do not need to be received until the time of the formal canonical procedure.

b. Second phase

The second part of the preparation would be a commitment to study and discernment to see whether a union can be reasonably envisaged. Each general administration would give to the others the institute's constitutions and

would prepare a full report to be shared at a joint meeting with the members of the other general administrations. At an appropriate time, the constitutions and a summary of the reports or the complete report on each institute, depending on the situation, could be shared with the members of all of the institutes.

During the preparation period, usually the second phase, the general administrations of the concerned institutes must discuss, plan, and reach an agreement on the content of the transitional statutes and their duration. The members could be assisted by a special committee composed of representatives of each institute to study and prepare the contents of that statute. This, in turn, would be presented to the general chapter of each institute before the petition is forwarded to the Holy See.

While, in the case of a fusion, the transitional clauses are facultative since the joining institute would be observing the constitutions of the receiving institute, in the case of a union, they are obligatory, due to the fact that a new institute is created.⁸⁰ Following the promulgation of the decree of union, the members of the new institute would live for a particular period according to the transitional statutes.

⁸⁰ M. DORTEL-CLAUDOT, *Union - Fusion - Fédération d'Instituts religieux*, p. 32, no. 2.3.2.

At the appropriate time, the supreme moderators of the institutes or their representatives would contact the Holy See. When institutes initiate the canonical procedure of union, it is proper, in effect, to have the clarification and agreement of CICL on the following points:

1. The essential stages and the calendar, at least approximately, of the procedure of union.

- The modalities of the personal declaration of adhesion to the union.

2. Will the first superior general of the new institute be designated by CICL or elected by a special general chapter which would be convoked in the days following the promulgation of the decree of union?

- Or would the superior general and the council of each institute continue in office until the chapter of elections of the new institute?

3. It is also necessary that CICL be in agreement with the main points of the provisional statutes.

- Or a provisional text could be prepared by the general administration and agreed upon by each general chapter following the consultation of the members, then submitted with the petition for the approval of CICL.

- Or will the statute be written and approved by the CICL, at the suggestion of the general administrations of the institutes and promulgated at the same time as the decree of union?

- Or will it be written and voted on by the special general chapter with the details left to the general administration of the new institute?

B. The canonical decisions relating to union

The canonical decisions relating to union depend on the advice of the CICL, but normally they follow the same sequence as for a fusion.

1. Consultation of the members

As with a fusion, it is no longer obligatory to have a written and secret consultation of the members. According of the judgment of the general administration of each institute, this can be replaced by another means of consultation. If, however, the general administration judges the written and secret consultation to be useful, the question of union could be posed as follows:

1. Do you accept that your Institute unites with Institute Y and Institute Z to form a new institute?
____ Yes ____ No
 2. If no, but the union is accepted, is it your intention to transfer to another institute?
____ Yes ____ No
- or: to seek dispensation from your Religious vows?
____ Yes ____ No

It pertains to the general council of each institute to examine the results of the consultation.

According to the judgment of the general administration, an oral consultation can be used instead of a written one. In this case each religious would meet with her superior general to give her point of view on the

project of union, and to indicate her intention regarding the union: either to take part in the new Institute or to request a transfer to another one.

To make proper plans, each general administration needs to know both how many members of the institute will be a part of the union and the plans of those members who refuse to enter into it.

All areas of concern related to the potential union would have to be shared and discussed at a meeting of the general administrations of all the institutes. From the beginning it would be important for the general administrations to hold joint meetings on a regular basis and throughout the time of preparation.

As has been said in regard to fusion, quasi-unanimity is no longer required for the general administration to proceed with the project.

2. The deliberative vote

Following the discussions, meetings, and the consultative process, it is time for each institute to vote "yes" or "no" to the proposal to send the petition for union to the Holy See. All that was noted regarding a fusion is applicable to this phase of union as well. The

wording of the deliberative vote could be as follows:

Having been informed of the proposed union of your Institute with Institute Y and Institute Z to form a new Institute, and of the results of the formal consultation of the members, do you wish to petition to the Holy See for your congregation to unite with the other institutes to form a new institute. ___Yes ___No

It is not absolutely necessary for all of the institutes to use the same wording for the deliberative vote.

Once the vote has been taken, it is time to prepare the official petition for the Holy See.

3. The contents of the petition and the accompanying documentation

The contents of the petition are similar to those of fusion. The petition would include general information on each institute, as well as any special information pertaining to each one, and the written approval of the bishops.

a. Dossier from each institute

Each institute would have to send the same information as presented in the case of the requesting institute for fusion on pages 254-255.

b. Joint dossier from the institutes

The second part of the dossier would explain how the institutes together approached the project of union.

It would also include any transitional plans relating to temporal goods, such as the transfer of these goods, recognizing the rights and obligations of the new institute, conforming to civil law, and considering any reasonable delay in such a process.

c. Letters from the bishops

The written approval of all of the diocesan bishops of the institutes that are of diocesan right or that are of pontifical right but are established only in four or five dioceses would be required. These would be part of the dossier.

If the institutes have belonged to a federation, the dossier is sent by the superior general or the president of the federation. If such is not the case, it could be sent in one of the following ways: if all of the institutes are of diocesan right, the dossier would be sent by the bishop of the general house of one of them; if only one is pontifical, and the others are of diocesan right, the dossier would be sent by the institute of pontifical

right; if most of the institutes are of pontifical right, the dossier would be sent by one of them.

4. The decree of union

Having studied the question according to its proper internal procedure, the CICL would then send the decree of union, analogous to fusion, to the person who sent the petition. It would also include other necessary information, including the specifics for the execution of the decree. The manner of proceeding varies from one union to another.

Often institutes involved in a union will plan to formalise the birth of the new institute with a liturgical celebration. This could coincide with the execution of the decree or with a feast day that would be special to the new institute. The formalities of the personal declaration of each member of the new institute could be a part of the liturgical celebration, on condition that the freedom of persons is respected.

5. The personal declaration of each member

The formality of the personal declaration of the members of the institutes that constitute the union is conducted in the same way as for a fusion. Again, this may take place before the decree of union is promulgated.

Each member, even those who are exclaustrated or living outside the community, must receive the following:

Page one:

I, _____, desire to enter the new institute formed by the union of Institute X, Institute Y and Institute Z.

Page two:

I, _____, do not wish to be a member of the new institute, _____.

It is my intention to (ask for a transfer or an indult of departure).

Within with the specified time, one of these two pages, duly signed, should be returned to the superior general. If a member requires additional time to reflect on the matter, the new supreme moderator of the institute must agree to it.

What was said on the subject of refusal of fusion, transfer, or dispensation of vows also applies in cases of union with the necessary adaptations, taking into account the prescriptions of the transitional statutes.

C. Transitional stage

The transition process provides the opportunity for the members to make a gradual adjustment to the new institute. It is possible that the provisions for the interim period, at least in principle, were prepared during the preparation stage and have been approved by

CICL. They could be issued and promulgated as an addendum to the decree of union or they can be voted upon by the special general chapter to be convoked whenever the decree of union takes effect. All of this would have been foreseen in advance.

At times, the CICL may deem it necessary, because of certain complexities, to mandate one or more canonists with particular expertise to assist the new institute during the transition process.⁸¹

1. Special chapter

If the CICL accepts that the provisional statutes are to be voted upon by the special general chapter, it is responsible to determine the composition of the chapter, either directly or by delegation to a religious assistant designated by the CICL. In this area, many situations are possible:

The special general chapter could include:

- the general superiors and general councils of each of the former institutes that formed the union and them alone;
- Or the members by law: the superior generals and the provincials of the former institutes;
- Or delegates elected by each of the institutes on the basis, for example, of one delegate for thirty religious (or a fraction of 30). All of the professed have active

⁸¹ C. DARCY, *The Institute of the Sisters of Mercy of the Americas*, pp. 309-311, Appendix IV - H.

voice; only the perpetually professed have passive voice.⁸²

The first supreme moderator of the new institute could be elected by the special general chapter. In this case, it would be necessary to determine beforehand the election procedure for the first superior general and the conditions for the chapter. In some cases, the CICL may designate the supreme moderator from among the supreme moderators of the former institutes.

Depending on the decision of the CICL, the first matter of business would be the election of the supreme moderator and the general council. This would be followed by the discussion on the essential elements to be contained in the transitional statutes.

2. Essential elements of the transitional statutes

The objective of the transitional statutes would be to provide continuity as well as to lead to a true realization of unity in heart, spirit, and character. The transitional statutes must ensure an orderly transition for

⁸² See M. DORTEL-CLAUDOT, *Union - Fusion - Fédération d'Instituts religieux*, p. 37; see also M. LEWIS, "Reunification of Two Congregations as Culture Change", in *RfR*, 49(1990), p. 55, who notes that the members of the special general chapter consisted of one less than 2/3 from the larger of the two groups and one more than 1/3 of the members from the smaller group.

the members and for the canonical mission of the institute. The statutes will provide the temporary but necessary proper law for the institute until the constitutions are written and approved.

In most situations, the transitional statutes address: 1) admission and formation, 2) administration of temporal goods, and 3) government. For a period of time, the members would be expected to continue to observe the constitutions of their past institute in the areas of apostolate, evangelical councils, the life of prayer, and community life.

a. Admission and formation

In matters of admission and formation, it is necessary to have a uniform legislation for the new institute, providing for admission to the different stages of formation as well as determining their nature and duration. In addition, provision would have to be made for the appointment of formation leaders when new members are accepted and for the preparation of a formation program.

b. Administration of temporal goods

The clauses of the provisional statutes depend on the concrete situation of the union, the number of

institutes forming the union, whether the institute is international, national or regional, and the constraints of civil law. Several possible examples will be offered in regard to the administration of goods.

During the first years of the union, the treasurer of the each former institute continues to administer the stable patrimony, both the immovable goods and movable goods of the former institutes. At the end of the transitional stage, according to canon 121, the new juridic person obtains the goods and patrimonial rights as well as the obligations and burdens, respecting the intentions of the donors and acquired rights.

While the transitional administration of the stable patrimony of each former institute remains separate during the transitional stage, from the moment of the decree of union, each institute places in common the goods, the current funds or ready cash that do not belong to the stable capital of the former institute. The common fund is entrusted to the care of the general treasurer of the new institute. The manner of electing or appointing the general treasurer should be covered in the provisional statutes.

During the preparatory stage, other important items to be included in the transitional statutes would need

discussion and clear planning. Such would be the projected costs for formation, mission to the people, health care particularly for the aging members, the functioning of the government of the institute, and the cost of each religious house or other designated particular projects.

If the common fund of the new institute is not sufficient to cover the expenses, the treasurers of the former institutes would need to contribute to the new general fund in part or in total from the revenues of the stable patrimony of the former institutes, unless this was covered by the transitional statutes.

c. Government

The transitional clauses are indispensable in the area of government. Generally, they address the composition of the council, if and how the institute would be divided into provinces or regions, the composition of the next general chapter, the members, and the houses.

First of all, they would address who will constitute the interim government. It is possible that the general administration of the new institute could be composed of the supreme moderators of the former institutes

that have formed the union.⁸³ Or, the general administration could be elected by the special chapter according to the approved procedure of this chapter. Another possibility is that the general administration could be composed of all the general superiors of the former institutes and, in addition, some councilors could be elected by the special chapter, whose number and conditions for eligibility would need to be determined by the transitional statutes.⁸⁴

If the new institute is established in different regions of a country or of the world, it may be necessary to divide it into provinces. It might be preferable, in an effort to promote unity, if the new institute would establish new provinces rather than maintain the designated provinces of the former institutes.

The transitional statutes would also need to foresee the clear division and the composition of provinces. Moreover, the norms would include the way in which to designate provincial and regional superiors and their councilors. They would also need to specify the duration of their mandate.

⁸³ In one known case, CICL asked that a former supreme moderator function as a member of the general council until the celebration of the general chapter.

⁸⁴ See M. DORTEL-CLAUDOT, *Union - Fusion - Federation d'Instituts religieux*, p. 39.

The composition of the next general chapter, different from the special chapter, would be determined by the transitional statutes. If the institute is divided into provinces, the role and the composition of the provincial chapters would also be defined, as well as the manner of electing the delegates to the provincial chapter.

In regard to the members of the institute, the transitional statutes may specify that the members of each former institute may not be moved to another house of the new institute without the explicit consent of the member.

Secondly, the statutes may determine that the former supreme moderators govern the houses of the former institutes.

The union would affect those superiors mandated before the union. The transitional statutes should then foresee how to name or renew the local superiors, the duration of their mandate, and the necessary conditions to become a local superior.

In regard to important affairs concerning a house of a former institute and, notably its closure, it could be provided that the supreme moderator of the new institute would need first to consult the supreme moderator of the former one.

The history of fusion and union reveals the necessity for adequate preparation and involvement of all members and for assistance of those with expertise in these matters. It also points to the importance of clear and precise transitional statutes concerning the essential elements of consecrated life. Experience also proves that the realization of the fusion and union is more than the decree, it is the on-going commitment of members of an institute to be of one mind and body in their life and their mission. As so many shared in interviews, it was a journey of faith, led by the Spirit.

IV. EXAMPLES OF UNION SINCE THE 1983 CODE OF CANON LAW

In 1986, two congregations, originally of one foundation, formed a new congregation. In the early years of the Sisters of St. Mary of the Third Order of St. Francis, a group of sisters separated and formed a new institute first known as the Sisters of the Immaculate Conception, then, in 1895, as the Sisters of St. Francis. Years passed, circumstances changed and members decreased. In 1979, an attempt was made by the Sisters of St. Mary to discuss the possibility of "reunion" with the Sisters of St. Francis. The two general administrations met in July, 1981. Meetings and discussions followed and in August, 1984, the members of each congregation voted in favor of further study. In 1986, after an intense, carefully

planned, participative preparation, permission was received from the Holy See for the reunification of the Sisters of St. Francis of Maryville with the Sisters of St. Mary of the Third Order of St. Francis. In November, 1987, the two became one, titled the "Franciscan Sisters of Mary".⁸⁵

Another recent example of the same is the Institute of the Sisters of Mercy of the Americas formed in 1991. Prior to this, a Union of the Religious Sisters of Mercy of the United States of America had been established in 1929, then in 1968, nineteen congregations of the Sisters of Mercy formed the Federation of the Sisters of Mercy of North America.⁸⁶ The preliminary discussion on the project of the Mercy Futures began in 1980 and continued until 1983. This was followed by an intense period of planning and consultation of the members in 1985. Formal contacts were made with the Holy See in 1987. Participative preparation, the formal consultation of the members, and the vote of the general chapters of each institute took

⁸⁵ See *L'Attività della Santa Sede, Città del Vaticano, Tipografia poliglotta vaticana*, [1941-], 1986, p. 1154: *Le Suore di S. Francesco di Maryville (USA) con le Suore di S. Maria del Terz'Ordine Regolare de S. Francesco d'Assisi (USA)*.

See M. NOTH, "An Experience of Reunion", pp. 383-406, see also M. LEWIS, "Reunification of Two Congregations as Culture Change", pp. 65-73, gives an account of the transitional period.

⁸⁶ See CRIS, Decree, Prot. N. 5733/67, 11 May, 1968.

place. In 1991, a single institute was formed from seventeen autonomous congregations,⁸⁷ grouping 7,730 members.⁸⁸

V. FUSIONS SINCE THE 1983 CODE OF CANON LAW

According to *L'Attivita della Santa Sede and Consecrated Life*, a total of eighteen fusions were realized from 1986 to 1992.⁸⁹ Six occurred in France, four in the United States, three in Italy, two in Ireland, one each in Belgium, England, and Spain.

VI. AN EXCEPTIONAL SITUATION

In an exceptional case, the Holy See has authorized a group of religious who refused to join a union, to establish a new diocesan institute with the provision that all those concerned were in agreement. First of all, the bishop of the diocese agreed to establish a diocesan

⁸⁷ See C. DARCY, *The Institute of the Sisters of Mercy of the Americas: The Canonical Development of the Proposed Governance Model*, Ottawa, Saint Paul University, 1992, xix-351p.(Ms.)

⁸⁸ *Annuario pontificio per l'anno, 1992*, Città del Vaticano, Libreria Editrice Vaticana, 1992, p. 1521, *Misericordia delle Americhe (Suore della)*, Sisters of Mercy of the Americas, 7,730 (a. 1991).

⁸⁹ *L'Attività della Santa Sede*, pubblicazione non ufficiale, Città del Vaticano, Tipografia poliglotta vaticana, 1986, p. 1154; 1987, p. 1178; 1988, p. 1283; 1990, pp. 1173-1174; 1991, p. 1268; see also *Consecrated Life*, 17(1992), p. 145.

institute if the Holy See agreed. A financial arrangement was agreed upon between the twelve sisters and their religious institute. After considering the motives of the petitioners, the Holy See granted the diocesan bishop permission to establish a new diocesan institute in accordance with canon 579 and the conditions set forth in the letter to the bishop. The letter stated that the sisters would remain in their same condition of religious profession and would observe the constitutions previously approved by the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life. It also stated that although the sisters in the diocesan institute "will be able to receive perpetually professed sisters in a process of transfer, they will need some time to establish their internal structures of government first."⁹⁰

This situation is similar to several examples of exceptions presented in preceding chapters. In such delicate and complex situations, the Holy See considers all aspects of the matter and a decision is made "based on prudence, charity, and equity".

⁹⁰ C. DARCY, *The Institute of the Sisters of Mercy of the Americas*, pp. 244-251, 312-314, Appendix IV - I.

CONCLUSION

The concern for religious institutes so frequently mentioned by the Council fathers in the preparatory phase of the Second Vatican Council continues to persist and has become even more widespread. Many religious institutes of men and women in Europe, North America, Oceania, and Latin America suffer from a lack of new members. The implications are far-reaching, beginning with a decrease of apostolates, of ministries to the sick, the poor, and the needy, combined with the problem of limited financial resources. It is inevitable that many religious institutes will become extinct during the next few decades. As mentioned by R. Hostie, L. Cada, and others, this phenomenon has occurred at other times in the history of religious life. Often new forms of religious life came into existence, yet, at the same time, many religious institutes became extinct. From reading the signs of our times, it seems that many of our institutes are heading toward extinction or toward some type of reorganization.

Fusion and union offer two distinct ways for religious institutes to unite, to reorganize, and to consolidate their strengths, similarities, and purpose. The tested praxis and jurisprudence provide the necessary procedure and formalities to bring these two types of unification to realization.

The chapter has attempted to present the spiritual basis, the human process, the canonical formalities and the juridical procedure of fusion and union. It has observed in the various decrees and letters that the institutes are free to choose or not to choose a fusion or union: "with sincere interest this Sacred Congregation will follow these praiseworthy efforts of the institute without, however, wishing to interfere in their freedom to make such a decision."⁹¹ At times, if the institute did not receive the requisite votes of the members, the decree has not been granted. The institute is then asked to continue to discern the matter for a longer period.

Church laws foster fidelity to the distinct character of religious institutes and respect their just autonomy. The laws of the Church also foresee, however, that there are situations when a religious institute can no longer fulfill the proper function entrusted to it and provides other alternatives in view of the common good of the religious institute and the Church.

Throughout this chapter we have seen how the Church, through its laws and through the praxis of the CICL, protects the charism of religious life, the gift of religious vocation, and the means of preserving the rights

⁹¹ CRIS, Prot. n. C. 91a-1/74, Letter, 20 December 1974.

and property of the juridic person. At the same time, the praxis and jurisprudence require that the members of the religious institute must be free in their choice and that the religious institute is to make provisions for those members who do not choose to become a member of the fusion or union. In some cases, "observing what has to be observed", exceptions are made for *bonum animarum et Ecclesiae*.

GENERAL CONCLUSION

Canon 582 states that the unification of institutes of consecrated life can be realized through union, fusion, federation, or a confederation. This law finds its completion in the praxis as well as in the accumulated jurisprudence of the Apostolic See relating to the unification of institutes. The praxis takes into consideration the rights of both the juridic person and of the physical persons who make up the institute, the mutual obligations of the Church and the institute to preserve the patrimony of the community, the dignity and freedom of the members, and the needs of the people of God.

The primary focus of this study was the unification of religious institutes by means of fusion or union. As with any inquiry of this kind, the study began with an analysis of the historical background of the juridical norms and procedures relating to the unification of institutes. Furthermore, since a religious institute is a juridical entity with particular rights and obligations, it was also necessary to study the notion and historical development of the understanding of the notion of juridic person. It was noted that both the canonical notion of juridic person and the legal elements of unification, based as they were on laws governing the union of parishes and

benefices, find their origins in pre-code Church law. Most canonists agree that at least by analogy, these laws applied also to the unification of religious institutes.

Essential juridical elements of unification were identified and analysed: the nature or type of action to be undertaken and its juridical effects, the competent ecclesiastical authority to bring about the unification, and the canonical formalities to be observed. In light of these elements, a further examination was made of the different phases or influences experienced in the development of Church legislation and praxis regarding the unification of religious institutes. The study focused on pre-code church law, the 1917 Code of Canon Law, the influence of Pope Pius XII, various factors from the debates and documents of the Second Vatican Council and, finally, the 1983 Code of Canon Law.

We can now summarize our conclusions under the following headings.

(1) Canon 582 presents fusion and union as two types of unification of institutes of consecrated life. These two modalities were mentioned in early church law. Canon 1419 of the 1917 Code of Canon Law noted that "extinctive union" of benefices could occur in two ways with distinct juridical effects. The first way would be

for two or more benefices to be suppressed in order to create a new one; the second way was described as the joining of one or more benefices. In the former case, all the rights, obligations, privileges, and temporal goods of the former benefices would pass to the new one. In the second case, the juridic entity of each of the former benefices would be relinquished to assume the juridical identity of the one they joined.

This theory was applied by analogy to the unification of institutes, since the union of institutes was treated as an indirect suppression by the 1917 Code of Canon Law. While the norms did not explicitly refer to the two distinct modalities of fusion or union, some canonists made mention of them when speaking of the unification of institutes. The *Normae procedendi in religionibus, societatibus, institutis erigendis, approbandis et quibusdam aliis circa ipsa mutationibus perficiendis* (third edition) issued in 1953 by the Congregation for Religious for private use, also referred to two forms of unification. These were later described in numbers 21-22 of the Decree *Perfectae caritatis*.

Although there was reference to fusion and union in pre-code church law, there was much confusion and inconsistent use of terms to describe these processes.

Thus, the law in the 1983 Code of Canon Law has identified these actions and clarified the juridical effects of each.

(2) The pre-code law governing the union of benefices had reserved the union of certain benefices solely to the Holy See. However the local ordinary was competent to unite those which were subject to his jurisdiction. A study of unifications of religious institutes that occurred during the pre-code era reveals that institutes or monasteries belonging to an institute of pontifical right were united by the Holy See, whereas those of diocesan right were generally united by the diocesan bishops.

In the 1917 Code of Canon Law, canon 1422 stated that the competent ecclesiastical authority for the extinctive union of benefices was the Apostolic See. According to canon 1423, the local ordinary was competent to bring to effect equal or subordinating unions of all parochial parishes with one another and the union of some types of benefices.

There were no explicit laws governing the union of religious institutes in the 1917 Code of Canon Law. Canonists simply referred to the union of institutes as an indirect suppression. Since "union" implied the suppression of one or more religious institutes the competent authority

for such action was the Holy See. Unifications of institutes that occurred after 1917 were generally effected by a decree issued by the Holy See, although some institutes were united by diocesan bishops.

The *Normae procedendi* (1953) stated that no matter what reasons for the union or the way in which it was to be brought about, the prior intervention of the Holy See was required. Yet, if the institutes were of diocesan right, the diocesan bishop was competent to issue the formal decree of union. This is similar to the norm requiring the prior permission of the Holy See before an institute is established by a diocesan bishop (canon 579). However, now the four types of unification recommended by *Perfectae caritatis* are reserved to the Holy See.

The 1983 Code of Canon Law preserves the tradition that the only competent ecclesiastical authority to effect union of institutes of consecrated life is the Apostolic See.

(3) In addition to the decree of unification, certain other canonical formalities are required by the 1983 Code. First, there must be a reason for the fusion or union. In the case of fusion, it is usually one of necessity. On the other hand, a union can be motivated by a desire to conserve solidarity of purpose and to serve the

people of God better. Generally, however, the underlying motive is necessity or usefulness for the institute itself and for the greater good of the people of God. The *motu proprio Ecclesiae Sanctae* outlines factors to be considered in case of fusion or union. These may be supported by a shared ecclesial vision and the conviction that unification would be beneficial for the members of the institute(s) and would serve the greater good of the Church.

Other canonical formalities involve the intervention of individual members of the institute and its legislative bodies. They build on laws related to juridic persons and on those referring to consultation with the ordinaries of the principal houses and those in whose dioceses there is a house of any of the institutes in question.

(4) Experience show that an adequate spiritual, psychological, and juridical preparation of the members of the institutes is required. After the promulgation of the 1917 Code of Canon Law, several canonists noted that unification was a delicate matter and that the members should have appropriate spiritual and psychological preparation. The Decree *Perfectae caritatis* and the *motu proprio Ecclesiae Sanctae* highlighted the necessity of adequate spiritual, psychological, and juridical preparation. This was a significant step and is required as a

preliminary requisite to the canonical formalities of fusion or union.

(5) The members are to have a free and secret vote, a free choice to enter the fusion or union, or to transfer to another institute, or to seek an indult of secularization. Generally, at least 80% of the members must be in favor of the fusion or union as well as the general administration and the general chapter itself.

Consultation with the ordinaries of the principal houses and other interested Ordinaries is also necessary. Their testimonial letters are to be included in the dossier. This information and other related matters would be part of the the formal petition. When the decree of fusion or union is executed, the members who chose to join the receiving or new institute would make a formal declaration of membership to this institute.

(6) For the last one hundred years, the Holy See has promoted the movement towards unification of monasteries and religious institutes. It gained momentum during the pontificate of Pius XII. The idea was emphasized by the Council fathers in *Perfectae caritatis* and the *Ecclesiae Sanctae*. The numerous unifications that occurred during this century have served as a preparation for the definitive law on unification of institutes of

consecrated life. The experience gained has prepared the way for the unqualified commitment of the Church in its law to assist in the unification of institutes of consecrated life.

(7) The canonical norms on fusion and union of institutes have raised certain areas of concern. The first would be the need to exercise greater caution in the approval of new institutes. Ordinarily an institute must have proof that it has spiritual vitality, a sufficient number of members, and the necessary temporal means to ensure the fulfillment of its purpose and mission. It might be necessary for a public association to have a longer probation period before it becomes a religious institute. If the association does not have the essential intrinsic elements, then it should be encouraged to join with an established institute, similar in spirit and purpose.

Secondly, in view of the circumstances of many religious institutes with few new members, it might be beneficial were the national leadership conferences of religious to assume a more active role in providing assistance to institutes facing difficulties. The conference could offer information on the required preparation for institutes contemplating fusion or union and inform them of the canonical procedures. The conference could

also provide teams of experts to assist institutes in making such decisions, in preparation both for the change and during the time of transition. Perhaps even a handbook, similar to the one published by the *Comité Canonique des Religieux of France*, could be written for the use of institutes of consecrated life, explaining the types of unification, the juridical effects, the preparatory procedures and the canonical formalities.

(8) Since Vatican II, the prohibition against the reception of new novices does not appear to have been enacted by the Holy See. Respecting the autonomy of the institutes, the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life leaves communities free to assess their situation and to make appropriate decisions to foster the common good of the members and of the Church. In some cases, though, when the situation has become unbearable, the Holy See may have to intervene in a more direct way. Again, the leadership conferences of religious could assume a more active role in offering moral support, pastoral guidelines, and psychological preparation for those institutes whose median age is too high (over 70) to justify the acceptance of new members or to unite with another institute.

(9) In terms of additional research, in some cases, due to the median age of the members of the

institute, a fusion or union could be too disruptive of religious life; therefore another type of relationship may have to be considered as a means of spiritual, psychological or temporal assistance. In some situations, federation could be a solution and for others aggregation could be an answer. Further study and clarification of aggregation and federation in light of the 1983 Code of Canon Law could be helpful.

APPENDIX A

SACRA CONGREGATIO DE RELIGIOSIS

Schema tertium: 1953

NORMÆ PROCEDENDI

IN RELIGIONIBUS, SOCIETATIBUS, INSTITUTIS ERIGENDIS,
APPROBANDIS ET QUIBUSDAM ALIIS CIRCA IPSA MUTATIONIBUS
PERFICIENDIS

DE UNIONE RELIGIONUM, SOCIETATUM, INSTITUTORUM

106. Quando Sacrae Congregationi proponitur nova fundatio quae, omnibus mature perpensis, requisita praesertim circa finem specialem non habet; vel opera sibi proponit exercenda quae alias Religionis in dioecesi vel regione iam prosequuntur, nisi nova fundatio conditioni status perfectionis canonicae renuntiare malit, exigere debet ut aliis id genus institutionibus uniatur (cfr. n. 6); nec peculiaris ratio procedendi, ex parte Sacrae Congregationis, tunc exigitur.

107. Unio Religionum, Societatum, Institutorum, quae iam legitime constituta et approbata sint, pluribus de causis suaderi potest. Quaecumque autem de causa haec unio necessaria seu utilis demonstratur, et quavis ratione perficiatur, semper Sacrae Congregationis interventus requiritur, licet de uniendis Religionibus, Societatibus, Institutis iuris dioecesiani tantum agatur.

108. Duplici praesertim ratione unio fieri potest, scilicet:

a) Vel Religionis, Societates, Instituta uniuntur et ita convertuntur, ut novae etiam Constitutiones, ex praecedentibus, omnino sint efformandae.

b) Vel, e contra, ita uniuntur ut una ab alia veluti absorbeatur, iisdem vel fere remanentibus Constitutionibus et fine speciali potioris Religionis. Hoc, ex regula, fit sive in casu quo Religio, paucis omnino sodalibus constans, Religioni uniatur quae, numero sodalium, priorem valde excedit; sive in casu diversitatis conditionis iuridicae: v. g. si Religio iuris dioecesiani Religioni iuris pontificii, vel Societas vitae communis, Religioni uniatur.

109. Circa unionem Religionum, Societatum, Institutorum iuris dioecesiani, hac ratione proceditur:

a) Rem imprimis agunt Superiores religiosi, cum Ordinariis locorum.

b) Si unio utilis demonstretur, Ordinarii locorum in quibus scilicet domus generalitiae habentur, preces ad licentiam pro unione obtinenda, una cum aliis documentis ad rem pertinentibus, et, si casus ferat, textum emendatum Constitutionum, Sacrae Congregationi transmittunt.

c) Apud Sacram Congregationem, causa, voto unius saltem Consultoribus illustrata, Congressus examini ac decisioni subiicitur. Consultor quoque vel Consultores, Congressui advocari possunt.

d) Si affirmative pro unione respondendum censeatur, Ordinariis locorum in quibus domus generalitiae existunt, licentia conceditur ut decretum unionis edant, atque novas Constitutiones, quatenus opus est, approbent, servatis instructionibus a Sacra Congregatione datis.

e) In decreto unionis, iidem Ordinarii definiant etiam in quam diocesi Superior generalis deinceps sedem habeat.

f) Rem totam, Ordinarius loci domus principis, cum aliis Ordinariis locorum in quorum dioecesibus domus existunt denique communicare debet.

110. De peracta unione, Sacram Congregationem Episcopus edoceat, atque unionis decreti authenticum exemplar, necnon Constitutiones approbatas et typis impressas, in archivo Sacrae Congregationis asservanda, transmittat.

111. Si agitur de uniendis Religionibus, Societatibus, Institutis *iuris pontificii*:

a) Res imprimis in Capitulo generali vel aequivalenti conventu perpenditur.

b) Preces ad Sacram Congregationem, una cum aliis documentis ad rem pertinentibus, necnon Constitutiones quatenus opus est, transmittunt Superiores generales cum respectivis Consiliis.

c) Examen causae fit in Congressu pleno, ipsiusque resolutio ac decisio est SS.mo in Audentia referenda iuxta superius dicta n. 58.

d) Sacra Congregatio decretum edit quo Religiones, Societates, Instituta uniuntur, et quatenus opus est, Constitutiones approbantur, et quidem, ex regula, ad experimentum; datis quoque aliis instructionibus quas in singulis casibus peculiaria adiuncta requirant, praesertim circa unionis effectus qui iuridicam sodalium conditionem respiciunt.

112. Si ex unione, novae graves pro sodalibus obligationes exurgunt, acceptatio novae conditionis a singulis sodalibus exquirenda est, et renovatio professionis requiritur. Dissidentibus aliter providendum est.

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APPENDIX B

FUSION (MERCER) AND UNION: SURVEY OF RELIGIOUS INSTITUTES

I. BASIC DEMOGRAPHICS

Please provide, if possible, the following information about your religious institute.

HISTORY

1. Name of religious institute _____
2. Founder/Foundress _____
3. Year of foundation _____
4. Place of foundation _____
5. Pontifical Right or
Diocesan Right _____
6. Describe the spiritual patrimony of your religious
institute and the particular type of spirituality that it
flows from (i.e., Franciscan, Jesuit).

7. If the religious institute was over fifty years, list
the major apostolic works of the religious institute during
the first fifty years.

8. List the major apostolic works of the religious
institute during the last twenty years.

9. What was the membership of your religious institute the twentieth year before the fusion (merger) or union?

- a. _____ All Sisters who have made perpetual vows
- b. _____ Sisters in temporary vows
- c. _____ Novices

10. What was the membership of your religious institute the fifth year before the fusion (merger) or union?

- a. _____ All Sisters who have made perpetual vows
- b. _____ Sisters in temporary vows
- c. _____ Novices

11. Number of members in age group the fifth year before the fusion or union.

- More than 75 years of age _____
- From 65 to 75 years of age _____
- From 55 to 65 years of age _____
- From 45 to 55 years of age _____
- From 35 to 45 years of age _____
- Less than 35 years of age _____

This question provides us with the important information regarding age distribution of membership.

II. PREPARATION STAGE

1. What were the motives for initiating the merger or union? (i.e., Mission of the Church, scarcity of vocations). _____

2. Who initiated the possibility of a fusion or union?

- | | |
|--------------------------|------------------------------------|
| a. Diocesan Bishop _____ | b. Superior General _____ |
| c. Holy See _____ | d. Other _____
(please specify) |

3. How was the study initiated?

- a. Letter _____ b. Discussion _____
c. Both _____ d. Other _____
(please specify)

4. What was the role of the Diocesan Bishop of the archdiocese/diocese of the motherhouse of the religious institute?

- a. In favor/encouraging _____ b. Opposed _____

If b., what were the reasons for opposing the fusion/union?

5. What was the role of the Superior General during the preparation stage?

- a. Initiator of fusion/union _____ b. Collaborator _____

Please explain _____

6. What was the role of the General Council?

- a. In favor/encouraging _____ b. Opposed _____

Please explain _____

7. What was the role of the General Chapter:

- a. Initiated the idea _____ b. Resisted _____
c. Divided on the idea _____

Please explain _____

8. What criteria were used to select another religious institute with which to merge or form a union: geography, foundress, mission, spirituality, language, bishop, etc.

9. What activities were planned to acquaint the congregation with the possible notion of merger or union? Use the other side of paper to explain.

a. Presentation of factual information _____

b. Was there opportunity for the members to discuss the possibility? _____

c. Other (please explain) _____

d. Was there opportunity for the individual member to cast a secret vote?

Yes _____: _____% were in favor of the fusion/union ballot.

_____% were in favor of the fusion/union

No _____

10. Were activities planned to acquaint the Congregations with each other during the preparation time?

Yes _____ No _____

If yes, please indicate the activities.

a. Shared retreat/recollection time _____

b. Liturgical celebrations _____

c. Social gathering _____

d. Other (please explain) _____

11. What were the special devotions or practices of the Congregation? _____

12. What was the spirit of the founder/foundress? (For example: a spirit of reconciliation, a spirit of penance, a spirit of charity, a spirit of conversion) _____

13. In the preparation stage, what psychological elements were discussed by the Congregation? (For example: fear of change, loss of identity, loss of community history, loss of particular apostolate, etc.) _____

14. (a) If more than one vote was taken, what percent of the Chapter was in favor of the merger or union when the first vote was taken? _____%

(b) What percent of the Chapter was in favor of the merger or union when the final vote was taken? _____%

15. What obstacles to the merger or union were raised during the preparation stage? If necessary, please use the other side of the paper and number your response - 15. _____

16. What advantages to the merger or union were raised during the preparation stage? _____

17. Did any of the members choose to transfer to another religious? If so, how many did so? _____

18. Did any of the members choose to be dispensed from their vows? If so, how many did so? _____

19. What kind of financial assistance was given to those who chose to transfer or to those who requested dispensation from their vows? _____

20. Was your religious institute free of debts?

Yes _____ No _____

21. If not, how were the debts taken care of? _____

22. Were there any particular difficulties in disposing of or in amalgamating the temporal goods:_____

23. What was the approximate financial cost of the fusion or union? (i.e., consultant fees, transfer of property, Holy See. etc.)_____

24. How long did the fusion or union take, that is, from the time of preparation to the finalization of the fusion or union?_____

25. Please list sequentially (time and fact) how the fusion or union was planned. See example and please use attached paper to respond to this question.

26. If your religious institute accepted a fusion, how was it defined?_____

27. If your religious institute accepted a union, how was it defined?_____

III. TRANSITION

1. What were the particular difficulties during the transition?_____

IV. CURRENT SITUATION - From your point of view

1. At the present time, do you consider the fusion (merger) or union to be successful?

a. Yes _____ b. No _____ c. Somewhat _____

Please explain your response_____

2. On the basis of your experience, how would you advise another Congregation preparing for a merger or union;

a. What would you recommend that they do as you did?

b. What would you recommend that they do differently?

3. Has anything been done to preserve and incorporate the historical memories and particular charism of the Congregation that merged or formed a union with the present Congregation? (For example: the history, etc. is acknowledged in the Congregation's history or mentioned in some part of the Constitutions or Directive, a special remembrance of the founder/foundress, annual liturgical celebration, etc.,). _____

APPENDIX C

RESPONDENTS TO THE FUSION (MERGER) - UNION SURVEY

The information will be divided into two parts. The first will present a list of unions, the names of the institutes and the date of the union. The second part will present a list of fusions. The name of the receiving institute will be noted first, followed by the country, the name of the joining institute(s) and the date of the fusion. An asterisk indicates those institutes that were both interviewed and responded to the survey.

While obviously there were numerous other unions and fusions of institutes in the period following the 1917 Code, the following ones are noted because these institutes were contacted directly during the preparation.

UNIONS

Congrégation de Notre-Dame,
Chanoinesses de St-Augustin - 1961
Generalate: Rome
1. "Union de Jupille"
2. "Union Romaine"

Congrégation des Soeurs de Sainte-Marthe - 1969
Périgueux, France
1. Soeurs de Sainte-Marthe de Périgueux
2. Soeurs Sainte-Marthe de Romans
3. Filles de Sainte-Marthe d'Angoulême

- Congregation of the Mother of Carmel** - 1963
Kerala, India
The Carmelite congregations of:
1. Ernakulam
2. Chenganacherry
3. Kothamangalam
4. Palai
5. Trichur
- Congrégation des Soeurs de la Retraite*** - 1966
St Germain-en-Laye, France
1. Retraite du Sacré-Coeur, Société de Marie, Angers, France
2. Congrégation des Filles de la Sainte Vierge de la Retraite de Vannes
3. Soeurs de la Retraite du Sacré-Coeur de Bruges, Belgium
- Congrégation des Soeurs des Sacrés-Coeurs de Jésus et de Marie** - 1949
Tournon, France
1. Soeurs du Sacré-Coeur de Jésus de Privas
2. Soeurs des Sacrés-Coeurs de Jésus et de Marie de Tournon
- Congrégation des Soeurs de l'Enfant-Jésus** - 1952
Versailles, France
1. Congrégation des Soeurs de l'Enfant-Jésus du Puy
2. Congrégation des Soeurs du Saint Enfant-Jésus d'Aurillac
- Dominican Sisters of St. Catherine of Siena** - 1929
Stone, England
Five institutes of Dominican Sisters of the Third Order
1. St. Catherine of Siena, Stone
2. St. Rose of Lima, Stroud
3. St. Vincent Ferrer, London
4. Our Lady, Help of Christians, Leicester
5. Our Lady of the Rosary, Harrow.
- Franciscan Clarist Congregation** - 1970
Kerala, India
Four pontifical Franciscan Clarist congregations:
1. Changanacherry, Ernakulam, Palai, Trichur

- Franciscan Sisters of Mary - 1986
St. Louis, Missouri, United States
1. Sisters of St. Francis, Maryville, Missouri
2. Sisters of St. Mary of the Third Order
of St. Francis
- Sisters of St. John of God - 1924
Wexford, Ireland
Independent houses of the Sisters of St. John of God:
1. Wexford, Ireland
2. Kilkenny, Ireland
3. Waterford, Ireland
4. Broome, Australia
5. Perth, Australia
- Societas Filiarum a Nostra Domina*
Religieuses Filles de Notre-Dame
Generalate: Rome
1. Union of 63 of the 90 monasteries - 1921
2. Autonomous monasteries & Society of the
Daughters of Our Lady formed a union - 1956
- Soeurs de Notre-Dame de La Salette - 1965
Gières, Isère, France
1. Religieuses Réparatrices de Notre-Dame
de la Salette, Grenoble
2. Soeurs Missionnaires de Notre-Dame de la Salette,
Fourqueux, France
- Soeurs du Christ* - 1976
Paris, France
1. Religieuses de la Croix de St-Quentin
2. Filles de la Croix de Paris
3. Soeurs de la Croix du Puy
4. Soeurs de la Croix de Marchienne
5. Soeurs de la Nativité de Notre-Seigneur
6. Soeurs de la Providence de Corenc
7. Servantes du Christ-Roi d'Ablon
- Soeurs Salésiennes de la Visitation - 1955
Generalate: Leuze, Belgium
1. Soeurs de St François de Sales de Leuze
2. Institut de la Visitation

Tertiarschwestern des hl. Franziskus - 1929
Brixen, Italy

Four Franciscan congregations:

1. Brixen
2. Bozen
3. Kaltern
4. Mühlbach

Union St-Joseph de Rodez - 1965
Rodez, France

1. Congrégation de St-Joseph de Clairvaux
2. Soeurs de St-Joseph d'Estaing
3. Congrégation de St-Joseph de Millau
4. Soeurs de St-Joseph de Marcillac
5. Congrégation de St-Joseph de Villecomial
6. Soeurs de St-Joseph de Salles La Source

PART II: FUSIONS

Communauté des Filles de Jésus
Lalbenque, France
1. Soeurs de la Miséricorde de Montcuq - 1951

Congregatie van de Zwart Zusters*
Bruge, Belgium
1. Soeurs Noires de Diksmuide - 1954
2. Congregatie van de Zwart Zusters van Veurne - 1954

Congrégation bénédictine de la Reine des Apôtres
Loppem, Belgium
1. Soeurs de St-Benoît du Katanga, Zaïre - 1967

Congrégation de Notre-Dame de la Compassion
Le Belieu, France
1. Servites de la Compassion de Saint-Firmin - 1974

Congrégation de l'Enfant-Jésus du Puy
Le Puy-en-Velay, France
1. Soeurs des Ecoles chrétiennes de Versailles - 1949

**Congrégation des Filles de Jésus de Saint-Joseph*
de Kermaria**

Generalate: Paris

1. Institut de l'Action de Grâce - - 1970

Congrégation des Filles de la Sagesse*

Generalate: Rome

1. Filles du Coeur Immaculé de Marie,
Saint-Loup-sur-Aujon (Haute-Marne) - 1966

Congrégation des Oblates de l'Assomption

Paris, France

1. Religieuses Tertiaires régulières de
l'Ordre des Prémontrés de Mesnil St-Denis - 1963

Congrégation des Soeurs de la Providence de Lisieux

Lisieux, France

1. Congrégation de la Miséricorde de Rouen - 1961
2. Congrégation de la Miséricorde du Sacré-Coeur
d'Isigny - 1961
3. Communauté des Soeurs Hospitalières des
Orphelines de Saint-Joseph - - 1964

Congrégation des Soeurs de la Charité*

et de l'Instruction chrétienne de Nevers

Nevers, France

1. Congrégation des Soeurs de la Providence
Ligny-le-Chatel - 1959
2. Congrégation des Soeurs de Sainte-Marthe
de Dijon - 1967
3. Sainte-Enfance de Jésus et Marie de Sens - 1967

Congrégation des Soeurs de la Miséricorde

Sees, France

1. Soeurs de Notre-Dame de Bon Secours de Clermont 1955

Congrégation des Soeurs de la Providence

La Pommeraye, France

1. Soeurs de la Providence de Laon - 1952
2. Soeurs de Notre-Dame de St-Erme - 1961

**Congrégation des Soeurs de
l'Immaculée-Conception de Niort**
Paris, France

1. Soeurs du Saint et Immaculée Coeur
de Marie de Poitiers - 1952

Congrégation des Soeurs de Marie-Auxiliatrice
Paris, France

1. Congrégation des Soeurs de St-Joseph
de la Providence, Limoges - 1946
2. Congrégation des Soeurs de l'Enfance
de Jesus et de Marie de Draquignan - 1956

**Congrégation des Soeurs de Notre-Dame
de l'Immaculée-Conception**
Briouze, France

1. Soeurs de Notre-Dame de Chartres - 1957
2. Soeurs du Saint-Coeur
de Marie de Chartres - 1964
3. Soeurs du Saint-Nom de Jésus - 1965

Congrégation des Soeurs de Sainte-Marthe
Périgueux, France

1. Soeurs du Bon-Pasteur de la Visitation
de Bordeaux - 1971
2. Doctrine chrétienne de Bordeaux - 1971

**Congrégation des Soeurs des Sacrés-Coeurs
de Jésus et de Marie**

Tournon, France

1. Soeurs de l'Adoration perpétuelle de Mauves - 1859
2. Religieuses de l'Instruction Chrétienne
de Lentiol - 1868

Congregazione Suore Domenicane di S. Caterina da Siena
Generalate: Rome

1. Suore Domenicane di Montecreto - 1948
2. Monastero della Domenicane della Purificazione
de Jesu - 1969

Congrégation Notre-Dame de la Compassion
Toulouse, France

1. Filles de la Compassion, Servantes
de Seigneur, de Domfront - 1969

- Congregation of the Humility of Mary**
 Davenport, Iowa (Ottumwa), United States
 1. Congregation of the Humility
 of Mary, Great Falls, Montana - 1947
- Congregation of the Sisters of Saint Louis**
 Monaghan, Ireland
 1. Congrégation des Dames de St-Louis de Juilly - 1952
 2. Sisters of St. Louis, Ondo, Africa - 1976
- Congrégation Sainte-Marie de l'Assomption**
 Chamalières, France
 1. Soeurs de la Charité du Verbe Incarné
 de Lyon - 1970
- Congregazione Suore Francescane***
Missionarie del Sacro Cuore
 Rome
 1. Congregazione "Suore Mariane" - 1968
- Dominicaines de la Miséricorde**
 Le Puy, France
 1. Congrégations dominicaines de l'Ardèche,
 de la Loire et du Rhône - 1931
- Filles de Marie**
 Pesche, France
 1. Filles de la Croix de Momignies - 1923
 2. Congrégation des Soeurs de Marie
 Braine-l'Alleud - 1959
- Filles de Notre-Dame du Sacré-Coeur d'Issoudun***
 Maison généralice: Rome
 1. Soeurs de Sainte-Thérèse
 de Tarawa (Iles Gilbert) - 1968
 2. Congregation of Helpers of Our Lord
 Jesus Christ, Merauke (Irian Barat) - 1971
- Franciscaines Missionnaires de Marie***
 Maison généralice: Rome
 1. Congregation of Mary of Nazareth
 Bangalore, India - 1965

Franciscan Sisters of Christian Charity

Manitowoc, Wisconsin - United States

1. Poor School Sisters of St. Francis
Gieboldehausen, Germany - 1876

Istituto del Divino Amore

Rome

1. Congregazione di Gesù Appassionato
e di Maria Addolorata, Roma - 1913
2. Monastero dei Santi Agostino e Rocco - 1921
3. Monastero del SS. Redentore - 1924
4. Istituto del S. Cuore - 1924
5. Oblate Agostiniane del Conservatorio di
S. Marta in Montopoli Valdarno - 1924
6. Monastero delle Agostiniane "La Rotta" - 1924

Istituto Figlie di Maria Ausiliatrice

Rome

1. Suore Orsoline dello Spirito Santo di Acqui - 1913
2. Soeurs de la Miséricorde des Sacrés-
Coeurs de Jésus et de Marie d'Heverlé - 1966
3. Oblates Régulières de St-Benoît de Tournai - 1966

Kongregation der Schulschwestern von Hallen

Salzburg, Austria

1. Kongregation der Tertiärinnen des hl.
Franziskus - 1952

Misioneras Agustinas Recoletas

Madrid, Spain

1. Agustinas Terciarias de Cali, Colombia - 1955

Petites Servantes du Cœur de Jésus

Nancy, France

1. Réparatrices du Sacré-Cœur de Poissy - 1966
2. Société du Sacré-Cœur de Paray-le-Monial - 1969

Religieuses de l'Assomption*

Paris, France

1. Gardiennes Adoratrices de l'Eucharistie
d'Orleans (Loiret) - 1968

Sei-yosefu Fukyô Shûdôjo Kai**Missionary Sisters of St. Joseph of Osaka**

Amagasaki-shi, Hyôgo-ken, Japan

1. Congregation of the Sisters of Nazareth - 1957

Servants of Mary of London*

Generalate: Rome

1. Religieuses de Notre-Dame des Sept-Douleurs
Brussels, Belgium - 1962
2. The English speaking group of the "Religieuses
de la Compassion de la Sainte-Vierge
de Argenteuil" - 1967
3. Schwestern Servitinnen, Vienna, Austria - 1974

Sisters of St. Joseph of Carondelet

St. Louis, Missouri

1. Sisters of St. Joseph of Muskogee - 1905
2. Sisters of St. Joseph of Lewiston - 1925
3. Sisters of St. Joseph of Georgia - 1960
4. Sisters of St. Joseph of Superior - 1986

Sisters of St. Joseph of Springfield

Springfield, Massachusetts

1. Sisters of St. Joseph du Puy
Fall River, Massachusetts - 1974

Sisters of St. Joseph of the Third Order of St. Francis

South Bend, Indiana

1. Franciscan Sisters of Rice Lake, Wisconsin - 1967

St. Scholastica Convent

Fort Smith, Arkansas

1. Benedictine Sisters of Pilot Grove - 1916

Société des Filles du Coeur de Marie*

Paris, France

1. Congrégation des Soeurs Missionnaires du
Sauveur de Paris - 1952
2. Congrégation du St-Coeur de Marie d'Aubazine
de Tulle - 1957
3. Adoradoras para el Apostolado Eucarístico
Barcelona, Spain - 1966
4. Congrégation de Notre-Dame de Saint Sulpice
de Paris - 1965
5. Congrégation de Notre-Dame de la Providence
de Blois - 1966

- 6. Société des Humbles Filles du Mont Calvaire de Paris - 1967
- 7. Petites Soeurs de la Vierge-Marie de Lyon - 1967

Société des Soeurs Fidèles Compagnes de Jésus
Vihiers, France

- 1. Soeurs de la Providence de La Jumellière - 1856
- 2. Dames de S. Nicola de Doue-la-Fontaine - 1943
- 3. Soeurs de St-François (des Récollets) - 1964
- 4. Soeurs du Sacré-Coeur de Valence d'Albi - 1970

Soeurs de la Charité de Saint-Louis*

Generalate: Rome

- 1. Religieuses de la Compassion de la Sainte-Vierge d'Argenteuil - 1967

Soeurs de la Congrégation de Marie (Maristes)*

Generalate: Rome

- 1. Petites Servantes de Nazareth La Neylière Pomeys - 1968

Soeurs de la Sainte-Famille de Bordeaux*

Generalate: Rome

- 1. Soeurs de Sainte-Marthe de Nice - 1965
- 2. Filles du Coeur de Jésus de Tours - 1965
- 3. Congrégation de Notre-Dame d'Angoulême - 1966

Soeurs de l'Immaculée-Conception de Notre-Dame de Lourdes*

Generalate: Rome

- 1. Soeurs Zélatrices de la Sainte-Eucharistie - 1957

Soeurs de Marie-Auxiliatrice

Generalate: Paris

- 1. Soeurs de la Sainte-Famille d'Aurillac. - 1955
- 2. Soeurs de Notre-Dame de Miséricorde du Bon Pasteur de Draguignan - 1956

Soeurs de Notre-Dame de Namur*

Generalate: Rome

- 1. Soeurs de la Nativité de la Sainte-Vierge Saint-Germain-en-Laye, France - 1955

Soeurs de Saint Joseph de Chambery*

Generalate: Rome

1. Suore di San Giuseppe di Rome - 1876
2. Soeurs de Saint-Joseph de Moutiers - 1953
3. Soeurs de Saint-Joseph de la Ste-Famille
de Vagnas - 1954
4. Soeurs de Saint-Joseph de Saint-Jean
de Maurienne - 1957

Soeurs du Sacré-Coeur de Jésus

Saint-Jacut-Les-Pins, France

1. Filles de Sainte-Marie de Gacé - 1970

Soeurs Salesiennes de la Visitation

Generalate: Leuze, Belgium

1. Soeurs de la Visitation
Gilly, Belgium - 1962
2. Soeurs de Notre-Dame de la Visitation
Diocese of Gent, Belgium - 1962

Suore di Santa Dorotea della Frassinetti*

Rome

1. Istituto Dorotee di Firenze - 1900
2. Istituto Dorotee di Maria Immacolata,
Montecchio Emilia - 1967

Petites Soeurs de l'Assomption*

Paris, France

1. Petites-Soeurs des Champs de Gandalou - 1962

Ursuline Religious of the Chatham Union

Chatham, Canada

1. Ursuline Sisters, Muskegon, Michigan - 1920
2. Ursuline Sisters, Calgary, Alberta - 1934
3. Ursuline Sisters, St. Ignace, Michigan - 1936
4. Ursuline Sisters, Vibank,
Saskatchewan, Canada - 1953
5. Ursuline Sisters, Sarnia, Canada - 1966

Ursuline Sisters of the Immaculate Conception

Louisville, Kentucky

1. Ursuline Sisters of the Immaculate Conception
of Columbia, South Carolina - 1936
2. Ursuline Sisters of Pittsburgh - 1958

Ursulines de Jesus**Chavagnes-en-Paillers**

1. Soeurs de Sainte-Marthe
du St-Pierre d'Oleron (Association) - 1828
2. Reunion: Ursulines de La Roche-sur-Yon et la
Congrégation de Ursulines de Jesus de Chavagnes-1829
3. Ursulines de la Rochelle - 1835
4. Soeurs de la Présentation de Lorgues - 1891
5. Religious of the Incarnation, St. Margaret's
Edinburgh, Scotland - 1920
6. Ursulines de Troyes - 1937

Zusters "Convent van Betlehem"**Oisterwijk, Belgium**

1. Soeurs Noires de Louvain - 1964

Zusters Dominikanessen van de H. Catharina van Siëna**Brugge, Belgium**

1. Zusters Dominicanessen van Erwetegem - 1957

Zusters van het Geloof***Tielt, Belgium**

1. Zusters van Maria "Lamotte" Ieper - 1953
2. Zusters van Liefde van Kortrijk - 1954
3. Zusters van O.L.Vrouw Hemelvaart - 1954
4. Zusters van den H. Vincentius a Paulo
van Ichtegem - 1954
5. Zusters van den H.-Vincentius a Paulo
van Meulebeke - 1955
6. Dienstmaagden van Maria, Ruddervoorde - 1955
7. Zusters van de H. Familie van Aartrijke - 1962

Zusters van de H. Josef**Brugge, Belgium**

1. Zusters van Liefde van de h. Josef van Ypres - 1955
2. Zusters van de h. Theresia van Rollegem - 1957

Other Responses**Congrégation des Soeurs de la****Divine Providence de Ribeauville****Generalate: Strasbourg, France**

1. Accepted aggregation of the Ursulines,
Breisach, Germany - 1965

Dominican Sisters of Australia Union - 1958
 Doubleview, W.A., Australia

1. Holy Cross Congregation of Dominican Sisters
Cabra, South Australia
2. Congregation of Dominican Sisters, North Adelaide,
South Australia,
3. Dominicans of Western Australia of Siena, North
Adelaide, Australia
4. Dominican Sisters of the Holy Name
Maitland, New South Wales

At the time of the survey, the Dominicans had petitioned to separate and that each congregation be permitted re-establish its autonomy. This was realized in 1988 (*Informationes*, 14(1988), p. 303).

Soeurs de Notre-Dame de Sion*

Generalate: Rome

1. Ancelle de Notre-Dame Reine
de Palestine (Fusion) - 1937

In 1964, half of the "Ancelle" branch left the Sisters of Sion to attempt to establish their own religious congregation; the other sisters of the "Ancelle" became a part of the apostolic branch of the Sisters of Sion.

Zusters van de h. Josef

Brugge, Belgium

Fusion

1. Zusters van de H. Gehoorzaamheid
van Veurne-Furnes - 1960

In 1976, the congregation re-established its autonomy.

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BIOGRAPHICAL NOTE

Melanie Jeanene Bair was born October 6, 1937, in Richmond, Indiana where she received her elementary and secondary education. She is a member of the Sisters of St. Francis, Oldenburg, Indiana.

In addition to teaching in Catholic schools of several different archdioceses, she served as a principal in the Archdiocese of Cincinnati, Ohio and as a supervisor and program co-ordinator in the Cincinnati Public Schools.

She earned a Bachelor of Arts degree in 1963 (Marian College, Indianapolis, Indiana), a Master of Arts degree in 1970 (Cardinal Stritch College, Milwaukee, Wisconsin) and a Master's degree in Canon Law (University of Ottawa, 1985) and the Licentiate in Canon Law (St. Paul University, Ottawa, 1985.)